

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

**REGULAR MEETING
Monday, March 15, 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>Join Using Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/99617577529</p> <p>Meeting ID: 996 1757 7529 Password: 336654</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only)</p> <p>Dial by your location</p> <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>Meeting ID: 996 1757 7529 Password: 336654</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA

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

CALL MEETING TO ORDER AND ROLL CALL

PUBLIC COMMENTS

At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Board; and (2) any matter appearing on the Consent Agenda. Members of the public who wish to provide comment at this time may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad. When addressing the Board, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

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

CONSENT AGENDA

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

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- Alan Wilkes

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

February 16, 2021

Recommendation: Approve minutes.

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: KATHERINE KLUG

Eligibility Supervisor, Orange County Social Services Agency (General Member)

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

- Grant service connected disability retirement.
- Set the effective date as February 1, 2017.

DC-2: MEGAN MEIER

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 the day after the last date of regular compensation.

DC-3: EDWARD MOSQUEDA

Firefighter, Orange County Fire Authority (Safety Member)

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

- Grant service connected disability retirement.
- Set the effective date as August 3, 2018.

DC-4: GABRIELLE PELOQUIN

Lieutenant, Orange County Sheriff's Department (Safety Member)

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

- Grant service connected disability retirement.
- Set the effective date as January 3, 2020.

DC-5: STEVE ROVANO

Fire Captain/Paramedic, Orange County Fire Authority (Safety Member)

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

- Grant service connected disability retirement.
- Set the effective date as March 27, 2020.

DC-6: FERNANDO SALAS

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 April 15, 2020.

DC-7: SOU PHOMMASA

Office Technician, Orange County Community Resources/Housing Authority (General Member)

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

- Grant non-service connected disability retirement.
- Set the effective date as June 12, 2015.

DC-8: ERMA JONES

Coach Operator, Orange County Transportation Authority (General Member)

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

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

DC-9: JUANITA BRACAMONTES

Deputy Juvenile Correction Officer II, Orange County Probation Department (Safety Member)

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

- Deny service and non-service connected disability retirement due to the member's failure to cooperate.

DC-10: ANGELINA CORTEZ

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

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

- Deny service and non-service connected disability retirement due to the member's failure to cooperate.

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**

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 STAR COLA FINAL APPROVAL

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations, OCERS

Recommendation: Approve payment of STAR COLA for the period April 1, 2021 through March 31, 2022 in the amount of \$356,419.

A-3 *Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al – Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision*

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

Recommendation:

1. Staff recommends the board approve the test and definition of normal working hours for the purposes of determining whether certain items of pay can be included in compensation earnable under the terms of the plan.
2. Staff recommends the board approve the updated policies, procedures, pay item request form and OCERS administrative procedures (OAP) regarding compensation earnable reflective of the approved test.

INFORMATION ITEMS

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

Presentations

I-1 UPDATE ON REQUEST FOR PROPOSAL – FIDUCIARY COUNSEL

Presentation by Gina Ratto, General Counsel, 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

March 15, 2021

Death Notices

March 15, 2021

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 LEGISLATIVE UPDATE

Written Report

R-7 BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER UPDATE

Written Report

R-8 FIRST QUARTER REVIEW OF OCERS 2021-2023 STRATEGIC PLAN

Written Report

R-9 FOURTH QUARTER 2020 BUDGET VS. PRELIMINARY ACTUALS REPORT

Written Report

R-10 FOURTH QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2020

Written Report

R-11 REEDSMITH, LLP PERFORMANCE REVIEW – FIDUCIARY COUNSEL SERVICES

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.

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

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

NOTICE OF NEXT MEETINGS

**AUDIT COMMITTEE MEETING
March 22, 2021
9:00 A.M.**

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

**INVESTMENT COMMITTEE MEETING
March 24, 2021
9:30 A.M.**

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

**DISABILITY COMMITTEE MEETING
April 19, 2021
8:30 A.M.**

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

**REGULAR BOARD MEETING
April 19, 2021
9:30 A.M.**

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

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

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



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – ALAN WILKES**

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 December 6, 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.

Submitted by:



A. B. – APPROVED

Adina Bercaru
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
T 415.263.8254
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San Francisco, CA 94105-6147
segalco.com

Personal and Confidential

March 4, 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 Alan Wilkes**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Alan Wilkes and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated March 1, 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	December 6, 2020
Plan of Membership	Safety Plan F
Monthly Unmodified Benefit	\$9,874.01
Ex-Spouse's Share of Monthly Unmodified Benefit	30.95%
Retirement Type	Service Retirement

Ms. Adina Bercaru
 March 4, 2021
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 30.95% 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.

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$1,078.96	
Pension:	<u>5,739.04</u>	
Total:	\$6,818.00	\$0.00
Monthly benefit payable to ex-spouse ¹	\$2,773.09	\$2,773.09

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.

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

¹ This is equal to 30.95% of the member's unmodified benefit (i.e., 30.95% * \$9,874.01 or \$3,056.01) 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
March 4, 2021
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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



March 4, 2021

Alan J. Wilkes
(removed address for email purposes)

Re: Retirement Election Confirmation – Option 4

Dear Mr. WILKES:

As required by your DRO, you have elected Option 4 as your retirement option. This option will provide a 30.95% of your monthly benefit, for the life of the benefit, to:

ALETHEA LE WILKES

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 30.95% continuance to ALETHEA LE WILKES.

Alan J. Wilkes 03/04/2021
 Member Signature / Date

Sincerely,

A handwritten signature in cursive script, appearing to read "Zaida Miramontes".

Zaida Miramontes
Retirement Program Specialist

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM 2223 E. Wellington Avenue, Suite 100, Santa Ana, CA 92701
 Telephone (714) 558-6200 www.ocers.org

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

**REGULAR MEETING
Monday, February 16, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:30 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 Hilton, **seconded** by Lindholm, to approve recommendations on all of the following items excluding item C-2 and C-3 on the Consent Agenda:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- 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.

The motion to pass item C-1 passed **unanimously**.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Packard, **seconded** by Hidalgo, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda excluding DC-2, DC-5 and DC-10:

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.

Item DC-2 was **pulled** from the agenda.

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.

Mr. Neal **pulled** item DC-5.

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.

Ms. Freidenrich **pulled** item DC-10.

The consent agenda motion passed **unanimously**.

ACTION ITEMS:

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

The Board adjourned into closed session at 10:01 a.m.

CLOSED SESSION

DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

The Board reconvened into open session at: 10:11 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Jenike reported that the Board took the following actions in Closed Session:

DC-5: MARTIN NEAL

MOTION by Prevatt, **seconded** by Hilton to approve and grant non-service connected disability retirement with an effective date of September 16, 2018.

The motion passed **unanimously**.

DC-10: ZILLE ZAMAN

MOTION by Eley, **seconded** by Packard to approve and grant service connected disability retirement with an effective date of January 17, 2020.

The motion passed **unanimously**.

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.

MOTION by Eley, **seconded** by Hilton to approve both staff recommendations which reads: 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 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.

Ms. Kendra Carney Mehr spoke on behalf of Mr. True. She stated that Mr. True was disappointed with the way OCERS handled his case and would like to ensure that it won't happen to any other member. He also requested an accounting document of his benefits be sent to him as well as a document stating that payments are made appropriately to his former wife.

Mr. Delaney stated that OCERS staff will follow up and make sure to get the requested items to Mr. True.

The motion passed **unanimously**.

ACTION ITEMS:

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

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

January 19, 2021

Recommendation: Approve minutes.

Mr. Hilton pulled item C-2.

In regards to item I-1, Mr. Hilton asked that the sentence have the word “always” be replaced with either “can” or “may” in the second sentence.

After Board discussion, a **MOTION** by Hilton, **seconded** by Prevatt was made to approve the January 19, 2021 Regular Board Meeting Minutes on understanding that for item I-1 only the first sentence remains.

The motion passed **unanimously**.

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.

Ms. Freidenrich pulled item C-3.

Ms. Freidenrich had a question regarding software solution and implementation services.

Ms. Shott explained that the implementation partner is going to do the ongoing support as well. She continued stating that just like OCERS current contract provider, the licensing fees for the software will run through that contract and RSM would bill OCERS for the Sage Intacct subscription fees.

Ms. Freidenrich stated that the three-year time frame should be added to the recommendation. She also asked if RSM receives ongoing commissions on the subscription fees.

Ms. Freidenrich also stated that a draft of the contract was not included in the material and was unsure of OCERS practice and if draft contracts are reviewed by the Board.

Ms. Shott confirmed that RSM does not receive a commission on the subscription cost.

Ms. Freidenrich asked if OCERS has a standard contract form and if OCERS has an indemnification process in case of release of information, since information is stored in the Cloud.

Ms. Shott replied yes, OCERS has a standard contract form, and OCERS also utilizes Gartner to review IT contracts such as this one to ensure all optimized terms are included to protect OCERS

Regarding Ms. Freidenrich's contract question, Mr. Delaney replied that the OCERS Board has not requested to see draft contracts in the past but, if it is the direction of the Board, staff can certainly add draft contracts as attachments to the Board documents.

MOTION by Freidenrich, **seconded** by Eley to 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 *for a three-year period with an option for three additional years, with no annual subscription fee amount going to RSM.*

Mr. Eley stated that draft contract topic should be raised at the Governance Committee meeting and the Board should decide on a standard contract review process.

The motion passed **unanimously** with Mr. Prevatt absent.

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.

Ms. Jenike presented the 2021 Cost of Living Adjustment.

Ms. Linda Robinson, Co-President representing the Retired Employees Association of Orange County (REAOC), requested that the Board approve the COLA increase and explained the importance of the COLA to all retirees. She also thanked OCERS staff on their hard work and dedication to the retirees.

MOTION by Eley, **seconded** by Tagaloa to 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.

The motion passed **unanimously**.

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.

Mr. Hilton stated that he will not run for the SACRS Board this year.

Mr. Prevatt stated his interest to run for the SACRS Board.

Ms. Ratto stated that for the purpose of the February 16th meeting, Mr. Prevatt's nomination would suffice with the understanding that further direction will be given by the Chair and Vice-Chair as to which position Mr. Prevatt will run.

MOTION by Dewane, **seconded** by Eley to identify Mr. Prevatt as a nominee for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination to the SACRS Nominating Committee on or before March 1, 2021.

The motion passed **unanimously**.

The Board recessed for break at 10:49 a.m.
The Board reconvened from break at 11:00 a.m.

The Board recessed into closed session at 11:00 a.m.

CLOSED SESSION ITEM

**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.

OPEN SESSION

The Board reconvened into open session at 12:48 p.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Ratto stated that there is no reportable action taken in closed session.

INFORMATION ITEMS

Each of the following informational items were 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

Mr. Delaney introduced the Alameda case item. He stated that the item is informational only and that the Board will not come to a decision this month.

Mr. Leiderman gave an overview of the Alameda decision and the task set before the OCERS Board.

Ms. Jenike gave a high level overview and walked the Board through staff's recommendation.

Juan Viramontes, President of AOCDS expressed the disappointment of their deputies in regards to the Alameda decisions and its effects on their pension.

Paul Bartlett, Executive Director of AOCDS, also requested that the OCERS Board not adopt staff's recommendation.

Derek Foran, attorney representing AOCDS, urged the Board to not adopt staff's recommendation as the decision is not mandated by PEPRA or by the Supreme Court and went into details discussing what is and what is not mandated.

Doug Storm, Co-President of REAOC speaking on behalf of retired members, stated that they support staff recommendation to not recover overpayments directly from retirees. He agrees with the AOCDS comments and stated that when the MOUs were first created for specific classifications, they were not created with retirement benefits in mind.

Mr. Mena Guirguis, representing OC Attorneys Association, echoes the comments and remarks of Mr. Foran and stated that "normal working hours" does not apply to attorneys as they are salaried employees and they may work all hours of the day.

Mr. Kevin Nadeu, Sheriff Retiree, expressed his disappointment and appealed to the Board to be fair and honorable in their decision.

Mr. Kent McBride, Sheriff Retiree, also expressed his disappointment for the damage and loss in his benefits should the Board proceed with staff recommendation.

Mr. Larry Zurborg, Retired OCSD Investigator, discussed his work hours and training. He asked the OCERS Board to use common sense and heart in their decision.

Mr. Leonard Letze, retired OCSD, also expressed his disappointment and asked the Board to be fair when making their decision.

Mr. Brian Sims, retired employee from Orange County Traffic Bureau, discussed his work prior to retirement and requested that the benefits should continue as is.

Mr. James Hayfield, OCSD retiree, stated that on-call pay was mandatory in his line of work. He agrees with the AOCDS attorney and urged the Board to do the right thing.

Mr. Delaney thanked the stakeholder groups and all participants and discussed the Board and staff's next steps before final recommendations come to the Board.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of February. He informed the Board that while OCERS staff continue to work remotely until the end of February, 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 not be surprised if OCERS remains teleworking at least through to the end of March 2021.

Mr. Eley stated he supports staff telecommuting until everyone receives the COVID vaccine.

WRITTEN REPORTS

None of the written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices
Death Notices

February 16, 2021
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

Ms. Freidenrich stated that it would be helpful to add the contract amounts in staff's memo for contracts listed as time and material contracts for 2020.

Mr. Delaney stated that he will get back to Ms. Freidenrich regarding the amounts of the contracts in question.

R-12 2021 POLICY COMPLIANCE REPORT
Written Report

The Board adjourned into closed session at 2:18 p.m.

CLOSED SESSION ITEMS

**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.

OPEN SESSION

The Board reconvened into open session at 2:36 p.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Ratto stated that there is no reportable action taken in closed session.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Ms. Hockless updated the Board on the OCERS Volunteer Program piloted in 2019.

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BOARD MEMBER COMMENTS

Mr. Packard asked if the Volunteer Program is a paid program.

Ms. Hockless replied that the program is not a paid program.

COUNSEL COMMENTS

Ms. Ratto reminded the Trustees that Form 700 is due April 1st.

Chair Dewane adjourned in memory of the active members, retired members, and surviving spouses who passed away during the past month. The meeting **ADJOURNED** at 2:41 p.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane
Chairman



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: **2021 STAR COLA FINAL APPROVAL**

Recommendation

Approve payment of STAR COLA for the period April 1, 2021 through March 31, 2022 in the amount of \$356,419.

Background/Discussion

STAR COLA stands for Supplemental Targeted Adjustment for Retirees, Cost of Living Adjustment. Unlike the regular COLA the STAR COLA is discretionary and the Board of Retirement has the sole authority to grant or deny the benefit and considers it on an annual basis. The purpose of the STAR COLA is to restore purchasing power for retirees who have lost more than 20% of their purchasing power since retirement due to inflation. The STAR COLA brings those individuals back to 80% of purchasing power. It applies to those who have been retired the longest – currently, those members who retired on or before April 1, 1980.

The projected cost for the period April 1, 2020 through March 31, 2021 is \$356,419. The breakdown between Employers with STAR COLA recipients is as follows:

County	\$354,043 (183 recipients)
UCI (closed to new participants)	\$ 264 (1 recipients)
Orange County Sanitation District	<u>\$ 2,112 (2 recipients)</u>
Total	\$356,419 (186 total)

The 2021-2022 STAR COLA, if approved, is \$89,401 lower than 2020-2021 and the total number of recipients has declined by 24 payees from 2020 to 2021.

The STAR COLA provides a much needed cushion to the oldest retirees, whose benefit has been most diminished by inflation. In accordance with California Government Code Section 7507, the Board has already disclosed the financial impact of continuing the STAR COLA at the February 16, 2021 Board meeting.

Staff will send letters to each affected Employer after the Board takes action advising of the outcome, and if approved, of the cost to each Employer.

Based on the significant impact discontinuation of STAR COLA would have on the individuals who receive it and the relatively small impact payment would have on contribution rates it is staff's recommendation to approve the STAR COLA for April 1, 2021 through March 31, 2022 in the amount of \$356,419.

Submitted by:



S. J. – APPROVED

Suzanne Jenike
Assistant CEO, External Operations



Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary
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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
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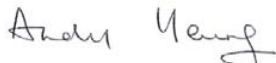
Our projections are based on the following assumptions provided below.

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%¹ retiree COLA assumption (see attached Exhibit A) and thus no other additional members will be expected to become eligible.² 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

¹ 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.

² 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)

Date of Retirement	April 1, 2021	April 1, 2022	April 1, 2023	April 1, 2024	April 1, 2025	April 1, 2026	April 1, 2027	April 1, 2028	April 1, 2029	April 1, 2030
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.

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 ⁽¹⁾	\$1,775,568	\$0	\$1,775,568

⁽¹⁾ At 7.00% annual investment return assumption.

*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

DATE: March 15, 2021
TO: Members of the Board
FROM: Steve Delaney, Chief Executive Officer
 Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: ALAMEDA DECISION POINTS

Background/Discussion

The OCERS Team has been working to define the Decision Points for the OCERS Board in order to implement the California Supreme Court's decision in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al* (Alameda). We have hosted several informational meetings with stakeholders to discuss the Decision Points as previously presented to the Board for discussion purposes and the legal analysis that forms the basis for the staff recommendations set forth below. We have also heard directly from a number of individual OCERS members and have included their correspondence with this agenda item.

Staff Recommendations:

1. STAFF RECOMMENDS THE BOARD APPROVE THE TEST

- a. Approve the following test and definition of "normal working hours" for purposes of determining whether certain items of pay can be included in compensation earnable under the terms of the OCERS 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, the County's official list of job classifications at: <https://www.ocgov.com/gov/hr/classification/specifications>, and other official County-approved documents that are binding on the parties and that establish employee grades, classes or rates of pay.

(b) For separate District employers, the applicable MOU, resolutions and other official documents of the governing body of the District that are binding on the parties and that establish grades, classes or rates of pay 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. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE REFLECTIVE OF THE APPROVED TEST

- a. Compensation Earnable Policy
- b. Pensionable Compensation Policy
- c. Pay Item Request and Approval Procedures for Employers
- d. Employer pay item request form
- e. Compensation Earnable and Pensionable Compensation Determination OAP
- f. Final Average Salary Calculation OAP

On April 19, 2021, Staff will return with the master list of pay items reflecting the pensionable attributes as a result of the Board approved test. In addition, staff will return with recommendations regarding the other Board decision points:

- 1. Recalculating retirement allowances prospectively;
- 2. Collecting overpayments made between January 1, 2013 and October 1, 2020;
- 3. Collecting overpayments made between October 1, 2020 and the date of the benefit recalculation and;
- 4. Crediting/refunding of overpaid employee and employer contributions.

Submitted by:



SD - APPROVED

Steve Delaney
Chief Executive Officer

Submitted by:



SJ - APPROVED

Suzanne Jenike
Assistant CEO, External Operations



OCERS Board Policy

Compensation Earnable

Purpose and Background

1. The purpose of this policy is to affirm OCERS' interpretation of the term Compensation Earnable as set forth in California Government Code section 31461 (Section 31461) and OCERS Board of Retirement Resolution 98-001 (Resolution 98-001).
2. Resolution 98-001 was adopted by the OCERS Board of Retirement (Board) on February 6, 1998, in order to implement the decision of the California Supreme Court (Supreme Court) in the case *Ventura County Deputy Sheriffs' Association vs. Board of Retirement of Ventura County Employees Retirement Association* (1997) 16 Cal.4th 483 (Ventura Decision). The Supreme Court in the Ventura Decision interpreted Section 31461 and the term Compensation Earnable as set forth therein and mandated a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems governed by the County Employees Retirement Law of 1937 (CERL).
3. Resolution 98-001, among other things, reflects the Board's interpretation of the Ventura Decision as it applies to various types or categories of speciality or premium pay received by OCERS members from their employers, and delineates those items of pay that are to be included in and those that are to be excluded from Compensation Earnable.
4. On May 4, 1998, Resolution 98-001 was amended by Board Resolution 98-009 in response to litigation brought by the County of Orange and others challenging the legality of Resolution 98-001. Resolution 98-009 deleted Sections 6, 8 and a portion of Section 9 of Resolution 98-001 related to the imposition of contributions in arrears stemming from the change in contribution rates that resulted from the implementation of Resolution 98-001. Additionally on December 18, 2000, Resolution 98-001 was further amended by Resolution 00-003 to address the treatment of certain automobile allowances. For purposes of this policy, any reference to Resolution 98-001 will be as Resolution 98-001 was amended by Resolutions 98-009 and 00-003.
5. OCERS was a party to several litigation matters that arose subsequent to the Ventura Decision and adoption of Resolution 98-001. These cases were coordinated as class actions in San Francisco Superior Court with other litigation involving other county retirement systems involving the interpretation and implementation of the Ventura Decision (Coordinated Cases).
6. On November 1, 2002, the San Francisco Court entered a judgment (Judgment) approving a settlement agreement of the Coordinated Cases that, among other things, included an agreement that all parties would " . . . accept as final and binding the inclusions and exclusions from compensation, compensation earnable and final compensation . . . " as set forth in Resolution 98-001.
7. In 2012, the California Legislature adopted AB 197 and the Public Employees Pension Reform Act of 2012 ("PEPRA"), which among other things, effective January 1, 2013, amended Section 31641 to add subdivision (b), a list of items of compensation that are expressly excluded from Compensation Earnable. Among the items of compensation excluded from Compensation Earnable are payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise. PEPRA also added a new term – Pensionable Compensation – to define the items of compensation that are permitted to be included in the calculation of the retirement allowances of OCERS members enrolled in the pension system on or after January 1, 2013. OCERS members who



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were members of the system prior to January 1, 2013 are referred to as Legacy members in this policy.

8. A number of lawsuits were filed shortly after PEPRAs became effective. OCERS did not fully implement the exclusion in subdivision (b)(3) of Section 31641 for payments for additional services rendered outside normal working hours.
9. AB 197 and PEPRAs, including the amendments to Section 31641, were upheld as constitutional by the Supreme Court in the case *Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th 1032 (Alameda Decision). In light of the Alameda Decision, the Board has amended Paragraph 11 below.

Policy Objectives

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

Policy Guidelines

11. **Compensation Earnable.** Compensation Earnable for Legacy members will be calculated by OCERS in accordance with the following guidelines.
 - (a) **Pay Items Included in Compensation Earnable.** In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring employee; (ii) during the Final Compensation Period (as defined by Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period); and (iii) for working the ordinary time required of all other employees in the same grade/class, will be included in Compensation Earnable, including, but not limited to, the following items of compensation, and others substantially similar to them:
 - Base Salary and Wages
 - Bilingual Premium Pay
 - Educational Incentive ("POST") Pay
 - Aircraft Rescue Firefighting
 - Paramedic Pay
 - Motorcycle Bonus
 - Emergency Dispatch Pay
 - Field Training Officer Bonus
 - Shift Differential Pay
 - Confined Space Pay



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- Longevity Incentive
 - Automobile Allowance, if paid in cash; and for members whose Final Compensation Period includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
 - Uniform Allowance
 - Uniform Maintenance Allowance
 - Payoffs of Vacation, Sick, and Holiday leave time to the extent it was (i) earned in the 12-month Final Compensation Period (pro-rated on a monthly basis); (ii) not taken as time off; and (iii) permitted to be cashed-out during the 12 month Final Compensation Period (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out
 - Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
 - "Mandatory or Scheduled Overtime" (including pay items such as On-Call, and Standby) provided that it is pay for services rendered during the employee's Normal Working Hours. Normal Working Hours are those that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked by all other members in same grade /class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis (Mandatory or Scheduled Overtime)
 - Compensatory Time (excluding "True Overtime" as defined in Section 11(b) below) in excess of minimum required reserve
 - "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
 - Additional Compensation for Scheduled Meal Periods
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991
- (b) **Pay Items Excluded from Compensation Earnable.** In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the Final Compensation Period; and (ii) is not for working the ordinary time required of other employees in the same grade/class will be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:
- "True Overtime", including On-Call, Standby and similar pay for additional services rendered outside of Normal Working Hours (as defined above), whether paid in a lump sum or otherwise.
 - Employer Contributions to a Deferred Compensation Plan
 - Employer Contributions to the Retirement System
 - Employer "pick up" of Employee Contributions to the Retirement System



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- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed out under the applicable MOU during the 12-month Final Compensation Period, regardless of when actually paid or cashed out
 - Flexible Benefits ("Cafeteria Plan") provided in-kind
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring on and after January 1, 1991
 - Terminal ("Final") Pay, unless included in Compensation Earnable under Section 9(a), above
 - Expense Reimbursements
 - In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, Licenses, Memberships provided to the member by the employer
 - Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Period **do not** include time before January 1, 2001.
- (c) Calculation of Compensation Earnable. The retiring employee's compensation will be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period. OCERS Staff will calculate Compensation Earnable (Earnable Salary) by creating a fraction, the numerator of which is the amount of the employee's qualifying compensation and the denominator of which is the number of ordinary work hours for which the employee was actually paid. Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by all others in the same grade/class. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.

Policy Review

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

Policy History

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

Secretary's Certificate

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

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy **Compensation Earnable**



OCERS Board Policy

Compensation Earnable Policy

Purpose and Background

1. The purpose of this policy is to affirm OCERS' interpretation of the term Compensation Earnable as set forth in California Government Code section 31461 (Section 31461) and OCERS Board of Retirement Resolution 98-001 (Resolution 98-001).
2. Resolution 98-001 was adopted by the OCERS Board of Retirement (Board) on February 6, 1998, in order to implement the decision of the California Supreme Court (Supreme Court) in the case *Ventura County Deputy Sheriffs' Association vs. Board of Retirement of Ventura County Employees Retirement Association* (1997) 16 Cal.4th 483 (Ventura Decision). The Supreme Court in the Ventura Decision interpreted Section 31461 and the term Compensation Earnable as set forth therein and mandated a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems governed by the County Employees Retirement Law of 1937 (CERL).
3. Resolution 98-001, among other things, reflects the Board's interpretation of the Ventura Decision as it applies to various types or categories of speciality or premium pay received by OCERS members from their employers, and delineates those items of pay that are to be included in and those that are to be excluded from Compensation Earnable.
4. On May 4, 1998, Resolution 98-001 was amended by Board Resolution 98-009 in response to litigation brought by the County of Orange and others challenging the legality of Resolution 98-001. Resolution 98-009 deleted Sections 6, 8 and a portion of Section 9 of Resolution 98-001 related to the imposition of contributions in arrears stemming from the change in contribution rates that resulted from the implementation of Resolution 98-001. Additionally on December 18, 2000, Resolution 98-001 was further amended by Resolution 00-003 to address the treatment of certain automobile allowances. For purposes of this policy, any reference to Resolution 98-001 ~~shall will be~~ as Resolution 98-001 was amended by Resolutions 98-009 and 00-003.
5. OCERS was a party to several litigation matters that arose subsequent to the Ventura Decision and adoption of Resolution 98-001. These cases were coordinated as class actions in San Francisco Superior Court with other litigation involving other county retirement systems involving the interpretation and implementation of the Ventura Decision (Coordinated Cases).
6. On November 1, 2002, the San Francisco Court entered a judgment (Judgment) approving a settlement agreement of the Coordinated Cases that, among other things, included an agreement that all parties would ". . . accept as final and binding the inclusions and exclusions from compensation, compensation earnable and final compensation . . ." as set forth in Resolution 98-001.
7. In 2012, the California Legislature adopted [AB 197](#) and the Public Employees Pension Reform Act of 2012 ("PEPRA"), which among other things, effective January 1, 2013, amended Section 31641 to add [subdivision \(b\)](#), a list of items of compensation that are expressly excluded from Compensation Earnable. [Among the items of compensation excluded from Compensation Earnable are payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.](#) PEPRA also added a new term – Pensionable Compensation – to define the items of compensation [that are permitted](#) to be included in the calculation of the retirement allowances of ~~all~~ OCERS members enrolled in the pension system on or after January 1, 2013. OCERS members



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who were members of the system prior to January 1, 2013 are referred to as Legacy members in this policy.

8. ~~A number of lawsuits were filed shortly after PEPRA became effective. OCERS did not fully implement the exclusion in subdivision (b)(3) of Section 31641 for payments for additional services rendered outside of normal working hours.~~

~~7-9.~~ AB 197 and PEPRA, including the amendments to Section 31641, were upheld as constitutional by the Supreme Court in the case *Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th1032 (Alameda Decision). In light of the Alameda Decision the Board has amended Paragraph 11 below.

Policy Objectives

8-10. The objectives of this policy are to ensure that OCERS fully complies with applicable law including the Alameda Decision when calculating Compensation Earnable and Legacy members' retirement benefits, and to reaffirm the continued applicability of Resolution 98-001 as upheld by the Judgment in the Coordinated Cases.

Policy Guidelines

9-11. **Compensation Earnable.** Compensation Earnable for Legacy members shall be calculated by OCERS in accordance with the following guidelines.

