

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

**REGULAR MEETING
Wednesday, May 17, 2023
9:30 A.M.**

Members of the public who wish to observe and/or participate in the meeting may do so (1) from the OCERS Boardroom or (2) via the Zoom app or telephone (information below) from any location.

OCERS Zoom Video/Teleconference information	
<p>Join Using Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/87117545936</p> <p>Meeting ID: 871 1754 5936 Passcode: 357615</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only)</p> <p>Dial by your location</p> <p>+1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York)</p> <p>Meeting ID: 871 1754 5936 Passcode: 357615</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA (AMENDED)

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

1. CALL MEETING TO ORDER AND ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. BOARD MEMBER STATEMENT REGARDING PARTICIPATION VIA ZOOM (IF NECESSARY)
(Government Code section 54953(f))
4. PUBLIC COMMENTS

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. Members of the public who participate in the meeting from the OCERS Boardroom and who wish to

provide comment during the meeting may do so from the podium located in the OCERS Boardroom. When addressing the Committee, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

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.

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

CONSENT AGENDA

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

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- Wainwright, Shannon
- Kahala, Jeremy
- Gomez-Cervantes, Nicole

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

April 17, 2023

Recommendation: Approve minutes.

C-3 OUTCOMES FROM THE DISABILITY COMMITTEE MEETING ON APRIL 17, 2023

Recommendation: The Disability Committee recommends the Board adopt the following:

1. The **Disability Committee Charter** with revisions approved by the Committee
2. The **Administrative Review and Hearing Policy** with revisions approved by the Committee
3. The **Disability Application Review Process OAP** with revisions approved by the Committee
4. The new **OCERS Administrative Procedure OAP - Disability Retirement Presumptions**

C-4 RETIREE REQUEST TO BE REINSTATED – ELEN SAVVAIDES

Recommendation: Reinstate Ms. Savvaides as an active member under the provisions of Government Code Section 31680.4 and 31680.5

DISABILITY/MEMBER BENEFITS AGENDA

9:30 AM

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

OPEN SESSION

CONSENT ITEMS

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

DC-1: ALDENISE BELCER

Office Specialist, Orange County Child Support Services (General Member)

Recommendation: The Disability Committee recommends that the Board:

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

DC-2: STEVEN BURKLEY

Sheriff's Special Officer II, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as July 7, 2017.

DC-3: DENNIS GOMEZ

Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 11, 2022.

DC-4: PARIET HERNANDEZ

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

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

DC-5: SHELLY HOWARD

Staff Specialist, Orange County Child Support Services (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Deny service and non-service connect disability retirement, without prejudice, because the member has opted not to join in the employer filed application.

DC-6: JULIA JARRIN

Physical Therapist II, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant non-service connected disability retirement.
- Set the effective date as October 22, 2021.

DC-7: WILLIAM JUREWICH

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 2, 2023.

DC-8: LISA PEDROZA

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Deny service connected disability retirement based on insufficient evidence of job causation.

DC-9: JONATHAN TIPTON

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as day after last day of regular compensation.

DC-10: SILVIA VEGA

Office Assistant, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as day after last day of regular compensation.

CLOSED SESSION

Government Code section 54957

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

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

DA-2 MONICA RANGEL-SANTOS

Eligibility Technician, Orange County Social Services Agency

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations (Modified), dated March 1, 2023 (“Modified Recommendation”), wherein the Hearing Officer recommends that the Board find the Applicant, Monica Rangel-Santos, is not permanently incapacitated from the substantial performance of her usual and customary duties. If the Board finds the Applicant is not permanently incapacitated, then the Alternative Recommendations (defined herein) are unnecessary, and the application for service and non-service connected disability retirement benefits must be denied under Government Code §§31720 and 31724.

DA-3 ROBERT PETERSON

Undersheriff, Orange County Sheriff’s Department

Recommendation: Staff recommends the Board approve the proposed settlement reached between OCERS and Applicant, Robert Peterson, pursuant to Rule 3(f) of the OCERS Administrative Review and Hearing Policy and grant Mr. Peterson’s Application for service connected disability retirement benefits.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Board’s discussion of the item. **Members of the public who wish to provide comment in connection with any matter listed in this agenda may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9, at the time the item is called. Persons attending the meeting in person and wishing to provide comment on a matter listed on the agenda should fill out a speaker card located at the back of the Boardroom and deposit it in the Recording Secretary’s box located near the back counter.**

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

INFORMATION ITEMS

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

Presentations

- I-1 PRELIMINARY DECEMBER 31, 2022 ACTUARIAL VALUATION**
Presentation by Paul Angelo, Senior Vice President, Actuary, Segal and Andy Yeung, Segal Consulting
- I-2 ANNUAL FIDUCIARY TRAINING**
Presentation by Harvey Leiderman and Maytak Chin, ReedSmith

WRITTEN REPORTS

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

- R-1 MEMBER MATERIALS DISTRIBUTED**
Written Report

Application Notices	May 17, 2023
Death Notices	May 17, 2023
- R-2 COMMITTEE MEETING MINUTES**
- None
- R-3 CEO FUTURE AGENDAS AND 2023 OCERS BOARD WORK PLAN**
Written Report
- R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS**
Written Report
- R-5 BOARD COMMUNICATIONS**
Written Report
- R-6 LEGISLATIVE UPDATE**
Written Report
- R-7 FIRST QUARTER 2023 BUDGET VS. ACTUALS REPORT**
Written Report

R-8 FIRST QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2023

Written Report

R-9 INCENTIVE COMPENSATION PROGRAM (2022)

Written Report

CLOSED SESSION ITEMS

E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED (GOVERNMENT CODE SECTION 54956.9(d)(1))

Adjourn pursuant to Government Code section 54956.9(d)(1).

James B. Morell v. Board of Retirement, OCERS; Los Angeles County Superior Court, Case No. 22STCP02345

Recommendation: Take appropriate action.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

BOARD MEMBER COMMENTS

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

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING

May 24, 2023

9:00 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

GOVERNANCE COMMITTEE MEETING

May 31, 2023

9:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

AUDIT COMMITTEE MEETING

June 1, 2023

9:30 A.M.

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

**DISABILITY COMMITTEE MEETING
June 19, 2023
8:30 A.M.**

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

**REGULAR BOARD MEETING
June 19, 2023
9:30 A.M.**

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

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

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



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Jonathea Tallase, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – JEREMY KAHALA**

Recommendation

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

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective March 24, 2023. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

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

Submitted by:



J. T. – APPROVED

Jonathea Tallase
Member Services Manager



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

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San Francisco, CA 94105-6147
segalco.com

Personal and Confidential

May 8, 2023

Jonathea Tallase
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Jeremy Kahala**

Dear Jonathea:

Pursuant to your request, we have determined the Option 4 benefits payable to Jeremy Kahala and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated May 4, 2023.

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

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	March 24, 2023
Plan of Membership	General Plan J
Monthly Unmodified Benefit	\$6,993.80
Ex-Spouse's Share of Monthly Unmodified Benefit	17.50%
Retirement Type	Service Retirement

Jonathea Tallase
 May 8, 2023
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 17.50% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$1,979.73	
Pension:	<u>3,790.15</u>	
Total:	\$5,769.88	\$0.00
Monthly benefit payable to ex-spouse ¹	\$1,131.19	\$1,131.19

Actuarial Assumptions

We have calculated the Option 4 benefits based on the following actuarial assumptions:

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

Mortality Table: Pub-2010 General Healthy Retiree Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 40% male and 60% female for members.

Pub-2010 General Contingent Survivor Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 60% male and 40% female for beneficiaries.

¹ This is equal to 17.50% of the member's unmodified benefit (i.e., 17.50% * \$6,993.80 or \$1,223.92) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Jonathea Tallase
May 8, 2023
Page 3

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

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

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Senior Actuary

JY/elf



May 9th, 2023

Jeremy K. Kahala

Re: Retirement Election Confirmation – Option 4

Dear Mr. KAHALA:


You have elected Option 4 as your retirement option.
This option will provide 17.50% of your monthly benefit, for the life of the benefit, to:

Elizabeth Kahala

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

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

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 17.50% continuance to Elizabeth Kahala.

 5-10-23

Member Signature/Date

Sincerely,

David Viramontes
Retirement Program Specialist



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Jonathea Tallase, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – Shannon Wainwright**

Recommendation

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

Background/Discussion

This member elected Option 4 as the benefit payment option for her service retirement allowance as required by her Domestic Relations Order (DRO), effective March 10, 2023. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

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

Submitted by:



J. T. – APPROVED

Jonathea Tallase
Member Services Manager



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Personal and Confidential

May 8, 2023

Jonathea Tallase
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Shannon Wainwright**

Dear Jonathea:

Pursuant to your request, we have determined the Option 4 benefits payable to Shannon Wainwright, her ex-spouse, and her daughter, based on the unmodified benefit and other information provided in the System’s request to Segal on May 4, 2023.

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

Member’s Date of Birth	
Ex-Spouse’s Date of Birth	
Date of Retirement	March 10, 2023
Plan of Membership	General Plan J
Monthly Unmodified Benefit	\$1,863.01
Ex-Spouse’s Share of Monthly Unmodified Benefit	23.31%
Retirement Type	Service Retirement
Daughter’s Date of Birth	

Jonathea Tallase
 May 8, 2023
 Page 2

We have determined the Option 4 benefits using a two-part process. In Part One, we first calculated the adjustment to the member's unmodified benefit to provide a 23.31% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

Benefit Amounts

Part One – Before Adjustment for Continuance to the Daughter

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$686.96	
Pension:	<u>741.78</u>	
Total:	\$1,428.74	\$0.00
Monthly benefit payable to ex-spouse ¹	\$401.38	\$401.38

In Part Two, we further adjusted the member's benefit in Part One so that a continuance benefit of 10% can be paid to the daughter. In addition, the cost to provide this continuance benefit would be paid for entirely by the member.

Part Two – After Adjustment for Continuance Benefit Payable to the Daughter

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$673.42	
Pension:	<u>727.15</u>	
Total:	\$1,400.57	\$0.00
Monthly benefit payable to daughter	\$0.00	\$140.06
Monthly benefit payable to ex-spouse ¹	\$401.38	\$401.38

¹ This is equal to 23.31% of the member's unmodified benefit (i.e., 23.31% * \$1,863.01 or \$434.27) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Jonathea Tallase
 May 8, 2023
 Page 3

Actuarial Assumptions

We have calculated the Option 4 benefits based on the following actuarial assumptions:

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

Mortality Table: Pub-2010 General Healthy Retiree Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 40% male and 60% female for members.

Pub-2010 General Contingent Survivor Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 60% male and 40% female for beneficiaries.

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

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

Sincerely,



Molly Calcagno, ASA, MAAA, EA
 Senior Actuary

JY/elf



May 09, 2023

Shannon Wainwright

Re: Retirement Election Confirmation – Option 4

Dear Ms. Wainwright:

You have elected Option 4 as your retirement option. This option will provide a 23.31% of your monthly benefit, for the life of the benefit, to:

Jonathan Wainwright

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

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

() I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 23.31% continuance to Jonathan Wainwright.

Shannon Wainwright
Member Signature/Date

Sincerely,

Christine Guerrero
Retirement Program Specialist



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Jonathea Tallase, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – NICOLE GOMEZ-CERVANTES**

Recommendation

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

Background/Discussion

This member elected Option 4 as the benefit payment option for her service retirement allowance as required by her Domestic Relations Order (DRO), effective March 24, 2023. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

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

Submitted by:



J. T. – APPROVED

Jonathea Tallase
Member Services Manager



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Personal and Confidential

May 12, 2023

Jonathea Tallase
 Member Services Manager
 Orange County Employees Retirement System
 2223 Wellington Avenue
 Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
 Option 4 Calculation for Nicole Gomez-Cervantes - Revised**

Dear Jonathea:

Pursuant to your request, we have revised the Option 4 benefits payable to Nicole Gomez-Cervantes and her ex-spouse based to include a 100% continuance to her current spouse. The unmodified benefit and other information was provided in the System’s request dated May 9, 2023.

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

Member’s Date of Birth									
Ex-Spouse’s Date of Birth									
Date of Retirement	March 24, 2023								
Plan of Membership	General Plan B, Safety Plan D, and Safety Plan F								
Monthly Unmodified Benefit	<table border="0"> <tr> <td>Plan B:</td> <td>\$53.32</td> </tr> <tr> <td>Plan D:</td> <td>808.88</td> </tr> <tr> <td>Plan F:</td> <td><u>4,061.31</u></td> </tr> <tr> <td>Total:</td> <td>\$4,923.51</td> </tr> </table>	Plan B:	\$53.32	Plan D:	808.88	Plan F:	<u>4,061.31</u>	Total:	\$4,923.51
Plan B:	\$53.32								
Plan D:	808.88								
Plan F:	<u>4,061.31</u>								
Total:	\$4,923.51								
Ex-Spouse’s Share of Monthly Unmodified Benefit	21.37%								
Retirement Type	Service Retirement								
Current Spouse’s Date of Birth									

Jonathea Tallase
 May 12, 2023
 Page 2

We have determined the Option 4 benefits using a two-part process. In Part One, we first calculated the adjustment to the member's unmodified benefit to provide a 21.37% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

Part One – Before Adjustment for Continuance to Current Spouse

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Plan B Annuity:	\$17.74	
Plan B Pension:	24.19	
Plan D Annuity:	197.09	
Plan D Pension:	438.93	
Plan F Annuity:	1,037.72	
Plan F Pension:	<u>2,155.69</u>	
Total:	\$3,871.36	\$0.00
Monthly benefit payable to ex-spouse ¹	\$973.88	\$973.88

In Part Two, we further adjusted the member's benefit in Part One so that a continuance benefit of 100% can be paid to the current spouse. In addition, the cost to provide this continuance benefit would be paid for entirely by the member.

Part Two – After Adjustment for 100% Continuance Benefit Payable to Current Spouse

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Plan B Annuity:	\$16.02	
Plan B Pension:	21.84	
Plan D Annuity:	177.97	
Plan D Pension:	396.34	
Plan F Annuity:	937.04	
Plan F Pension:	<u>1,946.55</u>	
Total:	\$3,495.76	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$3,495.76
Monthly benefit payable to ex-spouse ¹	\$973.88	\$973.88

¹ This is equal to 21.37% of the member's unmodified benefit (i.e., 21.37% * \$4,923.51 or \$1,052.15) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Jonathea Tallase
 May 12, 2023
 Page 3

Actuarial Assumptions

We have calculated the Option 4 benefits based on the following actuarial assumptions:²

Interest:	Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.
Mortality Table:	<p>Pub-2010 Safety Healthy Retiree Amount-Weighted Above-Median Mortality Table, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 80% male and 20% female for members.</p> <p>Pub-2010 General Contingent Survivor Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 20% male and 80% female for beneficiaries.</p>

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

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

Sincerely,



Molly Calcagno, ASA, MAAA, EA
 Senior Actuary

JY/hy

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

From: Nicole Cervantes n3chix@gmail.com
Subject:
Date: May 12, 2023 at 4:00 PM
To: Aneesa Nicole Gomez-Cervantes angomezc@uci.edu



May 12, 2023

Nicole C. Gomez-Cervantes

Re: Retirement Election Confirmation – Option 4

Dear Ms. GOMEZ-CERVANTES:

You have elected Option 4 as your retirement option. This option will provide a 21.37% of your monthly benefit, for the life of the benefit, to:

Francisco Cervantes

A 100% continuance benefit of your reduced benefit will be provided to **Jaime Villarreal** upon your passing.

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

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

NC
I understand that my retirement option is irrevocable; by choosing Option 4, I will take a monthly reduction in order to provide 21.37% of my monthly benefit to FRANCISCO CERVANTES and a 100.00% continuance benefit to JAMIE VILLARREAL.

[Handwritten Signature] 5-12-23
Member Signature/Date

Erika Gonzalez
Retirement Program Specialist

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

**REGULAR MEETING
Monday, April 17, 2023
9:30 A.M.**

MINUTES

Chair Dewane called the meeting to order at 9:32 a.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

Present in Person: Shawn Dewane, Chair; Adele Tagaloa, Vice Chair; Charles Packard, Chris Prevatt, Arthur Hidalgo, Shari Freidenrich, Wayne Lindholm, Roger Hilton, Jeremy Vallone

Present via Zoom (under Government Code Section 54953(f)): Richard Oates

Also Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investments Officer; Gina Ratto, General Counsel; Manuel Serpa, Deputy General Counsel; David Kim, Director of Internal Audit; Tracy Bowman, Director of Finance; Jeff Lamberson, Director of Member Services; Silviu Ardeleanu, Director of Member Services; Cynthia Hockless, Director of Human Resources; Fong Tse, Operations Manager; Javier Lara, Audio-Visual Technician; Carolyn Nih, Recording Secretary

Guests: Harvey Leiderman, ReedSmith

Absent: Chris Prevatt

CONSENT AGENDA

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- Richards, Danny
- Rowe, Erin

- Counts, Christopher

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

March 20, 2023

Recommendation: Approve minutes.

C-3 OUTCOMES FROM THE AUDIT COMMITTEE MEETING ON FEBRUARY 14, 2023 AND APRIL 5, 2023

Recommendation: The Audit Committee recommends the Board adopt the following:

1. Actuarial Audit of OCERS’s 2021 Actuarial Valuation
2. Revisions to the Operational Risk Policy as presented
3. Revisions to the OCERS’ Audit Committee Charter as presented
4. Revisions to the OCERS’ Internal Audit Charter as presented
5. Revisions to the Ethics, Compliance, and Fraud Hotline Policy as presented

MOTION by Mr. Hilton, **SECONDED** by Mr. Packard, to approve the Consent Agenda items, C-1, C-2 and C-3.

The motion passed **unanimously**.

