

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

**GOVERNANCE COMMITTEE MEETING  
February 14, 2022  
10:00 a.m.**

**Members of the Committee**

Arthur Hidalgo, Chair  
Richard Oates, Vice-Chair  
Shari Freidenrich  
Adele Tagaloa

**Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation; Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect; and OCERS Board of Retirement Resolution 2022-01, this meeting will be conducted by video/teleconference only, in compliance with Government Code section 54953 as amended by Assembly Bill 361. None of the locations from which the Committee members will participate will be open to the public.**

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

OCERS Zoom Video/Teleconference information	
<p><b>Join Using the Zoom App (Video &amp; Audio)</b></p> <p><a href="https://ocers.zoom.us/j/85796336526">https://ocers.zoom.us/j/85796336526</a></p> <p><b>Meeting ID: 857 9633 6526</b> <b>Passcode: 100192</b></p> <p>Go to <a href="https://www.zoom.us/download">https://www.zoom.us/download</a> to download Zoom app before meeting Go to <a href="https://zoom.us">https://zoom.us</a> to connect online using any browser.</p>	<p><b>Join by Telephone (Audio Only)</b></p> <p>Dial by your location</p> <ul style="list-style-type: none"> <li>+1 669 900 6833 US (San Jose)</li> <li>+1 346 248 7799 US (Houston)</li> <li>+1 253 215 8782 US (Tacoma)</li> <li>+1 929 436 2866 US (New York)</li> <li>+1 301 715 8592 US (Germantown)</li> <li>+1 312 626 6799 US (Chicago)</li> </ul> <p><b>Meeting ID: 857 9633 6526</b> <b>Passcode: 100192</b></p>

**AGENDA**

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

**OPEN SESSION**

**CALL MEETING TO ORDER AND ROLL CALL**

**PUBLIC COMMENT**

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

**C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES**

Governance Committee Meeting Minutes

October 28, 2021

**ACTION ITEMS**

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

- (1) THE BOARD OF RETIREMENT CHARTER;**
- (2) THE BOARD CHAIR CHARTER;**
- (3) THE BOARD VICE CHAIR CHARTER; AND**
- (4) THE COMMITTEE CHAIR CHARTER**

*Presentation by Gina M. Ratto, General Counsel*

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the four Charters as presented.

**A-3 TRIENNIAL REVIEW OF OCERS RULES OF PARLIAMENTARY PROCEDURE**

*Presentation by Gina M. Ratto, General Counsel*

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the OCERS Rules of Parliamentary Procedure as presented.

**A-4 TRIENNIAL REVIEW OF THE INDEMNITY AND DEFENSE POLICY**

*Presentation by Manuel Serpa, Staff Attorney*

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the Indemnity and Defense Policy as presented.

**INFORMATION ITEMS**

**I-1 REVIEW OF THE GOVERNANCE COMMITTEE CHARTER AND 2022 WORKPLAN AND MEETING SCHEDULE**

*Presentation by Gina M. Ratto, General Counsel*

**COMMITTEE MEMBER COMMENTS**

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

**ADJOURNMENT**

**NOTICE OF NEXT MEETINGS**

**DISABILITY COMMITTEE MEETING**

**February 22, 2022**

**8:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

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

**SANTA ANA, CA 92701**

**REGULAR BOARD MEETING**

**February 22, 2022**

**9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

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

**SANTA ANA, CA 92701**

**INVESTMENT COMMITTEE MEETING**

**February 23, 2022**

**9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

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

**SANTA ANA, CA 92701**

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

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

Governance Committee Meeting  
October 28, 2021

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

**GOVERNANCE COMMITTEE MEETING  
October 28, 2021  
2:00 p.m.**

**MINUTES**

The Chair called the meeting to order at 2:00 p.m.

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

Frank Eley, Chair; Charles Packard, Vice Chair; Richard Oates; Wayne Lindholm

Also present via Zoom:

Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Manuel Serpa, Staff Attorney; Anthony Beltran, Audio Visual Technician; Cammy Torres, Recording Secretary

**CONSENT AGENDA**

**C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES**

Governance Committee Meeting Minutes

March 19, 2021

**MOTION** by Mr. Oates, **seconded** by Mr. Lindholm, to approve the Minutes.

The motion passed **unanimously**.

**ACTION ITEMS**

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

**No items were trailed from the Consent Agenda.**

**A-2 TRIENNIAL REVIEW OF THE PROCUREMENT AND CONTRACTING POLICY**

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

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the Procurement and Contracting Policy.

Governance Committee Meeting  
October 28, 2021

Proposed revisions to the Procurement and Contracting Policy were presented by Ms. Shott and discussed by the Committee members.

**MOTION** by Mr. Packard, **seconded** by Mr. Oates to approve and recommend the Board adopt the proposed revisions to the Procurement and Contracting Policy as presented.

The motion passed **unanimously**.

**A-3 TRIENNIAL REVIEW OF THE WRITE OFF POLICY AND REVIEW OF PROPOSED REVISIONS TO THE OVERPAID AND UNDERPAID PLAN BENEFITS POLICY AND THE OVERPAID AND UNDERPAID PLAN CONTRIBUTIONS POLICY**

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

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the following policies:

- (1) Write Off Policy
- (2) Overpaid and Underpaid Plan Benefits Policy
- (3) Overpaid and Underpaid Plan Contributions Policy

Proposed revisions to the Write Off Policy, the Overpaid and Underpaid Plan Benefits Policy and the Overpaid and Underpaid Plan Contributions Policy were presented by Ms. Jenike and discussed by the Committee members.

**MOTION** by Mr. Packard, **seconded** by Mr. Lindholm to approve and recommend the Board adopt the proposed revisions to the Write Off Policy, the Overpaid and Underpaid Plan Benefits Policy, and the Overpaid and Underpaid Plan Contributions Policy as presented.

The motion passed **unanimously**.

**A-4 REVIEW OF THE PROPOSED NEW RECORDS MANAGEMENT POLICY**

*Presentation by Gina M. Ratto, General Counsel*

**Recommendation:** Approve and recommend the Board adopt a new Records Management Policy as presented, with such revisions as are necessary to update the Member Services Division portion of the Record Retention Schedule.

Manuel Serpa presented the Committee with a new Records Management Policy.

After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Oates to approve and recommend the Board adopt a new Records Management Policy as presented, with such revisions as are necessary to update the Member Services Division portion of the Record Retention Schedule. In addition, staff will consider whether Insurance Policies should be retained indefinitely, and will reflect any necessary revisions to the Retention Schedule prior to presenting the policy to the Board.

The motion passed **unanimously**.

Governance Committee Meeting  
October 28, 2021

**A-5 OCERS ADMINISTRATIVE PROCEDURE (OAP) – YEARS OF SERVICE CREDIT CALCULATION**

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

**Recommendation:** Adopt, and recommend the Board adopt, the OCERS Administrative Procedure (OAP) on years of service credit calculations.

Ms. Jenike presented the OCERS Administrative Procedure (OAP) on years of service credit calculations to the Committee.

After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Oates to adopt and recommend the Board adopt, the OCERS Administrative Procedure (OAP) on years of service credit calculations as presented.

The motion passed **unanimously**.

**INFORMATION ITEMS**

**I-1 REVIEW OF NEW PAY ITEMS PURSUANT TO THE PAY ITEM REVIEW POLICY**

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

Ms. Jenike presented this agenda item to the Committee.

**COMMITTEE MEMBER COMMENTS**

N/A

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

Mr. Delaney introduced Claudia Perez to the Board. She will assist the Executive Department.

**COUNSEL COMMENTS**

N/A

**ADJOURNMENT**

The meeting adjourned at 3:23 p.m.

**Submitted by:**

**Approved by:**

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

\_\_\_\_\_  
Frank Eley, Chair



## Memorandum

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**DATE:** February 14, 2022  
**TO:** Members of the Governance Committee  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** **TRIENNIAL REVIEW OF THE BOARD OF RETIREMENT CHARTER, THE BOARD CHAIR CHARTER, THE BOARD VICE-CHAIR CHARTER, AND THE COMMITTEE CHAIR CHARTER**

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### Recommendation

Approve, and recommend that the Board approve, proposed revisions to:

- (1) The Board of Retirement Charter;
- (2) The Board Chair Charter;
- (3) The Board Vice-Chair Charter; and
- (4) The Committee Chair Charter.

### Background/Discussion

The Board of Retirement (including the Investment Committee) has formally adopted over 60 policies and charters and has established a review schedule that requires review of every policy and charter every three years. At its February and June 2015 meetings, on recommendation of the Governance Committee, the Board approved a streamlined procedure to more efficiently manage the scheduled review of the charters and policies. Pursuant to this process, certain of the policies and charters are to be first reviewed by the Governance Committee before presentation to the Board for approval.

The the Board of Retirement Charter, Board Chair Charter, Board Vice-Chair Charter and Committee Chair Charters were all adopted by the Board in 2002 and were last reviewed in 2019. All four Charters are scheduled for review and approval by the Board, after review by the Governance Committee, in 2022.

Staff has reviewed the four Charters and recommends the revisions noted below.

#### Board of Retirement Charter

Staff proposes revisions to the Charter to:

- Reflect that commencing in 2022, the Investment Committee will no longer meet monthly (Section 5.b.)
- Augment the list of areas appropriate for Board member education to track more closely to the statute (Gov. Code §31522.8) (Section 5.d.)
- Draw attention to the FPPC gift rules (Section 5.e.)
- Add a reference to PEPRA in Section 9.b.
- Expand the provisions of the Charter to address situations where the Vice Chair declines to accede to the position of Chair (Section 9.f.), and when there is a vacancy in the offices of Chair (Section 9.g.) or Vice Chair (Section 9.h.)
- Add clarifying language with respect to the OCERS By-Laws and the formation of committees of the Board (Section 9.j.)