(a) Pay Items Included in Compensation Earnable. In accordance with Resolution 98-001 and subdivision (a) and (b) of Section 31461, ~~+~~remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period (as defined by Section 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period), and (iii) for working the ordinary time required of all other employees in the same grade /class, will be included in Compensation Earnable, including, but not limited to the following items of compensation-, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive



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- Automobile Allowance, if paid in cash; and for members whose ~~"final compensation period (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period)~~ includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income-
 - Uniform Allowance
 - Uniform Maintenance Allowance
 - Payoffs of Vacation, ~~and Sick Leave~~ and Holiday ~~leave time~~ to the extent ~~it was~~ (i) earned ~~in the 12-month Final Compensation Period~~ (pro-rated on a monthly basis); (ii) ~~was~~ not taken as time off; and (iii) permitted to be cashed-out ~~during the Final Compensation Period~~ (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out
 - Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
 - ~~"Mandatory or Scheduled Overtime" (including pay items such as On-Call and Standby) provided that it is pay for services rendered during the employees Normal Working Hours. Normal Working Hours are those that (i) are that is required to be worked as part of the employees regular duties; and (ii) are that is ordinarily worked during the period in question as part of the regular assignments of all other members in the same grade or class as the employee; and (iii) are not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis by others in same grade/class/rate of pay.~~ [Mandatory or Scheduled Overtime]
 - Compensatory Time (excluding "True Overtime" as defined in Section ~~11(b) 9(b)~~ below) in excess of minimum required reserve
 - "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
 - Additional Compensation for Scheduled Meal Periods
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991
- (b) Pay Items Excluded from Compensation Earnable. In accordance with Resolution 98-001 ~~and subdivisions (a) and (b) of Section 31461, (†)~~ remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the ~~final-Final compensation Compensation period~~Period; and (ii) is not for working the ordinary time required of other employees in the same grade/class ~~shall will~~ be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:
- ~~"True Overtime", including On-Call, Standby and similar pay for additional services rendered outside of Normal Working Hours (as defined above), whether paid in a lump sum or otherwise. (i.e., amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class) [Overtime that does not qualify as Mandatory or Scheduled Overtime]~~
 - Employer Contributions to a Deferred Compensation Plan
 - Employer Contributions to the Retirement System



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- Employer "pick up" of Employee Contributions to the Retirement System
 - Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed out under the applicable MOU, during the 12-month Final Compensation Period, regardless of when actually paid or cashed out
 - Flexible Benefits ("Cafeteria Plan") provided in-kind
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring on and after January 1, 1991
 - Terminal ("Final") Pay, unless included in Compensation Earnable under Section 9(a), above
 - Expense Reimbursements
 - In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, Licenses, Memberships provided to the member by the employer
 - Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods ~~as defined in Section 9(a), above~~ **do not** include time before January 1, 2001.
- (c) Calculation of Compensation Earnable. The retiring employee's compensation ~~shall~~ will be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period ~~as defined in Section 9(a), above~~. OCERS Staff will calculate Compensation Earnable ~~(Earnable Salary)~~ by creating a fraction, the numerator of which is the amount of the employee's qualifying compensation and the denominator of which is the number of ordinary work hours for which the employee was actually paid. ~~The~~ Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by all others in the same grade/class. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.

Policy Review

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

Policy History

11. The Board of Retirement adopted this policy on March 18, 2019.

Secretary's Certificate

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



OCERS Board Policy
Compensation Earnable Policy

A handwritten signature in cursive script that reads "Steve Delaney".

03/18/19

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Pensionable Compensation

Purpose and Background

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

Policy Objectives

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

Policy Guidelines

5. **Pensionable Compensation.** OCERS shall calculate Pensionable Compensation for PEPRA Members in accordance with the following guidelines.
 - (a) **Pay Items Included in Pensionable Compensation.** Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vi) subject to the limitations of Section 5(b), below. Normal Working Hours are those that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked by all other members in same grade /class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis (Mandatory or Scheduled Overtime)

Pensionable Compensation includes the following items of compensation: Base Salary and Wages (gross of any employee contributions to deferred compensation plans) and includes additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay items (Premium Pay), and others substantially similar to them:

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



OCERS Board Policy

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- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay

Premium Pay will be included only if the assignment, certification or license:

- Is part of a member's regularly assigned responsibilities,
- is an essential, normal or traditional function of the job,
- is part of the regular assignment of other members in the same grade or class, and,
- is not for work performed or received solely during the final average compensation period.

(b) **Pay Items Excluded From Pensionable Compensation.** The following categories of compensation shall be excluded from "Pensionable Compensation":

- Any compensation determined by the Board to have been paid to increase a member's retirement benefit or is inconsistent with the requirements of subsection (a) above
- Overtime other than as defined in Section 207k of Title 29 of the United States Code that does not meet the definition of Normal Working Hours.
- Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise
- Employer contributions to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined in (a) above
- Any ad hoc or one-time pay of any sort
- Longevity Incentive Pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.



OCERS Board Policy

Pensionable Compensation

- 6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS shall not recognize as Pensionable Compensation any pay code or item of compensation that is not included in a Publicly Available Pay Schedule. For purposes of this policy, "Publicly Available Pay Schedule" means a document or documents that reflect the amount or category of pay that meets all of the following requirements:
 - (a) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
 - (b) Identifies the position title for every employee position;
 - (c) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
 - (d) Is posted on the employer's internet website. If not on the website it shall be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours; and
 - (e) Does not reference a document which is not available in accordance with (d), above in lieu of disclosing the payrate.

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

If an employer fails to meet the requirements of subdivision (a) above, the Board, in its sole discretion, may determine an amount that will be considered to be the applicable payrate, taking into consideration all information it deems relevant including, but not limited to, the following:

- (a) Documents approved by the employer's governing body in accordance with the requirements of public meetings laws and maintained by the employer;
- (b) The last payrate listed on a conforming pay schedule with the same employer for the position at issue;
- (c) The last payrate for the member that is listed on a conforming pay schedule with the same employer for a different position.

Policy Review

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



OCERS Board Policy

Pensionable Compensation

Policy History

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

Secretary's Certificate

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

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Pensionable Compensation Policy

Purpose and Background

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

Policy Objectives

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

Policy Guidelines

5. **Pensionable Compensation.** OCERS shall calculate Pensionable Compensation for PEPRA Members in accordance with the following guidelines.
 - (a) Pay Items Included in Pensionable Compensation. Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vi) subject to the limitations of Section 5(b), below. Normal Working Hours are those that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question as part of the regular assignments of all other members in the same grade/class as the employee; and (iii) are not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.
 - Pensionable Compensation includes the following items of compensation: Base Salary and Wages (gross of any employee contributions to deferred compensation plans) and includes additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay items (Premium Pay), and others substantially similar to them:
 - Bilingual Pay
 - Educational Pay
 - Aircraft Rescue Firefighting Pay
 - Paramedic Pay
 - Motorcycle Pay
 - Emergency Dispatch Pay
 - Field Training Officer Pay



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- Shift Differential Pay
- Confined Space Pay

Premium Pay will be included only if the assignment, certification or license:

- i. Is part of a member's regularly assigned responsibilities,
- ii. is an essential, normal or traditional function of the job,
- iii. is part of the regular assignment of other members in the same group-grade or class, and,
- iv. is not for work performed or received solely during the final average compensation period.

(b) Pay Items Excluded From Pensionable Compensation. The following categories of compensation shall be excluded from "Pensionable Compensation":

- Any compensation determined by the Board to have been paid to increase a member's retirement benefit or is inconsistent with the requirements of subsection (a) above
 - Overtime other than as defined in Section 207k of Title 29 of the United States Code that does not meet the definition of Normal Working Hours
 - Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise
 - Employer contributions to deferred compensation plan or retirement system
 - Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
 - Automobile, uniform or other allowances
 - Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid
 - Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, licenses, or memberships provided to or for a member by employer
 - Any bonus paid in addition to the compensation defined in (a) above
 - Any ad hoc or one-time pay of any sort
 - Longevity Incentive Pay
 - Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
 - Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS shall not recognize as Pensionable Compensation any pay code or item of compensation that is not included in a Publicly



OCERS Board Policy

Pensionable Compensation Policy

Available Pay Schedule. For purposes of this policy, "Publicly Available Pay Schedule" means a document or documents that reflect the amount or category of pay that meets all of the following requirements:

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

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

If an employer fails to meet the ~~foregoing~~ requirements of subdivision (a) above, the OCERS Board, in its sole discretion, may ~~consider which~~ determine and amount that will be considered to be the applicable payrate, taking into consideration all information it deems relevant including, but not limited to, the following: amounts will be considered qualifying Pensionable Compensation based on available evidence of pay codes that meet the statutory requirements.

- a) Documents approved by the employer's governing body in accordance with the requirements of public meetings laws and maintained by the employer;
- b) The last payrate listed on a conforming pay schedule with the same employer for the position at issue;
- c) The last payrate for the member that is listed on a conforming pay schedule with the same employer for a different position.

Policy Review

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

Policy History

- 8. The Board of Retirement adopted this policy on March 18, 2019.



OCERS Board Policy

Pensionable Compensation Policy

Secretary's Certificate

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

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

Steve Delaney
Secretary of the Board

03/18/19
Date



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

I. Purpose

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

II. Process Summary

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

III. Critical Aspects of Procedures

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

- **Timing:** Request must be submitted 30-days prior to the implementation of the pay item to provide sufficient time for OCERS to analyze the pay item and set up the code in OCERS' system. **The pay item must be properly reviewed, approved and set up in the system, or else exceptions will be created when validating the payroll transmittal and calculation of contributions and member retirement benefits may be miscalculated.**
- **Publicly Available Pay Schedule:** PEPRA requires that in order for a pay item to be included in a PEPRA member's final average salary, it must be included in a "publicly available pay schedule." In accordance with PEPRA, the pay item must be included in a pay schedule that:
 - Was duly approved by the employer's governing body;
 - Identifies the position title for every employee position along with the applicable elements of compensation;
 - Is posted or immediately accessible and available for public review at the



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

office of the employer or posted on the employer's internet website; and

- Does not reference an unavailable document in lieu of disclosing the element of compensation.

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

IV. Required Documents

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

1. Copies of the applicable sections of the Memorandum of Understanding (MOU), contract and/or compensation resolution in which the terms of the particular pay code are established.
 2. Copies of any other official employer documents such as personnel rules or departmental procedures that evidence the conditions under which the pay item may or may not be pensionable, if not clearly determinable from the MOU.
 3. Completed Pay Item Request Form, which includes:
 - General information
 - Pay item
 - Description of the pay item
 - List of job classification(s) of employees eligible for the pay item
 - Type of payment
 - Basis for eligibility
- A separate Pay Item Request is required for each new or changed pay item***
4. Access to the publicly available pay schedule as described in section IV.

V. Preceding Step (Prerequisites)

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



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

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

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

The following describes the steps for submitting your request:

1. Gather required documentation listed in Section IV.
2. Refer to OCERS policy documents including, but not limited to, the Compensation Earnable Policy and Pensionable Compensation Policy for guidance on pensionability of various forms of compensation.
3. Download the Pay Item Request Form from the Employer Section of the OCERS website at www.ocers.org.
4. Fill in and complete the Pay Item Request Form (see attached form)
5. Send the completed form and required documentation to:
OCERS Employer Payroll Unit
By Email: Employerpayroll@ocers.org

VII. Subsequent Steps for Approval and Implementation

Once the request for new pay item has been received:

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



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

item to the approved Pay Item Master List.

VIII. Appeal Process

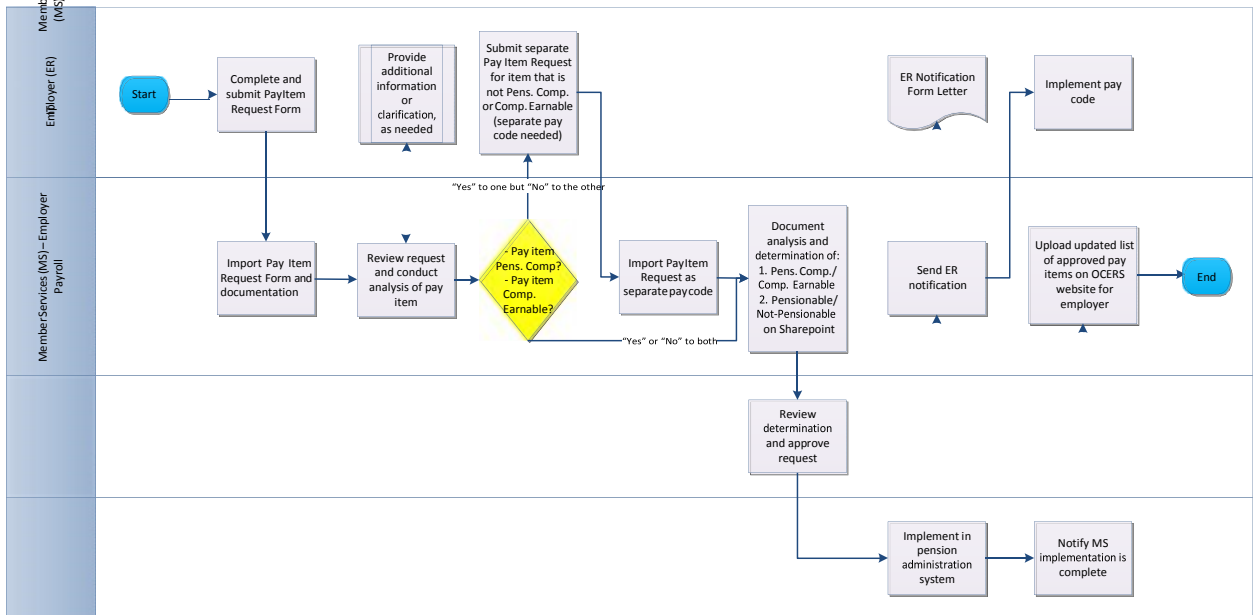
If the employer disagrees with OCERS determination, the employer will have 30 calendar days from the date of the final notice of determination to file an appeal to the Board. To file an appeal, the employer must send a letter including the reasons for the appeal and specific supporting facts and documentation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

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

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

IX. Overall Process Flow

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





PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

ATTACHMENT --FORM



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

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I. Purpose

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

II. Process Summary

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

III. Critical Aspects of Procedures

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

- **Timing:** Request must be submitted 30-days prior to the implementation of the pay item to provide sufficient time for OCERS to analyze the pay item and set up the code in OCERS’ system. **The pay item must be properly reviewed, approved and set up in the system, or else exceptions will be created when validating the payroll transmittal and calculation of contributions and member retirement benefits may be miscalculated.**
- **Publicly Available Pay Schedule:** PEPRA requires that in order for a pay item to be included in a PEPRA member’s final average salary, it must be included in a “publicly available pay schedule.” In accordance with PEPRA, the pay item must be included in a pay schedule that:
 - Was duly approved by the employer’s governing body;
 - Identifies the position title for every employee position along with the applicable elements of compensation;
 - Is posted or immediately accessible and available for public review at the office of the employer or posted on the employer’s internet website; and

OCERS Pay Item Request and Approval Procedures for Employers

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Adopted Date 12/11/2018

Last Revised Date _



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

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- Does not reference an unavailable document in lieu of disclosing the element of compensation.

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

IV. Required Documents

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

1. Copies of the applicable sections of the Memorandum of Understanding (MOU), ~~or~~ contract, and/or compensation resolution in which the terms of the particular pay code are established.
2. Copies of any other official employer documents such as personnel rules or departmental procedures that evidence the conditions under which the pay item may or may not be pensionable, if not clearly determinable from the MOU.
3. Completed Pay Item Request Form, which includes:
 - General information
 - Pay item
 - Description of the pay item
 - List of job classification(s) of employees eligible for the pay item
 - Type of payment
 - Basis for eligibility

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

V. Preceding Step (Prerequisites)

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



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

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

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

The following describes the steps for submitting your request:

1. Gather required documentation listed in Section IV.
- ~~1-2.~~ Refer to OCERS policy documents including, but not limited to, the Compensation Earnable Board Policy and Pensionable Compensation Board Policy for guidance on pensionability of various forms of compensation.
- ~~2-3.~~ Download the Pay Item Request Form from the Plan Sponsor Section of the OCERS website at www.ocers.org.
- ~~3-4.~~ Fill in and complete the Pay Item Request Form (see attached form)
- ~~4-5.~~ Send the completed form and required documentation to:
OCERS Employer Payroll Unit
 By Email: Employerpayroll@ocers.org

VII. Subsequent Steps for Approval and Implementation

Once the request for new pay item has been received:

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



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

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VIII. Appeal Process

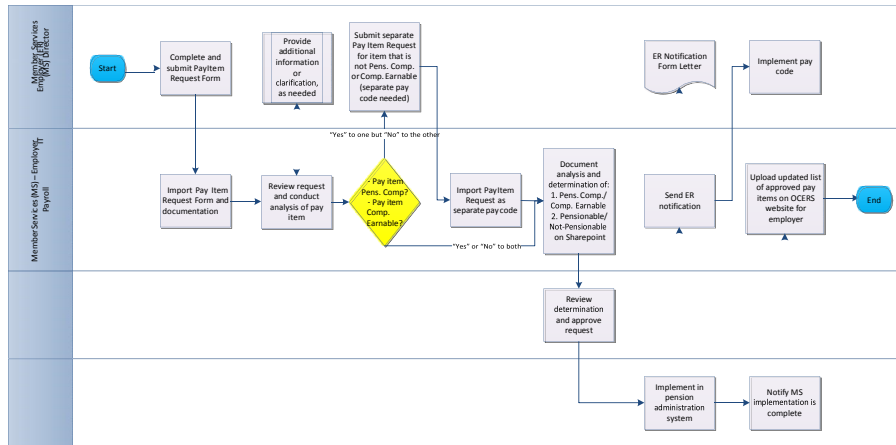
If the employer disagrees with OCERS determination, the employer will have 30 calendar days from the date of the final notice of determination to file an appeal to the Board. To file an appeal, the employer must send a letter including the reasons for the appeal and specific supporting facts and documentation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

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

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

IX. Overall Process Flow

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





**PAY ITEM REQUEST & APPROVAL PROCEDURES
FOR EMPLOYERS**

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ATTACHMENT --FORM



OCERS Pay Item Request Form 1-16-19

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

IMPORTANT INFORMATION REGARDING PAY CODES:

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

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

Use only one form per code

SECTION 1: GENERAL INFORMATION				
Plan Sponsor Name	Plan Sponsor Representative	Contact Number	Date	
SECTION 2: PAY CODE & EFFECTIVE DATES				
Pay Code ID	Pay Code Description (Title)	Pay Period Effective	Pay Period Begin Date	Pay Period End Date
SECTION 3: PAY ITEM MOU REFERENCE MATERIAL & INFORMATION				
Name of the governing MOU/Contract:	Term of MOU/Contract:	Date of Adoption:	MOU Page Number(s)	
NOTE: Please attach a copy of the applicable MOU article, section, and page(s), amendment "side letter" and/or other official documents establishing the compensation underlying the pay code and which support your answers, below. (Do not provide copy of entire MOU)				
Please provide a full description of the pay item:				
1. List all job classification(s) of employees are eligible for this pay item? (Please list job classifications)				
2. Indicate if all members or employees in the job classification(s) listed above are eligible to receive this pay item.			<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>
3. If the pay item is premium pay or special pay, indicate if the assignment, certificate or license:			<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>
i. Is part of a member's regularly assigned responsibilities,			<input type="checkbox"/>	<input type="checkbox"/>
ii. is an essential, normal or traditional function of the job, and			<input type="checkbox"/>	<input type="checkbox"/>
iii. is part of the regular assignment of other members in the same group or class			<input type="checkbox"/>	<input type="checkbox"/>
4. Indicate how this Pay Item is calculated.			<u>Fixed Amount</u> <input type="checkbox"/>	<u>% of Base Pay</u> <input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



OCERS Pay Item Request Form 1-16-19

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

5. Is the pay item for work performed outside of Normal Working Hours? If the answer is No, but served at times other than during a traditional 8, 10 or 12 hour shifts or 40-hour work week, please include supporting official documentation for that conclusion.	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
6. Is the pay item a bonus?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
7. Is the pay item paid one-time or ad hoc?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
8. Is the pay item an allowance (i.e. car allowance, uniform allowance, cell phone allowance)?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
9. Is the pay item a reimbursement?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
10. Is the pay item for deferred compensation?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
11. Is the payment for accrued unused Leave/Vacation Payout, earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
12. Is the payment for compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
13. Is the payment severance or other payment in connection with or in anticipation of a separation or termination from employment?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
14. If terminal pay, pay is both earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
15. What is the basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)?			
16. Is the pay item included in publicly available pay schedule as defined in the OCERS Pensionable Compensation Board Policy? If so in what publicly available salary schedule is the pay item listed or described? (Please provide the title and location of the document)			



OCERS Pay Item Request Form 1-16-19

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

PEPRA PENSIONABLE COMPENSATION CRITERIA –		SECTION BELOW RESERVED FOR OCERS STAFF			Qualifier	YES	NO	N/A
1.	Normal Monthly Rate of Pay or Base Pay:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
2.	Payable to Similarly Situated:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
3.	In Public Pay Schedule:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
4.	If Premium Pay or Special Pay, is the assignment, certification or license: <ul style="list-style-type: none"> i. part of a member's regularly assigned responsibilities, ii. an essential, normal or traditional function of the job, and iii. part of the regular assignment of other members in the same group or class 	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.	Earned for Normal Working Hrs. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
6.	Allowance, Reimbursement or Previously Paid In-Kind:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
7.	Bonus, one-time ad hoc payment:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
8.	Severance or Terminal Pay:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
9.	Overtime other than Section 207(k) time:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
10.	Payment for any Unused Leave:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
11.	Employer contribution to deferred comp:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
PEPRA Pensionable?								
Notes & Comments Regarding Decisions								

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at Same Pay Rate as Persons in Same Grade or Class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	One-Time or Ad Hoc Payment Paid to All Similarly Situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/Vacation Payout Earned & Payable in 12 Month Period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal Pay Earned & Payable in 12 Month Period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation Previously Paid In Kind & Now as Cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for Services Rendered During Normal Working Hours. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail :	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comp Earnable?					

Notes & Comments Regarding Decisions

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

 APPROVED BY

 DATE



OCERS Pay Item Request Form 1-16-19

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

IMPORTANT INFORMATION REGARDING PAY CODES:

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

Use only one form per code

SECTION 1: GENERAL INFORMATION				
Plan Sponsor Name	Plan Sponsor Representative	Contact Number	Date	
SECTION 2: PAY CODE & EFFECTIVE DATES				
Pay Code ID	Pay Code Description (Title)	Pay Period Effective	Pay Period Begin Date	Pay Period End Date
SECTION 3: PAY ITEM MOU REFERENCE MATERIAL & INFORMATION				
Name of the governing MOU/Contract:		Term of MOU/Contract:	Date of Adoption:	MOU Page Number(s)
NOTE: Please attach a copy of the applicable MOU article, section, and page(s), amendment and/or "side letter" and/or other official documents establishing the compensation underlying the pay code and which support your answers, below. (Do not provide copy of entire MOU)				
Please provide a full description of the pay item:				
1. List all job classification(s) of employees are eligible for this pay item? (Please list job classifications)				
2. Indicate if all members or employees in the job classification(s) listed above are eligible to receive this pay item.			YES <input type="checkbox"/>	NO <input type="checkbox"/>
3. If the pay item is premium pay or special pay, indicate if the assignment, certificate or license:			YES <input type="checkbox"/>	NO <input type="checkbox"/>
i. Is part of a member's regularly assigned responsibilities, ii. is an essential, normal or traditional function of the job, and iii. is part of the regular assignment of other members in the same group or class			N/A <input type="checkbox"/>	N/A <input type="checkbox"/>
4. Indicate how this Pay Item is calculated.			Fixed Amount <input type="checkbox"/>	% of Base Pay <input type="checkbox"/>
			N/A <input type="checkbox"/>	N/A <input type="checkbox"/>



OCERS Pay Item Request Form 1-16-19

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5. Is the pay item for work performed outside of regular Normal Working Hours? <u>i.e. payment for work or services performed outside of employee's regular shift or, if the answer is No, but served at times other than during a traditional 8, 10 or 12 hour shifts or 40-hour work week, please include supporting official documentation for that conclusion?</u>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
6. Is the pay item a bonus?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
7. Is the pay item paid one-time or ad hoc?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
8. Is the pay item an allowance (i.e. car allowance, uniform allowance, cell phone allowance)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
9. Is the pay item a reimbursement?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
10. Is the pay item for deferred compensation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
11. Is the payment for accrued unused Leave/Vacation Payout, earned and payable within 12-month period?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
12. Is the payment for compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
13. Is the payment severance or other payment in connection with or in anticipation of a separation or termination from employment?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
14. If terminal pay, pay is <u>both</u> earned and payable within 12-month period?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
15. What is the basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)?			
16. <u>Is the pay item included in publicly available pay schedule as defined in the OCERS Pensionable Compensation Board Policy? If so</u> in what publicly available salary schedule is the pay item listed or described? (Please provide the title and location of the document)			

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OCERS Pay Item Request Form 1-16-19

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

PEPRA PENSIONABLE COMPENSATION CRITERIA –		SECTION BELOW RESERVED FOR OCERS STAFF			
		Qualifier	YES	NO	N/A
1.	Normal Monthly Rate of Pay or Base Pay:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to Similarly Situated:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	In Public Pay Schedule:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	If Premium Pay or Special Pay, is the assignment, certification or license: <ul style="list-style-type: none"> i. part of a member's regularly assigned responsibilities, ii. an essential, normal or traditional function of the job, and iii. part of the regular assignment of other members in the same group or class 	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Earned for Normal Working Hrs. <u>If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail:</u>	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Allowance, Reimbursement or Previously Paid In-Kind:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Bonus, one-time ad hoc payment:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Severance or Terminal Pay:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Overtime other than Section 207(k) time:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Payment for any Unused Leave:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Employer contribution to deferred comp:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PEPRA Pensionable?					
Notes & Comments Regarding Decisions					

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at Same Pay Rate as Persons in Same Grade or Class	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	One-Time or Ad Hoc Payment Paid to All Similarly Situated	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/Vacation Payout Earned & Payable in 12 Month Period	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal Pay Earned & Payable in 12 Month Period	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation Previously Paid In Kind & Now as Cash	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for Services Rendered <u>Outside-During</u> Normal Working Hours. <u>If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail:</u>	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comp Earnable?					

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



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

I. Purpose

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

II. Authority

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

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

The Public Employees’ Pension Reform Act of 2012 (PEPRA) and AB 197 amended Section 31461 and created the term Pensionable Compensation for members hired on or after January 1, 2013. OCERS Pensionable Compensation Policy explains OCERS interpretation of the term Pensionable Compensation as defined in California Government Code Section 7522.34.

A number of lawsuits were filed shortly after PEPRA became effective. In light of that litigation, the Board chose not to fully implement the exclusion in subsection (b) of Section 31641 for payments for additional services rendered outside normal working hours, pending final resolution of that litigation. AB 197 and PEPRA, including the amendments to Section 31641, were upheld as constitutional by the California Supreme Court in the case *Alameda County Deputy Sheriff’s Association v. Alameda County Employees’ Retirement Association* 9 Cal.5th 1032 (Alameda Decision). Therefore the Board determined to further implement PEPRA accordingly.

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

III. Definitions

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

Compensation Earnable: See Section V.

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



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

Legacy Member: Member hired before January 1, 2013.

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

Normal Working Hours: Those hours an employee must work in order to be paid their base salary, plus overtime hours, including on-call or standby pay, only to the extent that the overtime hours: (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis. Normal Working Hours shall be established by the employer, but must meet OCERS and CERL requirements. OCERS shall reply upon official documentation adopted or approved by the employer's governing body such as collective bargaining agreements, compensation resolutions or ordinances and personnel rules. Other policies promulgated by employer administrative staff must be pursuant to properly delegated authority from the governing body.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.

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

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

Publicly Available Pay Schedule: A document that:

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

IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461 and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, and the Ventura Decision, the Alameda Decision and other interpretations issued thereunder.



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

V. Compensation Earnable and Pensionable Compensation

Compensation Earnable

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

ITEMS INCLUDED IN COMPENSATION EARNABLE

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

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose Final Compensation includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation, Sick and Holiday leave time to the extent it (i) was earned in the 12-month Final Compensation Period (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the 12 month Final Compensation Period (prorated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed out



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

- Employee Contributions to Deferred Compensation Plan (already included in Base Salary and Wages, above)
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call, and Standby) provided that it is pay for services rendered during the employee's Normal Working Hours. (Mandatory or Scheduled Overtime)
- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay and additional Compensation for Scheduled Meal Periods

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

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

- "True Overtime", including On-Call, Standby and similar pay for additional services rendered outside of Normal Working Hours, whether paid in lump sum or otherwise.
- Employer Contributions for Deferred Compensation plan or to Retirement System
- Employer "pick up" of Employee Contributions to Retirement System
- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU during the 12-month Final Compensation Period, regardless of when actually cashed out.
- Flexible Benefits ("Cafeteria Plan") provided in-kind.
- Flexible Benefits paid in cash to the extent paid to members retiring on or after January 1, 1991
- Terminal ("Final") Pay, unless included in Compensation Earnable under the section above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, Licenses, Memberships provided to member by employers
- Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation periods **do not** include time before January 1, 2001.

Pensionable Compensation

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



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

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

For PEPRAs members, Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; pursuant to Publicly Available Pay schedules; and (vi) subject to limitations. Pensionable Compensation includes the following items of compensation: Base Salary and Wages, (which includes any employee contributions to deferred compensation plans) and additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay categories, and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay

Premium Pay will be included only if the assignment, certification or license:

- i. Is part of a member's regularly assigned responsibilities,
- ii. Is an essential, normal or traditional function of the job,
- iii. Is part of the regular assignment of other members in the same group or class, and,
- iv. Is not for work performed or received solely during the final average compensation period.