ACTION ITEMS

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

C-4 OUTCOMES OF THE MEETING OF THE GOVERNANCE COMMITTEE HELD ON MARCH 23, 2023

Recommendation: The Governance Committee recommends the Board adopt the following:

1. The **Governance Committee Charter** with revisions approved by the Committee
2. The **CEO Charter** with revisions approved by the Committee
3. The **Public Records and Data Request Policy** with no substantive revisions
4. The **SACRS Voting Authority Policy** with no substantive revisions
5. The **Procurement and Contracting Policy** with revisions approved by the Committee
6. The **OCERS Rules of Parliamentary Procedure** with revisions approved by the Committee
7. The new **OCERS Administrative Procedure Re: Documentation of Birthdate and Marriage/Domestic Partnership**

Discussion: Hilton would like more clarification on securities litigation monitoring firm selection process to be included in the Securities Litigation Policy. He requests to have the policy reviewed at a future Governance Committee Meeting.

MOTION by Mr. Hilton, **SECONDED** by Mr. Lindholm, to approve all C-4 recommendations from the Governance Committee. Additionally, Chair and Vice Chair instruct staff to bring Securities

Litigation Policy to the Governance Committee for review at a future meeting of the Governance Committee.

The motion passed unanimously.

DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

DC-1: BRUCE FRAZEE
Sergeant, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 25, 2022.

DC-2: ROBERT FRICK
Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as October 7, 2022.

DC-3: DARRYL KIRBY
Maintenance Supervisor, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 31, 2022.

DC-4: DEANN KURIMAY
Sergeant, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 11, 2022.

DC-5: TIMOTHY LOYA

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 25, 2022.

MOTION by Ms. Tagaloa, **SECONDED** by Mr. Hilton, to approve items, DC-1 through DC-5 on the Disability Consent Agenda.

The motion passed **unanimously**.

Adjourn to closed session at 9:43 a.m.

CLOSED SESSION

DA-2: MINH TAM THI LUONG

Senior Public Health Nurse, Orange County Health Care Agency

Recommendation: Disability Committee recommends that the Board:

- Approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations, dated December 12, 2022 (Recommendations) wherein the Hearing Officer recommended that the Board deny the Applicant (Minh Tam Thi Luong) service-connected disability retirement.

DA-3 MONICA RANGEL-SANTOS- PULLED FOR CONTINUATION

Eligibility Technician, Orange County Social Services Agency

Recommendation: Disability Committee recommends that the Board:

- Approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations (Modified), dated March 1, 2023 (“Modified Recommendation”), wherein the Hearing Officer recommends that the Board find the Applicant, Monica Rangel-Santos, is not permanently incapacitated from the substantial performance of her usual and customary duties. If the Board finds the Applicant is not permanently incapacitated, then the Alternative Recommendations (defined herein) are unnecessary, and the application for service and non-service connected disability retirement benefits must be denied under Government Code §§31720 and 31724.

DA-3 was continued to a future month by the applicant.

OPEN SESSION

Return to open session at 10:08 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION *In the matter of DA-2, for Applicant Minh Tam Thi Luong, the Board voted unanimously to refer the matter back to the referee with instructions to the referee to review additional records to be submitted by the Applicant and to determine whether the additional evidence alters the referee’s Recommendations.*

ACTION ITEMS

A-2 SACRS BOARD OF DIRECTORS ELECTION 2023-2024 – DIRECTION TO OCERS’ VOTING DELEGATE
Presentation by Gina M. Ratto, General Counsel

Recommendation: Consider the SACRS Nominating Committee’s recommended slate of candidates and the list of additional candidates interested in running for the election of SACRS Directors; and give direction to OCERS’ Voting Delegate and Alternate Delegates for the SACRS Board of Directors election to be held during the SACRS Spring Conference on May 12, 2023.

MOTION by Mr. Packard, **SECONDED** by Mr. Hilton, to direct OCERS Voting Delegates to vote in favor of the slate of candidates recommended by the SACRS Nominating Committee.

The motion passed **unanimously**.

INFORMATION ITEMS

Presentations

I-2 COVID-19 UPDATE
Presentation by Steve Delaney, Chief Executive Officer, OCERS

OCERS continues to monitor and follow Cal/OSHA rules for COVID-19. Further, Board directed Staff that this information item can be discontinued as a regular item on the Board agenda. Should a COVID-19 issue arise, the CEO should include this information as part of the CEO Comments.

CHIEF EXECUTIVE OFFICER COMMENTS: CEO introduced the Board to William Tsao, Director of Enterprise Project Management Office. Additionally, the CEO notified the Board that General Counsel, Gina Ratto, has announced her retirement scheduled for mid-August. The OCERS Senior Executive Team, with input from the Board Chair and Vice Chair and the Personnel Committee Chair, will begin the national search for a new General Counsel. CEO also shared a story from our Member Services, noting wonderful service.

WRITTEN REPORTS

R-1 MEMBER MATERIALS DISTRIBUTED
Written Report

Application Notices April 17, 2023
Death Notices April 17, 2023

R-2 COMMITTEE MEETING MINUTES

- October 2022- Governance Committee Minutes
- February 2023- Audit Committee Minutes

R-3 CEO FUTURE AGENDAS AND 2023 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 LEGISLATIVE UPDATE

Written Report

R-7 QUARTERLY TRAVEL AND TRAINING EXPENSE REPORT

Written Report

R-8 INCENTIVE COMPENSATION PROGRAM (2022)

Written Report

R-8 was pulled for discussion. Ms. Freidenrich would like additional details on the incentive compensation for 2022. Staff agreed to return in May 2023 with a supplemental report to provide more details on the calculation of the incentive program benefit for 2022.

CLOSED SESSION ITEMS

**E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED
(GOVERNMENT CODE SECTION 54956.9(d)(1))**

Adjourn pursuant to Government Code section 54956.9(d)(1).

James B. Morell v. Board of Retirement, OCERS; Los Angeles County Superior Court, Case No. 22STCP02345

E-1 was continued to a future month by OCERS legal counsel.

The Board recessed for break at 10:28 a.m.

Mr. Dewane, Mr. Hidalgo, and Mr. Oates left the meeting during the break.

The Board reconvened from break at 10:46 a.m.

Recording Secretary administered the Roll Call attendance.

INFORMATION ITEMS

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

Presentations

Orange County Employees Retirement System
March 20, 2023
Regular Board Meeting – Minutes

Page 7

I-1 HARASSMENT PREVENTION TRAINING

Presentation by Susan Arduengo, Partner, Burke, Williams & Sorenson

COUNSEL COMMENTS- None

BOARD MEMBER COMMENTS – None

Meeting **ADJOURNED** at 12:50pm in memory of active members, retired members, and surviving spouses who passed away this passed month.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane
Chairman



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO External Operations
SUBJECT: **OUTCOMES OF THE MEETING OF THE DISABILITY COMMITTEE HELD ON APRIL 17, 2023**

Recommendation

The Disability Committee recommends that the Board adopt the following:

- (1) The **Disability Committee Charter** with revisions approved by the Committee
- (2) The **Administrative Review and Hearing Policy** with revisions approved by the Committee
- (3) The **Disability Application Review Process OAP** with revisions approved by the Committee
- (4) The new **OCERS Administrative Procedure OAP - Disability Retirement Presumptions**

Background/Discussion

The Disability Committee met on April 17, 2023 and reviewed the above-listed charter, policy and OCERS administrative procedures (OAP). The Committee now recommends that the Board adopt the revisions to the charter, policy and OAP, and adopt the new OAP, as set forth below.

Revisions to the Disability Committee Charter

Staff recommended to the Committee, and the Committee approved, revisions to the Disability Committee Charter:

- Section 3 – added language reflecting that the Disability Committee will only review disability retirement applications when the Staff recommendation is a full grant.
- Non substantive clarifying updates

The revisions to the Disability Committee Charter approved by the Committee and recommended to the Board for adoption are set forth in marked text in the attached Charter. An unmarked version of the Charter is also attached.

Revisions to the Administrative Review and Hearing Policy

Staff recommended to the Committee, and the Committee approved, revisions to the Administrative Review and Hearing policy:

- The definition of Days was revised to Business Days rather than calendar days.
- Section 3 – Disability Determination Process
 - i. Added language regarding the process staff will take to present recommendations of a full grant to the CEO.

- ii. Added language indicating that a recommendation to deny (or grant only part) the disability retirement application, or when the CEO disagrees with the staff recommendation the matter will be forwarded to the Disability Committee.
- iii. Non-substantive clarifying updates
 - Section 4: Termination for Cause and Resignation in Lieu of Termination was removed.
 - Section 6 –
 - iv. New section added to outline the Board’s options after the CEO recommendation has been heard.
 - Many non-substantive clarifying updates

Revisions to the OCERS Disability Application Review Process OAP

Staff recommended to the Committee, and the Committee approved, revisions to the Disability Application Review Process OAP:

- Section 10 – added language to reflect that the CEO will review disability retirement applications when the Staff recommendation is a full grant.
- Removed language that was duplicated in the Adjudication policy.
- Many non-substantive clarifying updates

New OCERS Administrative Procedure OAP - Disability Retirement Presumptions

Staff recommended, and the Committee approved, a new OCERS administrative procedure (OAP) outlining the disability retirement presumptions.

Attachments:

- Disability Committee Charter (redlined and unmarked)
- Administrative Review and Hearing Policy (redlined and unmarked)
- OCERS Disability Application Review Process OAP (redlined and unmarked)
- New OCERS Administrative Procedure Re: Disability Retirement Presumptions

Submitted by:



SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations



OCERS Board Charter Disability Committee Charter

Introduction

1. The Board of Retirement (Board) has established the Disability Committee to assist the Board in overseeing the review of disability retirement applications. The Disability Committee is an advisory committee to the Board, and its recommendations are subject to final approval by the Board.

Purpose

2. Under applicable law, the Board must act upon all applications for disability retirement filed by OCERS members. The purpose of the Disability Committee is to ensure diligent analysis of specialized medical records, careful evaluation of ~~all~~ applications for disability retirement, and an efficient process for applicants for disability retirement. The Disability Committee will review the administrative record relating to ~~all~~ applications for disability retirement, the recommendations of OCERS staff, and the findings and conclusions of the administrative hearing officer, where applicable and will thereafter make recommendations to the Board on approval or denial of applications. In most circumstances, recommendations from the Disability Committee will be placed on the Board's consent agenda for final action in accordance with the Board Policy on Disability and Non-Disability Adjudication.

Duties and Responsibilities

3. The Disability Committee shall:
 - a. Review applications for disability retirement when the Staff recommendation is to deny all or part of the Application, and make recommendations to the Board to grant or deny said applications;
 - b. Periodically review the disability application and review process with OCERS staff and recommend any changes as necessary or advisable;
 - c. Provide oversight for searches for outside consultants and advisors including hearing officers and medical experts, and recommend the appointment of such parties to the Board;
 - d. With OCERS staff, coordinate continuing education for the members of the Board on disability-related topics as required; and
 - e. Perform any other duties that may be assigned to it by the Board or that are necessary to discharge the Committee's responsibilities with respect to the disability application process.

Membership

4. The Disability Committee shall be composed of three members. The Board Chair shall appoint members of the Disability Committee as provided in the OCERS By-Laws and designate one member to serve as the Committee Chair.



OCERS Board Charter Disability Committee Charter

5. The Board Chair shall appoint an alternate member of the Disability Committee, who may be any member of the Board, including the alternate seventh member. The alternate member of the Disability Committee shall attend meetings of the Disability Committee only in the event that a regular member of the Disability Committee is unable to attend.

Meetings

6. The Disability Committee shall meet at least monthly and otherwise on an as needed basis as determined by the Committee Chair in consultation with the Board Chair.
7. All regular Disability Committee members are expected to attend all meetings of the committee, but the alternate member is expected to attend only when a regular member of the Disability Committee cannot attend a meeting.
8. A quorum to conduct business shall consist of two members of the Disability Committee, including the alternate member.
9. The Assistant CEO for External Operations (or his/her/their designee), the General Counsel (or his/her/their designee), and whatever staff deemed necessary shall attend all Disability Committee meetings. Meeting notices will be provided to interested parties in conformance with applicable laws, regulations, customs, and practices.
10. All meetings shall be conducted in accordance with the Brown Act. Meeting agendas will be prepared and provided in advance to members of the committee, along with appropriate briefing materials. Minutes of meetings will be prepared and will contain a record of persons present, decisions taken, and a high-level summary of the discussion. Disability Committee members shall not discuss disability applications with other Board members outside of the Disability Committee or Board meetings.
11. The Disability Committee shall adjourn to a closed session, Cal. Gov't Code § 54957(b), to discuss the application of any member for disability benefit.
 - a. Closed Session With the Parties Present. The Disability Committee shall conduct any discussion of an application as a closed session. Attendance at the closed session will be limited to 1) the parties; 2) counsel for the parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination; 4) any witnesses called to present testimony before the Disability Committee; 5) OCERS staff necessary to facilitate the hearing (including the clerk of the Board and IT Staff); 6) the CEO or Assistant CEO or their designee; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Disability Committee.
 - b. Closed Session Without Parties. Following the Disability Committee's hearing of a matter in a closed session with the parties present, the Disability Committee may adjourn to a closed session including only the CEO or the Assistant CEO or their designee and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.



OCERS Board Charter Disability Committee Charter

Monitoring and Reporting

- 12. The Disability Committee shall:
 - a. Make its minutes available to all Members of the Board;
 - b. Periodically report to the Board on its activities;
 - c. Monitor compliance with and the effectiveness of the disability application process, and report to the Board on the committee’s findings, as appropriate; and
 - d. Periodically review and, when necessary, amend standardized materials used in the disability application process, as recommended by OCERS staff.

Charter Review

- 13. The Disability Committee shall 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

- 14. This charter was adopted by the Board of Retirement on January 16, 2018 and amended on April 17, 2023.

Secretary’s Certificate

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

Steve Delaney, Secretary of the Board

01/16/18 04/17/23

Date



OCERS Board Charter Disability Committee Charter

CHANGE LOG EDITOR	CHANGES FROM PREVIOUS VERSION	DATE

REVIEWED BY	SIGNATURE	DATE



OCERS Board Charter Disability Committee Charter

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 - b. Periodically review the disability application and review process with OCERS staff and recommend any changes as necessary or advisable;
 - c. Provide oversight for searches for outside consultants and advisors including hearing officers and medical experts, and recommend the appointment of such parties to the Board;
 - d. With OCERS staff, coordinate continuing education for the members of the Board on disability-related topics as required; and
 - e. Perform any other duties that may be assigned to it by the Board or that are necessary to discharge the Committee's responsibilities with respect to the disability application process.

Membership

4. The Disability Committee shall be composed of three members. The Board Chair shall appoint members of the Disability Committee as provided in the OCERS By-Laws and designate one member to serve as the Committee Chair.



OCERS Board Charter Disability Committee Charter

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7. All regular Disability Committee members are expected to attend all meetings of the committee, but the alternate member is expected to attend only when a regular member of the Disability Committee cannot attend a meeting.
8. A quorum to conduct business shall consist of two members of the Disability Committee, including the alternate member.
9. The Assistant CEO for External Operations (or their designee), the General Counsel (or their designee), and whatever staff deemed necessary shall attend all Disability Committee meetings. Meeting notices will be provided to interested parties in conformance with applicable laws, regulations, customs, and practices.
10. All meetings shall be conducted in accordance with the Brown Act. Meeting agendas will be prepared and provided in advance to members of the committee, along with appropriate briefing materials. Minutes of meetings will be prepared and will contain a record of persons present, decisions taken, and a high-level summary of the discussion. Disability Committee members shall not discuss disability applications with other Board members outside of the Disability Committee or Board meetings.
11. The Disability Committee shall adjourn to a closed session, Cal. Gov't Code § 54957(b), to discuss the application of any member for disability benefit.
 - a. Closed Session With the Parties Present. The Disability Committee shall conduct any discussion of an application as a closed session. Attendance at the closed session will be limited to 1) the parties; 2) counsel for the parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination; 4) any witnesses called to present testimony before the Disability Committee; 5) OCERS staff necessary to facilitate the hearing (including the clerk of the Board and IT Staff); 6) the CEO or Assistant CEO or their designee; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Disability Committee.
 - b. Closed Session Without Parties. Following the Disability Committee's hearing of a matter in a closed session with the parties present, the Disability Committee may adjourn to a closed session including only the CEO or the Assistant CEO or their designee and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.



OCERS Board Charter Disability Committee Charter

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- 12. The Disability Committee shall:
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 - b. Periodically report to the Board on its activities;
 - c. Monitor compliance with and the effectiveness of the disability application process, and report to the Board on the committee’s findings, as appropriate; and
 - d. Periodically review and, when necessary, amend standardized materials used in the disability application process, as recommended by OCERS staff.

Charter Review

- 13. The Disability Committee shall 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

- 14. This charter was adopted by the Board of Retirement on January 16, 2018 and amended on April 17, 2023.

Secretary’s Certificate

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

	<u>04/17/23</u>
Steve Delaney, Secretary of the Board	Date



OCERS Board Charter Disability Committee Charter

CHANGE LOG EDITOR	CHANGES FROM PREVIOUS VERSION	DATE

REVIEWED BY	SIGNATURE	DATE



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

1. Intent

The Board of Retirement ("Board") of the Orange County Employees Retirement System ("OCERS") intends that this Administrative Review and Hearing Policy ("Policy") will apply to and govern OCERS' Administrative Review and Administrative Hearing processes for Disability Determinations, Benefit Determinations and other final administrative orders or decisions of the Board. Any person who is entitled to a hearing and who does not request one under this Policy will be deemed to have waived the right to a hearing.

Nothing in this Policy will be deemed an acknowledgement by OCERS that any procedure set forth herein, including an administrative hearing, is required by law. The Board retains the right to amend this Policy or vary the process set forth in this Policy in any manner consistent with the law.

2. Definitions

The following terms will have the meanings set forth below.

Administrative Hearing; Hearing: The proceedings before a Hearing Officer or the Board on the merits of a particular Request for Administrative Hearing and related Application.

Administrative Record: The documents and other records relied upon by Staff or a fact-finding body in an Administrative Review or Hearing conducted pursuant to this Policy, including any documents submitted on behalf of an Applicant, documents prepared by OCERS or by independent sources that are received by OCERS, any transcripts or recordings of testimony, or any other documents relevant to an Application.

For purposes of any proceeding following an Administrative Review or Hearing, the Administrative Record also includes written correspondence, Party Pre-Hearing Statements, the Hearing Officer's Proposed Findings of Fact and Recommended Decision, Party objections, hearing transcripts, and other documents relevant to an Application.