- Reflect the amendment of Government Code section 31670 in 2020 that permits the Board to authorize the CEO to retire members of the System and report the retirements to the Board (Section 15.b.)
- Add determination of the STAR COLA to Section 15.e.
- Reflect that the Procurement and Contracting Policy was revised in 2021 to delete the custodial bank as a Named Service Provider
- Add and update citations to the California Constitution and the Government Code
- Make other clarifying (non-substantive) revisions to the Charter

**Board Chair Charter**

Staff's proposed revisions to the Board Chair Charter are only clarifying and non-substantive.

**Board Vice Chair Charter**

Staff's proposed revisions to the Board Vice Charter are only clarifying and non-substantive.

**Committee Chair Charter**

Staff's proposed revisions to the Committee Chair Charter are only clarifying and non-substantive.

Copies of the Charters, with proposed revisions indicated in underlined/strikeout text, are attached.

**Submitted by:**



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Gina M. Ratto  
General Counsel



## OCERS Board Charter Board of Retirement

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### Introduction

1. The Board of Retirement of OCERS (Board) is committed to carrying out its policy and oversight role in accordance with the highest standards of fiduciary practice. The Board recognizes the need to clearly delineate the responsibilities of the various decision-making bodies involved in the governance and management of OCERS. Accordingly, the Board has established this charter, which sets out its duties and responsibilities in governing the retirement system (–System).

### Duties and Responsibilities

#### Board Members

2. Under the California Constitution and the County Employees’ Retirement Law of 1937, members of the Board have plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement sSystem, and must discharge their duties with respect to the Ssystem solely in the interest of, and for the exclusive purposes of providing benefits to, members of the Ssystem and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the System. Members of the Board function together as a nine-member Board (with one alternate member), exercising their collective judgment.
3. In carrying out their duties, Board Members must act “with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.” (Cal. Const., art. XVI, §17(c); Gov. Code §31595(b).)
4. In order to prudently discharge their responsibilities, each Board Member is expected to participate in the activities of the Board and its committees, and to commit the time and effort necessary to knowledgably, effectively and efficiently administer the affairs of the System.
5. Each Board Member will:
  - a. Be familiar and comply with OCERS’ governing laws, rules, regulations, charters and policies.
  - b. Endeavour to attend all regular meetings of the Board and committees on which the Board Member serves. The Board ~~and Investment Committee~~ meets regularly once each month, subject to adjustment from time to time. Regular meetings are expected to last most of the day. ~~Other C~~ ommittees ~~meetings~~ generally meetare less frequently, and meetings last between two and four hours.
  - c. Be prepared in advance for informed discussion at each meeting. Preparation for regular Board and Investment Committee meetings can require between one and eight hours.
  - d. Comply with the OCERS Trustee Education Policy and state law, which require that Board Members complete a minimum of 24 hours of Board Member education





## OCERS Board Charter Board of Retirement

- e. In cooperation with and upon the recommendation of the Chief Executive Officer, adopt and amend as necessary the charter describing the roles and responsibilities of the Chief Investment Officer;
- f. During the last regularly scheduled meeting of the Board for each calendar year, elect a Vice Chair for a term beginning on the first day of the following calendar year, ~~and in the event of a vacancy in the position of the Vice Chair during the year, elect a new Vice Chair at the next regularly scheduled meeting of the Board following such vacancy.~~ The person holding the office of Vice Chair as of the last day of the calendar year will automatically succeed to the office of Chair effective the first day of the following calendar year. In the event the person holding the office of Vice Chair as of the last day of the calendar year declines to accede to the office of Chair, a Chair will be elected during the last scheduled meeting of the Board for a term beginning on the first day of the following calendar year;
- ~~g. If, prior to the expiration of his or her term, the Chair becomes disabled or otherwise incapable of continuing to serve as Chair, or is no longer a member of the Board, or is no longer eligible to hold office for any reason, the Vice Chair will automatically succeed to the office of Chair and will serve out the remainder of that calendar year. In the event the person holding the office of Vice Chair declines to accede to the office of Chair, the Board will hold a special election to elect a new Chair who will serve out the remainder of that calendar year.~~
- ~~h. If there is a vacancy in the office of Vice Chair, the Board will hold a special election to elect a new Vice Chair, who will serve until the end of the Vice Chair's term of office, at which time such Vice Chair will succeed to the office of Chair, as provided for above.~~
- ~~ig. In any election of the Vice Chair, strive to elect a Vice Chair that is (1) an elected Board Member when the Chair is an appointed Board Member; and (2) an appointed Board Member when the Chair is an elected Board Member; and in any election of the Chair, strive to elect a Chair that is (1) an elected Board Member when the Vice Chair is an appointed Board Member; and (2) an appointed Board Member when the Vice Chair is an elected Board Member~~
- ~~hj. As provided in OCERS By-Law, eEstablish committees of the Board as deemed necessary to carry out the business of the Board provided for in OCERS By-Laws;~~
- ~~ik. Initiate, support, oppose or take a neutral position regarding legislative proposals affecting OCERS; and~~
- ~~jl. Authorize and approve any actions concerning claims, disputes, demands or legal proceedings that may affect the functions, investments, benefits or funding of OCERS and the Board.~~



## OCERS Board Charter Board of Retirement

### *Conflicts of Interest*

10. The Board will:
  - a. Adopt and maintain an OCERS Conflict of Interest Code and list of Designated Filers, and obtain the approval of both by the County Board of Supervisors;
  - b. Review and update the OCERS Conflict of Interest Code every two years as required by the Political Reform Act; and
  - c. Designate the CEO as the OCERS Filing Officer who is responsible for ensuring Board ~~M~~members and Designated Filers are aware of and comply with the requirement of an annual disclosure of financial interests (Form 700).

### *Investments and Funding*

11. The Board has exclusive control of the investments of the Fund. The assets of OCERS are trust funds and, as such, the Board will manage the Fund (Gov. Code §31595):
  - a. Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering OCERS;
  - b. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and
  - c. By diversifying the investments of OCERS so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.
12. The Board will conduct a study of the relationship between the assets and liabilities of OCERS not less than every three years.
13. The Board will approve an Investment Policy Statement ~~that includes~~including investment objectives, and will review and confirm or amend such policy ~~statement~~ at least every three years and following the completion of any asset/liability study of OCERS.
14. The Board will approve broad investment strategies for achieving the investment objectives of OCERS.

### *Benefits Administration*

15. The Board will, from time to time as determined to be in the best interest of OCERS:
  - a. Adopt Board policies necessary to promote effective administration of member benefits;
  - b. ~~Authorize the Chief Executive Officer to a~~Approve all qualified members who apply for service retirement (Gov. Code §31670);



## OCERS Board Charter Board of Retirement

- c. Determine the merits of applications for disability benefits, making necessary determinations of service connection and permanency of ~~incapacity~~~~injury~~ (Gov. Code §31720);
- d. Act on member appeals of decisions made by OCERS staff;
- e. Annually determine and approve any cost of living~~cost-of-living~~ adjustments (Gov. Code §31870), and consider and determine whether to approve a Supplemental Targeted Adjustment for Retirees (STAR) cost of living adjustment (Gov. Code §31874.3(c));
- f. Determine eligibility of safety members when in doubt; and
- g. Periodically review approved disabilities as appropriate.

### Operations

16. The Board will:
- a. Adopt a business and strategic plan and any updates thereto;
  - b. Adopt an annual Operating Budget within the statutory limit and approve any changes thereto (Gov. Code §31580.2);
  - c. Ensure that all required contributions to the Fund are collected in a timely manner;
  - d. Ensure that all required distributions from the Fund are made in a timely manner;
  - e. Establish OCERS principal business offices;
  - f. Approve leasehold and purchase agreements in connection with OCERS principal business offices; and
  - g. Approve operational control policies to ensure efficient delivery of member benefits and services.

### Financial, Actuarial and Accounting

17. The Board will:
- a. Ensure that appropriate accounting, actuarial and internal financial control policies are established;
  - b. Approve the annual actuarial valuation and the actuarial assumptions contained therein, upon the advice of the actuary and other experts as required, and transmit to the Orange County Board of Supervisors a recommendation to implement such changes in the contribution rates of the county and districts, and members, as are necessary (Gov. Code §§31453 - 31454.6);
  - c. Approve the annual financial statements;
  - d. Ensure a financial audit is conducted at least annually (Gov. Code § 31593);
  - e. Ensure an actuarial experience study is conducted at least every three years; and



## OCERS Board Charter Board of Retirement

- f. Ensure an actuarial audit is conducted at least every five years.

### *Human Resources*

18. The Board will from time to time as determined to be in the best interests of OCERS:
  - a. Approve a human resources and compensation policy; and
  - b. Ensure that appropriate succession plans are in place to provide continuity in OCERS management.

### *Communications*

19. The Board will:
  - a. Ensure effective communications with all significant interest groups;
  - b. Ensure that an Annual Financial Report is issued to members;
  - c. Ensure that Member Statements are available on OCERS' website and that OCERS makes paper copies available upon request; and
  - d. Conduct internal and external communications in accordance with the Board ~~Member~~ Communications Policy.