ITEMS EXCLUDED FROM PENSIONABLE COMPENSATION

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

- Any item of compensation determined by the Board to have been paid in order to increase a member's retirement benefit (pension spiking) or is inconsistent with the requirements of Pensionable Compensation Policy.
- Overtime other than as defined in Section 207(k) of the Title 29 of the United States Code.
- Payments for additional services rendered outside of Normal Working Hours, whether



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

paid in a lump sum or otherwise including, but not limited to: on-call pay, standby pay and canine care pay unless qualifying as work performed during Normal Working Hours.

- Employer Contribution to deferred compensation plan or retirement system
- Flexible benefits (“Cafeteria Plan”) provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined as Pensionable Compensation above
- Any ad hoc or one-time pay of any sort including one-time longevity pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

VI. Process

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

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

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



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

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

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

3. Then the following criteria and guidelines are applied to determine if the pay item qualifies for inclusion in Compensation Earnable and/or Pensionable Compensation:

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

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at same pay rate as persons in same grade/class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	One-time or ad hoc payment paid to all similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/vacation payout earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal pay earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation previously paid in-kind & now in cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for services rendered outside normal working hours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation Earnable?					

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



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

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

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

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

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

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



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

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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Base Salary and Wages	Yes	Yes
Bilingual Premium Pay	Yes	Yes
Educational Incentive ("POST") Pay	Yes	Yes
Aircraft Rescue Firefighting	Yes	Yes
Paramedic Pay	Yes	Yes
Motorcycle Pay	Yes	Yes
Emergency Dispatch Pay	Yes	Yes
Field Training Officer Bonus	Yes	Yes
Shift Differential Pay	Yes	Yes
Confined Space Pay	Yes	Yes
Longevity Incentive	Yes	Yes
Employee Contributions to Deferred Compensation Plan	Yes	Yes
Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by the entire same grade/class; and (iii) not voluntary (Normal Working Hours)	Yes	Only Yes, if Section 207k time
"Madera" Pay and additional compensation for scheduled meal periods	Yes	Yes
Automobile Allowance, if paid in cash; and, for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code) includes time before January 1, 2001, also to the extent automobile was provided for personal use and declared as income	Yes	No
Uniform Allowance and Uniform Maintenance Allowance	Yes	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Payoffs and cash outs of Vacation and Sick Leave and Holiday provided that the time (1) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed-out	Yes	No
Compensatory Time (excluding "True-Overtime" in excess of minimum required reserve)	Yes	No
Any compensation determined by the Board to have been paid to increase a member's retirement benefit	No	No
True Overtime (amounts paid for working outside normal working hours)	No	No
Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise	No	No
Employer contributions for deferred compensation plan or to retirement system	No	No
Employer "pick up" of employee contributions to retirement system	No	No
Payoffs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually cashed out.	No	No
Flexible benefits ("Cafeteria Plan") provided in-kind	No	No
Flexible benefits paid in cash to the extent paid to members retiring on or after January 1, 1991	No	No
Terminal ("Final") pay in excess of what is earned in 12-month period	No	No
Expense reimbursements	No	No
In-kind advantages (e.g. food, lodging, board, laundry, fuel)	No	No
Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a	No	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

I. Purpose

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

II. Authority

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

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

The Public Employees’ Pension Reform Act of 2012 (PEPRA) [and AB 197 amended Section 31461](#) and created the term Pensionable Compensation for members hired on or after January 1, 2013. OCERS Pensionable Compensation Policy explains OCERS interpretation of the term Pensionable Compensation as defined in California Government Code Section 7522.34.

[A number of lawsuits were filed shortly after PEPRA became effective. In light of that litigation, the Board chose not to fully implement the exclusion in subsection \(b\) of Section 31641 for payments for additional services rendered outside normal working hours, pending final resolution of that litigation. AB 197 and PEPRA, including the amendments to Section 31641, were upheld as constitutional by the California Supreme Court in the case Alameda County Deputy Sheriff’s Association v. Alameda County Employees’ Retirement Association 9 Cal.5th 1032 \(Alameda Decision\). Therefore the Board determined to further implement PEPRA accordingly.](#)

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

III. Definitions

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

Compensation Earnable: See Section V.

Final Average Salary: One of the factors used to calculate a member’s monthly retirement allowance. It is a measure of a member’s level of earnings based on the member’s average salary



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

for a specified period of time (e.g. one-year of 12 consecutive months or three-years of 36 consecutive months). It includes base salary and may also include other pay items that the OCERS Board of Retirement has defined as Compensation Earnable or Pensionable Compensation.

Legacy member: Member hired before January 1, 2013.

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

Normal Working Hours: Those hours an employee must work in order to be paid their base salary, plus overtime hours, including on-call or standby pay, only to the extent that the overtime hours: (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis. Normal Working Hours shall be established by the employer, but must meet OCERS and CERL requirements. OCERS shall reply upon official documentation adopted or approved by the employer's governing body such as collective bargaining agreements, compensation resolutions or ordinances and personnel rules. Other policies promulgated by employer administrative staff must be pursuant to properly delegated authority from the governing body.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.

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

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

Publicly Available Pay Schedule: A document that:

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

IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461 and 31462 (Compensation Earnable), 7522.32

Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure
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and 7522.34 (Pensionable Compensation, 31542, and the Ventura Decision and other interpretations issued thereunder.

V. Compensation Earnable and Pensionable Compensation

Compensation Earnable

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

ITEMS INCLUDED IN COMPENSATION EARNABLE

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

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose ~~"Final compensation period (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation)"~~ includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance



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- Payoffs of Vacation, ~~and Sick Leave~~ and Holiday ~~leave~~ to the extent (i) was earned in the 12-month Final Compensation Period (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the 12-month Final Compensation period (prorated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed out
- Employee Contributions to Deferred Compensation Plan (already included in Base Salary and Wages, above)
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call, and Standby) provided that the pay is for services rendered during the employee's Normal Working Hours. Mandatory or Schedule Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by others in same grade/class/rate of pay. Overtime must be mandatory and regularly scheduled for the entire grade/class/rate of pay.
- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay and additional Compensation for Scheduled Meal Periods

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

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

- "True Overtime", including On-Call, Standby and similar pay for additional services rendered outside of Normal Working hours, whether paid in a lump sum or otherwise. (i.e. amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class)
- Employer Contributions for Deferred Compensation plan or to Retirement System
- Employer "pick up" of Employee Contributions to Retirement System
- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually cashed out.
- Flexible Benefits ("Cafeteria Plan") provided in-kind
- Flexible Benefits paid in cash to the extent paid to members retiring on or after January 1, 1991
- Terminal ("Final") Pay, unless included in Compensation Earnable under the section above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)



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- Fees, Licenses, Memberships provided to member by employers
- Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation periods ~~(as defined in Section 9(a) of the Compensation Earnable Policy)~~ do not include time before January 1, 2001.

Pensionable Compensation

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

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

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

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive Pay (other than one-time payments based on longevity)

Premium Pay will be included only if the assignment, certification or license:

- i. Is part of a member's regularly assigned responsibilities,
- ii. Is an essential, normal or traditional function of the job,
- iii. Is part of the regular assignment of other members in the same group or class, and,
- iv. Is not for work performed or received solely during the final average compensation period.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

ITEMS EXCLUDED FROM PENSIONABLE COMPENSATION

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

- Any item of compensation determined by the Board to have been paid in order to increase a member's retirement benefit (pension spiking) or is inconsistent with the requirements of Pensionable Compensation Policy.
- Overtime other than as defined in Section 207(k) of the Title 29 of the United States Code
- Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise
- Employer Contribution to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined as Pensionable Compensation above
- Any ad hoc or one-time pay of any sort including one-time longevity pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

VI. Process

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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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

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

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

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

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

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

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COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
6.	Payment for services rendered outside normal working hours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation Earnable?					

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

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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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

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

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

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

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



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

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Base Salary and Wages	Yes	Yes
Bilingual Premium Pay	Yes	Yes
Educational Incentive ("POST") Pay	Yes	Yes
Aircraft Rescue Firefighting	Yes	Yes
Paramedic Pay	Yes	Yes
Motorcycle Pay	Yes	Yes
Emergency Dispatch Pay	Yes	Yes
Field Training Officer Bonus	Yes	Yes
Shift Differential Pay	Yes	Yes
Confined Space Pay	Yes	Yes
Longevity Incentive	Yes	Yes
Employee Contributions to Deferred Compensation Plan	Yes	Yes
Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by the entire same grade/class/ rate of pay , and (iii) not voluntary (Normal Working Hours)	Yes	Only Yes, if Section 207k time
"Madera" Pay and additional compensation for scheduled meal periods	Yes	Yes
Automobile Allowance, if paid in cash; and, for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code) includes time before January 1, 2001, also to the extent automobile was provided for personal use and declared as income	Yes	No
Uniform Allowance and Uniform Maintenance Allowance	Yes	No

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	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Payoffs and cash outs of Vacation and Sick Leave and Holiday provided that the time (1) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed-out	Yes	No
Compensatory Time (excluding "True-Overtime" in excess of minimum required reserve)	Yes	No
Any compensation determined by the Board to have been paid to increase a member's retirement benefit	No	No
True Overtime (amounts paid for working <u>outside normal working hours</u> in excess of the time required an ordinary worked by others in the same grade/class)	No	No
Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise	No	No
Employer contributions for deferred compensation plan or to retirement system	No	No
Employer "pick up" of employee contributions to retirement system	No	No
Payoffs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually cashed out.	No	No
Flexible benefits ("Cafeteria Plan") provided in-kind	No	No
Flexible benefits paid in cash to the extent paid to members retiring on or after January 1, 1991	No	No
Terminal ("Final") pay in excess of what is earned in 12-month period	No	No
Expense reimbursements	No	No
In-kind advantages (e.g. food, lodging, board, laundry, fuel)	No	No

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

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Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure



OCERS Administrative Procedure (OAP) Final Average Salary Calculation

I. Purpose

This OAP describes the procedure for calculating the Final Average Salary (FAS) of a retiring member when calculating the member's monthly retirement allowance.

II. Authority

This OAP is in accordance with OCERS Board Retirement Enhancement Review Policy Compensation Review Policy, pursuant to California Government Code (GC) Section 31542 and in compliance with GC Sections 7522.32, 7522.34, 31460, 31461, 31462, and related applicable sections.

III. Final Average Salary Components

Final Average Salary (FAS) is one of the four factors used to calculate a member's monthly retirement allowance; it includes a member's base salary and may also include other pay items that the OCERS Board of Retirement (Board) has defined as Compensation Earnable or Pensionable Compensation.



COMPENSATION EARNABLE

Compensation Earnable means (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period, and (iii) for working the ordinary time required of other employees in the same grade/class. Compensation Earnable is applicable to existing members as of January 1, 2013, referred to as Legacy members.

PENSIONABLE COMPENSATION

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPRAs members.

EARNABLE SALARY

FAS is based on a member's earnable salary, which represents the total base salary that could have been earned during a bi-weekly pay period. Earnable salary is calculated by multiplying the member's hourly rate by the total number of regularly scheduled hours a member could have worked within a reported pay period.

GROSS SALARY

A member's gross salary represents the total payment made to a member within a reported bi-weekly pay period. Gross salary records are used by OCERS when calculating an eligible part-time member's FAS at retirement.



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IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461, and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542 and the Ventura Decision and other interpretations issued thereunder.

V. Process

The following describes the Final Average Salary calculation process.

1. Plan Verification

The first step in calculating FAS is to identify the member's plan membership and benefit plan formula.

- **Legacy**
 - **Plan Members**
 - a. Active member of OCERS prior to January 1, 2013; or
 - b. An individual who was a deferred member of OCERS prior to January 1, 2013, and who returns to the same employer; or
 - c. An individual who was a deferred member of a reciprocal retirement system with service under that system prior to January 1, 2013 who became an active member of OCERS within six months of deferring membership in the reciprocal system.
 - d. Deferred Legacy members (who do not return) as either PEPRA or Legacy (depending on what they were when they deferred)
 - **Plans**
 - Plan A B C, D, E, F, G, H, I, J, M, N, O, P, Q, R and S
- **PEPRA**
 - **Plan Members** – Member enrolled in OCERS on or after January 1, 2013
 - **Plans**
 - Plan T, U, V, and W

2. Measuring Period

Then the measuring period – one-year or three-years (12 or 36 consecutive months)- is identified based on the member's plan and entry date. Members who entered OCERS prior to September 21, 1979 have a one-year measuring period; all others have a three-year measuring period.

- **One-year (12-months):** Plan A, C, E, G, I, M, O and Q
- **Three-years (36-months):** Plan B, D, F, H, J, N, P, R, S, T, U, V and W



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3. Compensation Review

- Based on the selected retirement date, the highest average salary earned within a consecutive 12-month or 36-month period, whichever applies based on the member's plan and entry date, is identified.
- OCERS staff then examines the member's earnable salary records for the highest 12 or 36 consecutive months provided by the employer to determine the member's base pay and whether there are any additional pay items that qualify for inclusion in Compensation Earnable or Pensionable Compensation.

A) ITEMS INCLUDED IN COMPENSATION EARNABLE – LEGACY MEMBERS

For Legacy members, OCERS will determine whether the member has any additional premium pay or cash out items that may be included in Compensation Earnable.

TYPES OF PAY ITEMS INCLUDED

The following pay items are included, in addition to a member's hourly base wages:

- Premium pay (e.g. shift differential, bilingual premium pay, etc.)
- Allowances (e.g. automobile, if paid in cash or used for personal use, uniform, or uniform maintenance, etc.)
- Overtime, including on-call/standby pay but only if is: (i) required to be worked as part of the employee's regular duties; (ii) ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class as the employee; and (iii) not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

TYPES OF CASH OUT ITEMS INCLUDED

Cash out items, often referring to Paid Time Off (PTO) hours, up to the maximum amount earned and cashable during a 12-month period, for each year of the measuring period:

- **Annual Leave/Vacation** – amount earned, not taken as time off and permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually cashed out. (e.g. Employees are typically able to cash out 40, 60, or 80 hours of vacation or annual leave in a 12-month period.)
- **Sick Leave** – time that (i) was earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.
- **Compensatory Time for Holidays** - for holidays worked or for holidays that fall on a member's regularly scheduled day off, (i) the amount earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when



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actually paid or cashed out.

For Legacy members, if members have a measuring period that spans multiple fiscal years, OCERS will only include in Compensation Earnable the amount earned and could have been cashed out during each 12-month period of the measuring period.

B) ITEMS INCLUDED IN PENSIONABLE COMPENSATION – PEPRA MEMBERS

For PEPRA members, OCERS will determine the normal monthly rate of pay and any pensionable items that meet the following criteria for Pensionable Compensation:

- Pay is the normal monthly rate of pay or base pay
- Pay is paid in cash
- Paid to similarly situated members of the same group or class of employment
- Pay is for services rendered on a full-time basis during normal working hours
- Pay is paid pursuant to publicly available schedules

PAY ITEMS INCLUDED

- Base Salary and Wages (which includes employee contributions to deferred compensation plans), and including additional compensation for scheduled meal periods, plus skill-based or shift-based premium pay categories as defined in the Pensionable Compensation Policy.

C) ITEMS EXCLUDED FROM COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION

In accordance with Resolution 98-001 and GC Section 7522.34, the following are excluded from Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members including, but not limited to the following items, and others substantially similar to them.

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
Any compensation determined by the Board to have been paid to spike a member’s retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	
True overtime (not qualifying in 3[A], above)	Overtime other than as defined in Section 207(k) of Title 29 of the United States Code

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OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.	
Payoffs or cash outs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually paid or cashed out	Payments for unused vacation, annual, leave, personal leave, sick leave or compensatory time off, however denominated, whether paid in lump sum or otherwise, regardless of when reported or paid.
Flexible benefits (“Cafeteria Plan”) provided in kind and Flexible Benefits paid in cash	
Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)	
Fees, licenses, memberships provide to member by employer	
Automobile allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods (as defined in Section 9(a) of the Compensation Earnable Policy) do not include time before January 1, 2001.	Automobile, uniform, or other allowances
Terminal “Final” pay, to the extent not included in Cash Out items	Severance or other termination pay that is received while employed
	Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.
	Any ad hoc or one-time pay of any sort



OCERS Administrative Procedure (OAP) Final Average Salary Calculation

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- OCERS staff reviews each pay period that contains a pay item to determine whether the pay item is included in the approved list of pay items and is reported as pensionable. Staff then confirms that the member is eligible to receive the pay item by verifying the member’s job classification, bargaining unit and MOU that was applicable during the measuring period. Staff also validates that the pay item was reported and paid correctly according to the applicable MOU.
- For Legacy members, to determine whether a cash out item should be included in Compensation Earnable, OCERS reviews all payroll records from the employer and any relevant documents the member may have. Then, using the MOU that was applicable during the measuring period, OCERS confirms that the item was earned, not taken as time off and cashable during a 12-month period for each year of the measuring period. Members cannot receive credit for time that was used for time off.

If payment for compensatory time for holidays has not been reported as a cash out item by the employer, the member may be required to provide supporting documentation, including pay stubs and timesheets to show that the holiday hours accrued were not used as time off and that the member either received payment for the holiday hours, or could have received payment for those hours within 12-months of the measuring period.

No cash out items are included in Pensionable Compensation for PEPRA members.

- OCERS will research any item of compensation that may look inconsistent or appear to have been paid to spike a member’s retirement benefit.
- OCERS may request additional documentation from the employer or member to verify what has been provided and reported.
- If OCERS staff determines that one or more items of compensation were paid to inappropriately enhance a member’s retirement benefit, OCERS staff will send written notification to the member and the employer of its determination.
- OCERS may conduct written or oral follow-up communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff will document any such communications and when concluded, will issue a final notice of determination.
- Once all pay items and applicable cash out items have been validated, staff adds each pay item and/or applicable cash out item to the base salary to compute the total Compensation Earnable or Pensionable Compensation.

4. FAS Calculation

After completing the compensation review, OCERS calculates the Final Average Salary.

- For **Legacy members in Tier 1**, FAS is calculated by taking the sum of the member’s highest consecutive 12-months of Compensation Earnable and dividing it by 12.

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OCERS Administrative Procedure (OAP) Final Average Salary Calculation

- For **Legacy members in Tier 2**, FAS is calculated by taking the sum of the member's highest 36-months of Compensation Earnable and dividing it by 36.
- For **PEPRA members**, FAS is calculated by taking the sum of the member's highest 36-months of Pensionable Compensation and dividing it by 36.

FAS is limited to applicable IRS 401(a)17 and Social Security limits.

The FAS is then applied to the calculation of the member's monthly retirement allowance.

Part-Time or Full-Time Members with Less than One (1) Year (Tier 1) or Three (3) Years (Tier 2) of Service

If a member is a part-time employee or a full-time employee with less than 1 year of service (Tier 1) or 3 years of service (Tier 2), then the FAS is calculated using the member's Gross Salary. The member's sum of Gross Salary is divided by the number of months of service credited in OCERS and multiplied by 12.

Part-Time Members with Equivalent of Three (3) Years of Full-Time Service

For part-time members, FAS is calculated by using the member's Gross Salary over 6272 hours and dividing it by 36.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

I. Purpose

This OAP describes the procedure for calculating the Final Average Salary (FAS) of a retiring member when calculating the member’s monthly retirement allowance.

II. Authority

This OAP is in accordance with OCERS Board Retirement Enhancement Review Policy Compensation Review Policy, pursuant to California Government Code (GC) Section 31542 and in compliance with GC Sections 7522.32, 7522.34, 31460, 31461, 31462, and related applicable sections.

III. Final Average Salary Components

Final Average Salary (FAS) is one of the four factors used to calculate a member’s monthly retirement allowance; it includes a member’s base salary and may also include other pay items that the OCERS Board of Retirement (Board) has defined as Compensation Earnable or Pensionable Compensation.



COMPENSATION EARNABLE

Compensation Earnable means (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period, and (iii) for working the ordinary time required of other employees in the same grade/class. Compensation Earnable is applicable to existing members as of January 1, 2013, referred to as Legacy members.

PENSIONABLE COMPENSATION

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPRAs members.

EARNABLE SALARY

FAS is based on a member’s earnable salary, which represents the total base salary that could have been earned during a bi-weekly pay period. Earnable salary is calculated by multiplying the member’s hourly rate by the total number of hours a member could have worked within a reported pay period, ~~based on 80 (or 112) hours for full time, and 40 hours for part time, as based on designated member status.~~

GROSS SALARY

A member’s gross salary represents the total payment made to a member within a reported bi-weekly pay period. Gross salary records are used by OCERS when calculating an eligible part-time member’s FAS at retirement.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461, and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542 and the Ventura Decision and other interpretations issued thereunder.

V. Process

The following describes the Final Average Salary calculation process.

1. Plan Verification

The first step in calculating FAS is to identify the member's plan membership and benefit plan formula.

- **Legacy**
 - **Plan Members**
 - a. Active member of OCERS prior to January 1, 2013; or
 - b. An individual who was a deferred member of OCERS prior to January 1, 2013, and who returns to the same employer; or
 - c. An individual who was a deferred member of a reciprocal retirement system with service under that system prior to January 1, 2013 who became an active member of OCERS within six months of deferring membership in the reciprocal system.
 - d. Deferred Legacy members (who do not return) as either PEPPRA or Legacy (depending on what they were when they deferred)
 - **Plans**
 - Plan A B C, D, E, F, G, H, I, J, M, N, O, P, Q, R and S
- **PEPPRA**
 - **Plan Members** – Member enrolled in OCERS on or after January 1, 2013
 - **Plans**
 - Plan T, U, V, and W

2. Measuring Period

Then the measuring period – one-year or three-years (12 or 36 consecutive months)- is identified based on the member's plan and entry date. Members who entered OCERS prior to September 21, 1979 have a one-year measuring period; all others have a three-year measuring period.

- **One-year (12-months):** Plan A, C, E, G, I, M, O and Q
- **Three-years (36-months):** Plan B, D, F, H, J, N, P, R, S, T, U, V and W



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

3. Compensation Review

1. Based on the selected retirement date, the highest average salary earned within a consecutive 12-month or 36-month period, whichever applies based on the member's plan and entry date, is identified.
2. OCERS staff then examines the member's earnable salary records for the highest 12 or 36 consecutive months provided by the employer to determine the member's base pay and whether there are any additional pay items that qualify for inclusion in Compensation Earnable or Pensionable Compensation.

A) ITEMS INCLUDED IN COMPENSATION EARNABLE – LEGACY MEMBERS

For Legacy members, OCERS will determine whether the member has any additional premium pay or cash out items that may be included in Compensation Earnable.

TYPES OF PAY ITEMS INCLUDED

The following pay items are included, in addition to a member's hourly base wages:

- Premium pay (e.g. shift differential, bilingual premium pay, etc.)
- Allowances (e.g. automobile, if paid in cash or used for personal use, uniform, or uniform maintenance, etc.)
- Overtime, including on-call/standby pay but only if is: (i) required to be worked as part of the employee's regular duties; (ii) ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class as the employee; and (iii) not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.
- ~~Overtime (i) that is required and (ii) that is ordinarily worked by the entire grade/class/rate of pay.~~

TYPES OF CASH OUT ITEMS INCLUDED

Cash out items, often referring to Paid Time Off (PTO) hours, up to the maximum amount earned and cashable during a 12-month period, for each year of the measuring period:

- **Annual Leave/Vacation** – amount earned, not taken as time off and permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually cashed out. (e.g. Employees are typically able to cash out 40, 60, or 80 hours of vacation or annual leave in a 12-month period.)
- **Sick Leave** – time that (i) was earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

- **Compensatory Time for Holidays** - for holidays worked or for holidays that fall on a member’s regularly scheduled day off, (i) the amount earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member’s applicable MOU, regardless of when actually paid or cashed out.

For Legacy members, if members have a measuring period that spans multiple fiscal years, OCERS will only include in Compensation Earnable the amount earned and could have been cashed out during each 12-month period of the measuring period.

B) ITEMS INCLUDED IN PENSIONABLE COMPENSATION – PEPRAs ~~MEMEBRS~~ MEMBERS

For PEPRAs members, OCERS will determine the normal monthly rate of pay and any pensionable items that meet the following criteria for Pensionable Compensation:

- Pay is the normal monthly rate of pay or base pay
- Pay is paid in cash
- Paid to similarly situated members of the same group or class of employment
- Pay is for services rendered on a full-time basis during normal working hours
- Pay is paid pursuant to publicly available schedules

PAY ITEMS INCLUDED

- Base Salary and Wages (which includes employee contributions to deferred compensation plans), and including additional compensation for scheduled meal periods, plus skill-based or shift-based premium pay categories as defined in the Pensionable Compensation Policy.

C) ITEMS EXCLUDED FROM COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION

In accordance with Resolution 98-001 and GC Section 7522.34, the following are excluded from Compensation Earnable for Legacy members and Pensionable Compensation for PEPRAs members including, but not limited to the following items, and others substantially similar to them.

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRAs Members
Any compensation determined by the Board to have been paid to spike a member’s retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
True overtime <u>(not qualifying in 3[A], above)</u> (amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class)	Overtime other than as defined in Section 207(k) of Title 29 of the United States Code
Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.	
Payoffs or cash outs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually paid or cashed out	Payments for unused vacation, annual, leave, personal leave, sick leave or compensatory time off, however denominated, whether paid in lump sum or otherwise, regardless of when reported or paid.
Flexible benefits (“Cafeteria Plan”) provided in kind and Flexible Benefits paid in cash	
Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)	
Fees, licences, memberships provide to member by employer	
Automobile allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods (as defined in Section 9(a) of the Compensation Earnable Policy) do not include time before January 1, 2001.	Automobile, uniform, or other allowances
Terminal “Final” pay, to the extent not included in Cash Out items	Severance or other termination pay that is received while employed
	Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
	Any ad hoc or one-time pay of any sort

3. OCERS staff reviews each pay period that contains a pay item to determine whether the pay item is included in the approved list of pay items and is reported as pensionable. Staff then confirms that the member is eligible to receive the pay item by verifying the member’s job classification, bargaining unit and MOU that was applicable during the measuring period. Staff also validates that the pay item was reported and paid correctly according to the applicable MOU.

4. For Legacy members, to determine whether a cash out item should be included in Compensation Earnable, OCERS reviews all payroll records from the employer and any relevant documents the member may have. Then, using the MOU that was applicable during the measuring period, OCERS confirms that the item was earned, not taken as time off and cashable during a 12-month period for each year of the measuring period. Members cannot receive credit for time that was used for time off.

If payment for compensatory time for holidays has not been reported as a cash out item by the employer, the member may be required to provide supporting documentation, including pay stubs and timesheets to show that the holiday hours accrued were not used as time off and that the member either received payment for the holiday hours, or could have received payment for those hours within 12-months of the measuring period.

No cash out items are included in Pensionable Compensation for PEPRA members.

5. OCERS will research any item of compensation that may look inconsistent or appear to have been paid to spike a member’s retirement benefit.
6. OCERS may request additional documentation from the employer or member to verify what has been provided and reported.
7. If OCERS staff determines that one or more items of compensation were paid to inappropriately enhance a member’s retirement benefit, OCERS staff will send written notification to the member and the employer of its determination.
8. OCERS may conduct written or oral follow-up communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff will document any such communications and when concluded, will issue a final notice of determination.
9. Once all pay items and applicable cash out items have been validated, staff adds each pay item and/or applicable cash out item to the base salary to compute the total Compensation Earnable or Pensionable Compensation.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

4. FAS Calculation

After completing the compensation review, OCERS calculates the Final Average Salary.

- For **Legacy members in Tier 1**, FAS is calculated by taking the sum of the member’s highest consecutive 12-months of Compensation Earnable and dividing it by 12.
- For **Legacy members in Tier 2**, FAS is calculated by taking the sum of the member’s highest 36-months of Compensation Earnable and dividing it by 36.
- For **PEPRA members**, FAS is calculated by taking the sum of the member’s highest 36-months of Pensionable Compensation and dividing it by 36.

FAS is limited to applicable IRS 401(a)17 and Social Security limits.

The FAS is then applied to the calculation of the member’s monthly retirement allowance.

Part-Time or Full-Time Members with Less than One (1) Year (Tier 1) or Three (3) Years (Tier 2) of Service

If a member is a part-time employee or a full-time employee with less than 1 year of service (Tier 1) or 3 years of service (Tier 2), then the FAS is calculated using the member’s Gross Salary. The member’s sum of Gross Salary is divided by the number of months of service credited in OCERS and multiplied by 12.

Part-Time Members with Equivalent of Three (3) Years of Full-Time Service

For part-time members, FAS is calculated by using the member’s Gross Salary over 6272 hours and dividing it by 36.

Jenike, Suzanne

From: Delaney, Steve
Sent: Saturday, February 27, 2021 9:27 AM
To: Jenike, Suzanne; Ratto, Gina; Jennifer G. Krengel; Harvey L. Leiderman
Subject: FW: Alameda/OCERS board impact
Attachments: Bomb Squad On Call Hours are Normal Work Hours _pages; OCSD Bomb Technician are a separate Grade_pages

FYI

STEVE DELANEY | Chief Executive Officer | **Orange County Employees Retirement System (OCERS)**

P: (714) 558-6222 | C: (714) 697-8291 | ✉: sdelaney@ocers.org | 2223 E. Wellington Ave., Suite 100 | Santa Ana, CA 92701

"We provide secure retirement and disability benefits with the highest standards of excellence."