Administrative Review: The process described in this Policy (including the Rules) by which a Party may seek an administrative review of a Benefit Determination, CEO Determination or Disability Determination or any other final administrative order or decision of the Board.

Applicant; Member: A member of OCERS, or a person or other entity on behalf of a member of OCERS (including but not limited to the member's surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member who files an Application or who seeks Administrative Review of a Benefit Determination.

Application: The submittal, including any amendments thereto, filed with OCERS by or on behalf of an Applicant for either: (i) a disability retirement; or (ii) a service retirement.

Authorization for Disclosure and Use of Protected Health Information: [The form that is filed with the Request for Administrative Hearing authorizing Staff to obtain and use Member medical records.](#)

Benefit Determination: A determination made by Staff in connection with (i) a service retirement Application; (ii) a disability retirement Application with the exception of a Disability Determination; or (iii)



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

an Applicant's benefit (e.g., calculation of the amount of the benefit, benefit effective date, reciprocity determinations).

CEO Determination: A Benefit Determination made by the CEO or the CEO's designee.

Clerk, Clerk ~~of~~ the Hearing Officers. A person or persons designated by ~~the~~ OCERS General Counsel or their designee to fulfill the duties of providing administrative assistance to the Hearing Officers appointed by OCERS.

Consolidation/Consolidated Review or Hearings. Where two or more Requests for Administrative Review or Hearing that have common issues of fact or law are consolidated for Administrative Review or Hearing pursuant to Section 8 of this Policy or Rule 7 of the Rules.

Days: All days are ~~Business calendar~~ Days unless otherwise noted. Business Days are Monday through Friday, excluding federal and State of California Holidays.

Disability Committee, Committee: A committee of the Board, chartered by the Board to review Applications for disability retirement and make recommendations to the Board with respect to Disability Determinations.

Disability Determination: The ~~action taken by the Board in response to a disability retirement Application pursuant to Government Code Section 31724, limited to the~~ following determinations/findings: (1) whether the Applicant is permanently incapacitated for performance of their duties ~~in the service~~; (2) whether the disability was service-connected; and (3) the effective date of the disability retirement. Any other determinations affecting a disability retirement Application, including, but not limited to, timeliness of the Application, ineligibility due to termination for cause, and applicability of a disability offset, are Benefit Determinations pursuant to this Policy and subject to a CEO Determination.

Employer: The public agency who employed the OCERS member whose benefits are at issue in any given matter. The Employer is a Party to an Administrative Review but does not need to participate in an Administrative Review or Hearing. If the Employer initiates an Administrative Review or Hearing, it will act in the role of the Applicant with the corresponding burden of proof.

Expedited Administrative Hearing: An alternative administrative Hearing process, set forth in Rule 6 of the Rules.

Hearing Officer: A referee appointed pursuant to Government Code section 31533 who is either a member of the State Bar selected under the OCERS Hearing Officer Selection and Retention Policy, or a member of the Board.

Medical Witness: A person who by profession is a physician, surgeon, psychologist, optometrist, ~~dentist~~ dentist, or podiatrist licensed by the State of California or by such other jurisdiction of the United States in which such person maintains a regular practice in good standing with their licensing board.

Party or Parties: OCERS, an Applicant who seeks an Administrative Review or Hearing under this Policy, the Employer, and any other person who may be affected by the Board's decision and who participates in the Administrative Review or Hearing.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Pre-Hearing Statements: Statements filed by the Parties pursuant to Rule 9 of the Rules.

Proposed Findings of Fact and Recommended Decision: The recommendation of the Hearing Officer to the Board, as set forth in Rule 14 of the Rules.

Request for Administrative Review or Request for Administrative Hearing: The document filed by the Applicant (or in limited cases, the Employer) to seek a review of a decision of the Committee or Staff and initiate the Administrative Review or Administrative Hearing process. Where the Applicant requests a Hearing or the Board refers the matter to a Hearing, the document will be referred to as a Request for Administrative Hearing. Where the Applicant seeks review of a Benefit Determination or CEO Determination, the document will be referred to as a Request for Administrative Review.

Respondent: OCERS will always be the primary Respondent. The Employer may, but is not required to respond to the request for Administrative Review or Hearing. Where the Employer initiates a review or hearing, the Applicant may join as a Respondent.

Rules: The "Orange County Employees Retirement System Administrative Rules," attached as an appendix to and made part of this Policy.

Staff: OCERS staff members other than the CEO and the CEO's designee.

3. Disability Determination Process

For Disability Determinations:

- A. Staff will investigate all disability retirement Applications to determine (i) whether the Applicant is permanently incapacitated from the performance of their usual duties; (ii) whether the incapacity arose out of and in the course of employment, and (iii) the appropriate effective date of any disability retirement allowance. In undertaking this investigation, Staff will have the discretion, based on Staff's review of the Application (including the Applicant's treating physicians' medical reports) to determine whether or not to seek further medical examination of the Applicant, expert medical advice, or expert review of Applicant's medical records. Upon completion of the investigation, if the Staff's will make a recommendation is to grant the disability retirement Application in full, Staff will forward the recommendation to the CEO. If the Staff's recommendation is to deny (or grant only in part) the disability retirement Application, Staff's recommendation will be presented to the or Committee. Staff's recommendations will include recommendations regarding permanent incapacity, service connection, and effective date.
- B. When the Staff recommendation is to grant the disability retirement Application in full, the recommendation will be reviewed by the CEO. If after the CEO reviews the disability retirement Application, the CEO concurs with Staff recommendation to grant the disability retirement Application in full, the CEO will recommend that the Board grant the Application in full. The CEO's recommendation will be placed on the consent agenda at the next regularly scheduled meeting of the Board for action in accordance with Section 6, below. Staff will notify the Applicant (and Applicant's attorney, if any) and the Employer of the date and time of the meeting at which the



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

matter will be presented. If the CEO disagrees with the Staff's recommendation, the Application will be forwarded to the Committee for review and determination in accordance with Section 3.3.C.B, below.

- B.C. When the Staff recommendation is to deny (or grant only in part) the disability retirement Application or when the CEO disagrees with Staff's recommendation to grant the disability retirement Application in full, ~~The Committee will review~~ the disability retirement Application and the Staff recommendation under Section 3.A, ~~subsection A~~, above, will be reviewed by the Committee at a duly-noticed meeting of the Committee. Staff will give Applicant (and the Applicant's attorney, if any) and the Employer notice of the date and time of the Committee meeting at which they will have the opportunity to be heard by the Committee.
- D. After the Committee reviews the disability retirement Application under Section 3.C, above, the Committee will determine whether to recommend that the Board grant or deny the Application, in full or in part. Staff will notify the Applicant (and Applicant's attorney) and the Employer by email of the Committee's recommendation. They will also be provided with instructions on how to request an Administrative Hearing to challenge any part of the Committee's recommendation. Notice will be effective when the email message is sent.
- E. In the event the Committee recommends that the Application be denied in full or in part, the Applicant will have ninety (90) days from the date of the notice required by 3.DC., above, to file a Request for Administrative Hearing with the ~~Clerk~~ Clerk (and only the Clerk), as set forth in the Rules. In the event the Committee recommends the Application be granted in full, any other Party including the Employer aggrieved by the recommendation will have ten (10) days from the date of the notice required by 3.DC., above, to file a written Request for Administrative Hearing as set forth in the Rules.
- E-F. A Request for Administrative Review or Hearing may only be filed using the form approved by OCERS. That form must be signed and dated by the Applicant (or the Applicant's Attorney) to be valid. Forms that are not dated and signed will be rejected by the Clerk. A request submitted in any other form (i.e., email, letter) will be rejected by the Clerk.
- F-G. Where the Committee recommends (i) a grant of a non-service connected disability retirement, but denial of a service-connected disability retirement; or (ii) a grant of a either a service-connected or non-service connected disability retirement and the Applicant disputes the Committee's recommendation regarding the effective date of disability, the Applicant may request a Hearing on the denial of a service-connected disability or the effective date of disability. In such cases, the issues not disputed will not be at issue in the Hearing. Staff will forward those non-disputed issues to the Board for final action.
- H. If no Request for Administrative Hearing is filed within the time limit set forth in 3.ED., above, the Committee's recommendation will be placed on the consent agenda at the next regularly scheduled meeting of the Board for action in accordance with Section 5, below.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

4. Benefit Determination Review Process

For Benefit Determinations:

- A. Staff will notify the Member of the Benefit Determination, and the Member may request a CEO Determination within ninety (90) days of the date of the notice of the Benefit Determination. The CEO Determination will be in the form of a written review completed and returned to the Member within 90 days of receipt of the request for a CEO Determination, and will include a synopsis of the Member's request and citation to any authority relied upon by the CEO in making the CEO Determination. In addition, the written review will include instructions regarding how the Member may request review of the CEO Determination by the Board.
- B. The Member will have ninety (90) days from the date of the notice of the CEO Determination provided in 4.A., above, to file a Request for Administrative Review with the Clerk (and only the Clerk). If no timely Request for Administrative Review is filed, the CEO Determination will be final.

5. Board Action on Disability Determination Upon Recommendation from the CEO or Disability Committee

- A. **Consent Agenda.** Recommendations from the CEO to grant an Application for disability retirement in full, and Committee recommendations for which~~When~~ there has been no timely Request for an Administrative Hearing ~~of the Disability Committee's recommendation~~ under Section 3, above, will be considered by the Board on ~~its~~~~the Board's~~ consent agenda.
- B. **Removing Items from Consent Agenda/Action.** Any member of the Board may remove an item from the consent agenda to be discussed and voted on separately. ~~Such if any Board member removes a Disability Determination from the consent agenda, the items~~ will be considered by the Board in closed session as set forth in Section 7, below.
- C. **Action on Recommendations from the CEO.** After consideration by the Board, the Board will either (i) adopt the recommendation of the CEO; or (ii) or refer the matter to the Disability Committee for consideration.
- D. **Action on Recommendations from the Disability Committee.** After consideration by the Board, the Board will either (i) adopt the recommendation of the Disability Committee; or (ii) refer the matter to a Hearing Officer for a Hearing (unless a Hearing is waived by the Applicant, in which case the Committee recommendation will be adopted).

6. Board Action on Disability Determinations After Hearing.

Following an administrative Hearing and the Board's receipt of the Hearing Officer's Proposed Findings of Fact and Recommended Decision, the Board will consider the matter at a duly-noticed meeting of the Board and take action in accordance with Rule 16 of the Rules.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

7. Closed Sessions for Disability Determinations

Except for matters on the Disability Committee’s or Board’s consent agenda, the Disability Committee or Board will adjourn to a closed session, pursuant to Cal. Gov’t Code § 54957(b), to discuss a recommended Disability Determination in connection with an Application for disability retirement, or a Hearing Officer’s Proposed Findings of Fact and Recommended Decision in connection with a Disability Determination, unless the Applicant requests the matter be heard in open session.

- A. Closed Session With the Parties Present.** The Committee or the Board will conduct any discussion of an Application, including instances where the Board convenes and conducts its own Hearing, in closed session. Attendance at the closed session will be limited to 1) the Applicant; 2) counsel for the Applicant as well as any individual deemed by the Board Chair to be essential to the Applicant in the matter; 3) any OCERS disability Staff members and/or attorneys acting as advocates for the Staff recommendation or Committee recommendation; 4) Staff necessary to facilitate the Hearing (including the Recording Secretary, Clerk of the Hearing Officers~~Clerk of the Board~~ and IT Staff to provide technical support); 5) the CEO; 6) the OCERS General Counsel (or their designee); and 7) outside counsel to the Board. Additionally, in the event the Board conducts its own hearing, witnesses called to present testimony may be permitted to attend the closed session to do so.
- B. Closed Session Without Parties.** Before or after the Committee’s or Board’s consideration of a matter in a closed session under A, above, the Committee or the Board may adjourn to a closed session with only the CEO and the OCERS General Counsel (or their designee) to provide legal advice to the Committee or the Board in connection with the merits of the case and the Board’s legal obligations.

8. Board Action on CEO Determinations (i.e., CEO Benefit Determinations).

- A. Board Review of CEO Determinations.** In the case of a timely Request for Administrative Review of a CEO Determination, the Board will consider the matter at a duly noticed regular meeting of the Board. Staff will make a recommendation to the Board regarding the issues raised in the CEO Determination and the Applicant (or the Applicant’s attorney) will have the opportunity to be heard.
- B. Board’s Options.** At the meeting, the Board may choose to hear and conduct the review at that meeting, continue it to a later meeting, or refer the matter to a Hearing Officer for a Hearing to be conducted pursuant to the Rules. If the Board chooses to hear and determine the matter, the Board’s decision will be final. If the Board chooses to refer the matter to a Hearing, the Board will identify the factual and legal issues to be considered by the Hearing Officer.

In determining whether to hear and determine the matter or refer the matter to a Hearing Officer, the Board will consider all relevant factors, including, but not limited to, the following:



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- i. whether the disputed issues are legal, not factual, in nature;
 - ii. relevant judicial authority on the disputed legal issue(s);
 - iii. whether the Board and/or a Hearing Officer has previously ruled on substantively similar issue(s);
 - iv. whether the Applicant is represented by an attorney;
 - v. the efficient use of OCERS resources; and
 - vi. the interests of the Applicant in receiving a timely decision.
- C. **Consolidation of Reviews.** When review by the Board of two or more CEO Determinations involves common questions of law or fact, the Board may order a Consolidated Review or Consolidated Hearing of the matters. Consolidation may be ordered for limited purposes or for all purposes.

In determining whether to order a Consolidation of the CEO Determinations, the Board will consider all relevant factors, including, but not limited to, the following:

- i. the complexity of the issues involved;
- ii. the potential prejudice to any party, including whether a Consolidation would result in undue delay;
- iii. the avoidance of duplicate or inconsistent orders; and
- iv. the efficient utilization of OCERS resources.

9. Board Action on CEO Determinations After a Hearing.

In the case of a CEO Determination referred by the Board to a Hearing, the Board will consider the Hearing Officer’s Proposed Findings of Fact and Recommended Decision at a duly-noticed meeting of the Board in accordance with Rule 16 of the Rules. The Board may adopt the Hearing Officer’s recommendations or make its own determination based on the Administrative Record and the Board’s decision will be final.

10. Policy Review

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

11. Policy History

This Policy was adopted by the Board of Retirement on February 19, 2002. ~~It was amended~~ on August 17, 2020 and most recently on August 17, 2020 XXXX.

Secretary’s Certificate

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



Applicable to cases filed on or after August 18, 2020

**OCERS Board Policy
Administrative Review and Hearing Policy
(Disability and Non-Disability Benefits)**

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

Steve Delaney
Secretary of the Board

08/17/2020

Date



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Appendix - Administrative Rules

Rule 1. Definitions

All capitalized terms contained within these Rules will have the meaning set forth in Section 2 of the OCERS Administrative Review and Hearing Policy.

Rule 2. Filing of Documents

~~A.~~ Administrative Review and Hearing Filing Procedures

- ~~0. The "Administrative Hearing Filing Procedures" sets forth the procedures by which the Parties and Hearing Officer will file documents, the Clerk will accept filing of documents, and the Clerk will serve documents on the Parties and the Hearing Officer.~~
- ~~0. The Administrative Hearing Filing Procedures may include forms that the Parties are permitted or required to use in connection with a Hearing.~~
- ~~0. The Clerk will provide the Applicant with a copy of the Administrative Hearing Filing Procedures upon the filing of a Request for Administrative Hearing.~~

~~E.~~A. Filing of Documents

1. All documents required or permitted to be filed by any Party in connection with a Hearing will be filed with the ~~Clerk~~Clerk (and only the Clerk).
2. Filing of documents will be done electronically ~~in conformance with the Administrative Hearing Filing Procedures~~, except that an Applicant (and only the Applicant) may opt to file documents in person ~~or~~ by US Mail ~~or electronically~~. Applicants that opt for filing documents in person or by US Mail, must inform the Clerk of this in writing at the time they file their Request for Administrative Hearing. The Clerk will then inform all other Parties and the Hearing Officer that the Applicant has opted to file documents in person or by US Mail.
 - i. Documents filed in person will be deemed filed on the day received by OCERS.
 - ii. Documents filed by US Mail will be deemed filed on the date post-marked on the envelope containing the documents.
 - iii. Documents filed electronically will be deemed filed on the date electronically received by the Clerk.

~~F.~~B. Service of Documents

1. The ~~Clerk~~Clerk (and only the Clerk) will serve on all Parties and the Hearing Officer any documents filed by a Party or the Hearing Officer within one (1) business day of receipt of the documents by the Clerk. Service by anyone other than the Clerk will be considered defective.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

2. Service by the Clerk will be electronic and the Clerk's file stamp will constitute proof of service, in conformance with the Administrative Hearing Filing Procedures, except where the Applicant has opted to file by US Mail pursuant to AB.2., above, in which case the Clerk will serve documents on the Applicant by US Mail. In that case, the Applicant will be deemed to have received service three (3) days after the date the Clerk deposits the document in the US Mail. Electronic service will be deemed served upon electronic transmission by the Clerk.