### *Key Appointments*

20. The Board will, from time to time, appoint staff and Named Service Providers (as defined in the Board's Procurement and Contracting Policy) to assist the Board in carrying out its responsibilities, including:
  - a. The CEO (Gov. Code § ~~31522.11~~31522.5);
  - b. The actuary;
  - c. The actuarial auditor upon recommendation of the Audit Committee;
  - d. The financial auditor upon recommendation of the Audit Committee;
  - e. ~~The custodian;~~
  - ef. Legal counsel (also referred to as the Board's fiduciary counsel) retained to represent and advise the Board (Gov. Code § 31529.5);
  - fg. Investment consultants retained to advise the Board;
  - gh. Human resource consultants retained to assist the Board with issues pertaining to the CEO; and
  - hi. Other service providers the Board may choose to retain.

### *Monitoring and Reporting*

21. The Board will ensure that appropriate monitoring and reporting practices are established within OCERS.



## OCERS Board Charter Board of Retirement

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22. As a general rule, the Board will comply with all Board policies. If the Board takes an action contrary to one of its policies, it will state in the Board minutes the reasons for doing so. At such time, the Board will also request that a review of the policy be undertaken.
23. The Board will annually:
  - a. Review the CEO's job performance;
  - b. Review the funded status of OCERS;
  - c. Review OCERS's internal financial and operating controls;
  - d. Review the investment performance of the Fund and the performance of the investment managers of the Fund; and
  - e. Review the quality of service delivered to OCERS members.
24. The Board will review the actuarial experience of OCERS not less than every three years.
25. The Board will review the results of an actuarial audit of OCERS at least every five years.
26. The Board will review progress toward the implementation of OCERS business plan on a semi-annual basis.
27. The Board will review Board policies every three years or as set out in each policy.
28. The Board will review the OCERS Operating Budget on a quarterly basis.
29. With the assistance of the CEO, the Board (or a committee of the Board) will review, at least biennially, the performance of its advisors including the actuary, the financial auditor, the investment consultants, and fiduciary counsel.
30. The Board will provide for appropriate monitoring of compliance with applicable laws and regulations.

### Charter Review

31. The Governance Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant and appropriate.

### Charter History

32. This Charter was adopted by the Board of Retirement on November 18, 2002 and amended on August 22, 2011, January 21, 2014, January 20, 2015, July 20, 2015, May 15, 2017, October 15, 2018, ~~and~~ March 18, 2019 and [MONTH/DATE/2022].

### Secretary's Certificate

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





# OCERS Board Charter Board of Retirement

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*Steve Delaney*

~~03/18/19~~

Steve Delaney  
Secretary of the Board

Date



## OCERS Board Charter

# Board of Retirement Chair Charter

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### Introduction

1. The OCERS Board of Retirement (Board) By-Laws provide that the person who holds the office of Vice Chair of the Board on the last day of the calendar year will automatically succeed to the office of Chair of the Board effective the first day of the following calendar year. The Chair of the Board of Retirement (Board) will take office in accordance with the Board's By-Laws. The Chair will exercise the powers and will perform the duties and functions specified herein.

### Duties and Responsibilities

2. The Chair will, from time to time, and as necessary for the efficient governance of the Board:
  - a. Appoint members of the Board to fill any vacancies that occur in the committees of the Board;
  - b. Orient new members of the Board on current issues before the Board and designate an incumbent member of the Board to provide new members an orientation on current Board governance practices;
  - c. Approve monthly Board meeting agendas as prepared by the CEO;
  - d. Preside at meetings of the Board, ensuring that such meetings are conducted in an efficient manner and in accordance with The Ralph M Brown Act (Government Code Sections 54950, *et. seq*) and the OCERS Rules of Parliamentary Procedure;
  - e. Guide the Board in achieving a harmonious atmosphere, while allowing full and open debate;
  - f. Ensure coordination of meetings, agendas, schedules and presentations, in consultation with the CEO;
  - g. Facilitate effective and open communications between the Board, the CEO, and other OCERS senior management;
  - h. Work to ensure that Board deliberations are conducted with respect and professionalism;
  - i. Work to ensure that the Board discharges its duties and responsibilities as set forth in -the County Employees Retirement Law of 1937, the Board of Retirement Charter, By Laws, and ~~governance~~-policies of the Board;
  - j. Review any report or complaint received by OCERS that alleges that a member of the Board (other than the Board Chair) has failed to comply with applicable law, the Board of Retirement Charter, By Laws or any policy of the Board, and determine the appropriate course of action in response to such report after consulting with the Board's fiduciary counsel, OCERS' internal legal counsel and the CEO;



## OCERS Board Charter Board of Retirement Chair Charter

- k. In situations that call for an official spokesperson to speak on behalf of OCERS, the CEO and the Chair will jointly determine who will act in such capacity, on an issue-by-issue basis;
  - l. Approve in advance all travel of the CEO and review all expense claims by the CEO and other members of the Board;
  - m. Sign subpoenas if the CEO (who is Secretary to the Board) is unavailable;
  - n. Work with the Board Vice Chair to coordinate the CEO evaluation process;
  - o. Review, revise as necessary, and approve and sign the minutes of the meetings of the Board which will be part of the permanent records of the Board; and
  - p. Carry out such other functions and duties as may be prescribed by the Board from time to time.
3. The Governance Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that ~~the~~this Charter remains relevant and appropriate.

### Charter History

- 4. This Charter was adopted by the Board of Retirement on November 18, 2002 and amended on July 20, 2015, February 13, 2018, April 18, 2018, ~~and~~ March 18, 2019 and [MONTH/DAY/2022].

### Secretary's Certificate

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

03/18/19

Steve Delaney  
Secretary of the Board

Date



## OCERS Board Charter Board Vice Chair Charter

### Introduction

1. The OCERS Board of Retirement (Board) By-Laws provide that each year at the Board's last regular meeting in December, the Board will elect a new Vice Chair, who will serve in that capacity beginning in January of the following year until the end of that calendar year, at which time he or she will succeed to the office of Chair. ~~will elect one Board member as Vice Chair to hold office in accordance with the Board's By-Laws.~~

### Duties and Responsibilities

2. The Vice Chair will:
  - a. Assume the duties and responsibilities of the Chair as set forth in the Chair Charter in the event the Chair is unable to fulfill the duties of the position;
  - b. Work with the Chair to coordinate the CEO Evaluation Policy;
  - c. Review any report or complaint received by OCERS that alleges that the Chair has failed to comply with applicable law, the Board Charter, By Laws or any policy of the Board, and determine the appropriate course of action in response to such report after consulting with the Board's fiduciary counsel, OCERS' internal legal counsel and the CEO; and
  - d. Review all expense claims of the Chair.
3. Unless the Board elects to extend the term of office of a sitting Chair or Vice Chair of the Board for an additional year, the person holding the office of Vice Chair as of the end of October of the year will appoint the members of each of the committees of the Board (with the exception of the Investment Committee) and the Chair and Vice Chair of all committees of the Board, all of whom will serve on such committees during the following calendar year; and the Vice Chair will report such appointments to the Board not later than at the Board's last meeting of the calendar year.

### Charter Review

4. The Governance Committee will review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.

### Charter History

5. This charter was adopted by the Board of Retirement on November 18, 2002 and amended on July 20, 2015, April 18, 2016, ~~and~~ March 18, 2019 and [MONTH/DAY/2022].



## OCERS Board Charter Board Vice Chair Charter

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### Secretary's Certificate

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



03/18/19

Steve Delaney, Secretary of the Board

Date



## OCERS Board Charter Committee Chair Charter

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### Introduction

1. The person holding the office of Vice Chair of the Board as of the end of October of the year will appoint the members of each of the committees of the Board (with the exception of the Investment Committee) and will appoint the chair and vice chair of ~~each~~ of the committees of the Board. The Committee Chairs will exercise the powers and perform the duties and functions specified herein.

### Duties and Responsibilities

2. With regard to their assigned committees, Committee Chairs will:
  - a. Preside at all meetings of their assigned committee, ensuring that meetings are conducted in an efficient manner and in accordance with The Ralph M. Brown Act ( California Government Code Section 54950, *et. seq.*) and the OCERS Rules of Parliamentary Procedure;
  - b. Guide the committee in achieving a harmonious atmosphere- while -allowing full and open debate;
  - c. Approve committee meeting agendas as prepared by ~~the CEO~~ the executive liaison to the committee;
  - d. Ensure coordination of meetings, agendas, schedules, presentations, and consultation with the OCERS Administration;
  - e. Work to ensure that committee deliberations are conducted with respect and professionalism;
  - f. Work to ensure that the committee discharges its duties and responsibilities as set forth in the County Employees Retirement Law of 1937, the committee's charter, the By-Laws, and the ~~governance~~-policies of the Board;
  - g. Facilitate effective and open communications between the committee, the Board and the CEO;
  - h. On behalf of the committee, report to the Board on the activities of the committee; and
  - i. Carry out such other functions and duties that may be prescribed by the Board or the Board Chair.

### Charter Review

3. The Governance Committee will review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.



# OCERS Board Charter Committee Chair Charter

## Charter History

4. This charter was adopted by the Board of Retirement on November 18, 2002 and revised on July 20, 2015, April 18, 2016, ~~and~~ June 17, 2019 and [MONTH/DAY/2022].

## 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

06/17/2019

Date



## Memorandum

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**DATE:** February 14, 2022  
**TO:** Members of the Governance Committee  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** **PROPOSED REVISIONS TO OCERS' RULES OF PARLIAMENTARY PROCEDURE**

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### Recommendation

Approve, and recommend that the Board of Retirement (Board) approve, proposed revisions to the OCERS Rules of Parliamentary Procedure.