From: Delaney, Steve <sdelaney@ocers.org>
Sent: Saturday, February 27, 2021 9:26 AM
To: gregjensen66@yahoo.com
Subject: Alameda/OCERS board impact

Good morning Mr. Jensen,

Thank you for taking the time to write to me and share your experience in serving the citizens of Orange County, as well as sharing your personal perspective of the impact the California Supreme Court's decision in the Alameda case and its implementation could have on your life in retirement.

The OCERS Board is next scheduled to consider this topic at their March 15 meeting. I will have my assistant provide you with the information to join that meeting virtually should you wish, and I can assure you that I will be certain to acknowledge your note when discussing this topic with the Trustees.

Implementing the Supreme Court's directive is a complicated and painful task, and we appreciate hearing from members such as yourself as the OCERS Board considers how best to chart a course in this matter.

If you should have questions or further concerns, please feel free to write or call me directly at any time.

STEVE DELANEY | Chief Executive Officer | **Orange County Employees Retirement System (OCERS)**

P: (714) 558-6222 | C: (714) 697-8291 | ✉: sdelaney@ocers.org | 2223 E. Wellington Ave., Suite 100 | Santa Ana, CA 92701

"We provide secure retirement and disability benefits with the highest standards of excellence."

From: Greg Jensen <gregjensen66@yahoo.com>
Sent: Saturday, February 27, 2021 8:44 AM
To: Delaney, Steve <sdelaney@ocers.org>; Jenike, Suzanne <sjenike@ocers.org>; Dewane, Shawn <sdewane@ocers.org>; Hidalgo, Arthur <ahidalgo@ocers.org>; Hilton, Roger <rhilton@ocers.org>; Eley, Frank <feley@ocers.org>; sfredenrich@ocers.org; Lindholm, Wayne <wlindholm@ocers.org>; Packard, Charles <cpackard@ocers.org>; atalaloo@ocers.org; Vallone, Jeremy <ivallone@ocers.org>
Subject: [EXTERNAL] Alameda/OCERS board impact

Greetings,

My name is Greg Jensen, I recently retired after 26 years with the Sheriff's Department. I spent the majority of my career in the Hazardous Devices Section - commonly referred to as the Bomb Squad. For 18 years I made significant contributions to the safety of Orange County and the greater area by working in the extremely unique world of Hazardous Devices.

An abbreviated list of my professional certifications includes: Certified Bomb Technician (Federal Bureau of Investigation), a Hazardous Materials Specialist (CA Governor's Office of Emergency Services) an explosive breacher (Tactical Energetic Entry Systems), a certified explosive detection canine handler (CA Narcotics Canine Association).

I was involved with 1000s of calls for service, one of which resulted in burns to my face and ear requiring a long recovery.

When I retired, I was the longest standing local Bomb Technician serving as a FBI Task Force Officer in the Department of Energy's National Stabilization Program. I served in this capacity for over 11 years in addition to my regular duties. Not a lot can be discussed about this program as the subject matter is classified at the highest security levels in the nation. I dedicated countless hours, both compensated and on my own time to assuring a worst case scenario explosive device would be defeated and not kill hundreds of thousands. This mission subjected me to high radiation levels on a regular basis. Intrusive background checks in order to maintain clearance levels became normal.

My family sacrificed a great deal, missed holidays, long hours, on-call on nights & weekends. . . but they understood and realized they were part of the mission as well. I cannot thank them enough.

During my career I was always comfortable with the extreme risks knowing I was supported my family, peers, and sponsoring agencies. Additionally, I was comforted knowing my family and I would be rewarded with appropriate retirement compensation from OCERS. I spoke with OCERS members no fewer than four occasions during my career at retirement meetings and they confirmed I would be compensated for Canine and On Call pays.

I certainly hope and pray OCERS does not simply use Alameda as an avenue to alter my honestly earned retirement compensation.

Please consider the attached documents explaining Bomb Squad On Call and the unique job of a Bomb Technician.

Thank you,

Greg Jensen
(562)619-0455

Jenike, Suzanne

From: Greg Jensen <gregjensen66@yahoo.com>
Sent: Wednesday, March 3, 2021 9:34 AM
To: Delaney, Steve; Jenike, Suzanne; Dewane, Shawn; Hidalgo, Arthur; Hilton, Roger; Eley, Frank; sfredenrich@ocers.org; Lindholm, Wayne; Packard, Charles; atalaloo@ocers.org; Vallone, Jeremy
Subject: [EXTERNAL] Re: Alameda/OCERS board impact

Good morning,

I was informed that the 2 attachments to my previous email may have not arrived in your in box. Below is the text of attachment number 1. Thank you for considering the information;

Bomb Squad On-Call is Normally Scheduled/ Regular Working Hours, therefore not excluded from compensation earnable.

Page 80, Alameda County Deputy Sheriff's Association V. Alameda County Employees Retirement Assn. (opinion of the Court by Cantil-Sakauye,C.J.)

“ . . . The long-standing exclusion of overtime from compensation earnable, now embodied in section 31461.6 confirms that an employee's pension 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 the normal working hours in order to artificially inflate their daily rate of pay. Subdivision (b)(3) therefore reinforces the portion of section 21461 that required compensation earnable to be based on the same work year for all employees within a particular pay grade. This understanding is reinforced by the text of section 31461.6, which excludes ‘overtime premium pay’ unless the pay is received as compensation ‘for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek.’ In other words, overtime pay is not excluded if it is earned by an employee as part of his or her ‘normally scheduled’ or ‘regular working hours.’ Only payment for excess hours, as compared to the employee's peers is excluded.”

NOTE: The Honorable Cantil-Sakeuye did not use the term “Grade or Class and Rate of Pay.” She instead used the term “Peers” which is a lesser standard than that used by OCERS. The 18 Orange County Bomb Technicians are “Peers” clearly separated by job function from others in the Department. OCERS recent publication titled “Alameda Case Update August 19,2020” erroneously raises the “Peer” standard to be “same grade and class,” which is completely contrary to the Honorable Cantil-Sakeuye's verbiage.

Bomb Squad On-Call Is Normally Scheduled and Regular:

The OC Sheriff's Hazardous Devices Section or “Bomb Squad” is the only unit of its kind in the County. The Bomb Squad provides a variety assets to the OC public safety community to solve unusual problems; from explosives and bomb render-safe, explosive detection canines, SWAT support, and Hazardous Materials Response.

For at least 20 years, In order to provide 24/7 coverage for the County, the Department has opted to use a normally scheduled on-call system rather than staff a 24/7 operation. This results in a tremendous cost savings to the County and assures the pool of Bomb Technicians are experienced by concentrating the call volume on its

18 technicians.

Bomb Technicians are required to be available for the call out schedule, which is drafted on a month to month basis. The schedule changes from month to month to accommodate for special events and holidays, and the varying experience level of the bomb technicians. All Bomb Technicians are required to submit a minimum of 5 days every month:

HDS Standard Operating Procedure Section 29

Every Bomb Technician will be required to sign up for a minimum of 5-days of on-call and at least one of those days must be a weekend day...

The required normally scheduled on call duty worked by Bomb Technicians is a stark contrast to accepting large quantities of on-call for the express purpose of pension spiking (Alameda County Deputy Sheriff's Association V. Alameda County Employees Retirement Assn., page 21-22). An Orange County Bomb Technician has a required minimum of on-call hours per standing SOP.

This required minimum equals 80 hours of on-call per month, which cannot be considered excessive or voluntary as it is required of all Bomb Technicians regardless of whether they are in their "three highest years." At a minimum, a Bomb Technician's regular working hours (normally scheduled) in a year would include their 2080 hours at full pay plus at least 960 hours of on-call. It should be noted this number is consistently higher as the required minimum on-call hours often does not meet the need. Additional working hours has constituted "normal schedule regular working hours" for Orange County Bomb Technicians for over 20 years.

At a minimum an Orange County Bomb Technician should have 80 hours of On-Call considered compensation earnable. "overtime pay is not excluded if it is earned by an employee as part of his or her 'normally scheduled' or 'regular working hours.'" (Alameda County Deputy Sheriff's Association V. Alameda County Employees Retirement Assn. Page 80).

Greg Jensen, 562-619-0455, GregJensen66@yahoo.com

Greg Jensen
(562) 619-0455

On Feb 27, 2021, at 10:43 AM, Greg Jensen <gregjensen66@yahoo.com> wrote:

Greetings,

My name is Greg Jensen, I recently retired after 26 years with the Sheriff's Department. I spent the majority of my career in the Hazardous Devices Section - commonly referred to as the Bomb Squad. For 18 years I made significant contributions to the safety of Orange County and the greater area by working in the extremely unique world of Hazardous Devices.

An abbreviated list of my professional certifications includes: Certified Bomb Technician (Federal Bureau of Investigation), a Hazardous Materials Specialist (CA Governor's Office of Emergency Services) an explosive breacher (Tactical Energetic Entry Systems), a certified explosive detection canine handler (CA Narcotics Canine Association).

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security levels in the nation. I dedicated countless hours, both compensated and on my own time to assuring a worst case scenario explosive device would be defeated and not kill hundreds of thousands. This mission subjected me to high radiation levels on a regular basis. Intrusive background checks in order to maintain clearance levels became normal.

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During my career I was always comfortable with the extreme risks knowing I was supported my family, peers, and sponsoring agencies. Additionally, I was comforted knowing my family and I would be rewarded with appropriate retirement compensation from OCERS. I spoke with OCERS members no fewer than four occasions during my career at retirement meetings and they confirmed I would be compensated for Canine and On Call pays.

I certainly hope and pray OCERS does not simply use Alameda as an avenue to alter my honestly earned retirement compensation.

Please consider the attached documents explaining Bomb Squad On Call and the unique job of a Bomb Technician.

Thank you,

Greg Jensen
(562)619-0455

<Bomb Squad On Call Hours are Normal Work Hours .pages>

<OCSD Bomb Technician are a separate Grade.pages>

Jenike, Suzanne

From: Greg Jensen <gregjensen66@yahoo.com>
Sent: Wednesday, March 3, 2021 9:39 AM
To: Delaney, Steve; Jenike, Suzanne; Dewane, Shawn; Hidalgo, Arthur; Hilton, Roger; Eley, Frank; sfredenrich@ocers.org; Lindholm, Wayne; Packard, Charles; atalaloo@ocers.org; Vallone, Jeremy
Subject: [EXTERNAL] Re: Alameda/OCERS board impact 2

Good morning once more,

I was informed that the 2 attachments to my previous email may have not arrived in your in box. Below is the text of attachment number 2. Thank you for considering the information;

Argument to consider employees that are OCSD Bomb Technician are “Peers” and a separate Grade/Class/Rate of Pay – apart from other members of the department holding the same rank.

Background: The Orange County Sheriff’s Bomb Squad is the only Bomb Squad in the County of Orange. The Bomb Squad provides service to all jurisdictions in the County. Its eighteen members, from the ranks of Deputy II, Investigator, and Sergeant, are arguably the most diversely and highly trained in all of the Sheriff’s Department. All of the Bomb Technicians are certified by the Federal Bureau of Investigation. The Bomb Squad provides a variety of assets to the Orange County public safety community to solve unusual problems that cannot be handled by other units; from explosives and bomb render-safe to explosive detection canines to SWAT support to Hazardous Materials Response. The Bomb Technician’s procedures and techniques are foreign to most of law enforcement.

Bomb Technicians should be considered a separate Grade/Class/Rate of Pay based their unique job, which is totally different than others within the Sheriff’s Department and the rest of law enforcement. The following listing should help demonstrate the stark differences between a Deputy II and a Deputy II Bomb Technician, an Investigator and an Investigator Bomb Technician, and a Sergeant and a Sergeant Bomb Technician.

Identification within the Department: OCSD policy 203.4.2 refers to members of the Bomb Squad as “technicians,” as opposed to Deputy, Investigator, or Sergeant.

Testing for appointment to the Squad: In order to be appointed as a Bomb Technician, the employee must have passed a rigorous testing process, which includes a physical test, oral board interview, and written test. This process is similar to applying for a new career.

Federal Clearance: Orange County Bomb Technicians must possess, at a minimum, a Secret Clearance issued by the Federal Bureau of Investigation. This requires the Bomb Technician to undergo an additional background investigation, similar to starting a new career.

Medical Requirements: In order to attend basic Bomb Technician training, Orange County Sheriff Bomb Technicians are required to undergo a physical examination. Parameters for passing the physical examination are dictated by Federal Bureau of Investigation, similar to starting a new career. This physical examination must be repeated every three years. Very few other units within OCSD require this standard.

“Career Assignment”: A Bomb Technician assignment is often regarded as a “career assignment” meaning the overwhelming majority of members who become Bomb Technicians remain so for the remainder of their

careers. This is due to the amount of money and time invested by the department as well as the tremendous personal commitment required to become a successful Bomb Technician.

Certification and Title: Orange County Sheriff Bomb Technicians are required to attend the FBI Hazardous Devices 6-week Basic Course in Huntsville, Alabama. It is the only bomb squad school in the country for public safety agencies and is attended by all 468 bomb squads in the United States. Successful completion of this course earns the title of Bomb Technician and a certification that is valid for three years. Every three years the Bomb Technician is required to return to the Hazardous Devices School for one week for testing and re-certification.

Upon completion of the Basic Course, Bomb Technicians are issued an internationally recognized Bomb Technician badge that is worn along with the respective agency's badge on the uniform.

Bomb Technician Standards: The standards for Bomb Technician operation are dictated by the National Bomb Squad Commanders Advisory Board. This is similar to the Peace Officers Standards and Training commission for Peace Officers in California. OCSO Bomb Technicians have two sets of standards to meet: NBSCAB and POST

Training and Additional Certifications: These courses are only attended by Bomb Technicians. The training includes and is not limited to:

Counter Measures Course

Federal Bureau of Investigation Improvised Explosives Course

Federal Bureau of Investigation Maritime Bomb Technician Course

Federal Bureau of Investigation Underwater Hazardous Devices Technician Course

Alcohol Tobacco Firearms and Explosives Home Made Explosive Course Alcohol Tobacco Firearms and

Explosives Advanced Explosive Disposal Course

California Governor's Office of Emergency Services Hazardous Materials Technician Course

California Governor's Office of Emergency Services Hazardous Materials Specialist Course

Tactical Energetic Entry Systems Explosive Breaching Course

Texas Agricultural and Mechanical University Military Ordnance Course Washington University Pyrotechnics and Explosives Course

New Mexico Institute of Mining and Technology Explosive Breaching Course

New Mexico Institute of Mining and Technology Suicide Bomber Course Nevada Technical Associates

Radiation Safety Officer Course

National Nuclear Security Administration Radiation Detection Course Department of Energy Improvised

Nuclear Weapons Course Department of Energy Radiological Dispersal Device Course Explosive Detection Canine Course

Special Weapons and Tactics Course

Bureau of Investigation Basic Bomb Technician Certification

Bureau of Investigation Post Blast Investigation

Bureau of Investigation Advanced Post Blast Investigation Bureau of Investigation Chemical and Biological Course Bureau of Investigation Advanced Electronics Course

Bureau of Investigation Large Vehicle Bomb Countermeasures

Bureau of Investigation Tactical Bomb Technician Course Bureau of Investigation Manual Bomb Defeat

Course Bureau of Investigation Radio Controlled IED and Electronic

Required Monthly Training with the Entire Squad: Bomb Technicians are required to attend 16 hours of training every month to maintain their unique, specialized skill sets that are not performed by any other member of the department.

Recognition of Rank within the Unit: While working in a Bomb Squad capacity, typical rank structure is loosely adhered to. Bomb Technicians refer to each other as “Bomb Technician” or “Bomb Tech” rather than rank. On calls for service, Bomb Technician protocols places the final render safe authority with the most experienced bomb technician on scene, regardless of rank.

Instruction: Bomb Technicians are regularly tasked with instructing other public safety members on Hazardous Devices subject matter.

Statistical Record Keeping: All Operational activities conducted by Bomb Technicians are reported to the Bureau of Alcohol Tobacco Firearms and Explosives. OCSD only keeps record of operational activity needing a DR (report number).

Pay: The pay for Bomb Technicians is increased by \$585.00 per month (AOCDS MOU Section 4, O)

Uniform: Bomb Technicians are issued unique uniforms with the words “Bomb Squad” to clearly identify them as separate from “Police” or “Sheriff” personnel.

Vehicles: Bomb Technician vehicles are painted white or black, with no markings or department identification. This is because Bomb Technicians are intended to blend in with the agency they are assisting.

Greg Jensen (562) 619-0455 gregjensen66@yahoo.com

On Feb 27, 2021, at 10:43 AM, Greg Jensen <gregjensen66@yahoo.com> wrote:

Greetings,

My name is Greg Jensen, I recently retired after 26 years with the Sheriff’s Department. I spent the majority of my career in the Hazardous Devices Section - commonly referred to as the Bomb Squad. For 18 years I made significant contributions to the safety of Orange County and the greater area by working in the extremely unique world of Hazardous Devices.

An abbreviated list of my professional certifications includes: Certified Bomb Technician (Federal Bureau of Investigation), a Hazardous Materials Specialist (CA Governor’s Office of Emergency Services) an explosive breacher (Tactical Energetic Entry Systems), a certified explosive detection canine handler (CA Narcotics Canine Association).

I was involved with 1000s of calls for service, one of which resulted in burns to my face and ear requiring a long recovery.

When I retired, I was the longest standing local Bomb Technician serving as a FBI Task Force Officer in the Department of Energy’s National Stabilization Program. I served in this capacity for over 11 years in addition to my regular duties. Not a lot can be discussed about this program as the subject matter is classified at the highest security levels in the nation. I dedicated countless hours, both compensated and on my own time to assuring a worst case scenario explosive device would be defeated and not kill hundreds of thousands. This mission subjected me to high radiation levels on a regular basis. Intrusive background checks in order to maintain clearance levels became normal.

My family sacrificed a great deal, missed holidays, long hours, on-call on nights & weekends. . . but they understood and realized they were part of the mission as well. I cannot thank them enough.

During my career I was always comfortable with the extreme risks knowing I was supported my family, peers, and sponsoring agencies. Additionally, I was comforted knowing my family and I would be rewarded with appropriate retirement compensation from OCERS. I spoke with OCERS members no fewer than four occasions during my career at retirement meetings and they confirmed I would be compensated for Canine and On Call pays.

I certainly hope and pray OCERS does not simply use Alameda as an avenue to alter my honestly earned retirement compensation.

Please consider the attached documents explaining Bomb Squad On Call and the unique job of a Bomb Technician.

Thank you,

Greg Jensen
(562)619-0455

<Bomb Squad On Call Hours are Normal Work Hours .pages>

<OCSD Bomb Technician are a separate Grade.pages>

OCERS Board Members,

My name is Leonard Letze, I was a member of the Orange County Sheriff's Department from 1989 to 2016, serving for a total of 27 1/3 years.

I became a member of the Sheriff's Bomb Squad in 1995 and an Explosives Detection K9 Handler in 2002. That is a total of 21 years as a Bomb Tech and 14 years as a K9 Handler.

I became a Bomb Technician when the department issued a recruiting memo. The memo included requirements for the position that included mandatory On-Call.

The Bomb Squad is a very unique class. A member is required to attend many courses that only Bomb Techs are required and, in many cases allowed to attend. This includes the FBI Hazardous Devices School to become a certified Bomb Tech. Upon graduation each Tech is issued and authorized to wear a "Bomb Tech" badge. No other member of the Department is authorized to attend the school or wear the badge. We were also required to return to Huntsville every 3 years to recertify as a Bomb Tech.

To get into a little more depth that makes Bomb Techs a unique class/ group is that we were/are required to carry a department issued phone and that we were to have the phone with us at all times unless we were out of the area on vacation or at a training venue. We were also mandated to obtain and maintain an FBI Top Secret Security Clearance to allow us to attend briefings, collect evidence and work with and around sensitive equipment.

Some of the other mandated courses and responsibilities unique to Bomb Techs were Post Blast Courses, Large Vehicle Post Blast, Large Vehicle Bomb Counter Measure Courses, Haz-Mat Tech, Unexploded Ordnance, Breaching, Explosive Disposal Courses, SWAT Integration (Now called Tactical Bomb Tech) and more. We were also required to train with and maintain equipment unique to Bomb Techs. This was on top of the requirements that all department members were required to complete such as POST training and range qualifications.

Each Bomb Tech was mandated to take at least 5 days of On-call a month. At least one of those days had to be a weekend, and at least one of the Techs had to be an Explosives Detection K9 Handler. When the On-Call team was dispatched to a call out, it was common for the Bomb Squad Commander to text or call for other Bomb Techs to be available if another call came in or if more Techs/K9s were needed at the scene. As you can imagine, those calls were mainly at night, on weekends and holidays.

I was selected to be an Explosives Detection K9 Handler in 2002. Again, it was in response to a department wide recruitment memo.

The requirements included having a safe and proper place to house a K9 as the K9 would live with the handler. It also mandated the handler maintain the K9 24 hours a day, 7 days a week. As a handler I attended a 10-week course in San Antonio Texas. I was issued equipment, to include a specifically designed vehicle, that was unique to K9 handlers. I was required to train the K9 and keep detailed training records of the training. I also had to certify the K9 yearly, on top of the Bomb Tech requirements and the department wide requirements.

As you can see being a Bomb Tech and a K9 handler is unlike any other group in the department. Our specialty pays were paid for being a member of the specialized group every day, meaning it was our "everyday".

The department spends a substantial amount of time and money in training to allow us to become specialist. To complete all of the requirements unique to our group takes years to complete. To become proficient at both as a Bomb Tech and a K9 Handler also takes years.

When I started contemplating retirement, I attended 2 retirement seminars and had a meeting with an OCERS Rep. I was told that all of the specialty pays and mandated on-call pay would be part of my final retirement totals. This was explained as part of our contract, MOU, past practices and precedence. I had spent 21 years doing the same job. I was not in a position to pension spike as the monies I earned as a Bomb Tech and K9 handler was the basically the same I had been earning for many years.

If I had been told the specialty pays and the mandatory on-call was not going to be included in my retirement totals I would have made different choices. I would have left the job I enjoyed, the job I was extremely good at, the job in which the county had invested a substantial amount of time and money. I would have promoted for the sole purpose of raising my retirement checks.

I have been retired for almost 5 years and I have adjusted my life based on the retirement OCERS and I have agreed on. A cut in my benefits would be unfair and would be of great detriment to mine and my wife's life.

I cannot go back 10 years and change my career, but you do have the ability to do the right thing for the people who, in good faith, served the citizens of the County of Orange for many years.

Respectfully,

Leonard Letze

Orange County Sheriff's Department Bomb Squad and Explosives Detection K9 Handler (Ret)

February 17, 2021

Dear OCERS Board Member,

My name is Robert Mann. I retired from the Orange County Sheriff's Department in March of 2014. My last assignment was as an investigator assigned to the Bomb Squad. To say the assignment required dedication would be an understatement. The fact is the unit and the department demanded dedication. I am writing you regarding your correspondence with me stating that you may consider reducing my retirement compensation based on the Alameda decision. I have read the court decision and believe that you would misapply the court's ruling if you were to reduce my retirement compensation.

The on-call pay and canine pay I received during my service at the bomb squad, which currently factor into my retirement formula, can in no reasonable way be considered or even spoke of in the same breath as pension spiking. It is more than a little insulting that you could make such a claim. The assignment had mandatory on-call. For a period of time, there was a de-facto on-call system that had many hours of uncompensated time. Refusal to make yourself available for on-call would result in a punitive transfer, a policy stated verbally by the unit commander on multiple occasions. There was nothing voluntary about the on-call system at the sheriff's bomb squad. The fair tradeoff for this next-level requirement of dedication was that we knew that at least the inconveniences of many years of being on-call, felt not only the bomb technician but also felt by their family, was that at least the on-call factored into retirement. I routinely had to travel to and from special events in a separate car from the family throughout my kids' youth. By the way, we were expressly forbidden from using the county vehicle for that travel while on-call.

Regarding the canine pay, I would remind you of the post-9/11 world. The number of suspicious circumstances calls, and even actual explosive devices found at some of these calls, kept the sheriff's bomb technicians working at a dizzying pace for several years. These calls' standard procedure was to sweep the area, including the staging area the bomb technicians would work from and the area around the command post for explosive devices. The sheriff's department decided that this was best done by the bomb technicians, a wise decision from a strategic and tactical perspective.

The explosive detection canines issued to the sheriff's bomb technician were considered a piece of technical equipment. This was the language used in several the Homeland Security Grant, by the FBI's Hazardous Devices School, and other federal agencies. Since this technical equipment is a living thing, it comes with all the needs of any canine. Therefore, it was the bomb technician's job to maintain this equipment at their residence. The negotiated compensation according to the MOU was to be equal to ½ hours of overtime per day. Of course, you must know that it always required more than ½ hour per day to maintain and care for the explosive detection canines. The efforts to care for the explosive detection canine also were commonly known to fall under the Ventura decision provisions. On a separate note, the county was not charged rent for space at my residence, where their equipment was housed.

In addition to the highly insulting assertion that the compensation I received for mandatory on-call and maintenance of the county's equipment to be pension spiking, there is another consideration I would urge you to factor into your decision. OCERS represents themselves as having expertise in the field of retirement laws and policy. OCERS had an ethical and legal obligation to provide accurate retirement estimates to the members of the sheriff's department. OCERS enters into a special relationship when providing a retirement package estimate and must meet a standard of work when doing so. I made the most significant decision of my financial life based upon the information provided to me by OCERS. The Alameda decision had already been handed down at the time OCERS provided me with my retirement estimate.

In summation:

1. The characterization of bomb squad canine maintenance pay and mandatory on-call pay as "pension spiking" is inaccurate and insulting to the highly dedicated men and women who have served at the sheriff's bomb squad. "Pension spiking" is usually done by people in high-ranking positions who have the authority to assign themselves or their friends to specialty pay positions at the very end of their careers. I served under these conditions for 13 years. As part of my bomb squad duties, I performed Tactical Explosive Breaching duties for the entirety of this time, clearly a SWAT function; SWAT school-certified but no SWAT pay. I also was a certified Hazard Materials Technician, no HazMat pay. I take issue with any person who would characterize me as a "pension spiker."
2. A decision to characterize these compensations as "pension spiking" under the Alameda decision would be a clear admission of negligence and incompetency at the time OCERS provided me with my retirement compensation package. OCERS stated values on their website include "Reliable and Accurate." I have a right to expect that OCERS was living up to their stated values when they provided me with my retirement package.

There is an additional human factor here. The truth is, "we had a deal." A system was in place. Many of us at the sheriff's bomb squad planned our retirement based upon this system (the system and what was "pensionable" were confirmed in many phone calls and in-person meetings with OCERS representatives). Those plans were solidified upon receiving the retirement package at our pre-retirement meeting at OCERS. If OCERS fails to honor our "deal," it will be more than a significant financial burden on my family and me. I have been retired from law enforcement, approaching seven years now. During those seven years, I have developed new medical issues, as can happen at my age. Issues that would prevent me from returning to active law enforcement to "make up" the loss you would impose. If you were to impose such a loss upon me, I would be left with no choice but to file suit against OCERS and the individual OCERS employees who prepared my retirement compensation package.

Sincerely,
Robert Mann
Retired Sheriff's Investigator and Bomb Technician

Jenike, Suzanne

From: Alex Quilantan <alexquilantan@gmail.com>
Sent: Wednesday, March 3, 2021 12:28 PM
To: Delaney, Steve; Jenike, Suzanne; Dewane, Shawn; Hidalgo, Arthur; Hilton, Roger; Eley, Frank; sfredenrich@ocers.org; Lindholm, Wayne; Packard, Charles; atalaloo@ocers.org; Vallone, Jeremy
Cc: paul@aocds.org; alex quilantan
Subject: [EXTERNAL] Alameda Case impact on OCERS retirees
Attachments: Letter from OCERS.pdf

OCERS Board Members,

I am writing in response to the recent *Alameda County Deputy Sheriff's Association v Alameda County Employees' Retirement Association* decision.

I retired from the Orange County Sheriff's Department in February 2020 after 20 years of service. There were several factors that went into my decision, but the ultimate factor was the monthly allowance I was going to receive in retirement.

I met with OCERS Retirement Program Specialist Ricardo Serrano and he went over my options and provided me an estimate of my retirement benefit. At no time during my time with Mr. Serrano did he mention there was a possibility that any future court decisions would have an adverse effect on my retirement benefit. The only discussion about a change in the benefit would be an increase in payment if there was a Cost-of-Living increase.

In March of 2020, I received a letter from Mr. Serrano congratulating me on my recent retirement from the Orange County Employee Retirement System. He documented my effective retirement date and my monthly allowance. The following was also included in the letter: ***This is a lifetime benefit with yearly cost of living adjustments each April.*** Again, as I previously noted, there was no mention that future court cases and/or current cases in litigation that were not common knowledge also had the capability of altering my already established monthly allowance.