Rule 3. Administrative Hearing Request, Scope, and Settlement

- A. **Request for Administrative Hearing.** A written Request for Administrative Hearing must be filed with the Clerk within the time frame set forth in Sections 3 and 4 of the Policy. The Request ~~must~~ include a short and plain statement of the grounds for the request and a signed Authorization for Use and Disclosure of Protected Health Information.
- B. **Referral from the Board.** In the event the Board refers a matter to a Hearing Officer for a Hearing (pursuant to Sections 5.D. or 8.B. of the Policy), the referral from the Board will be considered the Request for Administrative Hearing, but for all procedural purposes under these Rules, the request will be deemed to have been filed by the Applicant.
- C. **Permitted Representatives, Attorneys.** Any Party is entitled, at the Party's expense, to be represented by an attorney at any stage of the proceedings. Such attorney must be a current, active member of the California State Bar in good standing. A Party must immediately file with the Clerk a written notice of the hiring, changing, or dismissal of an attorney. Absent such written designation, OCERS will not ~~be obligated to~~ recognize any attorney or other individual claiming to represent a Party, including but not limited to, an attorney in fact (under a power of attorney) or the Applicant's spouse.
- D. **Burden of Proof.** The Applicant will have the burden of proof by a preponderance of the evidence to establish the right to the benefit sought. Where the Employer ~~files~~ files the Request for Administrative Hearing ~~under Section 3.D. of the Policy~~, the Employer will have the burden of proof by a preponderance of the evidence to demonstrate that the Committee's recommendation should be overturned, and the Employer will be bound by all of the procedural rules applicable to the Applicant under these Rules.
- E. **Scope of Hearing.**
 1. The Hearing on a Disability Determination will only address the issues of permanent incapacity, service connection, and effective date. All other issues related to a disability retirement Application are subject to the Benefit Determination process under Sections 4 or 8 of the Policy.
 2. In accordance with Section 8 of the Policy, the Hearing on a CEO Determination will only address the factual and legal issues that are identified by the Board for consideration by the Hearing Officer.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- 3. Except as set forth in these Rules, the Hearing Officer will not make a finding or recommendation on any issue that was not raised in the Applicant’s Request for Administrative Hearing or included in the Board’s referral of the matter to a Hearing. Likewise, the Hearing Officer will not consider any evidence or make a finding or recommendation on any medical condition not included in the disability retirement Application or that was not previously evaluated by Staff, except as provided in subsection 4, below.
 - 4. If at any time during the Hearing process the Applicant either (i) alleges an injury or disease not listed in the disability retirement Application or (ii) raises an issue that was not previously presented to the Committee, the Hearing process will be suspended by the Hearing Officer and the Application will be treated as an amended Application. The amended Application will be referred back to Staff to be processed. If the Committee subsequently recommends a denial of the amended Application, the matter will be returned to the Hearing Officer who will consider all the medical conditions (those raised in the Application and the amended Application). A new Hearing Date, Pre-Hearing Conference and deadlines for Pre-Hearing Statements will be set in accordance with Rule 8.
- F. **Settlement.** If at any time during the Hearing process it becomes apparent to Staff that a different result is appropriate, Staff may request that the Hearing Officer suspend the Hearing and refer a settlement to the Board. If the Board approves a settlement with the Applicant, the Hearing will be dismissed.

Rule 4. Assignment of Hearing Officers

- A. **Assignment of Hearing Officer.** Hearing Officers are selected and placed on the panel pursuant to OCERS’ Hearing Officer Selection and Retention Policy. ~~As matters are referred to a Hearing, the~~ Clerk will assign the Hearing Officer on a rotational basis, ~~to ensure while ensuring that,~~ to the extent possible, that each Hearing Officer on the panel is assigned an equal number of cases. ~~Within fourteen (14) days after~~ When the Applicant files a Request for Administrative Hearing, the Clerk will serve notice to all Parties, including the Hearing Officer, indicating the name and address of the Hearing Officer to whom the matter is assigned, ~~and that which~~ notice will include information regarding the opportunity to challenge a Hearing Officer as set forth below.
- B. **Challenge/Removal of Hearing Officer.** A Party may object to a Hearing Officer in accordance with the following procedures.
 - 1. **Peremptory Challenge:** Any Party other than OCERS is entitled to one (1) peremptory (without cause) challenge to the assignment of the Hearing Officer. The challenge must be filed with the Clerk within ~~ten (10) fourteen (14)~~ ten (10) days of the date of the notice assigning the Hearing Officer. If the Applicant opts for service by US Mail, the time period for filing a challenge will be extended by three (3) days. In the event of a peremptory challenge, the Clerk will re-assign the case to another Hearing Officer selected in the same manner as the first Hearing Officer. In the event no challenge is made to a proposed Hearing Officer, or after the exhaustion of all challenges, the Clerk will notify the Parties that the matter will proceed with the assigned Hearing Officer.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

2. Removal for Cause: Any Party, including OCERS, may challenge a Hearing Officer for cause by filing a request at any time, with supporting declarations made under penalty of perjury and any other evidence upon which the Party is relying. Any opposing Party will have ten ~~(10)fourteen-(14)~~ days from the Clerk's service of the challenge for cause on all Parties to file a response to the request to remove for cause. The Clerk will then randomly assign the removal request to another Hearing Officer, who will consider all evidence and arguments for and against removal of the Hearing Officer and file a ruling with the Clerk within thirty (30) days from assignment. Cause for removal will be limited to demonstrated bias against a Party or counsel based on a personal or financial relationship (other than the Hearing Officer's contract with OCERS) that would cause a reasonable person to doubt the Hearing Officer's ability to render an impartial decision. If the request for removal is granted, the Clerk will re-assign the case to another Hearing Officer (other than the Hearing Officer who heard the challenge) in the same fashion as selection of the first Hearing Officer.
3. Removal Due to Unforeseen Circumstances: If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause, the Parties other than OCERS are entitled to a peremptory challenge to the new Hearing Officer in accordance with subsection B.1 of this Rule.
4. Assignment After Removal Due to Unforeseen Circumstances: If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause, any hearing date will be vacated and the Clerk will assign a new Hearing Officer pursuant to Rule 4.A above and schedule a new Pre-Hearing Conference pursuant to Rule 7, below.

C. **Recusal of Hearing Officer.** If at any time the Hearing Officer determines that there is cause for their recusal, the Hearing Officer will immediately file with the Clerk a statement of recusal, and the Clerk will reassign the case pursuant to Rule 4.A.

C.D. This Rule 4 does not apply to cases where the Board refers the matter back to the Hearing Officer under Section 8.B. of the Policy or cases that are consolidated under Rule 7.

Rule 5. Preparation and Service of Administrative Record

Within sixty (60) days of the filing of a Request for Administrative Hearing, ~~Staff~~the Clerk will assemble and the Clerk will serve on the Hearing Officer and each Party the initial Administrative Record. Except as provided in Rule 6, a Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer will decide the admissibility of all evidence.

Rule 6. Expedited Administrative Hearing

- A. **Provisions for Expedited Administrative Hearing.** Expedited Administrative Hearing is an irrevocable waiver of the Applicant's right to the process described in Rules 7 through 12. The goal of the Expedited Administrative Hearing process is to complete the Hearing in less than six months.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

The Hearing Officer's Proposed Findings of Fact and Recommended Decision will be based only on the Administrative Record and written arguments without in-person testimony or argument.

B. Availability of Expedited Administrative Hearing.

1. An Expedited Administrative Hearing is only available for those cases that OCERS General Counsel determines the process is appropriate.
2. The determination as to whether Expedited Administrative Hearing is appropriate will be made in the sole discretion of the OCERS General Counsel, on a case-by-case basis. In doing so, the General Counsel will consider whether: there are any material facts in dispute; whether the introduction of testamentary evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant's condition is such that time is of the essence in completing the Hearing process.
3. In the event the General Counsel determines that a matter is appropriate for Expedited Administrative Hearing, the Clerk will notify the Applicant of this determination and the Applicant's right to accept or reject the Expedited Administrative Hearing along with a form in which to do so. The Applicant may file the acceptance or rejection any time prior to the Clerk's service of the Administrative Record on the Parties.

C. Timeline. The Expedited Administrative Hearing will be conducted according to the following timeline.

1. Within ~~ten (10)~~~~fourteen (14)~~ days of the date the Clerk serves the Administrative Record in accordance with Rule 5, each party may lodge with the Clerk any additional written evidence that it seeks to rely on in addition to the Administrative Record.
2. Within thirty (30) days of the date the Clerk serves the Administrative Record, the Applicant will file a Statement of Issues of not more than five (5) pages setting forth the Applicant's contentions.
3. Within ~~ten (10)~~~~fourteen (14)~~ days after the Clerk serves Appellant's Statement of Issues on Respondent, Respondent will file a Statement of Issues of not more than five (5) pages setting forth its contentions.
4. Within sixty (60) days from the date Respondent files its Statement of Issues, the Hearing Officer will file the Proposed Findings of Fact and Recommended Decision in conformance with Rule 14. Notwithstanding the timeframes for objections set out in Rule 14C, objections will be filed within ~~ten (10)~~ days ~~rather than 20 days~~, and responses thereto likewise will be filed within ~~ten (10)~~ days ~~rather than 20 days~~.

Rule 7. Consolidation of Hearings

In addition to Consolidation by the Board of two or more ~~CEO Determination~~~~cases~~ pursuant to Section 8.C. of the Policy, cases may be Consolidated in accordance with this Rule 7, and this Rule 7 will apply to all such Consolidations.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- A. When two or more pending Requests for an Administrative Hearing involve common questions of law or fact, a Hearing Officer, upon request by OCERS or the Applicant, may order the Hearings Consolidated. Consolidation may be ordered for limited purposes or for all purposes.
- In determining whether to order Consolidated Hearings, the Hearing Officer will consider all relevant factors, including but not limited to the following:
1. the complexity of the issues involved;
 2. the potential prejudice to any Party, including whether granting Consolidation would unduly delay the resolution of any of the matters involved;
 3. the avoidance of duplicate or inconsistent orders; and
 4. the efficient utilization of OCERS' resources.
- B. Any Party may file a request with the Clerk **(and only the Clerk)** to Consolidate two or more pending Hearings irrespective of the procedural stages of the affected Hearings, which request will be served by the Clerk on all Parties and the Hearing Officers.
- C. In all cases, the request for Consolidation will be referred to the Hearing Officer first assigned to any of the Hearings. The Hearing Officer may decide the matter on written submittals, or may convene the Parties, either in-person or **by phone-electronically**, to hear further argument on the request for Consolidation. Failure to timely oppose Consolidation will constitute a waiver of objection to an order of Consolidation.
- D. If the Hearing Officer orders the Consolidation, all affected Hearings will be transferred to that Hearing Officer.
- E. Upon Consolidation, all hearing dates will be vacated and the Clerk will schedule a new Pre-Hearing Conference for the Consolidated Hearings. Following the Hearing, the Hearing Officer will have the option of preparing separate Proposed Findings of Fact and Recommended Decisions for each matter that was Consolidated or a single Proposed Findings of Fact and Recommended Decision.
- F. Nothing contained herein will prohibit the Parties from stipulating to Consolidated Hearings. In the event a stipulation is reached, the Parties will file a written stipulation with Clerk, signed by all Parties. The Clerk will then assign the Consolidated Hearings to the first assigned Hearing Officer.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Rule 8. Pre-Hearing Conference

- A. The Clerk will schedule a Pre-Hearing Conference to be held within ~~ten (10)~~~~thirty (30)~~ days of the service of the Administrative Record ~~on the Parties~~. The Clerk will use best efforts to schedule the Pre-Hearing Conference at a time convenient to all Parties.
- B. The Pre-Hearing Conference will be held telephonically or electronically. The Clerk will arrange for a court reporter to transcribe the conference at OCERS' expense.
- ~~B.C.~~ The Hearing Officer will not permit the Parties to argue the merits of their positions at the Pre-Hearing Conference, and the Hearing Officer is authorized to suspend the Pre-Hearing Conference if any Party violates this rule. Suspended Pre-Hearing Conferences will be rescheduled to a date that is no more than five (5) days after the originally scheduled Pre-Hearing Conference. Further attempts by a Party to argue the merits of their position will result in the Clerk immediately filing an Order to Show Cause why the case should not be dismissed.
- ~~C.D.~~ At the Pre-Hearing Conference, the Hearing Officer will advise the Applicant (whether or not the Applicant has initiated the matter) of the following:
1. The Applicant has the right to be represented by an attorney;
 2. Any financial or personal interest that the Hearing Officer has in the case, other than the Hearing Officer's contract with OCERS;
 3. The scope of the Hearing and the issues to be decided consistent with the constraints of Rule 3.E., above;
 4. The Hearing will be conducted as if the Disability Determination or CEO Determination had not taken place. This means the Hearing Officer will consider anew all of the evidence submitted and defenses asserted, without relying on the past findings of the Committee, the Board or the CEO;
 5. The Hearing Officer's purpose in the process is to find the facts relevant to the Applicant's request and provide an impartial recommendation to the Board;
 6. The Applicant has the burden of proof in establishing by a preponderance of the evidence the right to the benefit sought;
 7. The Applicant must identify witnesses and other evidence when filing the Pre-Hearing Statement, and that failure to include in the Pre-Hearing Statement the witnesses and other evidence they intend to rely on could mean that evidence will be excluded unless the Applicant shows that they could not have discovered the information earlier through the exercise of reasonable diligence;
 8. The timelines required under these Rules for filing documents and for the Hearing, and the consequences of a failure to meet those deadlines, including that the Applicant's case can be dismissed; and



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

9. Upon the completion of the Hearing, the matter will be referred to the Board pursuant to these Rules. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any Party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6.

~~D.E.~~ At the Pre-Hearing Conference, each Party will:

1. Make a good faith effort to identify the witnesses, both expert and non-expert, that it intends to call;
2. Identify any witnesses it intends to call who cannot either speak or understand English to permit OCERS to arrange a translator for the witnesses in accordance with Rule 10.K.;
3. Indicate whether it will require an opposing Party's Medical Witness to appear in person at the Hearing; and
4. Identify any witnesses the Party seeks to depose and, if possible, set mutually convenient dates for any depositions.

~~E.F.~~ No later than the Pre-Hearing Conference, OCERS, through its counsel, will identify any issues related to eligibility of the Applicant such as timeliness of the Application or ineligibility due to termination for cause, which, if correct would moot the Hearing. The Hearing Officer will give the other Parties an opportunity to respond, and may continue the Pre-Hearing Conference to do so. If the Hearing Officer finds in favor of OCERS on the issue of eligibility, the Hearing process will be ~~suspended~~ suspended, and the issue of eligibility will be referred to the Board in accordance with Section 8 of the Policy and handled as if it were a CEO Determination.

~~F.G.~~ At the Pre-Hearing Conference, the ~~Clerk Hearing Officer~~ will set the date for the Hearing.

1. The ~~Clerk Hearing Officer~~ will confer with the ~~Hearing Officer~~ and Parties to determine a mutually agreeable date for the Hearing ("Hearing Date"), as soon as reasonably practicable, but in all cases the first Hearing Date will be set no later than six (6) months after the date of the Pre-Hearing Conference.
2. Each Party will provide a good faith estimate of the amount of time it anticipates the Hearing will last. As much as practicable, the Hearing will continue from day-to-day until complete, and the ~~Clerk Hearing Officer~~ will schedule all Hearing Dates to which the Hearing Officer and Parties anticipate the Hearing will be continued until complete.
- 2-3. The Clerk will confer with the Parties to establish a Pre-Hearing Statement filing schedule in accordance with Rule 9.

~~G.H.~~ Immediately following ~~Within five (5) days of~~ the Pre-Hearing Conference, the Clerk will issue a Scheduling Order, which will include the Hearing Date(s) and the dates that each Party's Pre-Hearing Statements are due.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

H.I. After the Pre-Hearing Conference, the Hearing Officer may continue the Hearing Date only one (1) time upon a showing of good cause, as set forth in Rule 15 below.

H.J. If neither the Applicant nor the Employer, where the Employer has filed an Application on behalf of the Member (and is therefore also treated as an Applicant under these Rules), participates in the Pre-Hearing Conference, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the matter should not be dismissed, and give all Applicants (including the Employer where the Employer has filed an Application on behalf of the Member) five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless ~~at least one of~~ the Applicants shows good cause why the matter should not be dismissed, the Hearing Officer will dismiss the Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy and the Application will be referred to the Board at its regular meeting immediately following the granting of the Clerk's Order to Show Cause.

If the Hearing Officer determines that an Applicant has shown good cause, the Hearing Officer will direct the Clerk to reschedule the Pre-Hearing Conference and the Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 9. Pre-Hearing Statements

- A. The Applicant will file a Pre-Hearing Statement of up to ten (10) pages, not including exhibits, no later than sixty (60) days prior to the first Hearing Date.
- B. Respondent will file a Pre-Hearing Statement of up to ten (10) pages, not including exhibits, no later than thirty (30) days prior to the first Hearing Date.
- C. Any Party may file supplemental Pre-Hearing Statements of up to five (5) pages, not including exhibits, no later than fourteen (14) days prior to the first Hearing Date.
- D. The Pre-Hearing Statements will include the following:
 1. A statement of the issues and contentions of the Party and a brief summary of the evidence to be presented;
 2. A list and redacted copies of any expert's reports, transcripts of depositions of any witnesses, and ~~any~~ other documentary evidence on which the Party will rely, if not already in the Administrative Record. All documents will be Bates Stamped by the Applicant (or the Applicant's Attorney) in sequence with the initial Administrative Record. Duplicate documents will be rejected;
 3. The names, addresses, email addresses (if known) and telephone numbers of any non-expert witnesses whose testimony the Party intends to call as a witness for oral testimony at the Hearing and a brief description of the content of their~~that~~ testimony; and



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

4. The names, addresses, email addresses (if known) and phone numbers of any expert witnesses whom the Party intends to call as a witness for oral testimony at the Hearing and a brief description of the content of their~~that~~ testimony.
- E. If the Applicant disputes the effective date of the disability retirement, the Applicant will raise the effective date as an issue and will state Applicant's contention in the Pre-Hearing Statement.
- F. If the Applicant fails to timely file a Pre-Hearing Statement, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the case should not be dismissed, and give the Applicant five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless the Applicant shows good cause for the failure to timely file its Pre-Hearing Statement, the Hearing Officer will dismiss Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy and the Application will be referred to the Board at its regular meeting immediately following the granting of the Clerk's Order to Show Cause.