### Background/Discussion

The Board of Retirement (including the Investment Committee) has formally adopted over 60 policies and charters and has established a review schedule that requires review of every policy and charter every three years. At its February and June 2015 meetings, on recommendation of the Governance Committee, the Board approved a streamlined procedure to more efficiently manage the scheduled review of the charters and policies. Pursuant to this process, certain of the policies and charters are to be first reviewed by the Governance Committee before presentation to the Board for approval.

In February 2015, the Board adopted OCERS Rules of Parliamentary Procedure (the Rules) to establish rules for the conduct of meetings of the Board and its committees in order to ensure orderly meetings in compliance with the Brown Act and to protect the rights of the Board, Board members, OCERS members, plan sponsors and members of the public. The Rules conform in most respects to Robert's Rules of Order. The Rules were last reviewed and revised in March 2019 to specify that committee members are authorized to approve minutes of meetings that took place prior to their membership on the committee.

Staff has reviewed the Rules and recommends only minor non-substantive revisions at this time. A copy of the Rules with the minor revisions redlined is attached.

### Submitted by:



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Gina M. Ratto  
General Counsel





## OCERS Board Policy

# OCERS Rules of Parliamentary Procedure

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### Purpose and Background

1. The Orange County Employees Retirement System Board of Retirement is committed to the principals of open and efficient government. The Board conducts regular meetings of the full board and various committees. The Board wishes to establish rules for conduct of those meetings that are consistent with the Ralph M. Brown Act ("Brown Act") in order to ~~insure~~ensure orderly meetings and to protect the rights of the Board, its individual members, OCERS members and plan sponsors, and members of the public.

### Basic Rules

2. All meetings of the Board and its committees shall adhere to the following basic rules of conduct:
  - a. The collective fiduciary interests of the Board and its committees supersede the rights of individual members of the Board. All members of the Board must adhere to the rules established by the Board. If there is a conflict between the rights of a member and the interests of the Board to conduct its business, the interests of the Board prevail.
  - b. All members of the Board are equal. All members of the Board have the following rights:
    - i. To hold office.
    - ii. To attend meetings.
    - iii. To make motions and speak in Board or committee deliberations.
    - iv. To nominate.
    - v. To vote.
  - c. A quorum must be present to conduct business. The By-Laws specify that a quorum for conduct of a meeting of the full Board shall be five members present; a quorum for a meeting of the Investment Committee shall be five members present; and a quorum for a meeting of a standing committee of the Board, other than the Investment Committee, shall be two members present.
  - d. The majority rules. The minority has the right to be heard on issues up for deliberation before the Board or a committee. Once a decision has been made by the majority of Board members present and voting, the minority must respect and abide by the decision.
  - e. The Brown Act requires OCERS to publicly report the vote or abstention of each Board or committee member present. (Gov. Code § 54953 (c).) Therefore, each Board or committee member present shall vote or abstain in each vote of the Board or committee. Silence on a vote is not authorized under the Brown Act.
  - f. One question will be addressed at a time, and one speaker will speak at a time. A motion will be out of order if it does not directly relate to the question under consideration. Once a



## OCERS Board Policy

# OCERS Rules of Parliamentary Procedure

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speaker has been recognized, he or she has the floor and should not be interrupted except in rare circumstances, such as by the Chair to maintain order or decorum.

- g. Members of the Board or committee shall have the opportunity to fully debate all debatable motions. A debatable motion may not be put to a vote as long as members of the Board or committee wish to continue the debate unless debate is suspended by majority vote of the Board or committee.
- h. Once a motion has been decided at a Board or committee meeting, it is out of order to bring up the same motion or a motion that is essentially the same at the same meeting unless it is brought through a Motion for Reconsideration.
- i. Remarks directed at another Board or committee member personally and not relating to the business of the Board or committee are out of order in a debate. Debate shall be limited to motions and not motives, principles, or personalities. The Chair may request that the speaker cease his or her out of order remarks.
- j. Board and standing committee meetings shall be conducted in accordance with the Brown Act (Gov. Code § 54950, et. seq.).
- k. The Board and its committees shall not conduct any business that has not been properly placed on the agenda and noticed to the public unless authorized by the Brown Act.

## Roles and Responsibilities in the Conduct of Meetings

- 3. The Chair of the Board or committee shall be the presiding officer of the meeting. If the Chair of the Board or committee is absent, the Vice Chair shall serve as the presiding officer. In the event that both the Chair and the Vice Chair are absent from the meeting, the Chair shall appoint a presiding officer of the meeting from among the remaining members of the Board or committee who are entitled to vote during the meeting. The general responsibilities of the presiding officer are:
  - a. To ensure that the meeting starts on time and moves through the agenda in an expeditious manner. The presiding officer may take steps to prevent dissenting Board or committee members and members of the public from employing dilatory tactics to delay a meeting.
  - b. To ensure that Board and committee members and members of the public adhere to the published agenda, except as otherwise permitted by law.
  - c. To be familiar with these rules, OCERS' By-Laws, charters, and policies, and the customary practices of the Board and its committees.
  - d. To direct the orderly conduct of the meeting by recognizing speakers and reminding others that interruption of speakers who have the floor is out of order.
  - e. To impartially recognize members of the Board or committee and members of the public to speak during discussion of a motion. It shall be the presiding officer's prerogative to



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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determine the timing of public comment; that is, whether public comment is taken before or during the Board members' discussion on each matter. In any event, the presiding officer should provide opportunity for Board and committee members and members of the public on all sides of a discussion to speak before the Board's action on the motion.

- f. To restate a motion before a vote is taken and to announce the results of the vote. The presiding officer may require a vote by roll call, show of hands, or any other means in order to clarify the results of the vote and permit the vote to be recorded accurately in the minutes of the meeting.
- g. To ensure that discussion is relevant and focused on the issue at hand. The presiding officer may request a Board or committee member or member of the public to confine his or her remarks to the motion under consideration.
- h. To ensure that public comment (1) on any matter within the jurisdiction of the Board or committee is permitted at each meeting of the Board or committee; (2) is limited to three minutes per speaker and to a total of 20 minutes per issue (with the exception of appearances on disability matters; see OCERS By-Laws); and (3) does not interfere with the orderly conduct of the meeting.
- i. To ensure that public comment is directed to the presiding officer, and not to staff, vendors or consultants.
- j. To ensure that any requests made of staff, vendors or consultants to report back to the Board or committee, to place a matter of business on a future agenda of the Board or committee, or to otherwise commit staff time and OCERS resources are (1) made at the direction of the presiding officer; (2) with consensus of the Board or committee members; and (3) with due consideration of the burdens such requests will place on staff, consultants and OCERS resources and any other relevant concerns staff or consultants may identify.
- k. To ensure, before staff, a vendor or a consultant is directed by the presiding officer to respond to questions from, or to report or release additional information requested by, a member of the public during a meeting of the Board or committee, that the information is (1) relevant and appropriate to the subject matter of the meeting; and (2) public in nature.
- l. To adjourn each meeting of the Board or committee at the conclusion of the business set forth on the agenda by unanimous consent.<sup>1</sup>

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<sup>1</sup> The presiding officer may state (for example), "If there is no objection, this meeting will be adjourned;" and after a pause for objection, if there is no objection, "The meeting is adjourned."



## OCERS Board Policy

# OCERS Rules of Parliamentary Procedure

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4. The OCERS CEO or his or her designee shall be the secretary of the Board or committee meeting. The duties of the secretary of the meeting are:
  - a. To prepare or cause to be prepared concise minutes of all meetings of the Board and its committees for approval by the Board at a subsequent meeting.
  - b. At a minimum, the secretary shall record the following in the minutes:
    - i. All members of the Board or committee present at the meeting.
    - ii. All adopted and defeated motions.
    - iii. The name of the maker and seconder of each motion and amendment.
    - iv. Names of all persons reporting or presenting to the Board or committee.
    - v. The identity and vote of each Board or committee member voting or abstaining from a vote.
  - c. The secretary need not record the following in the minutes:
    - i. Detailed discussion or personal opinions of members of the Board or committee or members of the public.
    - ii. Motions that have been withdrawn.
    - iii. Full reports of committees.
5. The minutes of a meeting of the Board will be presented to the Board for approval, and the minutes of a meeting of a committee will be presented to that committee for approval, at the next meeting of the Board or committee as applicable. In addition, because there are periodically changes in the membership of the committees, each current member of a committee is authorized to approve the minutes of meetings conducted prior to the individual becoming a member of the committee.

### Agendizing Matters for Board or Committee Consideration

6. In general, matters for Board or committee discussion may be placed on a meeting agenda by staff in the reasonable discretion of the CEO or by a Board or committee member by request to the Chair of the Board or committee.
  - a. The Board and its committees will make use of consent agendas whenever feasible to group items that do not require discussion or debate into a single voting package in order to expedite approval of routine matters.
  - b. Informational reports that have been requested by the Board or a committee will be agendized and presented as information items and may be accepted without action by the Board or committee.
7. In the event that the Chair of the Board or committee refuses to place an item on the agenda, the Board or committee member making the request may appeal the decision to the full Board or committee at the next duly noticed meeting during the Board or committee member



## OCERS Board Policy

# OCERS Rules of Parliamentary Procedure

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- comments section of the meeting. The motion must receive a second to move forward. The Board or committee will then vote on the question of whether to place the requested matter on the agenda of the next available duly noticed Board or committee meeting.
- a. If the Board or committee votes to place the item on the next available agenda, the matter shall be placed on that agenda and discussed by the Board or committee at the time noticed in the agenda.
  - b. If the Board or committee votes not to place the item on the next available agenda, the matter will be tabled.
  - c. In either case, no action will be taken on the matter after the vote so that any action item can be properly placed on an agenda pursuant to the Brown Act.
8. In the event that a Board or committee member proposes placing a matter on a future agenda during the Board or committee member comments section of the meeting, the presiding officer of the Board or committee may rule on the proposal prior to the end of the meeting. If the presiding officer does so rule at that meeting and refuses to place the proposed matter on a future agenda, the Board or committee member making the proposal may immediately exercise his or her appeal rights as described in number 6 above.