In April 2020, I received a letter from Steve Delaney, CEO of Orange County Employees Retirement System. I am attaching the letter, but I think it is important to highlight the first paragraph:

I am writing to share my sincere hope that you and your family are safe and healthy in these uncertain times. I want to take this opportunity to reach out to our more than 18,000 payees to assure you that the Orange County Employees Retirement System (OCERS) is strong, financially secure, and your hard-earned pension benefit is safe. OCERS is celebrating 75 years of dedicated service to your members, and through the highs and lows of those years-from the system's start in the chaos of a world war, through the trauma of the County's bankruptcy a half century later, to the Great Recession already more than a decade past, through all of that -every OCERS pension check ever earned has been paid. Nothing in this current crisis can change that. That is our promise to you, for your lifetime – you can count on OCERS benefit, always!

I recently went to my OCERS account and requested an "Award letter" and in the letter signed by OCERS Director of Member Services, Jeff Lamberson there was the following: ***Monthly benefits, with the exception of certain***

Alt Payee (DRO) benefits or eligible minor survivorships, are payable for your lifetime and may be eligible for annual Cost of Living Adjustments (COLA) each April.

Those of us who were either “On-call” or required to maintain a K-9 as part of their assignment and received compensation that was pensionable before the Alameda decision should be allowed to keep their current monthly lifetime benefit. As noted in the attached letter our “hard-earned pension benefit” should be safe. It was a promise to us for our lifetime.

If my retirement benefit is decreased in accordance with the Alameda decision it will greatly affect my family’s quality of life. My family and I made life-changing decisions based on the “lifetime” monthly benefit I earned.

I am respectfully requesting the OCERS retirement board honor the previously established “monthly” benefits that were advertised as “payable for your lifetime” to all retirees who may be affected by the *Alameda County Deputy Sheriff’s Association v Alameda County Employees’ Retirement Association* decision.

Respectfully,

Alex Quilantan
Retired Investigator Orange County Sheriff’s Department



Active Participating Employers:

- CITY OF SAN JUAN
CAPISTRANO
- COUNTY OF ORANGE
- ORANGE COUNTY
CEMETERY DISTRICT
- ORANGE COUNTY CHILDREN
& FAMILIES COMMISSION
- ORANGE COUNTY
EMPLOYEES RETIREMENT
SYSTEM
- ORANGE COUNTY FIRE
AUTHORITY
- ORANGE COUNTY IN-HOME
SUPPORTIVE SERVICES
PUBLIC AUTHORITY
- ORANGE COUNTY LOCAL
AGENCY FORMATION
COMMISSION
- ORANGE COUNTY PUBLIC
LAW LIBRARY
- ORANGE COUNTY
SANITATION DISTRICT
- ORANGE COUNTY
TRANSPORTATION
AUTHORITY
- SUPERIOR COURT OF
CALIFORNIA, COUNTY
OF ORANGE
- TRANSPORTATION
CORRIDOR AGENCIES

April 10, 2020

A message from Steve Delaney, OCERS CEO

I am writing to share my sincere hope that you and your family are safe and healthy in these uncertain times. I want to take this opportunity to reach out to our more than 18,000 payees to assure you that the Orange County Employees Retirement System (OCERS) is strong, financially secure, and your hard-earned pension benefit is safe. OCERS is celebrating 75 years of dedicated service to our members, and through the highs and lows of those years – from the system’s start in the chaos of a world war, through the trauma of the County’s bankruptcy a half century later, to the Great Recession already more than a decade past, through all of that – every OCERS pension check ever earned has been paid. Nothing in this current crisis can change that. That is our promise to you, for your lifetime – you can count on your OCERS benefit, always!

A retiree recently shared with me how impressed he was with the professional ethos of the OCERS staff, commenting of the counselor that assisted him: “I could tell that she cared about my future.” His observation speaks volumes as to the spirit of service and dedication that you will find demonstrated by everyone at OCERS. Though the OCERS building is temporarily closed to the public in order to protect you as well as our staff, the OCERS team is fully engaged and working remotely to assist you. We are available by telephone (714-558-6200) or e-mail (info@ocers.org). OCERS is here from 8 to 5, Monday through Friday; you will reach an OCERS’ staff operator, eager to help you in any way we can. Serving you and making sure your benefit is safe, that is our mission.

When financial markets experience downturns, some OCERS members become concerned about their retirement benefits. The good news for OCERS benefit recipients is that stock market declines **do not** affect benefit amounts. Market volatility is expected but OCERS is a long-term investor and the OCERS Board of Retirement’s investment philosophy is designed to minimize the impact of that volatility and achieve our goal of providing you with a safe and secure benefit through asset diversification and prudent strategies.

On behalf of the OCERS Board of Retirement, as well as the OCERS team, I want to wish you and yours the best of health as we look forward to brighter days ahead.

Sincerely,

Steve Delaney, CEO
Orange County Employees Retirement System

Jenike, Suzanne

From: spencer <naadd@roadrunner.com>
Sent: Tuesday, February 23, 2021 10:13 AM
To: Delaney, Steve; Jenike, Suzanne; Dewane, Shawn; Hidalgo, Arthur; Hilton, Roger; Eley, Frank; sfredenrich@ocers.org; Lindholm, Wayne; Packard, Charles; atalaloo@ocers.org
Cc: paul@aocds.org
Subject: [EXTERNAL] Alameda Case impact on OCERS retirees

Good morning,

My name is Andre Spencer and I retired from the Orange County Sheriff's Department in January of 2016. When I retired, my title was sergeant and I was supervising the homicide detail and received on call pay on the weekends only. As the Homicide Sergeant I supervised a team of 10 investigators and 2 investigative assistants conducting high profile, complex criminal investigations; including homicides, suspicious deaths, officer involved shootings, critical missing persons and internal criminal cases. I also supervise one investigator assigned to the Federal Bureau of Investigations as a Bank Robbery Apprehension Team member. During my five and a half years supervising the detail I was **on call twenty four hours a day, seven days a week**, even though I only received on call PAY Friday evening to Monday morning. During my time as the Homicide Sergeant I had been the scene supervisor on several cases, organizing investigation response, coordinating with Coroner's Office and the Crime Lab and working closely with patrol and investigative personnel from the Orange County Sheriff's Department, District Attorney's office and other outside agencies. I was the Child Abduction Response Team (CART) coordinator for the County of Orange and was a member of the California Homicide Investigators Association (CHIA) for several years.

Throughout my time supervising the Homicide Detail I had the opportunity to promote to a higher rank but decided not to do to my experience with the detail and the understanding that my on call pay would be "compensation earnable" at retirement. When signing my retirement paperwork I was told in writing that this was so. With my understanding that OCERS is planning on taking away on call pay from retired "on call" members this will affect my retirement life and way of living drastically. This change will reduce my retirement income drastically and goes against what I was told by OCERS when I retired. I also understand OCERS is looking into reimbursement as well which would be hundreds of thousands of dollars for me and no way I could sustain my retirement way of life and would need to get another job. OCERS never said this was possible when I signed my retirement paperwork and actually said the opposite. That I would get my current retirement compensation for the rest of my life.

I understand OCERS has the ability to allow retirees to keep their current retirement numbers that they have agreed to and numbers that they gave me. I sacrificed a lot of family time, promotions, etc., to stay in the position I retired in with the understanding my on call pay would be pensionable. I pray that OCERS would understand it would be morally and ethically wrong to renege on this binding agreement.

Respectfully,

Andre' Spencer

Mr. Lamberson,

I recently retired on August 14, 2020 from OC Sheriff/Technology Division after 34 years of County service.

I received a letter this past Friday (8-28-20) (as well as most other county employees) regarding the Alameda County case. This issue will have an impact on mine as well as many other current and future OC retirees pension benefit.

My FAS would have included the On-call calculations. I had been a Senior Communications Technician and just retired as a Telecommunications Engineer III and have been required to be on a scheduled rotational On-call schedule for the past 20 years.

My On-call services were not "voluntary" and were not outside "normal working hours" (as mention in the PEPRA TEST in the OCERS letter). My On-call services falls in line with the following OCERS comment:

OCERS has determined that "normal working hours" are hours (1) the employer requires the employee to work in their position on a full time basis; and (2) that are ordinarily worked by others in the same grade or classification as the employee. "Normal working hours" are customarily identified in the MOU or employment agreement. "Normal working hours" does not include time or services for which the employee volunteers.

As I mentioned, I have been required to be available for a scheduled rotational On-call schedule as part of my regular job duties, and this requirement was extended to others in my same grade or classification (e.g. Communications Technicians, Sr. Communications Technicians, Supervising Communications Technicians and Telecommunications Engineers I, II and III). Since On-call was scheduled by my employer and was a required job duty, it is reasonable to consider my On-call services to be during my "normal working hours" during that time of On-call.

I have attached job bulletins as supporting documentation -- please notice specifically a job bulletin when I applied for Telecommunication Engineer III in 2010 (Telecom Engineer III DSU job Bulletin.pdf), under General Duties in bold print:

The work may require additional work hours, night hours, and weekend hours with limited notice, and may require work for extended hours in sensitive operations.

The position requires after hour on call duty maintenance support of the 800MHz CCCS, based on the rotational 6 weeks period. After successfully completing the 1st year probationary period, the candidate will be put on the rotational after hour on call Monday through Sunday 4:30pm – 7:00am..

I have attached other current job bulletins for some of the aforementioned classifications that indicate a job duty requirement of 24/7 availability.

This change in my FAS has resulted in a negative amount of approximately \$1,400 per month. Knowing this amount now may have affected my decision not to retire at this time.

Please consider this information and I respectfully would like follow-up communications regarding this matter or any other help I can provide.

Regards,

Samuel Maynard
Telecommunications Engineer III (Retired)
(714)785-3129

Thank you for your time in reading this email and for your consideration in the matter at hand.

I was employed with the Sheriff's Department for approximately 30 years; retiring in March of 2014. My last 18 years of service was as an Investigator assigned to the Homicide Detail. When i was first promoted to the rank of Investigator and assigned to Homicide, i was advised that the assignment required my availability to work extended hours beyond my assigned shift, weekends, holidays, and that i would be "on-call" during my regularly scheduled days off. I had no problems with these requirements as i considered it an honor to be selected for the position. As the years passed, many individuals left the Detail due to the sometimes rigorous work hours and many times it was difficult to attract Investigators who were interested in replacing those who had left. Many of us remained within Homicide because we loved the challenge and representing the Department in what many considered to be an elite assignment.

Receiving compensation for being required to be "on-call" had been discussed and brought to the attention of the Sheriff's Administration several times throughout the years; however it never progressed beyond merely being discussed. I am not quite sure of the exact year that i and several other Homicide Investigators formally presented a request to both AOCDS and Sheriff's Administration that being compensated for being "on-call" at the very least be considered. Command Staff under Sheriff Carona did not move forward with our request.

It was not until it was discussed with then Undersheriff John Scott that our "on-call" proposal was taken to heart. Undersheriff Scott advised several of us that he generally assumed that Homicide Investigators were already receiving compensation for being "on-call" and seemed to be very surprised that we were not and never had been. Again i am unable to recall how much time had passed when we were notified that then Sheriff Hutchens approved our request.

When we initially requested "on-call" compensation, we at no time did this in the belief that it would further add to our retirement income; in fact we had no idea that our "on-call" pay would be pensionable. It is ABSURD to think that our request one day would be considered "pension spiking". Many of us most likely would have remained within the Homicide Detail even if our "on-call" requests had been denied. I know i would have remained because i loved doing my job and representing the Sheriff's Department.

Compensation for being "on-call" was never sought after as a way to add to our pensions. When i first heard information regarding the 'Alameda County case' and it's possible repercussions regarding OCERS, i believed to be a rumor only and could not be possible. After receiving formal notifications. i can tell you that i was in disbelief in reference to the possibility that i could not only lose retirement income but may also have to repay a portion of it! This to me was incredible to say the very least. There also is information being passed around that AOCDS had been aware of the 'Alameda County case' for quite some time and neglected to advise any of those possibly affected. I hope this rumor to be untrue without further explanation needed.

In closing, taking away retirement income that has already been in place since 2013, and for the lack of a better term 'promised' to those affected is not unfair but gut wrenching. Again, when i was within the Homicide Detail when "on-call" compensation was initially discussed and later received, it was NEVER done as a way to one day increase our pensions. That thought had never crossed our minds. Many of us did/do the job asked of us regardless of what our eventual retirement income may be. To now possibly take away monies that were promised when we retired is just plain sad.

Again thank you for reading this (lengthy) email and strongly considering the matter at hand. i would be more than willing to further discuss this matter and the background regarding Homicide "on-call" pay if needed.

Sincerely

Daniel Salcedo

March 2, 2021

Steve Delaney

CEO

Orange County Employees Retirement System

2223 E. Wellington Ave, Santa Ana CA. 92701

Mr. Delaney,

My name is Mark Kiernan. I'm an OCERS member having retired from the Orange County Sheriff's Dept. in March 2015 after 30 years of fulltime service. I am writing in response to the proposed changes in some member's retirement benefits based on a recent court decision regarding certain "compensation earnable" pay.

While the proposed changes will most likely not affect me directly, I feel compelled to speak up for the members that will be affected. While I understand that retirement benefits may change during the course of one's career, I don't understand how in good conscience they can be changed after the member has retired. As most of us do, we plan our retirements on several factors, most importantly our income. When the member confirms his retirement benefits with OCERS and chooses to retire based on that information, it would seem that OCERS has an obligation to ensure that the information they provided would be correct and binding.

In addition to seeking to reduce certain retiree's benefits, I'm told it's also been proposed that the members pay back the excess benefits they have received. I really can't even believe that to be true. The one bright spot in all this I've learned is that OCERS has the ability to allow the current affected retirees to maintain their existing retirement benefits with no pay back of benefits while still putting the court decided changes into effect for future retirees. I'm sure given this option the OCERS board will choose the correct option and support the current affected retirees.

Sincerely,

Mark Kiernan

OCSD ret.

Mission Viejo CA.

To all board members of the Orange County Employees Retirement System (OCERS).

My name is Jerome Larson, I retired from the Orange County Sheriff's Department in March of 2015 as a Lieutenant, after 30 plus years of service. I have recently heard about the possible impact the Alameda court case may have on our OCERS retired members. Even though this case does not impact my retirement, I know from talking with the great men and women that served the County of Orange many are possibly going to be impacted.

I felt I had to write this letter because I heard that there was talk of the current retired members possibly losing their current benefit and possibly having to pay back what they have received during their retirements. I asked several members about what I had heard and they told me that was what the Alameda case is about.

I have worked with many of these Deputies, Investigators, and Supervisors over my years of service. I have seen how they had to be on call at all times of their lives. Missing Christmas, other holidays, birthdays and their off times with their families. I was involved in an incident on a quite Saturday, June 12th, 2004, when the SWAT team had to respond to an active shooter who had shot me and another deputy. All those members were off duty and "On Call" and most spending time with their families. They all responded in quick fashion to stop the threat to the deputies on scene and surrounding community. This is only one example of many that these deputies, investigators and supervisors did over my 30 years of service.

The members I talked with, told me there was a possibility that OCERS might leave the current retiree's retirement benefits as is and they would not have to payback any money. They also said OCERS has the ability not to follow the Alameda case to the letter for the current retirees and let the current retirees keep their benefits as they were afforded at the time of their retirements. I was also told there was word that they would not have to pay back the benefits they were allowed at the time of the their retirements.

I have worked with some of you and know you can look at the big picture and see this is not the right move for the OCERS board. All of you can make changes to the future retirees so when they retire they will know what benefits they will receive.

Thank you
Jerry Larson
OCSD ret

March 10, 2021

Board of Retirement,

My name is Investigator Kevin Nadeau, I am an eight-year Marine Corps Veteran and currently have nearly 32 years of service on the Orange County Sheriff's Department. My entire adult life has been serving to protect America and its citizens.

You are the ultimate Trustees and protectors of our OCERS retirement investment, and the below information is critical for an informed decision on this Alameda / OCERS matter.

The **SPIRIT** of THE LAW of this decision is based on preventing a manipulated and inflated retirement benefit (Pension Spiking) and **should not be misinterpreted and used as a vehicle for the arbitrary reduction of contracted pension benefits from OCERS members that have NO PART in Pension Spiking.**

On Call Pay

For more than 18 years (as a member of the Bomb Squad) I have **continuously been assigned and REQUIRED to work "On Call" by my supervisors.** This **MANDATORY "On Call" OBLIGATION** is enforced on several units including Homicide, District Attorneys, SWAT and others. **Mandatory "On Call" compensation must not** be considered as "Payments for additional services rendered outside of normal working hours" **as for the affected employees, On Call is an obligation of our specific assignment that is enforced and REQUIRED by the Sheriff's Department and has similarities to that of a Salaried employee whose normal working hours are all encompassing.**

Canine Handler Maintenance Pay (CHMP)

OCERS has taken the position that CHMP is not a Premium Pay but meets the Alameda decision narrative of being "Payments for additional services rendered outside of normal working hours." (See *attachment 1*) If we investigate the process of how CHMP is calculated, we will see that CHMP is **NOT overtime worked outside of normal working hours but actual compensation as a Premium Pay.**

CHMP falls under the section of the MOU entitled Premium Pay. Page 10 of the MOU states, "handlers shall be compensated for canine maintenance at one and one-half the times their regular pay for 30 minutes per day, seven days a week whenever the police service dog is kenneled at their residence." (See *attachment 2*) The distinct verbiage in the MOU, **NEVER infers or uses the word OVERTIME or after hours but instead explains the hourly FORMULA** of 150% used to calculate a flat rate compensation amount for employees who have different rates of pay (Deputy I, Deputy II or Investigator). This formula of 150% coincidentally is the same rate used to calculate overtime thus is likely leading many to incorrectly understand CHMP as overtime pay. In fact, **the Sheriff's Department clearly distinguishes CHMP from overtime pay in the following four (4) distinct instances.**

1. Per the MOU, **the Sheriff's Administration adheres to the Fair Labor Standards Act (FLSA) and mandates that overtime is ONLY paid AFTER forty (40) hours is actually worked in a seven (7) day period.** (See attachment 3) However, **CHMP is paid no matter if the handler has achieved 40 hours of work per week or not.** For instance, if a handler takes a week of vacation (40 hours), they still receive their CHMP. (See attachment 4) This point illustrates without question that CMHP is in fact a **SPECIALTY PAY** that uses a specific formula to arrive at the required pay.

2. Canine handlers submit their biweekly time sheets using the Sheriff's Department Virtual Time Interface (VTI) timecard. **VTI requires canine handlers to utilize the pay code "K9PAY."** It should be further noted that VTI has its own distinct pay code for Overtime Pay, which is "OT." "OT" is not **interchangeable in any way with "K9PAY."** (See attachment 5)

3. When canine handlers receive their paycheck receipt, their **CHMP is specifically annotated as "CANINE PAY" not "OVERTIME."** **CHMP IS NOT included in the accumulated overtime hours on the handler's timecard.** Sheriff's Department Financial Bureau has made it clear that Canine Pay is NOT overtime. (See attachment 6)

4. The Orange County Sheriff's Department's Administration has placed a **maximum limit on the amount of overtime employees are permitted to work and they DO NOT include Canine Pay formula hours in this maximum limit.** The Sheriff's Administration is consistent with its Financial Bureau, **in that it also does not consider CHMP as overtime.** (See attachment 7)

There is no doubt that the Sheriff's Department, Administration, the Sheriff's Department Financial Bureau, and the MOU **do not consider CHMP to be overtime but instead as a Premium Pay that must be considered as Compensable Earnable income under PEPRA.** Only OCERS administrators are taking the unique position that CHMP is not a specialty pay.

As Peace Officers, our OCERS retirement is the primary investment vehicle we have. OCERS administrators have accepted, without conducting their Due Diligence, a non-appropriate application of the Alameda decision that has resulted in a mistrust of OCERS. The Trustees' fiducial duties are being put to the test with a decision that will be the defining basis of reputations for years to follow.

OCERS has reaffirmed my position as a "small government" type of fellow as once again, bureaucratic government types are rolling over the little guy. I pray you, the Trustees, will pass this fiduciary litmus test, and protect the "little guys" from those who are failing to follow the **Spirit** of the California Supreme Court decision. **Please protect my contracted financial investment that was promised me by OCERS for the last 19 years.**

"The greater dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."
Justice Louis Brandeis 1928

Respectfully,

Kevin Nadeau

ATTACHMENT #1

boards notified retirement system members of the benefits' availability, actively encouraged their use—including that members “maximize” these benefits—and accounted for them in actuarial calculations. (See, e.g., 1 C.T. 0158-0159; 5 C.T. 1258-1259, 1344-1345, 1352-1360; 16 C.T. 4729, 4730; 17 C.T. 5079, 5082, 5101-5153, 5160-5162; 24 C.T. 7092, 7106, 7138, 7139.)

B. The Disputed Pay Items: Leave Cash-Outs, “Terminal Pay,” On-Call Pay, and Retirement “Enhancements”

In 2012, the Legislature enacted AB 197, changing the terms of Government Code section 31461 to exclude certain types of payments from “compensation earnable.” (Stats. 2012, ch. 296; Stats. 2012, ch. 297.)

The legislation added a new subdivision (b) to the statute, identifying for the first time types of payments that would not be “compensation earnable,” including (1) “compensation determined by the [retirement] board to have been paid to enhance a member’s retirement benefit;” (2) “[p]ayments for unused vacation [or other leave] . . . in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid;” (3) “[p]ayments for additional services rendered outside of normal working hours;” and (4) “[p]ayments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period.” (Gov. Code, § 31461, subd. (b); *Alameda County DSA, supra*, 19 Cal.App.5th at pp. 84-85.)

As a result, the retirement boards here announced that they would exclude certain pay items from the calculation of pension benefits, and the Unions sued as a result, claiming the new exclusions imposed by AB 197 impaired vested pension rights of legacy employees, who were members of

ATTACHMENT #2

monthly premium of seventy-five (\$75) dollars per month, approximately (\$34.62) biweekly.

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 Handlers will be compensated for hours actually worked when the handler is required to spend more than 30 minutes on an emergency or other non-routine canine maintenance duty (i.e., emergency veterinary visits).

Canine Handlers will not be compensated for canine maintenance when the police service dog is kenneled at a location other than the canine handler's residence.

Premium pays in Sections O, P, Q, and R each contain subsections. Within Sections O, P, Q, and R, employees may receive a premium pay under only a single subsection at a time. For example, someone that receives Section O.1 pay cannot also receive the premium pay outlined in Subsection O.2 pay. The same principle applies to Sections P, Q, and R. This is not intended to change or impact any existing practice of how other premium pays are applied or how other premium pays interact with Sections O, P, Q, and R.

O. Hazardous Devices Assignment Pay and Hazardous Devices for Explosive Detection Squad Assignment Pay

1. Employees on pay status and assigned to the Hazardous Devices Squad or Explosive Detection Squad on a regular, full-time basis shall receive the equivalent of two hundred sixty-seven dollars and sixty-nine cents (\$267.69) biweekly (approximately five hundred eighty [580] dollars per month).
2. Employees on pay status and assigned to the Hazardous Devices Squad or the Explosive Detection Squad on a regular, full-time basis receiving Hazardous Devices Assignment Pay who are also trained, certified and assigned by management to dive as a part of their job duties shall receive the equivalent of three hundred seventy three dollars and eighty four cents (\$373.84) biweekly (approximately eight hundred and nine [809] dollars per month).



U.S. DEPARTMENT OF LABOR

ATTACHMENT #3

Overtime Pay

An employer who requires or permits an employee to work overtime is generally required to pay the employee premium pay for such overtime work. Employees covered by the [Fair Labor Standards Act \(FLSA\)](#) must receive overtime pay for hours worked in excess of 40 in a workweek of at least one and one-half times their regular rates of pay. The FLSA does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime hours are worked on such days.

The [FLSA](#), with some exceptions, requires bonus payments to be included as part of an employee's regular rate of pay in computing overtime.

Extra pay for working weekends or nights is a matter of agreement between the employer and the employee (or the employee's representative). The [FLSA](#) does not require extra pay for weekend or night work or double time pay.

Webpages on this Topic

[Overtime Website](#)

The federal overtime provisions are contained in the Fair Labor Standards Act. The overtime site contains helpful guidance materials, fact sheets, and e-tools and presentations that address overtime pay requirements.

[Fact Sheets](#)

Consult these fact sheets for specific information about overtime pay for certain exempt employees and in your occupation.

[Fact Sheet on the Overtime Pay Requirements of the Fair Labor Standards Act \(FLSA\) \(PDF\)](#)

Provides general information concerning the application of the overtime pay provisions of the FLSA.

["When Is Overtime Due?"](#)

Information about overtime.

["Is Extra Pay Required For Weekend Or Night Work?"](#)

Additional information about overtime pay.

["When Is Double Time Due?"](#)

Additional information about overtime pay.

[Handy Reference Guide to the Fair Labor Standards Act](#)

Answers many questions about the FLSA and gives information about certain occupations that are exempt from the Act.

[Coverage Under the Fair Labor Standards Act \(FLSA\) Fact Sheet](#)

General information about who is covered by the FLSA.

[Agencies](#) [Forms](#) [Guidance Search](#) [FAQ](#) [About Us](#) [News](#) [Contact Us](#)



U.S. DEPARTMENT OF LABOR

200 Constitution Ave NW
Washington, DC 20210
[1-866-4-USA-DOL](tel:1-866-4-USA-DOL)
[1-866-487-2365](tel:1-866-487-2365)
www.dol.gov

3/10/2021

MessageDetail

ATTACHMENT #4

Employee Name: [REDACTED]
 Employee ID: 019967
 Fed. Tax Status: 060
 Agency: 060
 State Tax Status: 02 M
 Unit: 1401
 Pay Loc: 060007

COUNTY OF ORANGE
PAYROLL CERTIFICATE
 Frank Davies, CPA
 County Auditor-Controller


Payment Advice/Check#: 252000000008003
 Issue Date: 12/11/2020
 Pay Period(#): 25
 PP Begin - Ending Date: 11/20/2020-12/3/2020
 Type: REGULAR

Current Pay Period
 Total Gross Pay(Pay Elements): [REDACTED]
 Total Deductions: \$2,089.21
 Net Pay: [REDACTED]
 Year-to-Date
 YTD Gross: [REDACTED]
 YTD Taxable Gross: [REDACTED]

Pay Elements:	Rate	Hours(Hrs:Min)	Amount
>> ANNUAL LEAVE	\$60.6400	20:00	\$1,212.80
>> EDC INCENTIVE	\$0.0000	0:00	\$115.38
>> HC PAYOUT	\$60.6400	16:00	\$970.24
>> HZRDS DTY DV	\$0.0000	0:00	\$373.84
>> HOLIDAY PAY	\$60.6400	8:00	\$485.12
>> CANINE PAY	\$90.9600	7:00	\$636.72
>> ON CALL	\$15.1600	12:00	\$181.92
>> POST PAY	\$5.4576	80:00	\$436.60
>> REGULAR	\$60.6400	36:00	\$2,183.04
>> TOXIC INVSTG	\$0.0000	0:00	\$106.15
>> WKNG HOLIDAY	\$60.6400	16:00	\$970.24

Deductions:
 >> AOCDS
 >> FEDERAL TAX
 >> HLTH-BEFRTAX
 >> MEDICARE-EE
 >> STTAX WHELD

Year to Date
 [REDACTED]

Reimbursable Expenses:

Leave Category	Current Balance(Hrs:Min)
>> ANNUAL LEAVE	900:15
>> EMER SICK LV	80:00
>> COMP TIME	60:00
>> FLSA COMP	20:00
>> SICK LEAVE	351:24
>> VAC ACCRUAL	305:00

Disclaimer

This website is intended to provide limited information concerning your payroll transactions in the County of Orange and is not intended to constitute legal, accounting, tax, investment, consulting, or other professional advice or services. Payroll information posted on this website is the best representation of the records of Orange County at the time of the update of this website and is not a guarantee or assurance that funds are actually on deposit and available in your personal account(s). You should consult with your banking institution to verify the availability of funds in your account(s). You should also not use the information on this website as a basis for income tax reporting as such information may be subject to adjustments from time to time. This website and the information contained herein are provided "as is" and there

oc_34

ATTACHMENT #5

Employee

27 minutes left

Page: 1 of 1

		Pay Period Hours																							
Agency Unit	Pay Location	Title Code	Available Leave Balances	Schedule	Worked	Time Off	Total	Other	Overtime	Start	End														
0	1401	060007	6508PO		(4/10) 7.00 am - 5.00 pm Tue - Fri (No lunch)	60.00	60.00	76.30	05.00	02/26/2021	03/11/2021														
Override Jnit	Job Number	Department Object	Pay Code	Hours	Fri 2/26	Sat 2/27	Sun 2/28	Mon 3/1	Tue 3/2	Wed 3/3	Thu 3/4	Fri 3/5	Sat 3/6	Sun 3/7	Mon 3/8	Tue 3/9	Wed 3/10	Thu 3/11	Off						
			RH		10.00	OFF	OFF	OFF	10.00	10.00	10.00	10.00	OFF	OFF	OFF	10.00	10.00	10.00	10.00						
	SH6FH		K9PAY	05.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30	00.30							
	SH4BH		OC	70.00							14.00	14.00	14.00				14.00	14.00							
			AL	60.00	10.00	10.00				10.00	10.00	10.00	10.00												
	SH5BA		OT	05.00	05.00																				
DAILY TOTALS					16.00	10.00				10.00	24.00	24.00	24.00					14.00	14.00						

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2/24/2021

ATTACHMENT #6

MessageDetail

COUNTY OF ORANGE
PAYROLL CERTIFICATE
 Frank Davies, CPA
 County Auditor-Controller



Employee Name: _____
 Employee ID: _____
 Fed. Tax Status: 02 M
 Agency: 060
 State Tax Status: 02 M
 Unit: 1401
 Pay Loc: _____

Payment Advice/Check#: 052000000008507
 Issue Date: _____
 Pay Period(#): _____
 PP Begin - Ending Date: _____
 Type: REGULAR

Current Pay Period
 Total Gross Pay(Pay Elements): \$2,018.99
 Total Deductions: _____
 Net Pay: _____
 Year-to-Date
 YTD Gross: _____
 YTD Taxable Gross: _____

Pay Elements:	Rate	Hours(Hrs:Min)	Amount
>> HC PAYOUT	\$58.5900	8:00	\$468.72
>> HZRDS DTY DV	\$0.0000	0:00	\$373.84
>> CANINE PAY	\$87.8850	7:00	\$615.20
>> ON CALL	\$14.6475	14:00	\$205.07
>> OVERTIME PAY	\$58.5900	10:30	\$615.21
>> POST PAY	\$5.2731	80:00	\$421.85
>> REGULAR	\$58.5900	80:00	\$4,687.20
>> TOXIC INVSTG	\$0.0000	0:00	\$106.15

Deductions:	Amount	Year to Date
>> AOCDS		
>> FEDERAL TAX		
>> HLTH-BEFTAX		
>> MEDICARE-EE		
>> STTAX WHELD		

Reimbursable Expenses:	Current Balance(Hrs:Min)
>> Leave Category	
>> ANNUAL LEAVE	942:15
>> COMP TIME	60:00
>> FLSA COMP	20:00
>> SICK LEAVE	267:24
>> VAC ACCRUAL	231:40

Disclaimer
 This website is intended to provide limited information concerning your payroll transactions in the County of Orange and is not intended to constitute legal, accounting, tax, investment, consulting, or other professional advice or services. Payroll information posted on this website is the best representation of the records of Orange County at the time of the update of this website and is not a guarantee or assurance that funds are actually on deposit and available in your personal account(s). You should consult with your banking institution to verify the availability of funds in your account(s). You should also not use the information on this website as a basis for income tax reporting as such information may be subject to adjustments from time to time. This website and the information contained herein are provided "as is" and there are no express or implied representations or warranties regarding this document or the information. The County of Orange, its employees, and its subcontractors have used their best efforts in preparing the information on this website however the County does not warrant that the website or information will be error free or will meet any particular criteria of performance

ATTACHMENT # 7

Policy
1038

Orange County Sheriff-Coroner Department
Orange County SD Policy Manual

Overtime

1038.1 PURPOSE AND SCOPE

The Orange County Sheriff-Coroner Department has a legal requirement to compensate non-management personnel for all overtime worked, in accordance with applicable laws and existing MOU. Overtime shall be equitably and fairly distributed based upon management analysis of workload requirements. While the Department recognizes the need for overtime to maintain public safety, it will strive for less costly alternatives. All Department Members have the duty to effectively and efficiently manage overtime. The following guidelines shall be used for overtime assignments.