If the Hearing Officer determines that the Applicant has shown good cause, the Hearing Officer may allow the Respondent additional time to file its Pre-Hearing Statement or may re-schedule the Hearing within the time requirements of Rule 15. The Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 10. Depositions and Subpoenas

- A. **Depositions:** Witness depositions may be taken by either Party in the presence of a certified court reporter and will be taken under oath or affirmation. The Party taking the deposition will pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party will provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
- B. **Subpoenas and Related Fees/Costs:**
 1. OCERS will issue a subpoena for the personal appearance of a witness at the Hearing or at a deposition, or for the production of documents (subpoena *duces tecum*), in conformance with California Government Code Section 31535, upon the request of any Party filed at least thirty (30) seven (7) days before the Hearing Date the hearing subpoena is to be issued. Any request for a subpoena submitted less than thirty (30) days of the Hearing Date will not be honored and it will be the responsibility of the Party to subpoena their witness.
 - 1.2. Each request must~~will~~ state the witness's full name, email address (if known), phone number and the complete address of the witness's place of employment, service address or residence. OCERS will issue the subpoena; however, the requesting Party will be responsible for serving obligated to serve the subpoena, scheduling the witness and pay all associated witness fees and costs of service and production. The Party requesting oral testimony of an expert witness will in all cases be responsible for any expert witness fees.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

2-3. Any fee disputes between a witness and the requesting Party ~~is~~are independent of any proceeding between the Applicant and OCERS. Those fee disputes will be resolved by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority to decide any such dispute.

Rule 11. Conduct of Hearings

- A. All Hearings will be held at the OCERS' office located at 2223 East Wellington Avenue, Santa Ana, California 92701.
- B. The Clerk will arrange for a court reporter to be present. Oral evidence will be taken only on oath or affirmation administered by the Hearing Officer or the court reporter.
- C. A written medical report bearing the signature (including a digital signature) of the Medical Witness will be admissible in evidence as the author's direct testimony, on the express condition that the adverse Party has had the opportunity to require the Medical Witness to be present and to cross-examine the witness at the Hearing, or to depose the witness and have the deposition transcript admitted into evidence.
- D. Each Party will have the right to call and examine witnesses; to introduce exhibits, including reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, OCERS may call and examine the Applicant.
- E. The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege will be effective to the extent that they are otherwise required by statute to be recognized at the Hearing. Irrelevant and unduly repetitious evidence will be excluded.
- F. Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but will not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions. This section will not be applicable to written medical reports received into evidence pursuant to Rule ~~11.C10.C~~. Every Hearing will proceed as though each Party had made a standing objection to all inadmissible hearsay at the commencement of the Hearing.
- G. The court reporter will lodge with the Clerk the transcript of the Hearing within thirty (30) days of the final Hearing Date.
- H. The record will be closed to new evidence at the conclusion of the final Hearing Date. However, if subsequent to the final Hearing Date, a Party discovers or obtains new evidence that is relevant and not repetitive of other evidence already admitted, that Party may lodge the new evidence with the Clerk and request that the Hearing Officer include it in the Administrative Record. The Hearing



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of good cause as defined under Rule ~~11.140-I~~, the Hearing Officer allows inclusion of the new evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule ~~11.140-I~~. No rebuttals of the rebuttal will be permitted.

- I. No Party may submit a medical report or other documentary evidence not included in the Administrative Record or listed in its Pre-Hearing Statement except for purposes of impeachment, unless the Party demonstrates good cause. Likewise, no Party will be permitted to call a witness not listed in its Pre-Hearing Statement, except for purposes of impeachment, unless the Party demonstrates good cause. For purposes of this Rule, "good cause" means that the relevant evidence or witness could not have been previously produced or identified even with the exercise of reasonable diligence. The Party requesting submission of such evidence or witness will file a written request prior to the Hearing, or if unable to do so in the exercise of reasonable diligence, will make an oral request at the Hearing. The request will state the reason the evidence or witness was not timely produced or identified. After providing a reasonable opportunity for each adverse Party to be heard, the Hearing Officer will rule on such a request. If the evidence is allowed to be admitted into evidence, or the witness is allowed to testify, the Parties will have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine the Medical Witness in order to comply with Rule ~~11.C10-C~~. In no event, will good cause permit admission of medical reports or other documentary evidence relating to a new medical condition covered by Rule ~~3.F3-E~~.
- J. Each Party will have the right to submit a closing oral argument at the conclusion of the Hearing.
- K. Use of Interpreter Services.
 1. If an Applicant or a witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings will be provided to that Applicant or witness at OCERS's expense. Notice that an Applicant or witness requires interpreting services will be given to OCERS at the Pre-Hearing Conference or be included in the Party's Pre-Hearing Statement. If a Party fails to provide such notice, then the witness may not be called unless good cause is shown, as set forth Rule ~~11.140-I~~.
 2. All interpreters must be certified to provide interpreting services in administrative hearings pursuant to Government Code Section 11435.30. The interpreter must not have had any involvement in the issues of the case prior to the Administrative Hearing.
 3. If an Applicant objects to the interpreter provided by OCERS, the Applicant may supply their own interpreter, provided that the interpreter is certified under Government Code Section 11435.30. However, time for an Applicant to find and hire an interpreter will not be considered good cause to continue the Hearing. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. The Applicant will be responsible for any amounts charged by the interpreter that are over the amount OCERS would



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

have paid to an interpreter hired directly by OCERS. Fee disputes between the interpreter and the Applicant will not be resolved in this forum, and the Hearing Officer will not have authority to resolve any fee disputes between interpreters and the Parties.

Rule 12. Resolution of Disputes about Depositions and Conduct of Hearings

The Hearing Officer will resolve disputes about depositions and the conduct of the Hearing. A request for resolution of a dispute may be made verbally at a Pre-Hearing Conference, at the Hearing, or by written motion filed with the Clerk at any time prior to the Hearing. The Hearing Officer, in the exercise of sound discretion, may permit written argument or briefs.

Rule 13. Closing Briefs

- A. Each Party will have the right to submit a written closing brief. Unless the Parties waive closing briefs, the Parties will adhere to the following schedule with specific filing dates being proposed by the Clerk for filing closing briefs:
 1. The Applicant's closing brief will be filed ~~no more than~~within thirty days (30) of the date the transcript of the Hearing is lodged with the Clerk.
 2. Respondents' closing briefs will be filed within ~~no more than~~ thirty days (30) days of the date the Clerk serves the Applicant's closing brief on the other Parties.
 3. ~~Applicant's may file a~~ reply brief ~~no later than will be filed within~~ fifteen (15) days of the date that the Clerk serves Respondents' closing briefs on the Applicant.
- B. The Applicant may waive their right to file a reply brief. They must notify the Hearing Officer, Clerk, and Parties no more than five (5) days after Respondent's closing brief is filed.
- C. Each Party's closing brief may be supported by facts in the record and citation to law. The submission of additional evidence will not be permitted. The Applicant's and Respondents' closing briefs will be limited to may not exceed fifteen (15) pages and the reply brief will be limited to may not exceed ten (10) pages. ~~unless the Hearing Officer, in the proper exercise of discretion, determines that a longer limit is appropriate under the circumstances.~~ The ~~Clerk~~Hearing Officer may reject briefs exceeding the foregoing limits. A Party may submit a request in writing to the Hearing Officer to be relieved of these page limitations.

Rule 14. Hearing Officer's Findings of Fact and Recommended Decision

- A. **Time for Filing.** The Hearing Officer will file their Proposed Findings of Fact and Recommended Decision with the Clerk ~~no later than~~within sixty (60) days of the date that the Applicant's reply brief is ~~filed due~~ or, if the Parties waived closing briefs, within sixty (60) days of the date the transcript of the Hearing is due (~~i.e.~~, within 30 days of the final Hearing Date) or actually lodged (if earlier than 30 days after the final Hearing Date).



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- B. Content of Proposed Findings of Fact and Recommended Decision.** The Hearing Officer's Proposed Findings of Fact and Recommended Decision will include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) all other evidence received by the Hearing Officer; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended decision. The summary of the testimony, plus all other evidence received, will be sufficient to satisfy the requirements of Government Code Section 31534(b).
- C. Objections/Requests for Clarification.** Within ~~ten (10)~~ ~~twenty (20)~~ days from the date that the Hearing Officer files the Proposed Findings of Fact and Recommended Decision with the Clerk, any Party may file with the Clerk objections or written requests for clarification to the Hearing Officer's Proposed Findings of Fact and Recommended Decision. The Clerk will serve such objections or written requests for clarification on the Hearing Officer as well as the other Parties. The other Party(ies)ies will ~~then~~ have ~~ten (10)~~ ~~twenty (20)~~ days after service to file a response with the Clerk. Within thirty (30) days after the later of: (a) the date that Hearing Officer receives the objections or requests for clarification or (b) an adverse party's response to such objections or requests for clarification, the Hearing Officer will:
1. Affirm the Proposed Findings of Fact and Recommended Decision findings, conclusions, and recommendations as originally submitted without change, or
 2. Make such changes to the Proposed Findings of Fact and Recommended Decision as the Hearing Officer deems appropriate in light of the evidence, the objections or requests for clarification submitted by the Parties, and the responses thereto.

The objections and/or requests for clarification and the response thereto and the Hearing Officer's ~~response to final Proposed Findings of Fact and Recommended Decision following~~ any objections, will be added to the Administrative Record and submitted for consideration by the Board.

Any Party may waive their right to file objections. If they choose to waive that right, they must notify the Hearing Officer, Clerk, and Parties no more than two (2) days after the Hearing Officer's Proposed Findings of Fact and Recommended Decision is filed.

Rule 15. Continuances and Relief from Orders

- A. The deadlines and timelines established in these Rules are for the purpose of expediting the Hearing process as quickly as reasonably possible in order to give certainty to the Applicant in the retirement process. Therefore, delays, continuances, or relief should be granted for documented good cause (as defined hereafter) and any delay should be the absolute shortest necessary under the circumstances. If the Hearing Officer believes the request is primarily for the purpose of delay or caused by inattention or lack of preparation of a Party, the request ~~will should~~ be denied.
- B. Upon the request of a Party, the Hearing Officer may amend or continue the time periods set forth in these rules one (1) time, but only for good cause shown by the Party seeking the delay.
- C. Good cause for purposes of this Rule will be only for the following reasons:



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

1. The discovery of relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced (in which case there will only be one continuance permitted for each request);
 2. The need to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine a Medical Witness (in which case there will only be one continuance permitted for each request), as set forth under Rule ~~11.104~~; or
 3. The illness or disability of the Applicant, witness, attorney, or the Hearing Officer which was unknown to the person at the time of the Pre-Hearing Conference (or other time at which the deadline was set) which makes it impossible for the person to participate in the Administrative Hearing process. Relief in these instances will be granted only if the person raises the request as soon as practicable. The Hearing Officer will consider a failure to timely seek relief a waiver by the person.
- D. If a continuance is sought due to an illness or disability affecting an attorney who will not be able to participate in the process within a reasonably short period of time, then the continuance will be for a maximum of sixty (60) days to secure substitute counsel, and the Clerk will schedule a Pre-Hearing Conference pursuant to Rule 7.
- E. If a continuance is sought due to an illness or disability affecting the Hearing Officer, and the Hearing Officer cannot proceed within the time period set forth in Rule 17, below, the Hearing Officer will be recused and the Clerk will appoint a new Hearing Officer pursuant to Rule 4 and schedule a new Pre-Hearing Conference pursuant to Rule ~~87~~.
- F. If good cause is found to exist to reschedule a Hearing, the Hearing Officer will order ~~that~~ the Clerk to propose new hearing dates no more than sixty (60) days from the date of the previously scheduled hearing, schedule a Pre-Hearing Conference no more than seven (7) days from the date of the Hearing Officer's order and the Hearing Date will be reset no more than ninety (90) days from the date of the Pre-Hearing Conference. The Hearing Officer will order the Clerk to schedule a Pre-Hearing Conference only if it is determined that the Parties are unable to agree upon a new hearing date proposed by the Clerk.
- G. Until such time as the matter has been referred to the Board, the Hearing Officer will maintain jurisdiction over the matter and may, upon any terms as may be just, may relieve a party from an order, or other action taken against that Party through mistake, inadvertence, surprise, or excusable neglect on the part of the Party. Application for this relief will be made within a reasonable time. Once the matter has been placed on the Board agenda, the Hearing Officer will no longer have jurisdiction.

Rule 16. Hearing and Action by the Board

- A. The Clerk will refer to the Board for its consideration the Hearing Officer's Proposed Findings of Fact and Recommended Decision as well as any related objections/requests for clarification,



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

responses thereto, and the Hearing Officer's ~~response to final Proposed Findings of Fact and Recommended Decision following~~ any objections.

B. The Clerk will place the matter on the agenda of a regular meeting of the Board which will be no later than ~~one (1) two (2)~~ calendar months after the later of the date the Clerk receives the Hearing Officer's Proposed Findings of Fact and Recommended Decision; or the date the Clerk receives the Hearing Officer's ~~Response to Objections final Proposed Findings of Fact and Recommended Decision~~ following any objections or requests for clarification from the Parties.

C. The Clerk will provide written notice to the Parties, ~~and the~~ Hearing Officer, ~~and Employer~~ of the time and date of the regular meeting where the matter will be placed on the Board's agenda for action. The Parties will have the opportunity to be heard at the Board meeting subject to appropriate time limitations as set out in the OCERS By-laws.

D. The Applicant (or their Attorney) may request that their matter be removed from the Board agenda. The Clerk will grant one (1) continuance of the matter to the next regular meeting of the Board. No additional continuances will be granted. If Applicant wishes to delay the referral of their matter to the Board beyond the one month extension, they will be required to appear before the Board and show cause as to why an additional extension should be granted. If granted, the matter will be referred to the to the next regular meeting of the Board.

E. Good cause for this the purposes of this Rule will be granted for the following:

1. The illness of the Applicant or their Attorney.
2. The illness of an Applicant's immediate family member (i.e., i.e., Spouse, child, mother, father.

A continuance will not be granted based upon the lack of preparation by the Applicant or their Attorney.

~~C.F.~~ Pursuant to Government Code Section 31534, after reviewing the Hearing Officer's Proposed Findings of Fact and Recommended Decision and any related objections/requests for clarification, the Board may:

1. Approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer; or
2. Require a transcript or summary of all testimony, plus all other evidence received by the Hearing Officer; and upon receipt thereof, take such action as the Board in its opinion is indicated by such evidence; or
3. Refer the matter back with or without instructions to the Hearing Officer for further proceedings; or
4. Set the matter for hearing before itself. At such hearing, the Board will hear and decide the matter.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

D.G. The Hearing Officer's Proposed Findings of Fact and Recommended Decision (and responses to objections/requests for clarification) will be sufficient to satisfy the requirements of Government Code Section 31534(b) and Rule ~~16.F.2-15-D.2~~, above.

E.H. In any case where the Board ~~makes a decision~~decides under Rule ~~16.F.2 or 16.F.415-D.2 or 15-D.3~~, above, the Board may approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer or prepare its own Findings of Fact and Decision, either itself or through direction to Staff with its approval.

F.I. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6. Immediately following the Board meeting, the Clerk will~~The Clerk will~~ notify the Applicant (and attorney), Hearing Officer and the Employer by email of the Board's final action. Notice will be effective the date of the Board meeting~~when the email is sent~~.

Rule 17. Dismissal for Failure to Pursue the Administrative Review and Hearing

Except as otherwise provided, if as a result of ~~the~~ Applicant's failure (or that of their Attorney) to pursue the case within one year after the filing of a Request for Administrative Hearing (or the Board's referral of a case to a Hearing Officer), or to comply with any of these Rules after two (2) written warnings from the Clerk, a Hearing is not conducted within one year after the filing of a Request for Administrative Hearing (or the Board's referral of a case to a Hearing Officer), the Hearing Officer will dismiss the Hearing and the matter will proceed as if no Request for Administrative Review or Hearing had been filed in accordance with Section 5 of the Policy, and the Application will be referred to the Board at its next regular meeting immediately following dismissal by the Hearing Officer.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

1. Intent

The Board of Retirement (“Board”) of the Orange County Employees Retirement System (“OCERS”) intends that this Administrative Review and Hearing Policy (“Policy”) will apply to and govern OCERS’ Administrative Review and Administrative Hearing processes for Disability Determinations, Benefit Determinations and other final administrative orders or decisions of the Board. Any person who is entitled to a hearing and who does not request one under this Policy will be deemed to have waived the right to a hearing.

Nothing in this Policy will be deemed an acknowledgement by OCERS that any procedure set forth herein, including an administrative hearing, is required by law. The Board retains the right to amend this Policy or vary the process set forth in this Policy in any manner consistent with the law.

2. Definitions

The following terms will have the meanings set forth below.

Administrative Hearing; Hearing: The proceedings before a Hearing Officer or the Board on the merits of a particular Request for Administrative Hearing and related Application.

Administrative Record: The documents and other records relied upon by Staff or a fact-finding body in an Administrative Review or Hearing conducted pursuant to this Policy, including any documents submitted on behalf of an Applicant, documents prepared by OCERS or by independent sources that are received by OCERS, any transcripts or recordings of testimony, or any other documents relevant to an Application.

For purposes of any proceeding following an Administrative Review or Hearing, the Administrative Record also includes written correspondence, Party Pre-Hearing Statements, the Hearing Officer’s Proposed Findings of Fact and Recommended Decision, Party objections, hearing transcripts, and other documents relevant to an Application.

Administrative Review: The process described in this Policy (including the Rules) by which a Party may seek an administrative review of a Benefit Determination, CEO Determination or Disability Determination or any other final administrative order or decision of the Board.

Applicant; Member: A member of OCERS, or a person or other entity on behalf of a member of OCERS (including but not limited to the member’s surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member who files an Application or who seeks Administrative Review of a Benefit Determination.

Application: The submittal, including any amendments thereto, filed with OCERS by or on behalf of an Applicant for either: (i) a disability retirement; or (ii) a service retirement.

Authorization for Disclosure and Use of Protected Health Information: The form that is filed with the Request for Administrative Hearing authorizing Staff to obtain and use Member medical records. **Benefit Determination:** A determination made by Staff in connection with (i) a service retirement Application; (ii) a disability retirement Application with the exception of a Disability Determination; or (iii) an Applicant’s benefit (e.g., calculation of the amount of the benefit, benefit effective date, reciprocity determinations).



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

CEO Determination: A Benefit Determination made by the CEO or the CEO's designee.

Clerk, Clerk of the Hearing Officers. A person or persons designated by OCERS General Counsel or their designee to fulfill the duties of providing administrative assistance to the Hearing Officers appointed by OCERS.

Consolidation/Consolidated Review or Hearings. Where two or more Requests for Administrative Review or Hearing that have common issues of fact or law are consolidated for Administrative Review or Hearing pursuant to Section 8 of this Policy or Rule 7 of the Rules.