## Types of Motions and Their Uses

### *Main Motions*

9. The motions are:
- a. The main motion is the means by which the Board and committee proposes action and does business. It is a proposal that a certain action be taken by the Board or committee whether that action be to express an opinion, adopt a policy, make an expenditure of funds, enter into a contractual obligation, or to take any other action that is within the power of the Board or committee.
  - b. A main motion may be made by any qualified member of the Board or Committee; however, a motion can only be made concerning business that has been placed on the published agenda unless otherwise authorized by law.
  - c. To introduce a main motion, a Board or committee member who has the floor should state, "**I move that...**"
  - d. The presiding officer of the meeting may assist the Board or committee member in clarifying the motion.
  - e. A main motion must be seconded unless the motion comes to the Board from a committee recommendation since any motion coming from a committee already has more than two Board members in favor of considering the motion.



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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- f. Debate is held on the main motion when the presiding officer states, “**Is there any discussion.**” The presiding officer shall provide all Board or committee members the opportunity to speak during discussion of a main motion.
- g. A main motion may be amended.
- h. Passage of a main motion requires simple majority vote.
- i. The presiding officer may require that lengthy motions be made in writing.
- j. The maker of the main motion has the right to speak first in support of the motion.
- k. A member may amend his or her own motion before it is restated by the presiding officer immediately preceding the vote on the motion. To be effective, the amendment must be agreed to by the seconder. Such an amendment by the maker of the motion shall not be considered a Motion to Amend or Substitute Motion.
- l. A member may withdraw his or her motion up until the time it is stated by the presiding officer immediately preceding the vote.

### *Motions that are not in Order*

- 10. The motions are:
  - a. Motions that conflict with the By-Laws of OCERS.
  - b. Motions that repeat an issue that the Board or committee has already dealt with on the day of the meeting unless made through a Motion for Reconsideration.
  - c. Motions that do not comply with the Brown Act, the County Employees Retirement Law of 1937, or other applicable law governing OCERS.
  - d. Motions that appear to the presiding officer to be dilatory, unintelligible, frivolous, or rude.
  - e. The presiding officer shall make rulings on whether a motion is out of order. The member making the motion has the right of appeal as under section 11 b.

### *Subsidiary Motions*

- 11. The following motions are ranked lowest to highest in precedence:
  - a. Motion to Amend (Substitute Motion):
    - i. Motion to Amend changes the wording of a main motion and may be made at any time after the main motion has been seconded.
    - ii. A motion may be amended by:
      - 1. Adding words or phrases;
      - 2. Striking out words or phrases;
      - 3. Substituting by striking out and inserting new words; or



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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4. Substituting an entire motion or paragraph
  - iii. An amendment to a motion must relate to the pending motion. No new business may be introduced under pretext of an amendment.
  - iv. Adoption of an amendment changes the motion. If the motion to amend is successful, the Board or committee must vote to adopt the motion as amended.
  - v. If the amendment is not successful, the original motion is on the floor as originally stated.
  - vi. An amendment may be amended one time so there may be a main motion, a primary amendment, and secondary amendment. A third amendment is not in order.
  - vii. Voting shall be in reverse order of how the motions were offered. Therefore, voting will be on the secondary amendment, if any, first, the primary amendment second, and the main motion third. Voting on the main motion and all amendments must be completed before a new main motion or any amendments may be offered.
  - viii. A Board or committee member must have the floor to offer an amendment.
  - ix. An amendment must be seconded.
  - x. An amendment is debatable if it is made to a debatable motion.
  - xi. The presiding officer shall provide all Board or committee members the opportunity to speak during debate or discussion of a motion to amend.
  - xii. A Motion to Amend requires a majority vote.
- b. Motion to Commit or Refer:
  - i. Motion to Commit or Refer sends the question on the floor to a committee or OCERS' staff so it can be more carefully studied and prepared for discussion by the Board.
  - ii. The Motion to Commit or Refer should include specific direction as to which committee or staff shall study the question, whether the committee or staff will have authority to act, and when the committee or staff should report back to the Board.
  - iii. A Motion to Commit or Refer can be applied to any main motion and any amendments pending on the main motion go with the motion to committee.
  - iv. A Motion to Commit or Refer must be seconded.
  - v. A Motion to Commit or Refer may be debated, but debate must be limited to the merits of sending the issue to a committee or staff.
  - vi. A Motion to Commit or Refer can be amended as to the committee or staff assigned to study the issue and instructions to the committee or staff.
  - vii. A Motion to Commit or Refer requires a majority vote.



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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- c. Motion to Postpone
  - i. A Motion to Postpone delays action on a question until later in the same meeting or until a subsequent meeting.
  - ii. A Motion to Postpone may be applied to any main motion.
  - iii. A Motion to Postpone must be seconded.
  - iv. A Motion to Postpone may not interrupt a speaker who has the floor.
  - v. A Motion to Postpone may be debated; however, debate must be limited to the merits of postponing consideration of the question.
  - vi. A Motion to Postpone may be amended to change the time or length of postponement.
  - vii. The Motion to Postpone requires a majority vote.
  - viii. The postponed motion should be placed on a subsequent meeting agenda as appropriate.
- d. Motion to Limit Debate:
  - i. The Board or committee may use a Motion to Limit Debate to exercise control over debate by reducing the number and length of comments allowed or by requiring that debate stop at a time certain.
  - ii. A Motion to Limit Debate may be used with any motion.
  - iii. A Motion to Limit Debate must be seconded.
  - iv. A Motion to Limit Debate is not debatable.
  - v. A Motion to Limit Debate may be amended only as to the length of comments allowed or when the vote will be taken.
  - vi. A Motion to Limit Debate requires a majority vote.
  - vii. When a Motion to Limit Debate that imposes time limits is successful, the presiding officer will appoint a timekeeper and will inform speakers of when their time is up.
- e. Move the Previous Question:
  - i. Move the Previous Question is the motion used to end debate on a question in order to bring the Board or committee to an immediate vote.
  - ii. Move the Previous Question requires a second.
  - iii. The Previous Question motion is out of order if the main motion is debatable and has not received any debate.
  - iv. Previous Question may be applied to any question or motion that is before the Board or committee.





## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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- v. Previous Question may not be used to interrupt a speaker who has the floor.
- vi. Previous Question may not be debated.
- viii. Previous Question requires a majority vote.

### *Incidental Motions or Procedures*

12. The motions are:

- a. Point of Order
  - i. A Point of Order is used by a member of the Board or committee when that member feels the presiding officer is failing to operate within the Board or committee rules.
  - ii. Point of Order may be brought during discussion of any motion and may interrupt a speaker who has the floor.
  - iii. A Point of Order is not debatable.
  - iv. The presiding officer rules on the Point of Order motion.
  - v. The Point of Order cannot be amended.
- b. Appeal
  - i. Appeal allows any two members of the Board or committee to challenge what they feel is an incorrect or unfair ruling by the presiding officer.
  - ii. The question of Appeal is stated in the affirmative so that a majority vote sustains the ruling of the presiding officer.
  - iii. Appeal requires a second.
  - iv. If seconded, the Appeal requires the presiding officer to put his or her ruling to a vote of the Board or committee.
  - v. The Appeal is debatable.
  - vi. A majority vote in the negative is required to reverse the ruling of the presiding officer. Therefore, the question to be posed is, for example, "If you believe the presiding officer's ruling is correct, please vote 'yes;' and if you believe the presiding officer's ruling is incorrect, please vote 'no.'"
- c. Point of Information
  - i. Point of Information is used by a Board or committee member to obtain additional information regarding the subject being considered.
  - ii. Point of Information does not require a second or a vote.
  - iii. The presiding officer will ask the requesting Board or committee member what the Point is.



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

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- iv. Additional information will be provided by staff or the speaker.
- d. Parliamentary Inquiry
  - i. Parliamentary Inquiry allows the Board or committee members to get parliamentary help.
  - ii. Parliamentary Inquiry does not require a second or a vote.
  - iii. The presiding officer will ask the requesting Board or committee member what the Inquiry is.
  - iv. The presiding officer will rule on the Inquiry after consultation with the secretary, counsel, or others who are familiar with parliamentary procedure.

### *Restorative Motions*

#### 13. The motions are:

- a. Motion to Rescind
  - i. This motion is used to quash or nullify a previously adopted motion. It may be used to strike out an entire motion.
  - ii. A Motion to Rescind is not in order when any action has already been taken as a result of a previous vote (i.e. a contract has been executed with a vendor as a result of the previous vote).
  - iii. A Motion to Rescind must be placed on the meeting agenda in order for the Board or committee to take action on it.
  - iv. It must be seconded.
  - v. It requires a majority vote.
- b. Motion to Reconsider
  - i. A Motion to Reconsider allows the Board or committee to reconsider the vote on a previous motion voted on at that meeting.
  - ii. A Motion to Reconsider can only be made by a member of the Board or committee who voted on the prevailing side of the previous vote.
  - iii. It must be seconded, but the seconder does not have to have been on the prevailing side of the previous vote.
  - iv. It may be debated and it opens up the motion to which it applies to debate.
  - v. It requires a majority vote.
  - vi. A Motion to Reconsider may be made and seconded while other business is pending, but debate and vote will not occur until the business on the floor has been completed.