1038.1.1 DATE POLICY APPROVED OR REVISED

Effective: 04-14-2011

1038.2 OVERTIME AUTHORIZATION

Overtime shall only be authorized when necessary to meet the operational, safety, or emergency needs of the Department.

1038.2.1 OVERTIME WORK PERIODS

No Member shall work more than 16 consecutive hours. If a Member works 12 or more consecutive hours, the Member cannot return to duty for at least 8 hours.

1. Exceptions; Unplanned shift extensions (i.e. late call, complete work assignment, court appearances) and emergency situations with the approval of the respective Assistant Sheriff or their designee.

1038.2.2 OVERTIME LIMITS

No Member shall exceed a total of 128 working hours in a pay period (i.e. 80 hours of regular pay + 48 hours of overtime pay) Utilization of leave hours (Admin Leave, Annual Leave, Comp Time, Vacation, Sick, etc.) shall not be included in the calculation of the 128 working hours.

1. Exceptions: Unplanned shift extensions (i.e. late call, complete work assignment, court appearances) and emergency situations with the approval of their respective Assistant Sheriff or their designee.

1038.2.3 OVERTIME APPROVAL

All overtime requests shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval must be obtained as soon as practical during the overtime shift and no later than the end of the shift in which the overtime was worked.

1038.2.4 OVERTIME OUTSIDE OF CLASSIFICATION

No Member shall be permitted to work overtime out of their classification without their respective Commander approval.

March 11, 2021

Board of Retirement Trustees,

I understand the Board of Retirement has a responsibility and an obligation to make decisions based on the law. As professionals were are able to distinguish the "Letter of the Law" and "Spirit of the Law". In fact, Judges use these concepts every day when they make their decisions.

"When one obeys the letter of the law but not the spirit, one is obeying the literal interpretation of the words of the law, but not necessarily the intent of the law."

I will illustrate why I believe Bomb Technicians are in practice, their own distinct CLASSIFICATION of employee. Bomb Technicians are a unique group being the only Sheriff's Department unit that is required to provide emergency services to EVERY jurisdiction in Orange County. In fact the Bomb Squad is so unique that it incorporates Deputies AND Investigators (two different Grades & Rates of Pay) into a single Classification of Employee (Bomb Technician) that have the EXACT duties and responsibilities. Additionally, Bomb Technicians are highly specialized and uniquely trained. They CANNOT be replaced by **ANY** other Deputy OR Investigator making them unique and not interchangeable, which is the definition of a Classification of employee. Additionally, the FBI requires the successful completion of a six week certification course before Bomb Technicians (Deputies or Investigators) are allowed to perform their exclusive tasks. The duties of a Bomb Technician cannot be performed by any other employee no matter their rank or grade without first being first Classified as a Bomb Technician.

I hope the aforementioned information will help you in your decision this coming Monday when you render your decision on whether Bomb Technicians should be considered as distinct Classification of Employee. In fact to assist you in your decision, please ask yourself, would it be reasonable that MOU be amended to include Bomb Technicians as a Distinct Class of Employee? The way you answer this question should reflect your decision on this Monday.

To OCERS Board Members,

Thank you in advance for taking the time to read this email. I would like to explain a little how your decision to take away the K9 retirement pay will affect myself, my family and other retired members.

I have worked for the Orange County Sheriff's Department for 27 years (Oct.1993-Sept.2020). I finished the academy and was assigned to the Theo Lacy Jail Facility for approximately 6 years. I was then transferred to North Patrol and worked there for 5 years. I was provided an opportunity to work at OCTA where I worked for 5 years. I was then promoted to investigator and assigned to Backgrounds, Internal Affairs and finally to Narcotics. I later became a Narcotics K9 Handler and worked the K9 for approximately 5 years.

I made promotional decisions during my career based on what I needed for retirement so my family could be financially comfortable and secure. If I had known, at the time I decided to promote to K9 Handler, that K9 maintenance pay would not be included in my retirement salary, I would have looked at other options. I could have promoted to sergeant and possibly lieutenant to meet my retirement threshold. I researched my options, met with an OCERS retirement rep who provided me with my retirement numbers. I based my retirement date on these numbers. I believed my family and I would be financially secure for the future based on these numbers which included the maintenance pay for K9.

The OCERS board members' decision will greatly impact my family, in a financially negative manner if it's members take this K9 maintenance pay away. I retired in Sept. 2020 and no longer have the opportunity to promote to change my income level to meet our current cost of living.

I understand the Alameda case was looked at by the courts because of the alleged "pension spiking". I did not become a Narcotics K9 Handler to "spike" my pension for retirement, it was an opportunity for me to do what I enjoyed while meeting my retirement goals at the same time. I was a K9 Handler for 5 years. K9 Handlers receive K9 maintenance pay seven days a week. On our days off we do not just put the K9 in a cage or kennel and forget about them. We have to feed, walk/exercise, bathe, clean, train and just plain care for them. They are not set aside and forgot about until our next work day. The K9's are being taken care of 24 hours a day, seven days a week.

Perhaps a look into management "pension spiking" by working holidays on scheduled days off, or vehicle pay allowance toward their retirement pensions are more in line with the definition of "pension spiking". Those types of retirement pay do not require 24 hour a day, 7 days a week care, and food like K9s do.

Prior to your decision in this matter, please keep in mind the direct negative impact your decision could make, based solely on how you interpret the California Supreme Court's ruling in the Alameda case, to a large number of OCERS and OCSD retirees and their families.

Thank you for your time
Daniel J. Bowdish
Retired OCSD Investigator

Respected Board Members,

My name is Corey Mayer. I am a Deputy Sheriff with OCSD. I have 19 years on the department and of those I have been on the Bomb Squad for 12 years. I would like to speak to you today reference the new rule that is proposed by OCERS.

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 (Grade/Rate of pay= Deputy vs Investigator vs sergeant etc.)
- (3) are not and cannot be voluntarily worked by the employee.

Addressing point #1: You should have a letter from Kevin Nadeau. In that letter he addresses this point very well. Both On-call and Canine Pay are required and based on/during our normal regular duties. Based on our MOU, OCSD policy and how the county applies these in relation to FSLA law it is clear these are not outside of our normal regular duties.

Addressing point #2: This is addressed very well by AOCDS in their multiple briefs on the applicable laws. OCERS has added terms and is interpreting this part of the rule in a manner that is clearly not required or intended by the written law and applicable case law. The courts verbiage on this point is clear. If the courts had intended this section of the test to be interpreted the way OCERS intends to then they would have written the case law in a way that directed this interpretation. In contrast as AOCDS argues the case law is intentionally written in a manner that allows OCERS to continue to use the test that was initially adopted after the original law that was passed by the voters in 2013.

In this case OCERS is creating a rule that is taking verbiage from the case law and adding language to it that is clearly not intended and is in fact detrimental to the very people OCERS is charged with protecting.

Addressing #3: Based on OCSD policy it is clear that these items are not voluntary and they are in fact stated mandatory

Respectfully Submitted,

Corey Mayer

Cmayer19@gmail.com

(949) 573-1875

Sent from my iPhone

March 11, 2021

OCERS and the Alameda Decision

To the OCERS Board and CEO,

I would like to briefly address the OCERS Board Members. I know your time is scarce and there are many issues you deal with daily. Your decision regarding the Alameda decision has a tremendous impact on me and is extremely troubling.

I retired January 1, 2016 after more than twenty-six years of service. I retired as an Investigator and a full-time member of the Bomb Squad. I started on the Bomb Squad in October 2001, received my canine partner June 2008. I mention this due to the significant on-call and canine pay I received consistently for many years.

I listened in absolute disbelief to the February 16th, 2021 board meeting. I heard your attorney, Mr. Leiderman, explain what his interpretations and recommendations were to you. He discussed the 2012 Ventura decision, the 2013 PEPR law, and the July 2020 Alameda decision and how they impacted public employees both retired and active.

Regarding the Ventura decision of 2012 in which Mr. Leiderman said it changed the way retirement calculations were made “going forward”, I would like to point out that it was not even a consideration of going backward and allowing retirees to buy into the new calculations. This is for obvious reasons – they did not pay into the system based on the new calculations and they were already retired. Therefore, I want to emphasize that OCERS is going backward seven years after the Alameda decision was published in July 2020 to members who paid into the system for those years. It is no small matter to hear that OCERS may simply repay us our contributions during this time then cut our benefit, but would not allow retirees before Ventura to buy into it. OCERS seemingly only goes backward when it works for them. If I have to live by the rules that were in place when I retired, then OCERS should honor its commitment to me in 2016 as well.

Regarding the Alameda decision, OCERS is deeming/testing on-call pay as being “outside of regular work hours” using three criteria as stated in the OCERS staff memo section 1-A: 1) required, 2) are ordinarily worked by others in the same grade/class/rate of pay, and 3) not voluntary. As to items one and three, my on-call hours and those of many others were “our regular work”. I was required to be on-call in great amounts as a huge cost savings for the County who could not maintain a 24/7 Bomb Squad. The Bomb Squad provided services to the entire County of Orange. On-call was mandatory due to frequent callouts after hours, ease of getting a rapid response, numerous VIP requests, mass gatherings (4th of July, marathons, large scale concerts, professional sport events etc.) especially after the Boston bombing in April 2013, and any irregular event that caused an increase in public fear. My on-call hours as a full-time Bomb Squad member were a regular part of my work. While on-call, I could not simply carry my cell phone and drive any vehicle to a location in need of service with notepad in hand. I was issued tens of thousands of dollars of specialized and often large equipment, explosives, PPE, and a canine all in a department vehicle to do my job. I had to immediately respond with the equipment/vehicle at all times while on-call. This requirement is specific to Bomb Technicians,

both Deputy and Investigator.

As to the second point - ordinarily worked by others in the same grade/class/rate of pay as the employee, this leads into classifications of work for Bomb Technicians. Can any Investigator on the Sheriff's Department respond to a bomb call? Clearly not. Bomb Squad members are trained by the US Army and certified by the FBI. We are not in a general classification of "Investigator", our work and qualifications are not applied equally to all other county Investigators. As an Investigator, I would be able to respond to any investigation, as the Sheriff's Department required. However, the same is not true for any Investigator not certified as a Bomb Technician. Any Investigator cannot respond to bombings, unknown substances, suspicious items, and the many other types of calls we handle. Our classification as Bomb Technician and Investigator is its own classification. This is true for Bomb Squad Deputies as well. Bomb Technicians have in common a rank structure based on experience and not grade/class/or rate of pay, specialized work requiring regular certification, specialized equipment different than any other sworn member, county-wide jurisdiction different than any other sworn member, and mandated on-call and canine responsibilities as well. To reduce Bomb Technicians to same grade/class/rate of pay as ordinarily worked by others would result in a lack of recruitment, experience, and efficiency needed to fill the positions and complete the work.

As to canine pay being outside of regular work hours, canine maintenance is regular work. It is not paid as overtime, not listed as overtime by the County, and not limited by overtime rules by the County. Canine maintenance pay is for hours of care, exercise, and training (both official and not) that are put into having a department issued canine. Any issue of "home life" that negatively impacts the canine performance must be immediately corrected; a handler cannot wait "until I get back to work". That is irresponsible and unprofessional. I must add that there are also yearly certifications for the canine/handler team. Handlers and canines are not interchangeable, thus it does not apply to the general classification of Deputy or Investigator. Again, there is a need to create a separate classification for canine handlers from the general Deputy and Investigator duties.

I am fifty-eight years old and I made major life decisions based on the OCERS benefit letter given to me five years ago. I would have been far better off to retire in 2013 and not worked three more years for absolutely nothing.

Sincerely,

Kent McBride



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: UPDATE ON REQUEST FOR PROPOSAL – FIDUCIARY COUNSEL

Presentation

Background/Discussion

At its January 19, 2021 meeting, the Board approved release of a Request for Proposal to initiate a search for fiduciary counsel. The Board’s Procurement and Contracting Policy (Policy) designates the fiduciary counsel as a “Named Service Provider”. Under the Policy, all contracts with Named Service Providers are required to be for an initial term of three years, and may be extended by the Board for up to three additional years, for a total maximum term of six years. Prior to the expiration of the final extension of the contract, a competitive search and selection process for the Named Service Provider must be conducted. The current contract with Reed Smith expires on June 30, 2021.

The RFP was released on January 22, 2021, and responses to the RFP were due on or before March 5, 2021. In accordance with the schedule for the RFP (below), between now and early April, a panel of OCERS staff comprised of CEO Steve Delaney, Assistant CEO Suzanne Jenike, General Counsel Gina Ratto, and Staff Attorney Manuel Serpa will review and evaluate all the proposals that meet the minimum qualifications set forth in the RFP, and present the Board with a proposed list of finalists.

Deliverable	Date	Time
Release of RFP	Friday, January 22, 2021	5:00 pm, PT
RFP Questions Deadline	Friday, February 5, 2021	5:00 pm, PT
RFP Answers Posted	Friday, February 19, 2021	5:00 pm, PT
RFP Submission Deadline	Friday, March 5, 2021	5:00 pm, PT
OCERS Review of RFP Submissions	March – April 2021 (estimated)	
Selection of Finalists	April 2021 (estimated)	
Interviews of Finalists	To be determined	
Service Award [or recommendation to the Board]	To be determined	

As stated in the RFP, the panel of OCERS staff will review and evaluate the proposals based on the following evaluation criteria listed in the following order of priority:

1. Quality and depth (i.e., bench strength) of the team of lawyers proposed for the contract.
2. Expertise and experience of each lawyer proposed for the contract.
3. Pricing and value.

4. The merits of the proposal.
5. Information provided by references.
6. Other factors OCERS determines to be relevant.

Based on staff's evaluation of the proposals, staff will recommend one or more finalists to the Board for its approval at the April 19, 2021 Board meeting, and at that time will ask that the Board direct staff to schedule Board interviews of the finalists to be conducted during the Board's May 17, 2021 meeting.

Submitted by:



Gina M. Ratto
General Counsel



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **COVID-19 UPDATE**

Presentation

The OCERS staff continues to do a great job meeting the COVID-19 challenge and ensuring that our members receive the services they expect as we fulfil this agency's mission. Rather than provide you with a written report of the agency status prior to the Monday, March 15th meeting of the OCERS Board of Retirement, I will instead provide a verbal update of plan status and challenges at that time. This recognizes the fact that issues impacted by COVID-19 seem to change daily.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

*Orange County Employees Retirement System
Retirement Board Meeting
March 15, 2021
Application Notices*

Member Name	Agency/Employer	Retirement Date
Bauman, Eric	City of San Juan Capistrano	1/23/2021
Bosch, Jennifer	Health Care Agency	1/1/2021
Buechler, Cary	Sheriff's Dept	1/6/2021
Burns, William	OC Public Works	1/15/2021
Cea, Xiomara	Health Care Agency	1/10/2021
Colanter, Brit	Health Care Agency	12/31/2020
Cormany, Kimberly	OCTA	1/1/2021
Coronel, Arlette	Public Defender	12/4/2020
Crouch-Kozlowski, Alicia	Health Care Agency	1/1/2021
Dehnavi, Rashid	Social Services Agency	1/1/2021
Denison, Christopher	Sheriff's Dept	1/7/2021
Destra, Mandi	Superior Court	1/15/2021
Do, Andrew	Board of Supervisors	1/3/2021
Figueroa, Olga	Social Services Agency	1/19/2021
Frankeny, Raymond	OC Community Resources	10/31/2020
Geary, Catherine	Sheriff's Dept	1/15/2021
Gnesda, Susan	Superior Court	1/8/2021
Guzman, Kathy	OCTA	1/2/2021
Hardwick, Robert	OC Public Works	1/5/2021
Hatch, Eric	Sheriff's Dept	1/15/2021
Hollins, Sherman	Sheriff's Dept	1/6/2021
Hubert, Jeffrey	Fire Authority (OCFA)	1/1/2021
Ingram, Dale	Auditor Controller	1/4/2021
Jensen, Gregory	Sheriff's Dept	1/4/2021
Kang, Deborah	County Counsel	8/14/2020
Karagiosian, Steve	Sheriff's Dept	1/10/2021
Lane-Rodriguez, Sherrie	Superior Court	1/15/2021
Legg, Charles	Fire Authority (OCFA)	1/15/2021
Logalbo, Gary	District Attorney	1/15/2021
Lynch, James	Fire Authority (OCFA)	12/19/2020
Malone, Jennifer	District Attorney	1/14/2021
May, Steve	City of San Juan Capistrano	1/16/2021
Mc Daniel, Matthew	Sheriff's Dept	1/7/2020
Mehta, Ravinder	Board of Supervisors	12/1/2020
Milewski, Kimberly	Sheriff's Dept	1/7/2020
Miller, Girard	OCERS	1/4/2021
Miller, Karima	Health Care Agency	1/15/2021
Mock, Gregory	Probation	1/15/2021
Montoya, Alex	Sheriff's Dept	1/15/2021
Moody, Thomas	Sheriff's Dept	1/1/2021
Moran, Ramon	Probation	1/1/2021
Palacios, Lorraine	OC Community Resources	12/27/2020
Peterson, Robert	Sheriff's Dept	1/6/2020
Roach, Ana	District Attorney	1/7/2021
Scofield, Stephanie	Sheriff's Dept	12/31/2020
Skinner, Jennifer	Social Services Agency	1/13/2021
Smythe, Colin	OC Public Works	10/30/2020
Solloway, Roy	Superior Court	1/15/2021
Sosa, Soraya	Social Services Agency	1/15/2021

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Steenbergen Nevin, Sylvia	Sheriff's Dept	9/13/2020
Tucker, Damon	District Attorney	12/26/2021
Verdenne, Anthony	Fire Authority (OCFA)	1/2/2021
Vismantas, Jon	Probation	1/23/2021
Vu, Uyen	Sheriff's Dept	1/1/2021
Walker, Thomas	Sanitation District	1/8/2021
White, Debra	Law Library	1/15/2021
Zimmerman, Kreg	Social Services Agency	1/7/2021

*Orange County Employees Retirement
Retirement Board Meeting
March 15, 2021
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>
Acosta, Veronica	Superior Court
Acuna, Norma	Social Services Agency
Eastman, Charles	Sheriff's Dept
Ferm, Bruce	Sheriff's Dept
Fox, Sandra	Social Services Agency
Fuller, Gregory	Health Care Agency
Ibrahim, Mohamed	Health Care Agency
Reynolds, John	Probation

<i>Retired Members</i>	<i>Agency/Employer</i>
Bartolome, Genaro	
Bratcher, Robert	
Corona, Marjorie	
Dunn, Donald	
Emerson, Marian	
Finck, Maudette	
Griffin, Celeste	
Hoban, Michael	
Hosenfeld, Martha	
Hull, Roger	
Jandron, Shirley	
Kong, Martha	
Lentz, Rosalie	
Lundegaard, Margaret	
Mattox, Ann	
Mc Carty, Anne	
Mc Cutcheon, Michael	
Mc Mickens, Mary	
Mentink, Wayne	
Monroe, Robert	
Morales, Sandra	
Overton, Doris	
Payan, Beatrice	
Payne, Arnold	
Phillips, Annette	
Posey, Walter	
Rhodes, James	
Rivera, Hector	
Romero, Virginia	
Rusnock, Penelope	
Salas, Leland	

Sand, Tatiana	
Simpkins, Guy	
Spiker, Howard	
Spilman, Norman	
Stingaciu, Melania	
Trujillo, Esther	
Turner, Jack Ray	
Waddell, Judith	
Yamada, Alice	

<i>Surviving Spouses</i>	
Boecker, Doris	
Clark, Michelle	
Fleischman, Roberta	
Johnson, Mercy	
Matheson, Joy	
McRae, Mary	
Miller, David	
Poole, Juneva	
Solis, Maureen	
Somdahl, Leonard	
Thigpen, Cyrisa	
Tomsovic, Jacqueline	



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

APRIL

Annual Fiduciary Training
Brown Act Training (bi-annual)
OCFA Liability Paydown Update (Tentative Date)
SACRS Board of Directors Election (direction to voting delegate)

MAY

Preliminary December 31, 2020 Valuation
OCERS Different Benefit Plans – An Overview
CEM Benchmarking Presentation

JUNE

December 31, 2021 Actuarial Valuation – Final Approval
OCERS 2021 Business Plan and 2021-2023 Strategic Plan: Mid-year Review
Strategic Planning Workshop – Proposed Agenda

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2021 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight		STAR COLA Posting (I)	Approve 2021 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2020 Valuation (I)	Mid-Year Review of 2021 Business Plan Progress (I)	Alt. Invest. Return and Assumption Sensitivity: 20-year Illustration (I)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2022 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
		Approve 2021 COLA (A)	Quarterly 2021-2023 Strategic Plan Review (A)			Approve December 31, 2020 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2022-2024 Strategic Plan (A)	Approve 2022 Administrative (Operating) Budget (A)	
						Approve 2020 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)
Board Governance				Brown Act Training (I)					Annual Review of Succession Plan (I)			Adopt Annual Work Plan for 2022 (A)
				Fiduciary Training (I)								Vice-Chair Election (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2020 (I)			Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report Background/Discussion

1. **Quiet Period Policy Guidelines**

The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for any contract to be awarded by OCERS:

“...Board Members and OCERS staff shall not knowingly communicate with any party financially interested in any prospective contract with OCERS regarding the contract, the services to be provided under the contract or the selection process;”

2. **Quiet Period Guidelines**

In addition, the following language is included in all distributed RFP's:

“From the date of issuance of this RFP until the selection of one or more respondents is completed and announced, respondents are not permitted to communicate with any OCERS staff member or Board Members regarding this procurement, except through the Point of Contact named herein. Respondents violating the communications prohibition may be disqualified at OCERS’ discretion. Respondents having current business with OCERS must limit their communications to the subject of such business.”

Distributed RFP's

The RFP's noted below are subject to the quiet period until such time as a contract(s) is finalized.

- An RFP for an Accounting System (ERP) was released October 30th. We need to replace our current, unsupported system so this RFP is to solicit bids for this effort. Five bids were received. A final selection was made and we are in contract negotiations.
- An RFP for the Named Services Provider for Fiduciary Counsel Services was distributed January 22nd. Responses are due March 5th. 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.)
- An RFP for Microsoft 365 Implementation Services was distributed February 25th, 2021. This is for consulting services to assist with the computer software upgrade to Microsoft 365. Bids are due March 26th, 2021.
- An RFP for Executive Coaching Services is expected to be released in March. This RFP is to solicit qualified firms to bid on providing coaching and leadership training for the OCERS Executives. Bids are expected to be returned in early April.



Memorandum

Submitted by:

Jim Doezie

Contracts, Risk and Performance Administrator



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

To ensure that the public has free and open access to those items that could have bearing on the decisions of the Trustees of the Board of Retirement, the OCERS Board has directed that all written communications to the entire Board during the interim between regular Board meetings be included in a monthly communications summary.

News Links

The various news and informational articles that have been shared with the full Board are being provided to you here by web link address. By providing the links in this publicly available report, we comply with both the Brown Act public meeting requirements, as well as avoid any copyright issues.

The following news and informational item was provided by staff and the CEO for distribution to the entire Board:

From Steve Delaney:

- West Covina California took a very unconventional approach to issuing Pension Obligation Bonds meant to cover their CalPERS liabilities.
<https://finance-commerce.com/2021/02/city-rents-streets-to-self-to-plug-pension-gap/>
- Placentia's departure from OCFA was an important event for one of our largest employers, therefore it is important that OCERS monitor the discussion it is generating in the press.
<https://californiaglobe.com/section-2/placentias-independent-fire-department-saves-millions-and-improves-service/>
- <https://www.ocregister.com/2020/12/02/cities-need-flexibility-to-contain-skyrocketing-pension-costs/>

Attached:

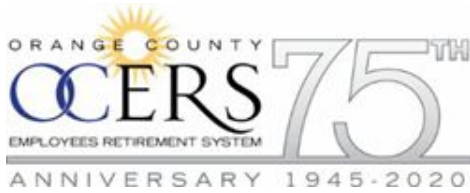
- OCERS Activities for December 2020 and January 2021

Submitted by:



SD - Approved

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

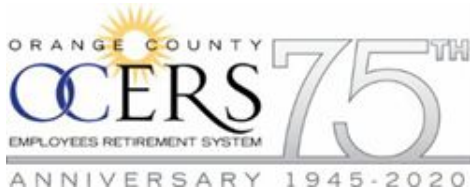
Customer Service Statistics

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

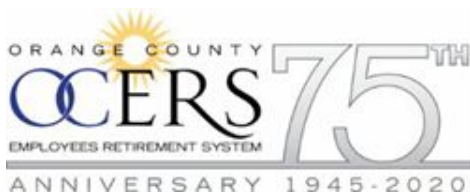
**Queue call metrics unavailable this month due to sporadic issues with Mitel's Phone Reporting.

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 14th 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

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.

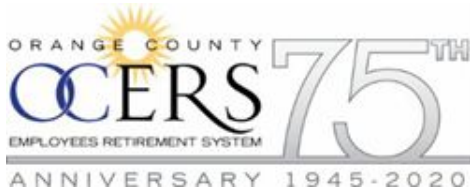
STAFF TRAINING

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

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.



Monthly Team Status January 2021

To the members of the OCERS Board of Retirement,

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

MEMBER SURVEY RESPONSE

"I had many questions for the OCERS representative and they were extremely patient with me. The OCERS representative really helped me understand how my monthly benefit was calculated."

January 2021

"Mr. Doug Storm, co-President of REAOC called to say that he had gone to the OCERS website to print out his documents necessary to file his 2020 taxes, and found the entire process easy to navigate. "I had an excellent experience, you have a very happy customer" were his closing words."

January 2021

MEMBER SERVICES TELEPHONE METRICS

Member Services Call History			
Month / Year	Incoming Calls Through Queue	Incoming Calls Direct to Extension	Total Calls (Queue + Direct)
January 2021	*	*	9022
January 2020	1793	2845	4638
January 2019	1810	2743	4553

*Developing Revised reporting for 2021.