Days: All days are Business Days unless otherwise noted. Business Days are Monday through Friday, excluding federal and State of California Holidays.

Disability Committee, Committee: A committee of the Board, chartered by the Board to review Applications for disability retirement and make recommendations to the Board with respect to Disability Determinations.

Disability Determination: The following determinations: (1) whether the Applicant is permanently incapacitated for performance of their duties ; (2) whether the disability was service-connected; and (3) the effective date of the disability retirement. Any other determinations affecting a disability retirement Application, including, but not limited to, timeliness of the Application, ineligibility due to termination for cause, and applicability of a disability offset, are Benefit Determinations pursuant to this Policy and subject to a CEO Determination.

Employer: The public agency who employed the OCERS member whose benefits are at issue in any given matter. The Employer is a Party to an Administrative Review but does not need to participate in an Administrative Review or Hearing. If the Employer initiates an Administrative Review or Hearing, it will act in the role of the Applicant with the corresponding burden of proof.

Expedited Administrative Hearing: An alternative administrative Hearing process, set forth in Rule 6 of the Rules.

Hearing Officer: A referee appointed pursuant to Government Code section 31533 who is either a member of the State Bar selected under the OCERS Hearing Officer Selection and Retention Policy, or a member of the Board.

Medical Witness: A person who by profession is a physician, surgeon, psychologist, optometrist, dentist, or podiatrist licensed by the State of California or by such other jurisdiction of the United States in which such person maintains a regular practice in good standing with their licensing board.

Party or Parties: OCERS, an Applicant who seeks an Administrative Review or Hearing under this Policy, the Employer, and any other person who may be affected by the Board's decision and who participates in the Administrative Review or Hearing.

Pre-Hearing Statements: Statements filed by the Parties pursuant to Rule 9 of the Rules.

Proposed Findings of Fact and Recommended Decision: The recommendation of the Hearing Officer to the Board, as set forth in Rule 14 of the Rules.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Request for Administrative Review or Request for Administrative Hearing: The document filed by the Applicant (or in limited cases, the Employer) to seek a review of a decision of the Committee or Staff and initiate the Administrative Review or Administrative Hearing process. Where the Applicant requests a Hearing or the Board refers the matter to a Hearing, the document will be referred to as a Request for Administrative Hearing. Where the Applicant seeks review of a Benefit Determination or CEO Determination, the document will be referred to as a Request for Administrative Review.

Respondent: OCERS will always be the primary Respondent. The Employer may, but is not required to respond to the request for Administrative Review or Hearing. Where the Employer initiates a review or hearing, the Applicant may join as a Respondent.

Rules: The "Orange County Employees Retirement System Administrative Rules," attached as an appendix to and made part of this Policy.

Staff: OCERS staff members other than the CEO and the CEO's designee.

3. Disability Determination Process

For Disability Determinations:

- A. Staff will investigate all disability retirement Applications to determine (i) whether the Applicant is permanently incapacitated from the performance of their usual duties; (ii) whether the incapacity arose out of and in the course of employment, and (iii) the appropriate effective date of any disability retirement allowance. In undertaking this investigation, Staff will have the discretion, based on Staff's review of the Application (including the Applicant's treating physicians' medical reports) to determine whether or not to seek further medical examination of the Applicant, expert medical advice, or expert review of Applicant's medical records. Upon completion of the investigation, if the Staff's recommendation is to grant the disability retirement Application in full, Staff will forward the recommendation to the CEO. If the Staff's recommendation is to deny (or grant only in part) the disability retirement Application, Staff's recommendation will be presented to the Committee. Staff's recommendations will include recommendations regarding permanent incapacity, service connection, and effective date.
- B. When the Staff recommendation is to grant the disability retirement Application in full, the recommendation will be reviewed by the CEO. If after the CEO reviews the disability retirement Application, the CEO concurs with Staff recommendation to grant the disability retirement Application in full, the CEO will recommend that the Board grant the Application in full. The CEO's recommendation will be placed on the consent agenda at the next regularly scheduled meeting of the Board for action in accordance with Section 6, below. Staff will notify the Applicant (and Applicant's attorney, if any) and the Employer of the date and time of the meeting at which the matter will be presented. If the CEO disagrees with the Staff's recommendation, the Application will be forwarded to the Committee for review and determination in accordance with Section 3. C., below.
- C. When the Staff recommendation is to deny (or grant only in part) the disability retirement Application or when the CEO disagrees with Staff's recommendation to grant the disability



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

retirement Application in full, the disability retirement Application and the Staff recommendation under Section 3.A., above, will be reviewed by the Committee at a duly-noticed meeting of the Committee. Staff will give Applicant (and the Applicant's attorney, if any) and the Employer notice of the date and time of the Committee meeting at which they will have the opportunity to be heard by the Committee.

- D. After the Committee reviews the disability retirement Application under Section 3.C, above, the Committee will determine whether to recommend that the Board grant or deny the Application, in full or in part. Staff will notify the Applicant (and Applicant's attorney) and the Employer of the Committee's recommendation. They will also be provided with instructions on how to request an Administrative Hearing to challenge any part of the Committee's recommendation. Notice will be effective when the message is sent.
- E. In the event the Committee recommends that the Application be denied in full or in part, the Applicant will have ninety (90) days from the date of the notice required by 3.D., above, to file a Request for Administrative Hearing with the Clerk (and only the Clerk), as set forth in the Rules. In the event the Committee recommends the Application be granted in full, any other Party including the Employer aggrieved by the recommendation will have ten (10) days from the date of the notice required by 3.D., above, to file a written Request for Administrative Hearing as set forth in the Rules.
- F. A Request for Administrative Review or Hearing may only be filed using the form approved by OCERS. That form must be signed and dated by the Applicant (or the Applicant's Attorney) to be valid. Forms that are not dated and signed will be rejected by the Clerk. A request submitted in any other form (i.e., email, letter) will be rejected by the Clerk.
- G. Where the Committee recommends (i) a grant of a non-service connected disability retirement, but denial of a service-connected disability retirement; or (ii) a grant of either a service-connected or non-service connected disability retirement and the Applicant disputes the Committee's recommendation regarding the effective date of disability, the Applicant may request a Hearing on the denial of a service-connected disability or the effective date of disability. In such cases, the issues not disputed will not be at issue in the Hearing. Staff will forward those non-disputed issues to the Board for final action.
- H. If no Request for Administrative Hearing is filed within the time limit set forth in 3.E., above, the Committee's recommendation will be placed on the consent agenda at the next regularly scheduled meeting of the Board for action in accordance with Section 5, below.

4. Benefit Determination Review Process

For Benefit Determinations:

- A. Staff will notify the Member of the Benefit Determination, and the Member may request a CEO Determination within ninety (90) days of the date of the notice of the Benefit Determination. The CEO Determination will be in the form of a written review completed and returned to the Member within 90 days of receipt of the request for a CEO Determination, and will include a synopsis of the



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Member's request and citation to any authority relied upon by the CEO in making the CEO Determination. In addition, the written review will include instructions regarding how the Member may request review of the CEO Determination by the Board.

- B. The Member will have ninety (90) days from the date of the notice of the CEO Determination provided in 4.A., above, to file a Request for Administrative Review with the Clerk (and only the Clerk). If no timely Request for Administrative Review is filed, the CEO Determination will be final.

5. Board Action on Disability Determination Upon Recommendation from the CEO or Disability Committee

- A. **Consent Agenda.** Recommendations from the CEO to grant an Application for disability retirement in full, and Committee recommendations for which there has been no timely Request for an Administrative Hearing under Section 3, above, will be considered by the Board on its consent agenda.
- B. **Removing Items from Consent Agenda/Action.** Any member of the Board may remove an item from the consent agenda to be discussed and voted on separately. Such items will be considered by the Board in closed session as set forth in Section 7, below.
- C. **Action on Recommendations from the CEO.** After consideration by the Board, the Board will either (i) adopt the recommendation of the CEO; or (ii) refer the matter to the Disability Committee for consideration.
- D. **Action on Recommendations from the Disability Committee.** After consideration by the Board, the Board will either (i) adopt the recommendation of the Disability Committee; or (ii) refer the matter to a Hearing Officer for a Hearing (unless a Hearing is waived by the Applicant, in which case the Committee recommendation will be adopted).

6. Board Action on Disability Determinations After Hearing.

Following an administrative Hearing and the Board's receipt of the Hearing Officer's Proposed Findings of Fact and Recommended Decision, the Board will consider the matter at a duly-noticed meeting of the Board and take action in accordance with Rule 16 of the Rules.

7. Closed Sessions for Disability Determinations

Except for matters on the Disability Committee's or Board's consent agenda, the Disability Committee or Board will adjourn to a closed session, pursuant to Cal. Gov't Code § 54957(b), to discuss a recommended Disability Determination in connection with an Application for disability retirement, or a Hearing Officer's Proposed Findings of Fact and Recommended Decision in connection with a Disability Determination, unless the Applicant requests the matter be heard in open session.

- A. **Closed Session With the Parties Present.** The Committee or the Board will conduct any discussion of an Application, including instances where the Board convenes and conducts its own Hearing, in closed session. Attendance at the closed session will be limited to 1) the Applicant; 2) counsel for



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

the Applicant as well as any individual deemed by the Board Chair to be essential to the Applicant in the matter; 3) any OCERS disability Staff members and/or attorneys acting as advocates for the Staff recommendation or Committee recommendation; 4) Staff necessary to facilitate the Hearing (including the Recording Secretary, Clerk of the Hearing Officers and IT Staff to provide technical support); 5) the CEO; 6) the OCERS General Counsel (or their designee); and 7) outside counsel to the Board. Additionally, in the event the Board conducts its own hearing, witnesses called to present testimony may be permitted to attend the closed session to do so.

- B. Closed Session Without Parties.** Before or after the Committee's or Board's consideration of a matter in a closed session under A, above, the Committee or the Board may adjourn to a closed session with only the CEO and the OCERS General Counsel (or their designee) to provide legal advice to the Committee or the Board in connection with the merits of the case and the Board's legal obligations.

8. Board Action on CEO Determinations (i.e., CEO Benefit Determinations).

- A. Board Review of CEO Determinations.** In the case of a timely Request for Administrative Review of a CEO Determination, the Board will consider the matter at a duly noticed regular meeting of the Board. Staff will make a recommendation to the Board regarding the issues raised in the CEO Determination and the Applicant (or the Applicant's attorney) will have the opportunity to be heard.
- B. Board's Options.** At the meeting, the Board may choose to hear and conduct the review at that meeting, continue it to a later meeting, or refer the matter to a Hearing Officer for a Hearing to be conducted pursuant to the Rules. If the Board chooses to hear and determine the matter, the Board's decision will be final. If the Board chooses to refer the matter to a Hearing, the Board will identify the factual and legal issues to be considered by the Hearing Officer.

In determining whether to hear and determine the matter or refer the matter to a Hearing Officer, the Board will consider all relevant factors, including, but not limited to, the following:

- i. whether the disputed issues are legal, not factual, in nature;
 - ii. relevant judicial authority on the disputed legal issue(s);
 - iii. whether the Board and/or a Hearing Officer has previously ruled on substantively similar issue(s);
 - iv. whether the Applicant is represented by an attorney;
 - v. the efficient use of OCERS resources; and
 - vi. the interests of the Applicant in receiving a timely decision.
- C. Consolidation of Reviews.** When review by the Board of two or more CEO Determinations involves common questions of law or fact, the Board may order a Consolidated Review or Consolidated Hearing of the matters. Consolidation may be ordered for limited purposes or for all purposes.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

In determining whether to order a Consolidation of the CEO Determinations, the Board will consider all relevant factors, including, but not limited to, the following:

- i. the complexity of the issues involved;
- ii. the potential prejudice to any party, including whether a Consolidation would result in undue delay;
- iii. the avoidance of duplicate or inconsistent orders; and
- iv. the efficient utilization of OCERS resources.

9. Board Action on CEO Determinations After a Hearing.

In the case of a CEO Determination referred by the Board to a Hearing, the Board will consider the Hearing Officer’s Proposed Findings of Fact and Recommended Decision at a duly-noticed meeting of the Board in accordance with Rule 16 of the Rules. The Board may adopt the Hearing Officer’s recommendations or make its own determination based on the Administrative Record and the Board’s decision will be final.

10. Policy Review

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

11. Policy History

This Policy was adopted by the Board of Retirement on February 19, 2002, amended on August 17, 2020 and most recently on XXXX.

Secretary’s Certificate

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

Steve Delaney
Secretary of the Board

_____ Date



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Appendix - Administrative Rules

Rule 1. Definitions

All capitalized terms contained within these Rules will have the meaning set forth in Section 2 of the OCERS Administrative Review and Hearing Policy.

Rule 2. Filing of Documents

A. Filing of Documents

1. All documents required or permitted to be filed by any Party in connection with a Hearing will be filed with the Clerk (and only the Clerk).
2. Filing of documents will be done electronically, except that an Applicant (and only the Applicant) may opt to file documents in person or by US Mail. Applicants that opt for filing documents in person or by US Mail, must inform the Clerk of this in writing at the time they file their Request for Administrative Hearing. The Clerk will then inform all other Parties and the Hearing Officer that the Applicant has opted to file documents in person or by US Mail.
 - i. Documents filed in person will be deemed filed on the day received by OCERS.
 - ii. Documents filed by US Mail will be deemed filed on the date post-marked on the envelope containing the documents.
 - iii. Documents filed electronically will be deemed filed on the date electronically received by the Clerk.

B. Service of Documents

1. The Clerk (and only the Clerk) will serve on all Parties and the Hearing Officer any documents filed by a Party or the Hearing Officer within one (1) business day of receipt of the documents by the Clerk. Service by anyone other than the Clerk will be considered defective.
2. Service by the Clerk will be electronic and the Clerk's file stamp will constitute proof of service, except where the Applicant has opted to file by US Mail pursuant to A.2., above, in which case the Clerk will serve documents on the Applicant by US Mail. In that case, the Applicant will be deemed to have received service three (3) days after the date the Clerk deposits the document in the US Mail. Electronic service will be deemed served upon electronic transmission by the Clerk.

Rule 3. Administrative Hearing Request, Scope, and Settlement

- A. Request for Administrative Hearing.** A written Request for Administrative Hearing must be filed with the Clerk within the time frame set forth in Sections 3 and 4 of the Policy. The Request must



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- include a short and plain statement of the grounds for the request and a signed Authorization for Use and Disclosure of Protected Health Information.
- B. **Referral from the Board.** In the event the Board refers a matter to a Hearing Officer for a Hearing (pursuant to Sections 5.D. or 8.B. of the Policy), the referral from the Board will be considered the Request for Administrative Hearing, but for all procedural purposes under these Rules, the request will be deemed to have been filed by the Applicant.
 - C. **Permitted Representatives, Attorneys.** Any Party is entitled, at the Party's expense, to be represented by an attorney at any stage of the proceedings. Such attorney must be a current, active member of the California State Bar in good standing. A Party must immediately file with the Clerk a written notice of the hiring, changing, or dismissal of an attorney. Absent such written designation, OCERS will not recognize any attorney or other individual claiming to represent a Party, including but not limited to, an attorney in fact (under a power of attorney) or the Applicant's spouse.
 - D. **Burden of Proof.** The Applicant will have the burden of proof by a preponderance of the evidence to establish the right to the benefit sought. Where the Employer files the Request for Administrative Hearing, the Employer will have the burden of proof by a preponderance of the evidence to demonstrate that the Committee's recommendation should be overturned, and the Employer will be bound by all of the procedural rules applicable to the Applicant under these Rules.
 - E. **Scope of Hearing.**
 - 1. The Hearing on a Disability Determination will only address the issues of permanent incapacity, service connection, and effective date. All other issues related to a disability retirement Application are subject to the Benefit Determination process under Sections 4 or 8 of the Policy.
 - 2. In accordance with Section 8 of the Policy, the Hearing on a CEO Determination will only address the factual and legal issues that are identified by the Board for consideration by the Hearing Officer.
 - 3. Except as set forth in these Rules, the Hearing Officer will not make a finding or recommendation on any issue that was not raised in the Applicant's Request for Administrative Hearing or included in the Board's referral of the matter to a Hearing. Likewise, the Hearing Officer will not consider any evidence or make a finding or recommendation on any medical condition not included in the disability retirement Application or that was not previously evaluated by Staff, except as provided in subsection 4, below.
 - 4. If at any time during the Hearing process the Applicant either (i) alleges an injury or disease not listed in the disability retirement Application or (ii) raises an issue that was not previously presented to the Committee, the Hearing process will be suspended by the Hearing Officer and the Application will be treated as an amended Application. The amended Application will be referred back to Staff to be processed. If the Committee subsequently recommends a denial of the amended Application, the matter will be returned to the Hearing Officer who will consider all the medical conditions (those raised in the Application and the amended Application). A



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

new Hearing Date, Pre-Hearing Conference and deadlines for Pre-Hearing Statements will be set in accordance with Rule 8.

- F. **Settlement.** If at any time during the Hearing process it becomes apparent to Staff that a different result is appropriate, Staff may request that the Hearing Officer suspend the Hearing and refer a settlement to the Board. If the Board approves a settlement with the Applicant, the Hearing will be dismissed.