## OCERS Board Policy OCERS Rules of Parliamentary Procedure

- vii. All actions that came out of the original motion must be stayed immediately at the time the Motion to Reconsider is made and seconded.

### Voting Methods and Procedures

- 14. All votes shall comply with the Brown Act (Gov. Code § 54953).
- 15. The electronic voting system shall be the preferred means of voting for the Board because it allows for accurate recording of each vote.
- 16. The Board and committees may use voice votes for the convenience of the Board or committee in order to promote efficiency. When using voice votes, any member of the Board or committee may request a roll-call vote or show-of-hands vote in order to accurately record each Board or committee member’s vote.
- 17. All votes shall be recorded in the meeting minutes.

### Voting Protocols for the Alternate Seventh Member of the Board

- 18. The alternate seventh member of the Board<sup>2</sup> will vote as a member of the Board under the following circumstances:
  - a. When one of the OCERS membership-elected Board members is absent from a board meeting for any cause the alternate seventh member will vote in place of the absent Board member;
  - b. When there is a vacancy with respect to any of the OCERS membership-elected Board members the alternate seventh member will fill the vacancy and vote in place of the vacant Board position;
  - c. When a member of the same service (i.e., sheriffs or fire) as the alternate seventh member is before the Board for determination of his or her retirement, the alternate seventh member will vote in place of the seventh member and the seventh member will not vote, unless one of the OCERS membership-elected Board members is absent or there is a vacancy with respect to any of the OCERS membership-elected Board members, in which case, both the seventh member and the alternate seventh member will vote on that determination, with the alternate seventh member voting for the absent or vacant Board member.

<sup>2</sup>The seventh member of the Board is a safety member elected by the safety members of the system. The alternate seventh member of the Board is the candidate from the group under Government Code §31470.2 (sheriffs, etc.) or 31470.4 (firefighters, etc.) that is not represented by the seventh member, and who received the highest number of votes of all candidates in that group. (See Government Code §31520.1(a).)



# OCERS Board Policy OCERS Rules of Parliamentary Procedure

## Scope of Rules and Disputes

- 19. These rules should be used by the presiding officer, staff, and members of the Board or committee as guidelines for the conduct of meetings unless it is prudent to utilize a different procedure under the circumstances.
- 20. The presiding officer of the Board or committee meeting is responsible for the orderly conduct of the meeting. The presiding officer may call upon other Board or committee members, the secretary of the Board or committee, or counsel for assistance in resolving disputes.
- 21. Rulings by the presiding officer should be respected by all Board and committee members, but such rulings may be challenged in accordance with these rules.

## Rules Review

- 22. The Board of Retirement shall review these rules at least every three (3) years to ensure that they remain relevant and appropriate.

## Policy History

- 23. The Orange County Employees Retirement System Rules of Parliamentary Procedure were originally approved and adopted by the Board of Retirement on February 16, 2015, and were revised on December 19, 2016, October 16, 2017, November 13, 2017, ~~and~~ March 18, 2019 ~~and~~ [MONTH/DATE/2022].

## Secretary's Certificate

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

03/18/19

Steve Delaney  
Secretary of the Board

Date



## Memorandum

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**DATE:** February 14, 2022  
**TO:** Members of the Governance Committee  
**FROM:** Manuel Serpa, Staff Attorney  
**SUBJECT:** **TRIENNIAL REVIEW OF THE INDEMNITY AND DEFENSE POLICY**

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### Recommendation

Approve, and recommend that the Board adopt, revisions to the Indemnity and Defense Policy.

### Background/Discussion

The Board of Retirement has formally adopted over 60 policies and charters and has established a review schedule that requires review of every charter and policy every three years. At its February and June 2015 meetings, on recommendation of the Governance Committee, the Board approved a streamlined procedure to more efficiently manage the scheduled review of the charters and policies. Pursuant to this process, certain of the charters and policies are to be first reviewed by the Governance Committee before presentation to the Board for approval.

The Indemnity and Defense Policy was adopted on April 16, 2007 and was last reviewed and revised on June 17, 2019. It is scheduled for review and approval by the Board of Retirement, after review by the Governance Committee, in 2022.

### Proposed Revisions

The objectives of the proposed revisions to the Indemnity and Defense Policy are to remove unnecessary verbiage and legalese while re-organizing the material to enhance clarity and readability. Our aim is also to define the terms included in the policy in a more precise manner. In addition, we added an introduction to provide greater context for the indemnity and defense obligations, and inserted footnotes for the applicable legal citations for reference.

We did identify one inconsistency in the policy that needed correction. The policy rightly states that the Board has the sole authority to determine whether an individual will be indemnified or defended. However, the process described does not provide for Board consideration of the issue if the Legal Division determines not to recommend coverage and the individual chooses not to “contest” that decision. Thus, the rewritten policy changes the process so that the Board considers indemnification with or without the recommendation of the Legal Division:

The Legal Division will review the claim (or potential claim) and determine whether indemnification and defense are required or otherwise in OCERS' best interest. The Legal Division will then notify the individual of its determination, and agendaize consideration of the issue by the Board in closed session held at the next regular Board meeting (footnote deleted).

Several other substantive changes are recommended. For example, the Board member or employee is now to notify the Legal Division after a claim is threatened in addition to when it is actually filed. Other changes add clarity to avoid the potential disputes that can result from absolute terms like "all." For example, section 3.j. states that "OCERS shall advance *all* funds necessary to enable the subject individual to obtain effective defense of the claim, including attorney's fees and costs reasonably incurred prior to such determination..." (emphasis added). The rewritten policy simply states: "[p]rior to the determination of whether OCERS will indemnify and defend the individual, OCERS shall pay the reasonably necessary attorneys' fees and costs to defend the claim."

Also, the selection of counsel verbiage has been rewritten to be more succinct. The existing statement in section 3.i.:

Prior to the determination of indemnification and/or defense (as further set forth in the following subparagraph) and thereafter if OCERS accepts the defense, OCERS shall select capable and competent legal counsel, subject to approval of the individual to be indemnified which approval shall not be unreasonably withheld, at the expense of OCERS. Alternatively, the Board of Retirement may permit the individual to select his or her own counsel under circumstances OCERS deems appropriate.

The rewritten statement on counsel retains the substance of the provision:

If OCERS accepts defense of the claim, OCERS will select competent legal counsel reasonably agreed to by the indemnified individual. In providing that defense, OCERS may use its own attorney, employ outside counsel, or purchase insurance which requires that the insurer provide the defense.

It is also important for policies to properly manage expectations and to answer any obvious questions raised by its terms. We have thus added the following statement on reimbursement:

However, should OCERS grant defense coverage, it will cover the expenses incurred in providing a defense and will not recover them from the employee. If OCERS pays any portion of a claim or judgment, the employee or official is also not required to reimburse OCERS, except where the claim arises from the individual's actual fraud, corruption, or actual malice, or where the employee willfully failed or refused to defend the action in good faith, or to reasonably cooperate in good faith in the defense conducted (footnotes deleted).

Additionally, the following statement is added as a relevant legal provision:

Indemnification by OCERS shall not apply to any criminal or civil enforcement action brought in the name of the people of the State of California by an elected district attorney, city attorney, or attorney general.

While there are various reasons for the recommended rewrite of the policy, many of the changes only restate the current policy provisions in a more concise and organized manner. The proposed rewrite of the Indemnity and Defense Policy is attached as well as a copy of the existing version. The proposed revisions were so numerous that a redlined version was not useful.

### Attachments

**Submitted by:**



MS - Approved

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Manuel Serpa  
Staff Attorney



## OCERS Board Policy Indemnity and Defense Policy

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### Authority and Purpose

OCERS typically provides indemnification and defense to OCERS' employees and Board members for claims arising from their conduct performed within the course and scope of their duties to the retirement system. This provision of indemnity and defense is required under the Government Claims Act, specifically, Government Code Sections 825 and 995. The purpose of this policy is to set forth the manner in which OCERS will carry out its obligations of indemnity and defense.

### Introduction

A public entity like OCERS may be required to pay a judgment, settlement, or compromise in an action brought against an OCERS employee or Board member. This duty to indemnify arises where:

- 1) the action is based on an act or omission of the individual within the scope of their employment or official position;
- 2) the individual requests in writing at least 10 days before the day of the trial that OCERS defend the action; and
- 3) the individual cooperates in good faith in the defense of the action.<sup>1</sup>

Similarly, OCERS is generally required, upon request, to provide for the defense of any civil action brought against an OCERS employee or Board member on account of an act or omission conducted in the scope of their employment or official position.<sup>2</sup> In particular, OCERS must provide for the defense of such actions where:

- 1) the action is based on an act or omission of the individual within the scope of their employment or official position;
- 2) the individual did not act with actual fraud, corruption, or actual malice; and
- 3) defense of the action would not create an actual conflict of interest between OCERS and the individual.<sup>3</sup>

OCERS is required to provide a defense if a potential, rather than an actual, conflict of interest exists. However, in that case, OCERS is not required to provide the individual with separate defense counsel in an action that names both the employee or Board member and OCERS. Also, OCERS is not required to defend an employee or Board member when an investigation is instituted (but no civil action is yet filed) alleging a conflict of interest violation under Government Code section 1090.