Customer Service Statistics

Member Approval: 100%

Un-Planned Recalculations: 2

Retirement Applications Received:

Jan – 2021	101
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



Monthly Team Status January 2021

ACTIVITIES

EMPLOYER WORKSHOP

With OCERS being one of the most complicated pension systems in California, holding regular employ workshops to ensure accurate data reporting by our participating employers in turn ensures accurate pension calculation and payment. The Members Services team is making a concerted effort to continue this training in a virtual format, and Jeff Lamberson here reports on the most recent workshop held on January 27:

To start off the year right for our OCERS Member Employers, the Member Services Employer Payroll team held their first of two Employer Workshops for 2021 on January 27th. The meeting was well attended by 22 individuals not including the 9 team members from OCERS. Our topics started with an introduction of the OCERS team and continued with a review of what occurred in 2020, an update on the Pay Item Project and a brief review of the Alameda decision, Rehired Retiree and Return to Work process reminders, Employer Services Portal discussion, Workshop Recommendations and finally a Q&A session. During the review of 2020 we discussed the implementation of our DialPad phone system and how it has helped the team respond to the pandemic, the installation of the Drop Box in the OCERS Lobby and several other topics.

As mentioned above, there was a brief update on the Pay Item project and the process to submit new pay items to OCERS. Along with this discussion, we updated the employers on what occurred in 2020 related to the Alameda decision as it relates to including questionable pay items in retirements that occurred on 10/1/2020 or after and the acceptance of these pay item contributions starting with pay period 20 of 2020. We also mentioned that the board would possibly make their final determinations related to Alameda at the March Board meeting. All Alameda items that were discussed were pulled from the Board minutes from the January meeting.

There were several questions from our employers relating to Member Affidavits and the requirement to submit "wet" signatures to OCERS. Employers find this process difficult in general with remote work sites but especially during the pandemic. There were also questions related to the return to work rules and requests for access to the Employer Self Service portal. The last question surrounded the process for reporting a death to OCERS. The team followed up the meeting with an email response to all participants in the meeting with written responses to the questions presented and a copy of the PowerPoint presentation and other documents. The meeting was well received by the employers. The next Employer Workshop will be held at the end of June 2021.



Monthly Team Status January 2021

INVESTMENT TEAM

David Beeson reports on the Investment Team's activities for the first month of the new year:

OCERS' portfolio returned 3.9% net of fees in December, bringing the 2020 performance to 11.4% for the year. The fund value ended 2020 at \$19.3 billion. The OCERS Investment Team continues to work effectively remotely during the coronavirus pandemic. OCERS did not have an Investment Committee meeting in January. OCERS' Investment Team conducted its annual strategic planning team offsite meeting over two afternoons during January on Zoom. The strategic planning session began with the Investment Team discussing the macro economic environment and asset class views. The Investment Team remains positive on the equity markets over the short-term since the low interest rate environment makes equities more attractive than fixed income, additional stimulus could be coming soon giving a boost to the economy, and 2021 GDP growth should rebound from a challenging 2020 as more of the economy reopens from the pandemic. Risks have increased, however, for equity markets over the longer-term as equity valuations remain very stretched. The Investment Team also discussed other risks to the markets such as jobs not coming back as quick as expected, unemployment benefits falling short and debt escalating for those out of work due to COVID, and the potential for vaccine deployment to be slower than expected and keeping certain industries closed for a longer period of time. Day 1 wrapped up with each member of the Investment Team presenting a best idea for the portfolio, and then the rest of the team posing questions regarding the idea. Day 2 began with a discussion on what hard questions should the Investment Team be asking to the consultants, managers, and about the markets. This included a conversation on ways to improve the manager due diligence process. Prior to the offsite, each team member watched a couple videos on teamwork. This led to an interactive discussion during the meeting about how a strong team environment with diverse ideas can lead to a team working more efficiently and productively versus a department with office politics, and each individual just looking out for themselves. The strategic planning meeting ended focusing on what went well during COVID and what the Investment Team could do better. Overall the team felt like 2020 was an extremely successful and productive year.

EXECUTIVE MANAGEMENT TEAM "OFF SITE" MEETING

The OCERS Executive management meets twice a year for training and strategic planning. Meeting virtually on January 29 we completed a review of the 2020 annual Business Plan, followed by an overview of the updated 2021-2023 Strategic Plan, and finally discussion of the 2021 annual Business Plan. Much discussion centered on what we termed "OCERS Perfect State". Each manager addressed the question – "if all major agency challenges had been met, what would be the one task or outcome that would assist your division or department to have reached its "Perfect State"?"

UPDATES

OCERS MASTER PROCESS/PROCEDURES REPOSITORY – LACERA VISITS

A key business goal in 2021 is to advance the creation of a Master Process/Procedures repository, similar in many ways to a desk manual. While writing down procedures will benefit our staff in the near term by ensuring consistency and accuracy, crafting policies will position OCERS for a successful future move to a new pension software system, one that I continue to suggest will enable us to take advantage of ongoing advancements in Artificial Intelligence. A special committee has been created to help craft the documents that will comprise that final product. On January 28 we were



Monthly Team Status January 2021

please to host virtually a visiting team of Los Angeles County Retirement Association staff members who shared with us the efforts they have made to create a similar centralized resource. It was a productive meeting, and I was sure to send a note of thanks to LACERA's CEO for allowing his team to take the time to share their approach with us.

DECEMBER 31, 2020 ACTUARIAL VALUATION

My thanks to Ms. Sadoski who lost no time as we launched into 2021, and on January 6 hosted the kick off meeting for the intense work that now must take place to pull the data necessary for submission to Segal in preparation for the annual valuation report. That report will be presented to the Board in its first draft form at the Board's May 2021 administrative meeting.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the March 15 meeting of the OCERS Board of Retirement.



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: LEGISLATIVE UPDATE

Written Report

State Legislative Update

The California Legislature reconvened on January 11, 2021, beginning the two-year legislative session. The deadline for legislators to introduce bills was February 19, 2021, and some 2,300 bills were introduced.

The Legislature will begin Spring Recess on March 25, 2021 and reconvene on April 5, 2021.

A comprehensive list and summary of the pending bills that staff will monitor during the first year of the 2021-2022 legislative session is attached. Below are the bills that may be of greater interest to the Board. **New or updated information since the last report to the Board are indicated in bold text.**

OCERS Sponsored Bill

- **AB 761 (Chen)**

This bill would authorize the board of retirement for Orange County to appoint an administrator, assistant administrators, a chief investment officer, subordinate investment officers next in line of authority to the chief investment officer, senior management employees next in line of authority to the subordinate investment officers, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel. The bill would provide that the personnel appointed pursuant to these provisions would not be county employees subject to county civil service and merit system rules, and instead would be employees of the retirement system. The bill would provide that the compensation of personnel appointed pursuant to these provisions is an expense of administration of the retirement system. The bill would authorize the board of retirement and board of supervisors to enter into agreements as necessary and appropriate to carry out these provisions and would make related, conforming changes.

This bill would add section 31522.11 to the Government Code, and would expand the current appointment authority of the OCERS board of retirement under section 31522.5 and authorize appointment of more than one assistant administrator and senior management employees next in line of authority to the subordinate investment officers.

(STATUS: Introduced 02/16/21. Read first time on 02/16/21.)

SACRS Sponsored Bills

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

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

- **AB 386 (Cooper)**

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Current law excludes from disclosure certain records regarding alternative investments in which public investment funds invest. This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by the Public Employees' Retirement Fund. Under the bill, these records would include quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information.

(STATUS: Introduced 02/02/21. Read first time on 02/02/21. Referred to Committees on P.E., & R. and JUD on 02/12/21.)

- **AB 703 (Rubio)**

Executive Order N-29-20 suspended the Brown Act requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, and a local agency permitting teleconferencing has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the requirements of the act particular to teleconferencing, and would allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment, and require that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act.

(STATUS: Introduced 02/16/21. Read first time on 02/16/21.)

- **AB 845 (Rodriguez)**

Current law provides that participants of public retirement systems who are in certain membership categories may be entitled to special benefits if death or disability arises in the course of employment. The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system to modify its plan or plans to comply with PEPRA and establishes, among other things, limits on defined benefit formulas and caps on pensionable compensation. This bill, until January 1, 2023, would create a presumption, applicable to the retirement systems that PEPRA regulates and to specified members in those systems, that would be applied to disability retirements on the basis, in whole or in part, of a COVID-19-related illness. In this circumstance, the bill would require that it be presumed that the disability arose out of, or in the course of, the member's employment. The bill would authorize the presumption to be rebutted by evidence to the contrary, but unless controverted, the board of

administration of the applicable retirement system would be required to find in accordance with the presumption.

(STATUS: Introduced 02/17/21. Read first time on 02/17/21.)

- **AB 1354 (Grayson)**

PEPRA generally prohibits a retired person from being employed by a public employer in the same public retirement system from which the retiree receives pension benefits without reinstatement from retirement into that system, subject to certain exceptions. This bill would make nonsubstantive changes to that provision.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21.)

- **SB 274 (Weockowski)**

The Brown Act 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 of a local agency 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. Read first time on 02/01/21. Referred to Committee on GOV & F on 02/10/21. Art. IV. Sec. 8(a) of the Constitution¹ dispensed with, and Joint Rule 55² suspended on 02/22/21.)

Other Bills of Interest

- **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. Referred to Committee on L. Gov. on 02/12/21.)

¹ Art. IV. Sec. 8(a) of the Constitution states, "At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring."

² Joint Rule 55 states. "A bill other than the Budget Bill may not be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the Daily History. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or, if that period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered."

- **AB 627 (Waldron)**

The Tribal Court Civil Money Judgment Act governs the procedure by which the superior courts of the state recognize and enter tribal court money judgments of any federally recognized Indian tribe. Under the act, an applicant may apply for recognition and entry of a judgment based on a tribal court money judgment by filing an application, as specified. If granted, the act requires the court to enter a judgment that has the same terms and provisions as the tribal court money judgment and that has the same effect and is enforceable as a civil money judgment, order, or decree of a state court. The act does not apply to tribal court money judgment orders for which federal law requires that states grant full faith and credit recognition or for which state law otherwise provides for recognition. This bill would establish a procedure pursuant to which one or both of the parties to a tribal court proceeding may file an application for recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and that assigns all or a portion of the benefits payable with respect to the plan participant to an alternate payee.

(STATUS: Introduced 02/12/21. Read first time on 02/12/21.)

- **AB 885 (Quirk)**

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

(STATUS: Introduced 02/17/21. Read first time on 02/17/21.)

Bills that Apply to CalPERS and/or CalSTRS Only

- **AB 539 (Cooley)**

The Teachers' Retirement Law authorizes the CalSTRS board, upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with approval of the State Personnel Board, to contract with qualified investment managers. This bill would additionally authorize the CalSTRS board to contract with investment *advisers*, as defined, upon the same finding by the board and approval by the State Personnel Board.

(STATUS: Introduced 02/10/21. Read first time on 02/10/21. Referred to Committee on P.E. & R. on 02/18/21.)

- **AB 551 (Rodriguez)**

Current law authorizes CalSTRS to administer an individual retirement plan described in Section 408A of Title 26 of the United States Code, commonly referred to as a Roth IRA, for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system to the extent the rollover

complies with specified federal law. Current law establishes the Teachers' Deferred Compensation Fund, which is continuously appropriated, to serve as the repository of funds received by the system for various deferred compensation plans, and specifies where in the fund certain premium and fee revenues received by the system are to be deposited. This bill would also authorize the system to administer an individual retirement plan as described in Section 408 of Title 26 of the United States Code. The bill would eliminate the requirement that the administration of these plans be for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system, as described above. The bill would instead specify categories of people for whom the system could provide this service, including certain former eligible employees and their spouses. The bill would make a conforming change regarding where premium and fee revenues received in this regard are to be deposited.

(STATUS: Introduced 02/10/21. Referred to Committee on P.E. & R. on 02/18/21.)

- **AB 1133 (Chen)**

This bill would state the intent of the Legislature to enact legislation that would create a hybrid retirement benefit, consisting of a defined benefit pension and a defined contribution program, within CalPERS, that state employees would have the option of electing.

(STATUS: Introduced 02/18/21. Read first time on 02/18/21.)

- **AB 1293 (Cooley)**

Current law establishes the Judges' Retirement System II, administered by CalPERS. Current law authorizes a judge who is a member of the system and who retires upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service, to elect from specified retirement benefits, including a monthly pension. This bill would make nonsubstantive changes to the provisions authorizing a judge to elect retirement benefits described above.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21.)

- **SB 278 (Leyva)**

PEPRA, among other things, established new defined benefit formulas and caps on pensionable compensation. This bill would establish new procedures under the 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 the PERL. This 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.

The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member's behalf. With

respect to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require CalPERS to adjust the benefit to reflect the exclusion of the disallowed compensation, and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation.

Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity, or a lump sum, as prescribed, that reflects the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation in order for CalPERS to review its consistency with PEPR and other laws, as specified, and would require CalPERS to provide guidance regarding the review within 90 days, as specified. The bill would require CalPERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee.

(STATUS: Introduced 01/29/21. To Committee on RLS for Assignment. Read first time on 02/01/21. Art. IV. Sec. 8(a) of the Constitution dispensed with. Joint Rule 55 suspended on 02/22/21.)

- **SB 294 (Leyva)**

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of both laws as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions, including employer-approved compensated leave. Under current law, during a leave of absence for an employer-approved compensated leave, an employee earns full service credit and is required to pay employee contributions. Existing law limits the maximum amount of the service credit earned during an employer-approved compensated leave of absence to 12 years. This bill would remove the 12-year limitation for service credit earned on an employer-approved compensated leave.

(STATUS: Introduced 02/02/21. Referred to Committees on L., P.E. & R. on 02/10/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

- **SB 457 (Portatino & Wilk)**

This bill would require the boards of CalPERS and CalSTRS to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

(STATUS: Introduced 02/16/21. Read first time and referred to Committee on RLS for assignment on 02/16/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

- **SB 634 (Cortese, Durazo, Laird, Newman, and Ochoa Bogh)**

Current law requires CalSTRS to pay premiums associated with Medicare Part A for certain retired or disabled members, as specified. Current law creates the Cash Balance Benefit Program, which is administered by the CalSTRS board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time. Current law applicable to the Defined Benefit Program, for applications and documents requiring a signature, requires that the signature be in a form prescribed by the system. This bill would apply the above-described requirements regarding signed applications and documents to the Cash Balance Benefit Program and the requirement that CalSTRS pay certain Medicare Part A premiums.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

Divestment Proposals (CalPERS and CalSTRS Only)

- **AB 1019 (Holden)**

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of CalPERS and CalSTRS from making additional or new investments or renewing existing investments of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law repeals this provision on January 1, 2025, or upon a determination by the board, the United States Department of State, the Congress of the United States, or another appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first. This bill would, in addition, prohibit state trust moneys from being used to make additional or new investments or to renew existing investments in investment vehicles issued or owned by the government of Turkey, unless the government adopts a policy to acknowledge the Armenian Genocide and embark on a path of affording justice to its victims. The bill would define "state trust moneys" to mean funds administered by CalPERS and CalSTRS.

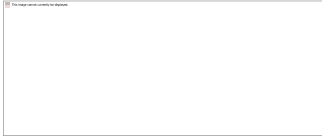
(STATUS: Introduced 02/18/21. Read first time on 02/18/21.)

Attachments:

Legislative Update

2021 Tentative Legislative Calendar

Submitted by:



Gina M. Ratto
General Counsel



**OCERS BOARD OF RETIREMENT
March 15, 2021 MEETING**

LEGISLATIVE UPDATE – ATTACHMENT

**2021 - 2022 CALIFORNIA STATE LEGISLATIVE SESSION
BILLS OF INTEREST**

New or updated information in bold text

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. **Referred to Committee on L. Gov. on 02/12/21.**)

AB 386 (Cooper)

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Current law excludes from disclosure certain records regarding alternative investments in which public investment funds invest. This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by the Public Employees' Retirement Fund. Under the bill, these records would include quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information. (STATUS: Introduced 02/02/21. Read first time on 02/02/21. Referred to Committees on P.E., & R. and JUD on 02/12/21.)

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(STATUS: Introduced 02/10/21. Referred to Committee on P.E. & R. on 02/18/21.)

AB 627 (Waldron)

The Tribal Court Civil Money Judgment Act governs the procedure by which the superior courts of the state recognize and enter tribal court money judgments of any federally recognized Indian tribe. Under the act, an applicant may apply for recognition and entry of a judgment based on a tribal court money judgment by filing an application, as specified. If granted, the act requires the court to enter a judgment that has the same terms and provisions as the tribal court money judgment and that has the same effect and is enforceable as a civil money judgment, order, or decree of a state court. The act does not apply to tribal court money judgment orders for which federal law requires that states grant full faith and credit recognition or for which state law otherwise provides for recognition. This bill would establish a procedure pursuant to which one or both of the parties to a tribal court proceeding may file an application for recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and that assigns all or a portion of the benefits payable with respect to the plan participant to an alternate payee.

(STATUS: Introduced 02/12/21. Read first time on 02/12/21.)

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Executive Order N-29-20 suspended the Brown Act requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, and a local agency permitting teleconferencing has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the requirements of the act particular to teleconferencing, and would allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in each instance in which notice of the time

of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment, and require that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act.

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(STATUS: Introduced 02/17/21. Read first time on 02/17/21.)

AB 885 (Quirk)

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

(STATUS: Introduced 02/17/21. Read first time on 02/17/21.)

AB 1019 (Holden)

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of CalPERS and CalSTRS from making additional or new investments or renewing existing investments of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law repeals this provision on January 1, 2025, or upon a determination by the board, the United States Department of State, the Congress of the United States, or another appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first. This bill would, in addition, prohibit state trust moneys from being used to make additional or new investments or to renew existing investments in investment vehicles issued or owned by the government of Turkey, unless the government adopts a policy to acknowledge the Armenian Genocide and embark on a path of affording justice to its victims. The bill would define "state trust moneys" to mean funds administered by CalPERS and CalSTRS.

(STATUS: Introduced 02/18/21. Read first time on 02/18/21.)

AB 1133 (Chen)

This bill would state the intent of the Legislature to enact legislation that would create a hybrid retirement benefit, consisting of a defined benefit pension and a defined contribution program, within CalPERS, that state employees would have the option of electing.

(STATUS: Introduced 02/18/21. Read first time on 02/18/21.)

AB 1293 (Cooley)

Current law establishes the Judges' Retirement System II, administered by CalPERS. Current law authorizes a judge who is a member of the system and who retires upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service, to elect from specified retirement benefits, including a monthly pension. This bill would make nonsubstantive changes to the provisions authorizing a judge to elect retirement benefits described above.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21.)

AB 1354 (Grayson)

PEPRA generally prohibits a retired person from being employed by a public employer in the same public retirement system from which the retiree receives pension benefits without reinstatement from retirement into that system, subject to certain exceptions. This bill would make nonsubstantive changes to that provision.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21.)

SB 274 (Weockowski)

The Brown Act 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 of a local agency 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. Read first time on 02/01/21. Referred to Committee on GOV & F on 02/10/21.

Art. IV. Sec. 8(a) of the Constitution¹ dispensed with, and Joint Rule 55² suspended on 02/22/21.)

SB 278 (Leyva)

PEPRA, among other things, established new defined benefit formulas and caps on pensionable compensation. This bill would establish new procedures under the 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 the PERL. This 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.

The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member's behalf. With respect

¹ Art. IV. Sec. 8(a) of the Constitution states, "At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring."

² Joint Rule 55 states. "A bill other than the Budget Bill may not be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the Daily History. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or, if that period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered."

to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require CalPERS to adjust the benefit to reflect the exclusion of the disallowed compensation, and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation.

Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity, or a lump sum, as prescribed, that reflects the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation in order for CalPERS to review its consistency with PEPR and other laws, as specified, and would require CalPERS to provide guidance regarding the review within 90 days, as specified. The bill would require CalPERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee.

(STATUS: Introduced 01/29/21. Read first time on 02/01/21. To Committees on L., P.E. & R. and JUD on 02/10/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

SB 294 (Leyva)

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of both laws as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions, including employer-approved compensated leave. Under current law, during a leave of absence for an employer-approved compensated leave, an employee earns full service credit and is required to pay employee contributions. Existing law limits the maximum amount of the service credit earned during an employer-approved compensated leave of absence to 12 years. This bill would remove the 12-year limitation for service credit earned on an employer-approved compensated leave.

(STATUS: Introduced 02/02/21. Referred to Committees on L., P.E. & R. on 02/10/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

SB 457 (Portatino & Wilk)

This bill would require the boards of CalPERS and CalSTRS to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

(STATUS: Introduced 02/16/21. Read first time and referred to Committee on RLS for assignment on 02/16/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)

SB 634 (Cortese, Durazo, Laird, Newman, and Ochoa Bogh)

Current law requires CalSTRS to pay premiums associated with Medicare Part A for certain retired or disabled members, as specified. Current law creates the Cash Balance Benefit Program, which is administered by the CalSTRS board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time. Current law applicable to the Defined Benefit Program, for applications and documents requiring a signature, requires that the signature be in a form prescribed by the system. This bill would apply the above-described requirements regarding signed applications and documents to the Cash Balance Benefit Program and the requirement that CalSTRS pay certain Medicare Part A premiums.

(STATUS: Introduced 02/19/21. Read first time on 02/22/21. Art. IV. Sec. 8(a) of the Constitution dispensed with and Joint Rule 55 suspended on 02/22/21.)



Memorandum

DATE: March 03, 2021
TO: Members of the Board of Retirement
FROM: Cynthia Hockless, Director of Human Resources
SUBJECT: **BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER UPDATE**

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, Election notices were mailed to the home of each Safety member via US mail.

The nomination period began 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:

Registrar of Voters Safety Member and Alternate Safety Member calendar of events

Submitted by:



C.H. – APPROVED

Cynthia Hockless
Director of Human Resources

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM ELECTION CALENDAR
May 18, 2021
1 SAFETY MEMBER AND 1 ALTERNATE MEMBER

February 5 and February 19 (E-102 and 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 (E-97)	The Retirement Office shall provide the number of eligible Safety Members to the Registrar of Voters' Office.
February 10 (E-97)	The Retirement Office shall provide the Registrar of Voters' Office with Willingness to Serve forms.
February 16 (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 (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.



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **FIRST QUARTER REVIEW OF OCERS 2021-2023 STRATEGIC PLAN**

Written Report

Background

Since 2009 OCERS has been working with and modifying the use of a multi-year strategic plan. The formal plan was completely revamped three years ago and we continue the new format for this Strategic Plan which covers the period of January 1, 2021 through December 31, 2023.

The OCERS executive team reviewed the 2021-2023 Strategic Plan, during our January 2021 Semi-Annual Executive Offsite meeting. While not recommending any changes to the Strategic Plan for this quarterly review, we continue active discussion of the Plan with its focus on the core goals of the organization:

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

Our discussion is focusing on a number of current challenges that may or may not call for a future modification to the Strategic Plan including issues such as the implementation of the Supreme Court's Alameda decision and ongoing work with the OCERS Board's Audit Committee dealing with certain benefit calculation errors.

An important change added to the Strategic Plan last year is a final section looking out 5-10 years, and serves as a "parking lot" of sorts to capture important objectives for advancing agency goals that may not be immediately relevant. In particular, the future advancement of Artificial Intelligence is called out, as its impact could have significant relevance to our long term goals.

A reminder, the Strategic Plan is not allowed to age. At the Board's direction we review this document every quarter to ensure it continues relevant and reflective of the OCERS Board's direction.

Attached: 2021-2023 Strategic Plan

Submitted by:



S. D. – APPROVED

Steve Delaney
Chief Executive Officer

Orange County Employees Retirement System
2223 East Wellington Avenue | Santa Ana | 92701

2021-2023 STRATEGIC 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

STRATEGIC PLAN

2021-2023 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

FUND SUSTAINABILITY

STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Objective A: Mitigate the risk of significant investment loss

Objective B: Prudent Use and Security of Resources

EXCELLENT SERVICE AND SUPPORT

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

- Objective A:** Provide accurate and timely benefits
- Objective B:** Provide education to our members and plan sponsors
- Objective C:** Continuously improve business processes and procedures to be efficient and effective

RISK MANAGEMENT

CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Objective A: Provide system and data security and a robust business continuity solution

Objective B: Ensure a safe and secure workplace and public service facility

TALENT MANAGEMENT

RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

- Objective A:** Recruit and retain a high-performing workforce to meet organizational priorities
- Objective B:** Develop and empower every member of the team
- Objective C:** Cultivate a collaborative, inclusive and creative culture

EFFECTIVE GOVERNANCE

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

Objective B: Improve the governance and management of OCERS' records

LOOKING AHEAD 5-10 YEARS

Objective A: Investment best practices as fund approaches \$35 billion

Address by developing investment technology and team resources needed to manage the anticipated Portfolio

Objective B: Preparing for the end of pension administration system (V3)

Address by determining if current pension administrative system is to be upgraded or if new technology will be required

Objective C: Investigate implementation of artificial intelligence (AI) driven Member Self-Service technologies

Objective D: Investigate OCERS management/oversight of member medical coverage upon retirement

Objective E: Short Term (Next 5 Years) – Multi-Factor Authentication for Member and Employer Accounts

Objective F: Long Term (Next 10 Years) – Use of Artificial Intelligence and Machine Learning to Detect Fraudulent Activity and Transactions



We provide secure retirement and disability benefits
with the highest standards of excellence.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
www.ocers.org



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FOURTH QUARTER 2020 BUDGET TO PRELIMINARY ACTUALS REPORT**

Written Report

Highlights

Fourth Quarter Target: 100% Used /0% Remaining

Administrative Budget	Actuals to Date	Annual Budget	Budget \$ Remaining	Budget % Remaining
Personnel Costs	\$ 14,973,837	\$ 15,507,410	\$ 533,573	3.4%
Service and Supplies	8,318,993	11,077,380	2,758,387	24.9%
Capital Expenditures	186,359	600,000	413,641	68.9%
Grand Total	\$ 23,479,189	\$ 27,184,790	\$ 3,705,601	13.6%

Background/Discussion

The Board of Retirement approved OCERS' Administrative Budget for Fiscal Year 2020 (FY20) on November 18, 2019, for \$27,184,790 to fund administration expenses.

OCERS' budgeting authority, regulated by California Government Code Sections 31580.2 and 31596.1, includes a provision that limits the OCERS' budget for administrative expenses to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system. This provision (commonly referred to as the 21 basis point test) excludes investment related costs and expenditures for computer software, hardware and related technology consulting services. The approved FY20 administrative budget represents 9.04 basis points of the projected actuarial accrued liability.

The Chief Executive Officer, or the Assistant CEO, has the authority to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be transferred from one broad category to another without approval from the Board of Retirement.

Administrative Summary

- For the year ended December 31, 2020, preliminary actual administrative expenses were \$23,479,189 or 86.4% of the \$27,184,790 administrative budget and below budget by approximately \$3.7 million. A summary of all administrative expenses and explanations of significant variances are below:

**Summary of all Administrative Expenses
For the Year Ended December 31, 2020**

	Actuals to Date	Annual Budget	% of Budget Used	Budget vs. Actuals (Over)/Under
Personnel Costs	\$ 14,973,837	\$ 15,507,410	96.6%	\$ 533,573
Services and Supplies				
Bldg. Prop. Mgmt./Maintenance	602,076	680,000	88.5%	77,924
Due Diligence	14,956	135,000	11.1%	120,044
Equipment Lease	37,975	48,500	78.3%	10,525
Equipment/Software Expenses	434,348	857,500	50.7%	423,152
Infrastructure Maintenance	741,295	835,100	88.8%	93,805
Legal Services	261,551	1,025,000	25.5%	763,449
Meetings & Mileage	15,048	79,350	19.0%	64,302
Membership/Periodicals	69,777	83,055	84.0%	13,278
Office Supplies	66,610	80,000	83.3%	13,390
Postage	129,374	167,000	77.5%	37,626
Printing	58,768	69,000	85.2%	10,232
Professional Services	5,523,002	6,199,320	89.1%	676,318
Telephone	216,575	205,000	105.6%	(11,575)
Training	147,638	613,555	24.1%	465,917
Services and Supplies	8,318,993	11,077,380	75.1%	2,758,387
Capital Expenditures*	186,359	600,000	31.1%	413,641
Administrative Expense Total	\$ 23,479,189	\$ 27,184,790	86.4%	\$ 3,705,601

*Capital expenditures represent purchases of assets to be amortized in future periods.

Personnel Costs

Personnel Costs as of year-end were approximately \$15.0 million or 96.6% of the annual budget for this category, under budget by \$533,753. These costs are slightly below budget primarily due to three vacant positions, which were approved with the budget, that were not filled during the year. These positions included the Senior Manager of Operation Support Services, an Accountant Auditor and a Staff Assistant. The hiring for these positions is postponed until mid-year or later of FY2021. Three other budgeted positions, which were vacant at the start of the year, were filled in the first and second quarters of 2020. As noted in the prior quarter, the annual leave expense and liability have been trending higher because of the continued impact of the COVID-19 global pandemic on work and travel restrictions. The increase in the accrued expense of approximately \$269,000 is included in the actual costs.