Rule 4. Assignment of Hearing Officers

- A. **Assignment of Hearing Officer.** Hearing Officers are selected and placed on the panel pursuant to OCERS' Hearing Officer Selection and Retention Policy. The Clerk will assign the Hearing Officer on a rotational basis, to ensure to the extent possible that each Hearing Officer on the panel is assigned an equal number of cases. When the Applicant files a Request for Administrative Hearing, the Clerk will serve notice to all Parties, including the Hearing Officer, indicating the name and address of the Hearing Officer to whom the matter is assigned, and that notice will include information regarding the opportunity to challenge a Hearing Officer as set forth below.
- B. **Challenge/Removal of Hearing Officer.** A Party may object to a Hearing Officer in accordance with the following procedures.
 1. **Peremptory Challenge:** Any Party other than OCERS is entitled to one (1) peremptory (without cause) challenge to the assignment of the Hearing Officer. The challenge must be filed with the Clerk within ten (10) days of the date of the notice assigning the Hearing Officer. If the Applicant opts for service by US Mail, the time period for filing a challenge will be extended by three (3) days. In the event of a peremptory challenge, the Clerk will re-assign the case to another Hearing Officer selected in the same manner as the first Hearing Officer. In the event no challenge is made to a proposed Hearing Officer, or after the exhaustion of all challenges, the Clerk will notify the Parties that the matter will proceed with the assigned Hearing Officer.
 2. **Removal for Cause:** Any Party, including OCERS, may challenge a Hearing Officer for cause by filing a request at any time, with supporting declarations made under penalty of perjury and any other evidence upon which the Party is relying. Any opposing Party will have ten (10) days from the Clerk's service of the challenge for cause on all Parties to file a response to the request to remove for cause. The Clerk will then randomly assign the removal request to another Hearing Officer, who will consider all evidence and arguments for and against removal of the Hearing Officer and file a ruling with the Clerk within thirty (30) days from assignment. Cause for removal will be limited to demonstrated bias against a Party or counsel based on a personal or financial relationship (other than the Hearing Officer's contract with OCERS) that would cause a reasonable person to doubt the Hearing Officer's ability to render an impartial decision. If the request for removal is granted, the Clerk will re-assign the case to another Hearing Officer (other than the Hearing Officer who heard the challenge) in the same fashion as selection of the first Hearing Officer.
 3. **Removal Due to Unforeseen Circumstances:** If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause,



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

the Parties other than OCERS are entitled to a peremptory challenge to the new Hearing Officer in accordance with subsection B.1 of this Rule.

4. **Assignment After Removal Due to Unforeseen Circumstances:** If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause, any hearing date will be vacated and the Clerk will assign a new Hearing Officer pursuant to Rule 4.A above and schedule a new Pre-Hearing Conference pursuant to Rule 7, below.
- C. **Recusal of Hearing Officer.** If at any time the Hearing Officer determines that there is cause for their recusal, the Hearing Officer will immediately file with the Clerk a statement of recusal, and the Clerk will reassign the case pursuant to Rule 4.A.
- D. This Rule 4 does not apply to cases where the Board refers the matter back to the Hearing Officer under Section 8.B. of the Policy or cases that are consolidated under Rule 7.

Rule 5. Preparation and Service of Administrative Record

Within sixty (60) days of the filing of a Request for Administrative Hearing, Staff will assemble and the Clerk will serve on the Hearing Officer and each Party the initial Administrative Record. Except as provided in Rule 6, a Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer will decide the admissibility of all evidence.

Rule 6. Expedited Administrative Hearing

- A. **Provisions for Expedited Administrative Hearing.** Expedited Administrative Hearing is an irrevocable waiver of the Applicant's right to the process described in Rules 7 through 12. The goal of the Expedited Administrative Hearing process is to complete the Hearing in less than six months. The Hearing Officer's Proposed Findings of Fact and Recommended Decision will be based only on the Administrative Record and written arguments without in-person testimony or argument.
- B. **Availability of Expedited Administrative Hearing.**
 1. An Expedited Administrative Hearing is only available for those cases that OCERS General Counsel determines the process is appropriate.
 2. The determination as to whether Expedited Administrative Hearing is appropriate will be made in the sole discretion of the OCERS General Counsel, on a case-by-case basis. In doing so, the General Counsel will consider whether: there are any material facts in dispute; whether the introduction of testamentary evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant's condition is such that time is of the essence in completing the Hearing process.
 3. In the event the General Counsel determines that a matter is appropriate for Expedited Administrative Hearing, the Clerk will notify the Applicant of this determination and the Applicant's right to accept or reject the Expedited Administrative Hearing along with a form in



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

which to do so. The Applicant may file the acceptance or rejection any time prior to the Clerk's service of the Administrative Record on the Parties.

- C. **Timeline.** The Expedited Administrative Hearing will be conducted according to the following timeline.
1. Within ten (10) days of the date the Clerk serves the Administrative Record in accordance with Rule 5, each party may lodge with the Clerk any additional written evidence that it seeks to rely on in addition to the Administrative Record.
 2. Within thirty (30) days of the date the Clerk serves the Administrative Record, the Applicant will file a Statement of Issues of not more than five (5) pages setting forth the Applicant's contentions.
 3. Within ten (10) days after the Clerk serves Appellant's Statement of Issues on Respondent, Respondent will file a Statement of Issues of not more than five (5) pages setting forth its contentions.
 4. Within sixty (60) days from the date Respondent files its Statement of Issues, the Hearing Officer will file the Proposed Findings of Fact and Recommended Decision in conformance with Rule 14. Notwithstanding the timeframes for objections set out in Rule 14C, objections will be filed within ten (10) days, and responses thereto likewise will be filed within ten (10) days.

Rule 7. Consolidation of Hearings

In addition to Consolidation by the Board of two or more CEO Determinations pursuant to Section 8.C. of the Policy, cases may be Consolidated in accordance with this Rule 7, and this Rule 7 will apply to all such Consolidations.

- A. When two or more pending Requests for an Administrative Hearing involve common questions of law or fact, a Hearing Officer, upon request by OCERS or the Applicant, may order the Hearings Consolidated. Consolidation may be ordered for limited purposes or for all purposes.
- In determining whether to order Consolidated Hearings, the Hearing Officer will consider all relevant factors, including but not limited to the following:
1. the complexity of the issues involved;
 2. the potential prejudice to any Party, including whether granting Consolidation would unduly delay the resolution of any of the matters involved;
 3. the avoidance of duplicate or inconsistent orders; and
 4. the efficient utilization of OCERS' resources.
- B. Any Party may file a request with the Clerk (and only the Clerk) to Consolidate two or more pending Hearings irrespective of the procedural stages of the affected Hearings, which request will be served by the Clerk on all Parties and the Hearing Officers.
- C. In all cases, the request for Consolidation will be referred to the Hearing Officer first assigned to any of the Hearings. The Hearing Officer may decide the matter on written submittals, or may



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

convene the Parties, either in-person or by phone, to hear further argument on the request for Consolidation. Failure to timely oppose Consolidation will constitute a waiver of objection to an order of Consolidation.

- D. If the Hearing Officer orders the Consolidation, all affected Hearings will be transferred to that Hearing Officer.
- E. Upon Consolidation, all hearing dates will be vacated and the Clerk will schedule a new Pre-Hearing Conference for the Consolidated Hearings. Following the Hearing, the Hearing Officer will have the option of preparing separate Proposed Findings of Fact and Recommended Decisions for each matter that was Consolidated or a single Proposed Findings of Fact and Recommended Decision.
- F. Nothing contained herein will prohibit the Parties from stipulating to Consolidated Hearings. In the event a stipulation is reached, the Parties will file a written stipulation with Clerk, signed by all Parties. The Clerk will then assign the Consolidated Hearings to the first assigned Hearing Officer.

Rule 8. Pre-Hearing Conference

- A. The Clerk will schedule a Pre-Hearing Conference to be held within ten (10) days of the service of the Administrative Record. The Clerk will use best efforts to schedule the Pre-Hearing Conference at a time convenient to all Parties.
- B. The Pre-Hearing Conference will be held telephonically or electronically. The Clerk will arrange for a court reporter to transcribe the conference at OCERS' expense.
- C. The Hearing Officer will not permit the Parties to argue the merits of their positions at the Pre-Hearing Conference, and the Hearing Officer is authorized to suspend the Pre-Hearing Conference if any Party violates this rule. Suspended Pre-Hearing Conferences will be rescheduled to a date that is no more than five (5) days after the originally scheduled Pre-Hearing Conference. Further attempts by a Party to argue the merits of their position will result in the Clerk immediately filing an Order to Show Cause why the case should not be dismissed.
- D. At the Pre-Hearing Conference, the Hearing Officer will advise the Applicant (whether or not the Applicant has initiated the matter) of the following:
 - 1. The Applicant has the right to be represented by an attorney;
 - 2. Any financial or personal interest that the Hearing Officer has in the case, other than the Hearing Officer's contract with OCERS;
 - 3. The scope of the Hearing and the issues to be decided consistent with the constraints of Rule 3.E., above;
 - 4. The Hearing will be conducted as if the Disability Determination or CEO Determination had not taken place. This means the Hearing Officer will consider anew all of the evidence submitted and defenses asserted, without relying on the past findings of the Committee, the Board or the CEO;



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

5. The Hearing Officer's purpose in the process is to find the facts relevant to the Applicant's request and provide an impartial recommendation to the Board;
 6. The Applicant has the burden of proof in establishing by a preponderance of the evidence the right to the benefit sought;
 7. The Applicant must identify witnesses and other evidence when filing the Pre-Hearing Statement, and that failure to include in the Pre-Hearing Statement the witnesses and other evidence they intend to rely on could mean that evidence will be excluded unless the Applicant shows that they could not have discovered the information earlier through the exercise of reasonable diligence;
 8. The timelines required under these Rules for filing documents and for the Hearing, and the consequences of a failure to meet those deadlines, including that the Applicant's case can be dismissed; and
 9. Upon the completion of the Hearing, the matter will be referred to the Board pursuant to these Rules. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any Party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6.
- E. At the Pre-Hearing Conference, each Party will:
1. Make a good faith effort to identify the witnesses, both expert and non-expert, that it intends to call;
 2. Identify any witnesses it intends to call who cannot either speak or understand English to permit OCERS to arrange a translator for the witnesses in accordance with Rule 10.K.;
 3. Indicate whether it will require an opposing Party's Medical Witness to appear in person at the Hearing; and
 4. Identify any witnesses the Party seeks to depose and, if possible, set mutually convenient dates for any depositions.
- F. No later than the Pre-Hearing Conference, OCERS, through its counsel, will identify any issues related to eligibility of the Applicant such as timeliness of the Application or ineligibility due to termination for cause, which, if correct would moot the Hearing. The Hearing Officer will give the other Parties an opportunity to respond, and may continue the Pre-Hearing Conference to do so. If the Hearing Officer finds in favor of OCERS on the issue of eligibility, the Hearing process will be suspended, and the issue of eligibility will be referred to the Board in accordance with Section 8 of the Policy and handled as if it were a CEO Determination.
- G. At the Pre-Hearing Conference, the Clerk will set the date for the Hearing.
1. The Clerk will confer with the Hearing Officer and Parties to determine a mutually agreeable date for the Hearing ("Hearing Date"), as soon as reasonably practicable, but in all cases the



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

first Hearing Date will be set no later than six (6) months after the date of the Pre-Hearing Conference.

2. Each Party will provide a good faith estimate of the amount of time it anticipates the Hearing will last. As much as practicable, the Hearing will continue from day-to-day until complete, and the Clerk will schedule all Hearing Dates to which the Hearing Officer and Parties anticipate the Hearing will be continued until complete.
 3. The Clerk will confer with the Parties to establish a Pre-Hearing Statement filing schedule in accordance with Rule 9.
- H. Immediately following the Pre-Hearing Conference, the Clerk will issue a Scheduling Order, which will include the Hearing Date(s) and the dates that each Party's Pre-Hearing Statements are due.
- I. After the Pre-Hearing Conference, the Hearing Officer may continue the Hearing Date only one (1) time upon a showing of good cause, as set forth in Rule 15 below.
- J. If neither the Applicant nor the Employer, where the Employer has filed an Application on behalf of the Member (and is therefore also treated as an Applicant under these Rules), participates in the Pre-Hearing Conference, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the matter should not be dismissed, and give all Applicant (including the Employer where the Employer has filed an Application on behalf of the Member) five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless the Applicant shows good cause why the matter should not be dismissed, the Hearing Officer will dismiss the Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy and the Application will be referred to the Board at its regular meeting immediately following the granting of the Clerk's Order to Show Cause.

If the Hearing Officer determines that an Applicant has shown good cause, the Hearing Officer will direct the Clerk to reschedule the Pre-Hearing Conference and the Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 9. Pre-Hearing Statements

- A. The Applicant will file a Pre-Hearing Statement of up to ten (10) pages, not including exhibits, no later than sixty (60) days prior to the first Hearing Date.
- B. Respondent will file a Pre-Hearing Statement of up to ten (10) pages, not including exhibits, no later than thirty (30) days prior to the first Hearing Date.
- C. Any Party may file supplemental Pre-Hearing Statements of up to five (5) pages, not including exhibits, no later than fourteen (14) days prior to the first Hearing Date.
- D. The Pre-Hearing Statements will include the following:
 1. A statement of the issues and contentions of the Party and a brief summary of the evidence to be presented;



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

2. A list and redacted copies of any expert's reports, transcripts of depositions of any witnesses, and other documentary evidence on which the Party will rely, if not already in the Administrative Record. All documents will be Bates Stamped by the Applicant (or the Applicant's Attorney) in sequence with the initial Administrative Record. Duplicate documents will be rejected;
 3. The names, addresses, email addresses (if known) and telephone numbers of any non-expert witnesses whose testimony the Party intends to call as a witness at the Hearing and a brief description of the content of their testimony; and
 4. The names, addresses, email addresses (if known) and phone numbers of any expert witnesses whom the Party intends to call as a witness at the Hearing and a brief description of the content of their testimony.
- E. If the Applicant disputes the effective date of the disability retirement, the Applicant will raise the effective date as an issue and will state Applicant's contention in the Pre-Hearing Statement.
- F. If the Applicant fails to timely file a Pre-Hearing Statement, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the case should not be dismissed, and give the Applicant five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless the Applicant shows good cause for the failure to timely file its Pre-Hearing Statement, the Hearing Officer will dismiss Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy and the Application will be referred to the Board at its regular meeting immediately following the granting of the Clerk's Order to Show Cause.

If the Hearing Officer determines that the Applicant has shown good cause, the Hearing Officer may allow the Respondent additional time to file its Pre-Hearing Statement or may re-schedule the Hearing within the time requirements of Rule 15. The Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 10. Depositions and Subpoenas

- A. **Depositions:** Witness depositions may be taken by either Party in the presence of a certified court reporter and will be taken under oath or affirmation. The Party taking the deposition will pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party will provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
- B. **Subpoenas and Related Fees/Costs:**
1. OCERS will issue a subpoena for the personal appearance of a witness at the Hearing or at a deposition, or for the production of documents (subpoena *duces tecum*), in conformance with California Government Code Section 31535, upon the request of any Party filed at least thirty (30) days before the Hearing Date. Any request for a subpoena submitted less than thirty (30) days of the Hearing Date will not be honored and it will be the responsibility of the Party to subpoena their witness.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

2. Each request must state the witness's full name, email address (if known), phone number and the complete address of the witness's place of employment, service address or residence. OCERS will issue the subpoena; however, the requesting Party will be responsible for serving the subpoena, scheduling the witness and pay all associated witness fees and costs of service and production. The Party requesting oral testimony of an expert witness will in all cases be responsible for any expert witness fees.
3. Any fee disputes between a witness and the requesting Party are independent of any proceeding between the Applicant and OCERS. Those fee disputes will be resolved by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority to decide any such dispute.

Rule 11. Conduct of Hearings

- A. All Hearings will be held at the OCERS' office located at 2223 East Wellington Avenue, Santa Ana, California 92701.
- B. The Clerk will arrange for a court reporter to be present. Oral evidence will be taken only on oath or affirmation administered by the Hearing Officer or the court reporter.
- C. A written medical report bearing the signature (including a digital signature) of the Medical Witness will be admissible in evidence as the author's direct testimony, on the express condition that the adverse Party has had the opportunity to require the Medical Witness to be present and to cross-examine the witness at the Hearing, or to depose the witness and have the deposition transcript admitted into evidence.
- D. Each Party will have the right to call and examine witnesses; to introduce exhibits, including reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, OCERS may call and examine the Applicant.
- E. The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege will be effective to the extent that they are otherwise required by statute to be recognized at the Hearing. Irrelevant and unduly repetitious evidence will be excluded.
- F. Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but will not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions. This section will not be applicable to written medical reports received into evidence pursuant to Rule 11.C. Every Hearing will proceed as though each Party had made a standing objection to all inadmissible hearsay at the commencement of the Hearing.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- G. The court reporter will lodge with the Clerk the transcript of the Hearing within thirty (30) days of the final Hearing Date.
- H. The record will be closed to new evidence at the conclusion of the final Hearing Date. However, if subsequent to the final Hearing Date, a Party discovers or obtains new evidence that is relevant and not repetitive of other evidence already admitted, that Party may lodge the new evidence with the Clerk and request that the Hearing Officer include it in the Administrative Record. The Hearing Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of good cause as defined under Rule 11.I, the Hearing Officer allows inclusion of the new evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule 11.I. No rebuttals of the rebuttal will be permitted.
- I. No Party may submit a medical report or other documentary evidence not included in the Administrative Record or listed in its Pre-Hearing Statement except for purposes of impeachment, unless the Party demonstrates good cause. Likewise, no Party will be permitted to call a witness not listed in its Pre-Hearing Statement, except for purposes of impeachment, unless the Party demonstrates good cause. For purposes of this Rule, "good cause" means that the relevant evidence or witness could not have been previously produced or identified even with the exercise of reasonable diligence. The Party requesting submission of such evidence or witness will file a written request prior to the Hearing, or if unable to do so in the exercise of reasonable diligence, will make an oral request at the Hearing. The request will state the reason the evidence or witness was not timely produced or identified. After providing a reasonable opportunity for each adverse Party to be heard, the Hearing Officer will rule on such a request. If the evidence is allowed to be admitted into evidence, or the witness is allowed to testify, the Parties will have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine the Medical Witness in order to comply with Rule 11.C. In no event, will good cause permit admission of medical reports or other documentary evidence relating to a new medical condition covered by Rule 3.F.
- J. Each Party will have the right to submit a closing oral argument at the conclusion of the Hearing.
- K. Use of Interpreter Services.
 - 1. If an Applicant or a witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings will be provided to that Applicant or witness at OCERS's expense. Notice that an Applicant or witness requires interpreting services will be given to OCERS at the Pre-Hearing Conference or be included in the Party's Pre-Hearing Statement. If a Party fails to provide such notice, then the witness may not be called unless good cause is shown, as set forth Rule 11.I.
 - 2. All interpreters must be certified to provide interpreting services in administrative hearings pursuant to Government Code Section 11435.30. The interpreter must not have had any involvement in the issues of the case prior to the Administrative Hearing.