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<sup>1</sup> Govt Code, §825 subd. (a).

<sup>2</sup> Gov. Code, § 995; for exceptions, see Gov. Code, §§ 995.2 to 995.4.

<sup>3</sup> Govt Code, §§ 995, 995.2.





## OCERS Board Policy

# Indemnity and Defense Policy

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The purpose of requiring public agencies to indemnify and defend their employees and officials is to encourage those individuals to zealously carry out their duties, secure in the belief that if they are sued for doing so, their agency will come to their aid.

These indemnity and defense obligations apply to both current and former employees and officials. For purposes of this policy, a "claim" is the filing of any civil or administrative action. In addition, "employees" include OCERS' direct employees and employees of the County of Orange who work at OCERS. However, OCERS reserves subrogation rights against the County in any case where OCERS provides an indemnity in place of the County's obligation.

### Determination Process

It is vital that issues of indemnity and defense are addressed in a prompt and efficient manner. With that objective, the Board adopts the following procedure for all claims made against Board members or employees arising from an act or omission occurring within the course and scope of performing their duties to OCERS:

1. As soon as practicable after a claim is filed or threatened to be filed, the Board member or employee will notify the OCERS' Legal Division in writing and provide it with all reasonably necessary or useful information about the claim.
2. The Legal Division will review the claim (or potential claim) and determine whether indemnification and defense are required or otherwise in OCERS' best interest. The Legal Division will then notify the individual of its determination, and agenda consideration of the issue by the Board in closed session held at the next regular Board meeting.<sup>4</sup>
3. The Board will have sole authority to determine whether OCERS will indemnify and defend the individual.<sup>5</sup> If the Board decides against indemnification or defense, the individual will be notified in writing as soon as practicable. If the individual commences a legal action challenging the Board's determination, and until that challenge is resolved, OCERS will advance the reasonably necessary defense costs on behalf of the individual on terms satisfactory to OCERS.
4. Indemnification by OCERS shall not apply to any criminal or civil enforcement action brought in the name of the people of the State of California by an elected district attorney, city attorney, or attorney general.<sup>6</sup>

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<sup>4</sup> OCERS is required to inform the employee within 20 days from the receipt of a written request for defense whether it will or will not provide a defense, and the reason for a refusal (Govt Code, §995.2(b)).

<sup>5</sup> Board members and employees who have ceased their duties with OCERS prior to receiving a claim shall also be entitled to a determination of indemnity and defense.

<sup>6</sup> Gov. Code, § 825(f)(4).



## OCERS Board Policy

# Indemnity and Defense Policy

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### Coordination

Defense of claims requires diligent coordination and it is necessary for all individuals who seek indemnification or defense to fully cooperate with OCERS throughout the claim.<sup>7</sup> For its part, OCERS, through the Legal Division, will monitor the claim's status and communicate with the indemnified individual on a regular basis through the claim process to keep them informed of the progress of the claim.

If OCERS accepts defense of the claim, OCERS will select competent legal counsel reasonably agreed to by the indemnified individual. In providing that defense, OCERS may use its own attorney, employ outside counsel, or purchase insurance which requires that the insurer provide the defense. In the event that OCERS possesses insurance applicable to the claim, OCERS will tender the claim to the insurer and work with the insurer to ensure that any policy coverage is provided.

Prior to the determination of whether OCERS will indemnify and defend the individual, OCERS shall pay the reasonably necessary attorneys' fees and costs to defend the claim. In the event that OCERS denies defense and it is ultimately determined that OCERS correctly denied defense, OCERS will work with the individual to arrange the repayment of the amount advanced.

However, should OCERS grant defense coverage, it will cover the expenses incurred in providing a defense and will not recover them from the employee.<sup>8</sup> If OCERS pays any portion of a claim or judgment, the employee or official is also not required to reimburse OCERS,<sup>9</sup> except where the claim arises from the individual's actual fraud, corruption, or actual malice, or where the employee willfully failed or refused to defend the action in good faith, or to reasonably cooperate in good faith in the defense conducted.<sup>10</sup>

### Policy Review

The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

### Policy History

The Board adopted this policy on April 16, 2007. The Board amended this policy on January 18, 2011, March 17, 2014, January 19, 2016, June 17, 2019, and [MONTH, DATE, 2022].

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<sup>7</sup> A public employee's failure to cooperate in good faith with the public entity's defense of a claim against the employee relieves the public entity of its obligation to indemnify the employee (*DeGrassi v. City of Glendora*, 207 F.3d 636 (9th Cir. 2000)).

<sup>8</sup> Gov. Code, § 996.

<sup>9</sup> Gov. Code, § 825.4.

<sup>10</sup> Gov. Code, § 825.6.



## OCERS Board Policy Indemnity and Defense Policy

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### Secretary's Certificate

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

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

Steve Delaney  
Secretary of the Board

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Date



## OCERS Board Policy

# Indemnity and Defense Policy

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### Purpose and Background

1. In general, OCERS provides indemnification and defense to OCERS' employees and Board members for claims arising out of their conduct occurring within the course and scope of their duties to the retirement system. OCERS' provision of indemnity and defense is required by state law. In certain circumstances other employing public agencies are also responsible for indemnifying and/or defending OCERS' employees and Board members.

The purpose of this policy is to establish the manner in which OCERS shall process and manage such claims, and to assure covered employees and Board members of the indemnity and defense to which they are entitled.

For purposes of this Policy, "employees" includes OCERS' direct employees and employees of the County of Orange who work at OCERS; provided, however, that OCERS reserves subrogation rights against the County of Orange in any cases where OCERS steps in to provide an indemnity or defense for an employee or Board member, but the County, in fact, would be the responsible entity under applicable law for indemnifying and defending the employee or Board member

### Policy Objectives

2. The objectives of this policy are to:
  - a. Provide a mechanism for reporting claims against Board members and employees;
  - b. Ensure claims are appropriate for indemnification and/or defense (*i.e.*, that the alleged conduct is not fraudulent, criminal or due to wrongful personal gain; or is otherwise excluded from indemnity and/or defense under law);
  - c. Identify the appropriate agency responsible for indemnifying and/or defending OCERS' Board members and employees for actions arising within the course and scope of their retirement system duties;
  - d. Coordinate processing of claims between OCERS and other employing agencies as necessary; and
  - e. Provide for the payment of attorneys' fees and costs incurred from inception to and including the date on which OCERS determines whether to indemnify and/or accept the defense of the claims on behalf of the affected Board member or employee.

### Policy Guidelines

3. The Board adopts the following approach for all indemnity and/or defense claims made by Board members or employees arising within the course and scope of their retirement system duties:
  - a. As soon as practicable after a claim is made against a Board member or employee, such individual shall notify the Legal Department and provide the Legal Department with all documents provided by the claimant.
  - b. The Legal Department will review the claim, in conjunction with fiduciary counsel where appropriate, determine whether it is proper for a recommendation to the Board for indemnification and/or defense, and identify the appropriate indemnifying/defending agency.



## OCERS Board Policy

# Indemnity and Defense Policy

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- c. If the Legal Department determines that the claim is not appropriate for a recommendation of indemnification and/or defense, the Legal Department will promptly notify the individual of the reasons indemnification and/or defense is not proper. If the individual wishes to contest the determination of the Legal Department, the matter shall be agendaized during a closed session at the next regular Board meeting, and the Board shall comply in all respects with the requirements of the Brown Act.
- d. If the Legal Department determines that the claim is appropriate for indemnification and/or defense, the Legal Department will promptly notify the individual of its recommendation to the Board. The Board shall agendaize consideration of the matter during a closed session held at the next regular Board meeting and shall comply in all respects with requirements of the Brown Act.
- e. The Board will have sole and exclusive authority to determine whether the individual should be indemnified and/or defended. That determination shall consider whether indemnity and/or defense is/are (a) mandatory, (b) discretionary or (c) prohibited under law. If the Board determines that OCERS will not indemnify and/or defend the individual against the claim, the Board will notify the individual in writing within 72 hours of making the determination. The individual will then have the right to seek recourse as permitted by law. If the individual commences a legal action challenging the Board's determination, and until a final determination on the right to indemnification and/or defense is made, OCERS will advance defense costs on behalf of the individual on terms satisfactory to OCERS.
- f. If the Board determines to indemnify and/or defend against the claim on behalf of the individual, the Legal Department, in conjunction with Administrative Services, will undertake the necessary steps to ensure that the claim is properly resolved.
- g. The Legal Department and/or Administrative Services will communicate with the individual involved in the claim throughout the defense and resolution process.
- h. All Board members and employees who seek indemnification and/or defense from OCERS shall fully cooperate throughout the defense and resolution process.
- i. Prior to the determination of indemnification and/or defense (as further set forth in the following subparagraph) and thereafter if OCERS accepts the defense, OCERS shall select capable and competent legal counsel, subject to approval of the individual to be indemnified which approval shall not be unreasonably withheld, at the expense of OCERS. Alternatively, the Board of Retirement may permit the individual to select his or her own counsel under circumstances OCERS deems appropriate.
- j. Prior to the determination of indemnification and/or defense, OCERS shall advance all funds necessary to enable the subject individual to obtain effective defense to the claim, including attorneys' fees and costs reasonably incurred prior to such determination, subject to such recourse as is provided by law or contract. In the event that it is ultimately determined that OCERS correctly denied indemnity and/or defense of the individual under this policy, OCERS and the individual shall meet and confer to arrange the repayment of any such sums advanced to or on behalf of the individual. Failing an amicable resolution being reached within 60 days of the determination, either party may commence legal action to resolve the dispute.