Services and Supplies

Expenditures for services and supplies were approximately \$8.3 million or 75.1% of the annual budget for this category. The variance of \$2.8 million between the budget and year-to-date actuals is primarily due to the following:

- Building Property Mgmt./Maintenance costs utilized 88.5% of the annual budget and were lower than the budget by \$77,924. Lower overall costs relate to lower utility and maintenance costs due to a decrease in employee occupancy of the headquarter building as team members continue to work from home under Governor Newsom's Stay at Home Order. During the low occupancy, janitorial and trash pickup was reduced, and HVAC set points were lowered to save energy.
- Due Diligence costs are at 11.1% of the annual budget and lower than the budget by \$120,044. This lower than anticipated cost is due to no in-person meetings and travel occurring during the current global pandemic. Due diligence meetings are held by telephone or video conference and will continue until COVID-19 related restrictions have been lifted.
- Equipment Lease expenses are at 78.3% of the budget, lower than the budget by \$10,525. Included in the budget for equipment leases is the charge for copy count. The savings in this category is the result of a significant decrease in paper copies as team members continue to work remotely and have transitioned to using electronic copies. The copy count charges went from averaging \$1,000 per month at the start of the year, to averaging \$300 per month since working from home.
- Equipment/Software expense utilized 50.7% of the annual budget and is lower than the budget by \$423,152. The lower than expected expenditures is the result of several projects budgeted for the year, which have not been implemented. Projects not yet implemented include a new accounting software system. Procurement efforts for this project were paused when the Stay at Home orders were issued and the project is now scheduled to be implemented in 2021. The investment risk management system implementation was put into operation in the last half of the year resulting in lower than expected expenditures for the year. Other IT related projects have been delayed as IT focuses on providing support to team members with equipment and other resources to use at home as they continue to work remotely. Since the Stay at Home order was implemented in March, additional unbudgeted costs of approximately \$90,000 have been incurred for miscellaneous hardware, software, and computer and printer supplies.
- Infrastructure Maintenance costs are at 88.8% of the annual budget resulting in an unused budget of \$93,805. Various infrastructure maintenance costs associated with software and hardware support services were less than anticipated or were not incurred as of year-end.
- Legal Services are at 25.5% of the budget. Expenses are lower than the budget by \$763,449 primarily due to the reimbursement of litigation fees, including interest, of approximately \$598,000. Excluding this reimbursement, legal services are under budget by approximately \$165,000. Legal services for investments, litigation and tax counsel are utilized on an as-needed basis. Investment legal services are below budget by approximately \$62,000. General board, tax counsel and other counsel services are under budget by approximately \$103,000 primarily due to less than expected litigation costs, offset by \$18,000 for research on pandemic related issues, such as the Coronavirus Aid, Relief and Economic Security (CARES) Act.

- Meetings and Mileage expenses are at 19.0% and \$64,302 below the budget for the year. Since the Stay at Home order has been in place, Board and Committee meetings, as well as team member meetings, have been held remotely resulting in the lower than budgeted costs for this line item.
- Memberships/Periodical expense is at 84.0% of the annual budget and under the budget by \$13,278. The majority of this variance, approximately \$11,000, relates to memberships budgeted but not incurred. Periodical expense was also lower than anticipated.
- Office Supplies are at 83.3% of the annual budget, which is less than the amount budgeted by \$13,390. This variance relates primarily to lower expenditures for office furniture due to team members working remotely during the Stay at Home order, offset by costs of approximately \$11,000 for COVID-19 related office supplies, including masks, sanitizer, moving costs and signage.
- Postage is at 77.5% of the annual budget and lower than the budget by \$37,626. Postage usage fluctuates based on an as-needed basis. Miscellaneous mass mails were fewer than budgeted. Additionally, during the pandemic, OCERS discontinued the practice of printing ACH remittance advices, which are available online using the member portal. These cost savings were offset by \$8,200 of costs associated with an additional mailing related to COVID-19 correspondence and delivery of equipment to team members.
- Printing costs are at 85.2% of the annual budget and lower than the budget by \$10,232. The cost of a COVID-19 related mailing delivered to members at the start of the pandemic was approximately \$5,000. Cost savings recognized include printing fewer copies of the CAFR and brochures.
- Professional Services utilized 89.1% of the annual budget. Expenses are lower than the budget by \$676,318. The variance is primarily due to postponement of utilizing consulting services as OCERS focused on maintaining current operations while team members continued to work from home. Postponed costs include a technical writer, governance and LEAN process consultants, Office 365 migration consulting, as well as costs used on an as-needed-basis, including internal audit consultants and CEO contingency.
- Telephone expenses are at 105.6% of the annual budget, over the budget by \$11,575. During the first quarter, OCERS implemented a new Dialpad telephone system and incurred costs associated with both the old Mitel System and the new Dialpad system. Additionally, approximately \$13,000 of additional costs for cellular data and teleconference costs were incurred due to team members working remotely. Some of these additional costs were subsequently reduced by using Zoom and other remote services. The CEO or Assistant CEO has the authority to move budget dollars within the Services and Supplies category to cover the shortfall and as of the end of the year, there are sufficient dollars available in other Services and Supplies line items to offset this shortage.
- Training expense is at 24.1% of the annual budget and lower than the budget by \$465,917. Training costs are significantly below the budget since all travel-related training and conferences have been cancelled or postponed due to the COVID-19 pandemic. All current training and conferences are remote and are typically less expensive than in-person training or conferences.

Capital Expenditures

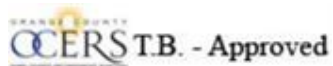
Capital Expenditures as of the end of the year total \$186,359. Capital expenditures budgeted in 2020 included \$250,000 for boardroom audio/visual improvements, \$200,000 for building security, safety and health upgrades, and \$150,000 for new firewalls. The audio/visual improvements for the boardroom are postponed and re-budgeted for the 2021 budget year. Building security, safety and health upgrade expenditures for cubicle shields

and acrylic dividers were approximately \$48,000. The new firewalls were completed for approximately \$139,000, under budget by \$11,000.

Conclusion:

As of year-end, the Administrative Budget based on preliminary actuals is at 86.4% of the annual budget. As actual administrative expenses are under the annual budget, OCERS complies with the 21 basis point test.

Submitted by:



Tracy Bowman
Director of Finance



Memorandum

DATE: March 15, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FOURTH QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2020**

Written Report

Background/Discussion

The attached financial statements reflect the unaudited financial activity for the year ended December 31, 2020. These reports are preliminary and do not reflect the reclassification of certain investments for financial reporting purposes and timing/market differences between investment manager statements and custodian bank statements. These, and other potential year-end adjustments that may result from the upcoming year-end audit, will be recorded if it is determined to have a material impact in the final Comprehensive Annual Financial Report (CAFR). The final CAFR, the official financial statements of OCERS, will be available on our website, www.ocers.org, after the anticipated completion of the audit at the end of June 2020.

Summary

Statement of Fiduciary Net Position (Unaudited)

As of December 31, 2020, the net position restricted for pension, other postemployment benefits and OPEB 115 is \$19.0 billion, an increase of \$1.9 billion, or 11.3%, from December 31, 2019 after the prior year restatement of the OPEB 115 Custodial Fund for \$15.5 million due to the implementation of GASB Statement No. 84, *Fiduciary Activities*. The change is the result of an increase in total assets of \$1.8 billion and a decrease in total liabilities of \$113.3 million as described below:

The \$1.8 billion, or 10.1%, increase in total assets is attributed to a \$2.0 billion increase in total investments at fair value and a \$100.0 million increase in cash and short-term investments, offset by decreases of \$264.0 million in total receivables and \$2.3 million in capital assets.

Total investments at fair value increased by \$2.0 billion, or 11.7%, from December 31, 2019 to December 31, 2020, which can be attributed to investment of proceeds received from contributions, net appreciation in fair value of investments, and earnings from interest and dividends. A tumultuous 2020 ended with the market rallying during the fourth quarter with hopes of coronavirus vaccines, a decided election and a \$900 billion pandemic relief bill signed into law before the end of the year. The portfolio finished strong with increases from the prior year for global public equities, private equities and risk mitigation. Private equities came into the crisis in a well-funded position. A strong exit environment has led to significant distributions to OCERS, which helped enhance the performance numbers. Investors expect global economic recovery as COVID-19 vaccines begin to roll out and

signals from the Fed that they would continue to maintain low rates and loose monetary policy. U.S. Long Treasury Bonds in risk mitigation have significantly benefited from the multiple rate cuts keeping the interest rates close to zero. Investors allocated more into government bonds as they sought out safe havens. The increases were offset by decreases in core fixed income, real assets, credit and absolute return. The decline in the performance of real assets was driven mostly by poor energy performance due to collapsed demand and oversupply. Real estate generally stayed flat despite write-downs in response to the spread of COVID-19 impacting tenants, financial markets and the overall economy. Demand for energy collapsed due to COVID-19, oversupply driven by U.S. producers, Saudi-Russia price wars and poor investor sentiment affecting the performance. The sector continues to face high levels of uncertainty due to massive supply and demand imbalance caused by COVID-19 and the economic shutdown.

The increase of \$100.0 million in total cash and short-term investments was due to an increase in lending activity in the securities lending program and the timing of investing employee and employer contributions received during the quarter.

The decrease of \$264.0 million in total receivables is primarily related to the timing of securities sales which decreased by \$254.0 million and contributions receivable which decreased \$10.8 million. The decrease in capital assets of \$2.3 million from the prior year represents depreciation expense, of which \$2.2 million is attributed to the Pension Administration System Solution (PASS) Project.

Total liabilities decreased \$113.3 million, or -13.1%, from December 31, 2019 to December 31, 2020, primarily due to a decrease of \$190.7 million in securities purchased due to the timing of these transactions at the end of the year. The decrease was offset by increases in the obligations under the securities lending program, as previously discussed, and increases in unearned contributions due to larger prepaid employer contribution received for the 2020-2021 prepayment program compared to the prior year's prepayment program. Retiree payroll payable also increased due to gradual increases in the number of participants in the plan and participant benefits paid.

Statement of Changes in Fiduciary Net Position (Unaudited)

Total additions to fiduciary net position decreased 8.1%, or \$261.3 million, from the previous year. Net investment income for the year ended December 31, 2020 is \$2.0 billion versus \$2.2 billion for the year ended December 31, 2019, a decrease of \$254.3 million. The economy suffered most of the year due to the shutdowns related to the global pandemic, which caused the majority of the decrease in the net appreciation in fair value of investments. For the year ended December 31, 2020, the portfolio reported a return of 11.4% compared to 14.4% in the prior year. Private equity and core fixed income were the only investment classifications that reported higher returns compared to the prior year partly due to 14 new investment managers added to private equity in 2020. Dividends, interest and other investment income decreased by \$108.0 million or 31.1%, which is attributed to lower investment income for all investment categories.

Total contributions decreased \$7.0 million compared to the prior year primarily due to less employer contributions in the County Health Care Fund, which decreased by \$13.2 million. This decrease was offset by increases in employer contributions for the Pension Trust Fund which increased by \$6.4 million in 2020 due to the increase in contribution rates and the number of active employees participating in the plan.

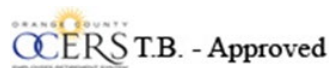
Total deductions from fiduciary net position increased 7.9%, or \$76.0 million from the previous year. Participant benefits increased by \$76.1 million, which is expected due to the continued and anticipated growth in member pension benefit payments including the County of Orange's Voluntary Incentive Program, which added approximately 414 retirees in 2020. Death benefits and member withdrawals and refunds had a net decrease of \$1.4 million compared to December 31, 2019. Changes in these categories will fluctuate from year-to-year based on the occurrence of these events. Administrative expenses increased by \$1.3 million or 6.6%, over the prior year. The majority of this increase relates to increased personnel costs over the prior year.

Other Supporting Schedules

In addition to the basic financial statements for the year ended December 31, 2020, the following supporting schedules are provided for additional information pertaining to OCERS:

- Total Plan Reserves
- Schedule of Contributions
- Schedule of Investment Expenses
- Schedule of Administrative Expenses
- Administrative Expense Compared to Actuarial Accrued Liability (21 basis points test).

Submitted by:



Tracy Bowman
Director of Finance



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Unaudited Financial Statements

For the Year Ended December 31, 2020

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Unaudited Financial Statements
For the Year Ended December 31, 2020

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Statement of Fiduciary Net Position (Unaudited)
As of December 31, 2020
(with summarized comparative amounts as of December 31, 2019)
(Dollars in Thousands)

	<u>Pension Trust Fund</u>	<u>Health Care Fund- County</u>	<u>Health Care Fund- OCFA</u>	<u>OPEB 115 Custodial Fund</u>	<u>Total Funds</u>	<u>Comparative Totals 2019</u>
ASSETS						
Cash and Short-Term Investments						
Cash and Cash Equivalents	\$ 470,743	\$ 10,473	\$ 1,066	\$ 484	\$ 482,766	\$ 425,804
Securities Lending Collateral	233,907	5,204	530	-	239,641	197,095
Total Cash and Short-Term Investments	<u>704,650</u>	<u>15,677</u>	<u>1,596</u>	<u>484</u>	<u>722,407</u>	<u>622,899</u>
Receivables						
Investment Income	19,339	430	44	-	19,813	18,497
Securities Sales	87,839	1,954	199	-	89,992	343,910
Contributions	13,354	-	-	-	13,354	24,104
Foreign Currency Forward Contracts	542	12	1	-	555	526
Other Receivables	4,328	96	10	-	4,434	5,069
Total Receivables	<u>125,402</u>	<u>2,492</u>	<u>254</u>	<u>-</u>	<u>128,148</u>	<u>392,106</u>
Investments at Fair Value						
Global Public Equity	8,754,492	194,764	19,822	12,966	8,982,044	6,771,063
Private Equity	2,099,861	46,716	4,754	-	2,151,331	1,735,878
Core Fixed Income	2,318,418	51,578	5,249	6,129	2,381,374	2,861,107
Credit	1,498,377	33,335	3,393	-	1,535,105	1,612,909
Real Assets	1,991,041	44,295	4,508	-	2,039,844	2,252,709
Risk Mitigation	1,740,006	38,710	3,940	-	1,782,656	1,707,562
Absolute Return	469	10	1	-	480	967
Unique Strategies	53,960	1,200	122	-	55,282	-
Total Investments at Fair Value	<u>18,456,624</u>	<u>410,608</u>	<u>41,789</u>	<u>19,095</u>	<u>18,928,116</u>	<u>16,942,195</u>
Capital Assets, Net	13,713	-	-	-	13,713	16,060
Total Assets	<u>19,300,389</u>	<u>428,777</u>	<u>43,639</u>	<u>19,579</u>	<u>19,792,384</u>	<u>17,973,260</u>
LIABILITIES						
Obligations Under Securities Lending Program	233,907	5,204	530	-	239,641	197,095
Securities Purchased	115,496	2,569	262	-	118,327	309,015
Unearned Contributions	293,948	-	-	-	293,948	259,285
Foreign Currency Forward Contracts	362	8	1	-	371	200
Retiree Payroll Payable	80,841	4,740	847	-	86,428	77,803
Other	17,471	389	40	-	17,900	21,478
Total Liabilities	<u>742,025</u>	<u>12,910</u>	<u>1,680</u>	<u>-</u>	<u>756,615</u>	<u>864,876</u>
Net Position Restricted for Pension, Other Postemployment Benefits and OPEB 115	<u>\$ 18,558,364</u>	<u>\$ 415,867</u>	<u>\$ 41,959</u>	<u>\$ 19,579</u>	<u>\$ 19,035,769</u>	<u>\$ 17,108,384</u>

Statement of Changes in Fiduciary Net Position (Unaudited)

For the Year Ended December 31, 2020

(with summarized comparative amounts for the Year Ended December 30, 2019)

(Dollars in Thousands)

	<u>Pension Trust Fund</u>	<u>Health Care Fund- County</u>	<u>Health Care Fund- OCFA</u>	<u>OPEB 115 Custodial Fund</u>	<u>Total Funds</u>	<u>Comparative Totals 2019</u>
ADDITIONS						
Contributions						
Employer	\$ 659,807	\$ 41,559	\$ 1,976	\$ -	\$ 703,342	\$ 710,692
Employee	279,384	-	-	-	279,384	279,373
Other Postemployment Contributions	-	-	-	613	613	613
Total Contributions	<u>939,191</u>	<u>41,559</u>	<u>1,976</u>	<u>613</u>	<u>983,339</u>	<u>990,678</u>
Investment Income						
Net Appreciation / (Depreciation) in Fair Value of Investments	1,806,463	37,889	3,854	1,408	1,849,614	1,996,226
Dividends, Interest, & Other Investment Income	232,871	5,181	527	945	239,524	347,440
Securities Lending Income						
Gross Earnings	1,727	38	4	-	1,769	7,707
Less: Borrower Rebates and Bank Charges	(883)	(20)	(2)	-	(905)	(6,537)
Net Securities Lending Income	<u>844</u>	<u>18</u>	<u>2</u>	<u>-</u>	<u>864</u>	<u>1,170</u>
Total Investment Income	<u>2,040,178</u>	<u>43,088</u>	<u>4,383</u>	<u>2,353</u>	<u>2,090,002</u>	<u>2,344,836</u>
Investment Fees and Expenses	(105,833)	(2,355)	(240)	(3)	(108,431)	(108,939)
Net Investment Income	<u>1,934,345</u>	<u>40,733</u>	<u>4,143</u>	<u>2,350</u>	<u>1,981,571</u>	<u>2,235,897</u>
Total Additions	<u>2,873,536</u>	<u>82,292</u>	<u>6,119</u>	<u>2,963</u>	<u>2,964,910</u>	<u>3,226,575</u>
DEDUCTIONS						
Participant Benefits	960,846	36,784	5,539	-	1,003,169	927,033
Death Benefits	932	-	-	-	932	650
Member Withdrawals and Refunds	11,547	-	-	-	11,547	13,249
Other Postemployment Benefits	-	-	-	1,383	1,383	1,318
Administrative Expenses	<u>20,428</u>	<u>22</u>	<u>22</u>	<u>22</u>	<u>20,494</u>	<u>19,232</u>
Total Deductions	<u>993,753</u>	<u>36,806</u>	<u>5,561</u>	<u>1,405</u>	<u>1,037,525</u>	<u>961,482</u>
Net Increase / (Decrease)	1,879,783	45,486	558	1,558	1,927,385	2,265,093
Net Position Restricted For Pension, Other Postemployment Benefits and OPEB 115, Beginning of Year	16,678,581	370,381	41,401	18,021	17,108,384	14,827,795
Restatement of Net Position	-	-	-	-	-	15,496
Net Position Restricted For Pension, Other Postemployment Benefits and OPEB 115, Beginning of Year, as Restated	<u>16,678,581</u>	<u>370,381</u>	<u>41,401</u>	<u>18,021</u>	<u>17,108,384</u>	<u>14,843,291</u>
Ending Net Position Restricted For Pension, Other Postemployment Benefits and OPEB 115	<u>\$ 18,558,364</u>	<u>\$ 415,867</u>	<u>\$ 41,959</u>	<u>\$ 19,579</u>	<u>\$ 19,035,769</u>	<u>\$ 17,108,384</u>

Total Plan Reserves

For the Year Ended December 31, 2020

(with summarized comparative amounts for the Year Ended December 30, 2019)

(Dollars in Thousands)

	<u>2020</u>	<u>2019</u>
Pension Reserve	\$ 10,683,714	\$ 9,885,751
Employee Contribution Reserve	3,494,518	3,421,183
Employer Contribution Reserve	2,866,443	2,785,209
Annuity Reserve	2,160,090	1,842,827
Health Care Reserve	457,826	411,782
OPEB 115 Reserve	19,579	18,021
County Investment Account (POB Proceeds) Reserve	160,378	150,416
OCSD UAAL Deferred Reserve	12,088	12,088
Contra Account	<u>(818,867)</u>	<u>(1,418,893)</u>
Total Net Position Restricted for Pension, Other Postemployment Benefits and OPEB 115	<u>\$ 19,035,769</u>	<u>\$ 17,108,384</u>

Schedule of Contributions
For the Year Ended December 31, 2020
(with summarized comparative amounts for the Year Ended December 30, 2019)
(Dollars in Thousands)

	<u>2020</u>		<u>2019</u>	
	<u>Employee</u>	<u>Employer</u>	<u>Employee</u>	<u>Employer</u>
Pension Trust Fund Contributions				
County of Orange	\$ 212,913	\$ 502,901	\$ 215,481	\$ 458,721
Orange County Fire Authority	28,291	99,179	25,522	89,510
Orange County Superior Court of California	16,179	34,813	17,187	31,424
Orange County Transportation Authority	10,329	28,893	9,822	26,415
Orange County Sanitation District	8,329	8,481	7,999	46,056
UCI Medical Center & Campus	-	3,068	-	2,789
Orange County Employees Retirement System	1,202	2,899	1,090	2,503
City of San Juan Capistrano	773	2,337	842	2,444
Transportation Corridor Agencies	748	865	748	14,063
Orange County Department of Education	-	286	-	267
Orange County Cemetery District	168	207	153	187
Orange County In-Home Supportive Services Public Authority	124	165	122	188
Orange County Local Agency Formation Commission	43	158	45	150
Orange County Children & Families Commission	121	151	203	129
Orange County Public Law Library	164	135	159	118
Orange County Mosquito & Vector Control District	-	-	-	878
Contributions Before Prepaid Discount	279,384	684,538	279,373	675,842
Prepaid Employer Contributions Discount	-	(24,731)	-	(22,049)
Total Pension Trust Fund Contributions	279,384	659,807	279,373	653,793
Health Care Fund - County Contributions	-	41,559	-	54,788
Health Care Fund - OCFA Contributions	-	1,976	-	2,111
OPEB 115 Custodial Fund Postemployment Contributions	-	613	-	613
Total Contributions	\$ 279,384	\$ 703,955	\$ 279,373	\$ 711,305

¹ Unfunded actuarial accrued liability payments (UAAL) were made in 2020 for \$21.6 million and 2019 for \$19.0 million for the Orange County Fire Authority.

² Unfunded actuarial accrued liability payments have been made in accordance with a separate 20-year level dollar payment schedule to include liabilities for employee benefits related to past service credit.

³ Unfunded actuarial accrued liability payments were made in 2019 for \$8.1 million for the Orange County Sanitation District.

⁴ Unfunded actuarial accrued liability payments were made in 2019 for \$12.8 million for the Transportation Corridor Agencies.

⁵ Unfunded actuarial accrued liability payments were made in 2019 for \$0.9 million for the Orange County Mosquito & Vector Control District.

Schedule of Investment Expenses
For the Year Ended December 31, 2020
(with summarized comparative amounts for the Year Ended December 30, 2019)
(Dollars in Thousands)

	<u>2020</u>	<u>2019</u>
Investment Management Fees*		
Global Public Equity		
U.S. Equity	\$ 2,935	\$ 2,360
International Equity	6,653	5,066
Emerging Markets Equity	4,756	7,007
Total Global Public Equity	<u>14,344</u>	<u>14,433</u>
Core Fixed Income		
U.S. Fixed Income	<u>2,683</u>	<u>2,535</u>
Total Core Fixed Income	<u>2,683</u>	<u>2,535</u>
Credit		
High Yield	-	1,770
Emerging Markets Debt	2,935	2,316
Direct Lending	-	2,782
Corporate Credit	1,424	-
Opportunistic Credit	3,916	-
Private Credit	3,180	-
Multi-Strategy	-	5,067
Non-U.S. Direct Lending	<u>-</u>	<u>2,276</u>
Total Credit	<u>11,455</u>	<u>14,211</u>
Real Assets		
Real Estate	11,860	11,181
Real Return		
Timber	509	780
Agriculture	1,258	1,242
Infrastructure	3,929	2,982
Energy	<u>5,678</u>	<u>12,626</u>
Total Real Return	<u>11,374</u>	<u>17,630</u>
Total Real Assets	<u>23,234</u>	<u>28,811</u>
Absolute Return		
Direct Hedge Fund	<u>6</u>	<u>129</u>
Total Absolute Return	<u>6</u>	<u>129</u>
Private Equity	22,314	17,825
Risk Mitigation	14,083	8,226
Short-Term Investments	<u>272</u>	<u>366</u>
Total Investment Management Fees	<u>88,391</u>	<u>86,536</u>
Other Fund Expenses¹	<u>14,638</u>	<u>17,249</u>
Other Investment Expenses (Expenses Not Subject to the Statutory Limit)		
Consulting/Research Fees	1,930	1,877
Investment Department Expenses	2,332	2,158
Legal Services	538	520
Custodian Services	580	580
Investment Service Providers	<u>19</u>	<u>19</u>
Total Other Investment Expenses	<u>5,399</u>	<u>5,154</u>
Security Lending Activity		
Security Lending Fees	212	281
Rebate Fees	<u>693</u>	<u>6,256</u>
Total Security Lending Activity	<u>905</u>	<u>6,537</u>
OPEB 115 Custodial Fund - Investment Fees and Expenses	<u>3</u>	<u>-</u>
Total Investment Expenses	<u>\$ 109,336</u>	<u>\$ 115,476</u>

* Does not include undisclosed fees deducted at source.

¹ These costs include, but are not limited to, foreign income tax and other indirect flow-through investment expenses such as organizational expenses in limited partnership structures.

Schedule of Administrative Expenses
For the Year Ended December 31, 2020
(with summarized comparative amounts for the Year Ended December 30, 2019)
(Dollars in Thousands)

	<u>2020</u>	<u>2019</u>
Pension Trust Fund Administrative Expenses		
Expenses Subject to the Statutory Limit		
Personnel Services		
Employee Salaries and Benefits	\$ 12,843	\$ 11,660
Board Members' Allowance	<u>15</u>	<u>16</u>
Total Personnel Services	<u>12,858</u>	<u>11,676</u>
Office Operating Expenses		
Depreciation/Amortization	2,534	2,534
General Office and Administrative Expenses	1,430	1,488
Professional Services	1,145	1,811
Rent/Leased Real Property	<u>640</u>	<u>610</u>
Total Office Operating Expenses	<u>5,749</u>	<u>6,443</u>
Total Expenses Subject to the Statutory Limit	<u>18,607</u>	<u>18,119</u>
Expenses Not Subject to the Statutory Limit		
Actuarial Fees	415	236
Equipment/Software	249	176
Information Technology Professional Services	1,014	533
Information Security Professional Services	<u>143</u>	<u>107</u>
Total Expenses Not Subject to the Statutory Limit	<u>1,821</u>	<u>1,052</u>
Total Pension Fund Administrative Expenses	20,428	19,171
Health Care Fund - County Administrative Expenses	22	20
Health Care Fund - OCFA Administrative Expenses	22	21
OPEB 115 Custodial Fund - Administrative Expenses	<u>22</u>	<u>20</u>
Total Administrative Expenses	<u>\$ 20,494</u>	<u>\$ 19,232</u>

Administrative Expense Compared to Actuarial Accrued Liability

For the Year Ended December 31, 2020

(Dollars in Thousands)

Administrative Expense Compared to Actuarial Accrued Liability	
Projected Actuarial Accrued Liability (AAL) as of December 31, 2020	\$ 22,980,997
Maximum Allowed For Administrative Expense (AAL * 0.21%)	48,260
Actual Administrative Expense ¹	<u>18,607</u>
Excess of Allowed Over Actual Expense	<u>29,653</u>
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of December 31, 2020	0.08%
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of December 31, 2019	0.08%
¹ Administrative Expense Reconciliation	
Administrative expense per Statement of Changes in Fiduciary Net Position	\$ 20,428
Less administrative expense not considered per CERL section 31596.1	<u>(1,821)</u>
Administrative Expense allowable under CERL section 31580.2	<u>\$ 18,607</u>



Memorandum

DATE: March 15, 2020
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: REEDSMITH, LLP PERFORMANCE REVIEW – FIDUCIARY COUNSEL SERVICES

Written Report Background/Discussion

1. Performance Review Guidelines

According to the Procurement & Contracting Policy (Section II.D., page 5), the performance of every contracted service provider will be reviewed at least every three years.

2. Contracts with Named Service Providers

The performance of Named Services Providers (as defined in the Procurement & Contracting Policy (Section II.C.11, page 5) will be solicited from and reported to the Board of Retirement (Section V.C.2, page 9).

“Performance reviews of Named Service Providers will include opinions solicited from Board of Retirement or designated sub-committee members, and/or selected staff members. The results of the review will be summarized and reported to the Board of Retirement.”

3. Review of Fiduciary Counsel – ReedSmith, LLP

Pursuant to the above referenced policy, a performance survey was distributed for ReedSmith, LLP on February 1st, 2021 for the period of April, 2018, through January, 2021. The notes below summarize the results:

- ReedSmith personnel were rated as being highly knowledgeable, easy to work with, and very reliable
- ReedSmith is effective in supporting the Board and helping to guide the Board to decisions
- No improvements were noted
- The overall performance rating for the majority of those surveyed resulted in a “A” grade
- The only concern noted was the loss of institutional knowledge should Mr. Harvey Leiderman retire or no longer support OCERS

4. Performance Review Action Item(s)

- The contract with ReedSmith, LLP expires June 30, 2021. There are no additional action items required at this time beyond normal performance monitoring.
- An RFP for Fiduciary Counsel Services was distributed February 5th, 2021, as the current contract with ReedSmith will expire soon.

Submitted by:
Jim Doezie
Contracts, Risk and Performance Administrator