**OCERS Board Policy**

**Indemnity and Defense Policy**

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- k. In the event that OCERS obtains third party fiduciary insurance covering claims against Board members, employees, and OCERS itself, OCERS will timely and appropriately tender such claims and take all necessary actions in order to preserve the benefits of such insurance for the insureds.
  - l. Board members and employees who have ceased their duties with OCERS prior to receiving a claim shall be entitled to the determination of indemnity and/or defense of the claim as set forth under this policy and at law in the same manner as if they had continued in their duties with OCERS. In the event that OCERS obtains third party fiduciary insurance covering claims against Board members and employees, OCERS shall secure continuing coverage as well for Board members and employees who have ceased their duties with OCERS, on commercially reasonable terms.
4. Notwithstanding this policy, OCERS reserves all rights under law (including subrogation rights against the County of Orange in cases where the County is the appropriate agency responsible for indemnifying and/or defending OCERS' Board members and employees) and any applicable employment contract with regard to the terms and conditions of its acceptance of indemnification and/or defense of Board members and employees. In the event of any conflict between such laws, contracts and this policy, the law shall prevail.

**Policy Review**

- 5. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

**Policy History**

- 6. The Board adopted this policy on April 16, 2007. The Board amended this policy on January 18, 2011, March 17, 2014, January 19, 2016 and June 17, 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.

Steve Delaney  
Secretary of the Board

**06/17/2019**

Date



## Memorandum

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**DATE:** February 14, 2022  
**TO:** Members of the Governance Committee  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** **REVIEW OF THE GOVERNANCE COMMITTEE CHARTER AND 2022 WORKPLAN AND MEETING SCHEDULE**

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### Overview of the Responsibilities of the Governance Committee

Staff will provide an overview of the responsibilities of and the Charter for the Governance Committee. Attached is a copy of the Charter and a PowerPoint presentation that will guide the discussion.

### Workplan of the Governance Committee for 2022

The Charters and Policies listed below are due for review by the Governance Committee and the Board in 2022.

#### Charters:

1. *Board of Retirement (February meeting)*
2. *Chair of the Board (February meeting)*
3. *Vice Chair of the Board (February meeting)*
4. *Committee Chair (February meeting)*
5. Chief Executive Officer

#### Policies:

1. Conflict of Interest Code (must be updated every two years)
2. Declining Employer Payroll Policy
3. *Indemnity and Defense Policy (February meeting)*
4. Monitoring and Reporting Policy
5. Pay Item Review Policy
6. Protocol for Handling Workplace Complaints Against Board Members and Executives
7. Retirement Enhancement Review Policy
8. *Rules of Parliamentary Procedure (February meeting)*
9. Travel Policy
10. Trustee Education Policy
11. Whistleblower Policy
12. Withdrawing Employer (Continuing Obligation) Policy
13. Withdrawing Employer (Fully Satisfied Obligation) Policy

### **Committee Meetings in 2022**

Assuming the Committee approves the first four charters listed above and the Indemnity and Defense Policy and Rules of Parliamentary Procedure at the February 14, 2022 meeting, that will leave 11 policies and one charter to review in 2022. Staff recommends the Committee plan on meeting three more times in 2022, and suggests meetings be held in May, August and November. The Committee would plan on reviewing four documents at each meeting.

### **Submitted by:**



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Gina M. Ratto  
General Counsel





## **OCERS Board Charter**

# **Governance Committee Charter**

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### **Introduction**

1. The OCERS Board of Retirement (Board) has established a Governance Committee to assist the Board in recommending, reviewing, and amending, as necessary, policies and procedures for governance of the Board. The Governance Committee is an advisory committee to the Board and its recommendations are subject to final approval by the Board.
2. The Board Chair will appoint members to the Governance Committee as provided in OCERS' By-Laws and will designate one member of the committee to serve as committee chair and one member of the committee to serve as committee vice chair.
3. The Governance Committee will be comprised of four (4) members of the Board. As provided in OCERS' By-Laws, two members of the Governance Committee constitute a quorum.

### **Duties and Responsibilities**

4. The Governance Committee will:
  - a. In consultation with the Chief Executive Officer, develop terms of reference for the Board, the Committee Chairs, and the Chief Executive Officer, and periodically recommend to the Board such amendments as may be necessary or advisable;
  - b. Review, develop, and recommend to the Board for approval, new governance policies as may be necessary, review existing governance policies based upon the established schedule for review, and review and recommend changes to the By-Laws as directed by the Board or Board Chair;
  - c. Review the charters and policies assigned to the Governance Committee by the Board at least once every three years in accordance with the established schedule for review, and recommend the same for approval by the Board;
  - d. Monitor the implementation of and compliance with governance-related policies;
  - e. Report regularly to the Board on the Committee's activities; and
  - f. At the request of the Board Chair or the Board, undertake such other governance-related initiatives as may be necessary or desirable to guide or assist the Board and OCERS staff in carrying out their respective duties and responsibilities.

### **Charter Review**

5. The Governance Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant and appropriate.

### **Charter History**

6. This Charter was adopted by the Board of Retirement on November 18, 2002, and amended on March 17, 2014, July 20, 2015, May 15, 2017, and April 20, 2020.



## OCERS Board Charter Governance Committee Charter

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### Secretary's Certificate

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

04/20/2020

Steve Delaney, Secretary of the Board

Date



# **Overview of the Governance Committee Charter**

Presented on February 14, 2022

by

*Gina M. Ratto, General Counsel*



## The Charter

- The Charter represents a delegation of duties from the Board of Retirement to the Governance Committee.
- The Charter was adopted on November 18, 2002, and is reviewed every three years.
- The Charter was last reviewed on April 20, 2020.



## The Committee

- The ***purpose*** of the Governance Committee is to assist the Board in recommending, reviewing and amending the governance policies of the Board.
- The Committee is comprised of four members of the Board, appointed by the Board Chair.
- It is an ***advisory committee*** to the Board, and the Committee's recommendations are subject to final approval by the Board.



## Committee Duties & Responsibilities

- Develop and recommend revisions to terms of reference for the Board, the Committee Chairs, and the CEO;
- Recommend new and review existing governance policies and monitor their implementation;
- Review the charters and policies assigned to the Governance Committee by the Board at least every three years;
- At the request of the Board or Board Chair, undertake other governance-related initiatives; and
- Report regularly to the Board on the Committee's activities.



## Charters & Policies Assigned to the Governance Committee

### Charters:

- Board of Retirement Charter (*due 2022*)
- Chair of the Board Charter (*due 2022*)
- Vice Chair of the Board Charter (*due 2022*)
- CEO Charter (*due 2022*)
- Committee Chair Charter (*due 2022*)
- Governance Committee Charter (*due 2023*)



## Charters & Policies Assigned to the Governance Committee

- Actuarial Valuation Policy *(due 2023)*
- Budget Approval Policy *(due 2023)*
- Communications Policy *(due 2023)*
- Compensation Earnable Policy *(due 2024)*
- **Conflict of Interest Code *(due 2022)***
- Cost Impacting Policy *(due 2024)*
- **Declining Employer Payroll Policy *(due 2022)***
- Disposition of Surplus Property Policy *(due 2024)*
- Election Procedures *(due 2023)*
- Extraordinary Expense Recovery Policy *(due 2024)*
- **Indemnity and Defense Policy *(due 2022)***





## Charters & Policies Assigned to the Governance Committee

- Legislative Policy (*due 2024*)
- Member Services Customer Service Policy (*due 2024*)
- Membership Eligibility Requirements Policy (*due 2023*)
- **Monitoring and Reporting Policy (*due 2022*)**
- Overpaid and Underpaid Plan Benefits Policy (*due 2024*)
- Overpaid and Underpaid Plan Contributions Policy (*due 2024*)
- Pay Item Request and Approval Procedures for Employers (*due 2024*)
- **Pay Item Review Policy (*due 2022*)**
- Pensionable Compensation Policy (*due 2024*)
- Planning Policy (*due 2023*)
- Procurement and Contracting Policy (*due 2024*)



## Charters & Policies Assigned to the Governance Committee

- Protocol for Handling Workplace Complaints Against Board Members and Executives (due 2022)
- Public Records and Data Request Policy (due 2023)
- Quiet Period Policy (due 2023)
- Records Management Policy (due 2024)
- Reserves and Interest Crediting Policy (due 2023)
- Retirement Enhancement Review Policy (due 2022)
- Rules of Parliamentary Procedure (due 2022)
- SACRS Voting Authority Policy (due 2023)
- Securities Litigation Policy (due 2023)



## Charters & Policies Assigned to the Governance Committee

- Travel Policy (*due 2022*)
- Trustee Education Policy (*due 2022*)
- Whistleblower Policy (*due 2022*)
- Withdrawing Employer (Continuing Obligation) Policy (*due 2022*)
- Withdrawing Employer (Fully Satisfied Obligation) Policy (*due 2022*)
- Write Off Policy (*due 2024*)



## Conclusion

- The Governance Committee is important:
  - Its work helps the Board and OCERS run more efficiently and effectively through good governance.
- The Governance Committee is busy:
  - It reviews and recommends changes to the majority of the Board’s policies (governance related and not).