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

3. If an Applicant objects to the interpreter provided by OCERS, the Applicant may supply their own interpreter, provided that the interpreter is certified under Government Code Section 11435.30. However, time for an Applicant to find and hire an interpreter will not be considered good cause to continue the Hearing. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. The Applicant will be responsible for any amounts charged by the interpreter that are over the amount OCERS would have paid to an interpreter hired directly by OCERS. Fee disputes between the interpreter and the Applicant will not be resolved in this forum, and the Hearing Officer will not have authority to resolve any fee disputes between interpreters and the Parties.

Rule 12. Resolution of Disputes about Depositions and Conduct of Hearings

The Hearing Officer will resolve disputes about depositions and the conduct of the Hearing. A request for resolution of a dispute may be made verbally at a Pre-Hearing Conference, at the Hearing, or by written motion filed with the Clerk at any time prior to the Hearing. The Hearing Officer, in the exercise of sound discretion, may permit written argument or briefs.

Rule 13. Closing Briefs

- A. Each Party will have the right to submit a written closing brief. Unless the Parties waive closing briefs, the Parties will adhere to the following schedule with specific filing dates being proposed by the Clerk:
 1. The Applicant's closing brief will be filed no more than thirty days (30) of the date the transcript of the Hearing is lodged with the Clerk.
 2. Respondents' closing briefs will be filed within no more than thirty days (30) days of the date the Clerk serves the Applicant's closing brief on the other Parties.
 3. Applicant may file a reply brief no later than fifteen (15) days of the date that the Clerk serves Respondents' closing briefs on the Applicant.
- B. The Applicant may waive their right to file a reply brief. They must notify the Hearing Officer, Clerk, and Parties no more than five (5) days after Respondent's closing brief is filed.
- C. Each Party's closing brief may be supported by facts in the record and citation to law. The submission of additional evidence will not be permitted. The Applicant's and Respondents' closing briefs will be limited to fifteen (15) pages and the reply brief will be limited to ten (10) pages. The Clerk may reject briefs exceeding the foregoing limits. A Party may submit a request in writing to the Hearing Officer to be relieved of these page limitations.

Rule 14. Hearing Officer's Findings of Fact and Recommended Decision

- A. **Time for Filing.** The Hearing Officer will file their Proposed Findings of Fact and Recommended Decision with the Clerk no later than sixty (60) days of the date that the Applicant's reply brief is filed or, if the Parties waived closing briefs, within sixty (60) days of the date the transcript of the



OCERS Board Policy

Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Hearing is due (i.e., within 30 days of the final Hearing Date) or actually lodged (if earlier than 30 days after the final Hearing Date).

- B. Content of Proposed Findings of Fact and Recommended Decision.** The Hearing Officer's Proposed Findings of Fact and Recommended Decision will include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) all other evidence received by the Hearing Officer; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended decision. The summary of the testimony, plus all other evidence received, will be sufficient to satisfy the requirements of Government Code Section 31534(b).
- C. Objections/Requests for Clarification.** Within ten (10) days from the date that the Hearing Officer files the Proposed Findings of Fact and Recommended Decision with the Clerk, any Party may file with the Clerk objections or written requests for clarification to the Hearing Officer's Proposed Findings of Fact and Recommended Decision. The Clerk will serve such objections or written requests for clarification on the Hearing Officer as well as the other Parties. The other Party(ies) will have ten (10) days after service to file a response with the Clerk. Within thirty (30) days after the later of: (a) the date that Hearing Officer receives the objections or requests for clarification or (b) an adverse party's response to such objections or requests for clarification, the Hearing Officer will:
1. Affirm the Proposed Findings of Fact and Recommended Decision findings, conclusions, and recommendations as originally submitted without change, or
 2. Make such changes to the Proposed Findings of Fact and Recommended Decision as the Hearing Officer deems appropriate in light of the evidence, the objections or requests for clarification submitted by the Parties, and the responses thereto.

The objections and/or requests for clarification and the response thereto and the Hearing Officer's response to any objections, will be added to the Administrative Record and submitted for consideration by the Board.

Any Party may waive their right to file objections. If they choose to waive that right, they must notify the Hearing Officer, Clerk, and Parties no more than two (2) days after the Hearing Officer's Proposed Findings of Fact and Recommended Decision is filed.

Rule 15. Continuances and Relief from Orders

- A. The deadlines and timelines established in these Rules are for the purpose of expediting the Hearing process as quickly as reasonably possible in order to give certainty to the Applicant in the retirement process. Therefore, delays, continuances, or relief should be granted for documented good cause (as defined hereafter) and any delay should be the absolute shortest necessary under the circumstances. If the Hearing Officer believes the request is primarily for the purpose of delay or caused by inattention or lack of preparation of a Party, the request will be denied.
- B. Upon the request of a Party, the Hearing Officer may amend or continue the time periods set forth in these rules one (1) time, but only for good cause shown by the Party seeking the delay.
- C. Good cause for purposes of this Rule will be only for the following reasons:



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

1. The discovery of relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced (in which case there will only be one continuance permitted for each request);
 2. The need to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine a Medical Witness (in which case there will only be one continuance permitted for each request), as set forth under Rule 11.I; or
 3. The illness or disability of the Applicant, witness, attorney, or the Hearing Officer which was unknown to the person at the time of the Pre-Hearing Conference (or other time at which the deadline was set) which makes it impossible for the person to participate in the Administrative Hearing process. Relief in these instances will be granted only if the person raises the request as soon as practicable. The Hearing Officer will consider a failure to timely seek relief a waiver by the person.
- D. If a continuance is sought due to an illness or disability affecting an attorney who will not be able to participate in the process within a reasonably short period of time, then the continuance will be for a maximum of sixty (60) days to secure substitute counsel, and the Clerk will schedule a Pre-Hearing Conference pursuant to Rule 7.
- E. If a continuance is sought due to an illness or disability affecting the Hearing Officer, and the Hearing Officer cannot proceed within the time period set forth in Rule 17, below, the Hearing Officer will be recused and the Clerk will appoint a new Hearing Officer pursuant to Rule 4 and schedule a new Pre-Hearing Conference pursuant to Rule 8.
- F. If good cause is found to exist to reschedule a Hearing, the Hearing Officer will order the Clerk to propose new hearing dates no more than sixty (60) days from the date of the previously scheduled hearing. The Hearing Officer will order the Clerk to schedule a Pre-Hearing Conference only if it is determined that the Parties are unable to agree upon a new hearing date proposed by the Clerk.
- G. Until such time as the matter has been referred to the Board, the Hearing Officer will maintain jurisdiction over the matter and, upon any terms as may be just, may relieve a party from an order, or other action taken against that Party through mistake, inadvertence, surprise, or excusable neglect on the part of the Party. Application for this relief will be made within a reasonable time. Once the matter has been placed on the Board agenda, the Hearing Officer will no longer have jurisdiction.

Rule 16. Hearing and Action by the Board

- A. The Clerk will refer to the Board for its consideration the Hearing Officer's Proposed Findings of Fact and Recommended Decision as well as any related objections/requests for clarification, responses thereto, and the Hearing Officer's response to any objections.
- B. The Clerk will place the matter on the agenda of a regular meeting of the Board which will be no later than one (1) calendar month after the later of the date the Clerk receives the Hearing Officer's Proposed Findings of Fact and Recommended Decision; or the date the Clerk receives the Hearing



OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Officer's Response to Objections following any objections or requests for clarification from the Parties.

- C. The Clerk will provide written notice to the Parties, Hearing Officer, and Employer of the time and date of the regular meeting where the matter will be placed on the Board's agenda for action. The Parties will have the opportunity to be heard at the Board meeting subject to appropriate time limitations as set out in the OCERS By-laws.
- D. The Applicant (or their Attorney) may request that their matter be removed from the Board agenda. The Clerk will grant one (1) continuance of the matter to the next regular meeting of the Board. No additional continuances will be granted. If Applicant wishes to delay the referral of their matter to the Board beyond the one month extension, they will be required to appear before the Board and show cause as to why an additional extension should be granted. If granted, the matter will be referred to the to the next regular meeting of the Board.
- E. Good cause for this the purposes of this Rule will be granted for the following:
 - 1. The illness of the Applicant or their Attorney.
 - 2. The illness of an Applicant's immediate family member (i.e., Spouse, child, mother, father).

A continuance will not be granted based upon the lack of preparation by the Applicant or their Attorney.

- F. Pursuant to Government Code Section 31534, after reviewing the Hearing Officer's Proposed Findings of Fact and Recommended Decision and any related objections/requests for clarification, the Board may:
 - 1. Approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer; or
 - 2. Require a transcript or summary of all testimony, plus all other evidence received by the Hearing Officer; and upon receipt thereof, take such action as the Board in its opinion is indicated by such evidence; or
 - 3. Refer the matter back with or without instructions to the Hearing Officer for further proceedings; or
 - 4. Set the matter for hearing before itself. At such hearing, the Board will hear and decide the matter.
- G. The Hearing Officer's Proposed Findings of Fact and Recommended Decision (and responses to objections/requests for clarification) will be sufficient to satisfy the requirements of Government Code Section 31534(b) and Rule 16.F.2, above.
- H. In any case where the Board decides under Rule 16.F.2 or 16.F.4, above, the Board may approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer or prepare its own Findings of Fact and Decision, either itself or through direction to Staff with its approval.



OCERS Board Policy
Administrative Review and Hearing Policy
(Disability and Non-Disability Benefits)

- I. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6. Immediately following the Board meeting, the Clerk will notify the Applicant (and attorney), Hearing Officer and the Employer by email of the Board's final action. Notice will be effective the date of the Board meeting.

Rule 17. Dismissal for Failure to Pursue the Administrative Review and Hearing

Except as otherwise provided, if as a result of the Applicant's failure (or that of their Attorney) to pursue the case within one year after the filing of a Request for Administrative Hearing (or the Board's referral of a case to a Hearing Officer), or to comply with any of these Rules after two (2) written warnings from the Clerk, , the Hearing Officer will dismiss the Hearing and the matter will proceed as if no Request for Administrative Review or Hearing had been filed in accordance with Section 5 of the Policy, and the Application will be referred to the Board at its next regular meeting immediately following dismissal by the Hearing Officer.



OCERS Administrative Procedure (OAP) Disability Application Review Process

Disability Application Review Process

The following describes the disability application review process for service connected and non-service connected disabilities:

1. **Submission of Completed Application:** Either the ~~member~~Member or the employer, on behalf of the ~~member~~Member, can apply for a disability retirement ~~by filing with~~. If the Member is applying, the following documents must be submitted to OCERS: (1) an ~~application~~Application for ~~disability retirement~~Disability Retirement form and (2) an authorization signed by the ~~member~~Member permitting OCERS Disability Staff (Staff) to obtain all medical information relating to the ~~member's~~Member's physical or mental illness or injury and permitting access to records relating to the ~~member's~~Member's current and prior employment and (3) an ~~employee's statement~~Employee's Statement of ~~disability~~Disability and (4) a physician's statement indicating that the ~~member~~Member is permanently incapacitated from performing the usual and customary duties of their OCERS covered position. If the employer is filing on the member's behalf, the employer need only submit the Application for Disability Retirement form. A notification letter will then be sent by OCERS Staff to the member, inviting the member to join-in on the application by submitting the required forms listed above.
- 1-2. **Requesting of Records:** The Member's employer shall complete forms provided by OCERS including the Employer's Statement of Disability and Supervisor Statement forms and provide information as deemed necessary. This is to include any necessary personnel file documents. All information received by OCERS or its agents shall be treated as confidential and not released to anyone except insofar as may be necessary for the administration of the retirement system or upon an order of a court of competent jurisdiction, as provided by Government Code section 31532. OCERS Staff will send a request to Workers' Compensation and/or any treating physicians identified outside of the Workers' Compensation system to obtain the member's relevant medical records. Requests shall be made using standardized request letters or by utilizing copy services.
- 2-3. **Determination of the Disability:** The determination of the ~~member's~~Member's disability shall be limited to the condition as set forth in the ~~application~~Application for ~~disability retirement~~Disability Retirement and supported by a ~~physician's statement~~Physician's Statement of ~~disability~~Disability.
- 3-4. **Additional Information:** If at any point in the process OCERS Staff determines that additional information is necessary; OCERS Staff may require the ~~member~~Member or the employer to submit the additional information.
- 4-5. **Medical and Investigatory Services:** OCERS Staff is authorized and directed to secure such medical, investigatory and other services and advice in connection with applications for disability retirement as they may be required in order to make its decision.
- 5-6. **ReviewPreparation of Records: ("Premed"):** OCERS Staff will secure necessary records regarding the employment, injury, medical care, and accommodation of the ~~member~~Member

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OCERS Administrative Procedure (OAP) Disability Application Review Process

within 180 days of the date the application was filed with OCERS. ~~OCERS Staff~~ will ~~inform the member when~~ then compile all of the information obtained employer, medical, and records requested by OCERS Staff have been received. relevant personnel documents into a single file known as the "premed." The member will have five (5) business days premed is to supplement the record or otherwise respond indicating that all necessary information in support also consist of: (1) Employee's Statement of the application has been submitted-Disability; (2) Employer's Statement of Disability; (3) Physician's Statement of Disability; (4) Supervisor's Statement; (5) Workers' Compensation Information Request form, and; (6) Authorization form.

6.7. Examination by an Independent Medical Examiner: ~~In the event that OCERS Staff believes that additional medical evidence is necessary to evaluate the application, then~~ OCERS Staff shall schedule an appointment for the ~~member~~Member with an Independent Medical Examiner (IME). ~~OCERS Staff will schedule the appointment immediately following the member's confirmation that the record is complete as set forth in #15, above.~~ All examinations will be expected to occur within 60 days of finalization of medical record. OCERS Staff will ~~forward the record to the physician for his or her evaluation of the member's condition.~~ OCERS Staff will notify the ~~member~~Member in writing of the date, time and location of the appointment. If the ~~member~~Member is unable to attend the appointment, the ~~member~~Member shall notify OCERS immediately, who shall re-schedule the appointment within 30 days of the original appointment, or at a mutually agreed upon future date not to exceed 90 days. As an alternative to an examination by an IME, OCERS Staff may refer the record to an IME for a records-only review. Alternatively, OCERS Staff may make a recommendation based on the medical evidence presented in the application.

7.8. Receipt of Independent Medical Examiner opinion: OCERS Staff will require the IME to submit ~~his/her~~their report within 45 days of the appointment (or within 45 days of the referral for a records-only review). OCERS Staff will forward a copy of the report to the ~~member~~Member and ~~his/her~~their attorney (if applicable) upon receipt, certain exceptions may apply to psychiatric claims.

8.9. Supplemental Reports, Investigations, or Evaluations: Within 60 days of receiving the IME report, the OCERS ~~Disability~~Staff shall complete any ~~or the completion of any~~ additional investigations, evaluations of reasonable accommodations, or ~~request~~ any supplemental reports of an IME. ~~Any additional records obtained shall be sent to the IME along with a request letter outlining any additional questions to be addressed.~~

9.10. Submission of Application to the Disability Committee: ~~or CEO: When the OCERS Staff~~ ~~shall~~ recommendation is to grant the disability retirement Application in full, the ~~recommendation will be reviewed by the CEO. When the Staff recommendation is to deny the Application or grant only part of the application, OCERS Staff will~~ make a recommendation to the Disability Committee (the Committee) regarding the approval or denial of the application summarizing the application and information received from medical, employment and any other pertinent records. The recommendation shall be submitted to the Committee ~~or CEO~~

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OCERS Administrative Procedure (OAP)

Disability Application Review Process

within 30 days of receipt of the IME report or the completion of any additional investigations, evaluations of reasonable accommodations, or any supplemental reports of an IME. ~~OCERS Staff shall prepare a memorandum for the Committee.~~

~~10.11. Denial of an Application for Failure to Cooperate:~~ OCERS Staff may recommend that an application for disability retirement be denied and considered null and void for one or more of the reasons set forth below, and the ~~member~~Member does not correct that failure within 90 days:

- a. Failure of the ~~member~~Member to submit to a medical examination when directed by the OCERS Staff; or
- b. Failure of the ~~member~~Member to timely submit additional information as requested by OCERS Staff; or
- c. Any failure to cooperate by the ~~member~~Member or any other act or omission by the ~~member~~Member or ~~member's~~Member's representative which prevents the Committee from hearing and making a recommendation to the Board of Retirement (the Board) on the application for disability retirement within one year of the filing of the application.

~~Notification of Disability Committee Review:~~ OCERS Staff shall notify the member in writing when the matter will be submitted to the Committee for its consideration. The notice will include OCERS Staff's memorandum as well as the date and time that the matter will be placed on the Committee's agenda. The member, plan sponsor, and/or their attorneys may appear before the Committee, but the appearance is not mandatory. All matters heard by the Committee will be heard in closed session/closed hearing unless otherwise requested by the member. The Committee will recommend that the Board grant or deny the application and report that recommended action in open session. When the Committee's recommendation is to grant the application for disability retirement the matter will be forwarded to the Board at its next regularly scheduled meeting, unless an objection is received. The item will be placed on the Board consent agenda. In the event that the Committee's recommendation is to deny the application for disability retirement the member will have 90 days to file an appeal. No application shall be continued at the request of the member more than twice without the approval of the Committee.

~~12. Notification of Board of Retirement Determination:~~ OCERS Staff shall notify the member in writing when the matter will be submitted to the Board of Retirement for a determination.

~~13. Adjudication of Disability Application.~~ The CEO, Committee and the Board shall adjudicate the application in accordance with the OCERS "Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)."

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OCERS Administrative Procedure (OAP)

Disability Application Review Process

Disability Application Review Process

The following describes the disability application review process for service connected and non-service connected disabilities:

1. **Submission of Completed Application:** Either the Member or the employer, on behalf of the Member, can apply for a disability retirement. If the Member is applying, the following documents must be submitted to OCERS: (1) an Application for Disability Retirement form and (2) an authorization signed by the Member permitting OCERS Disability Staff (OCERS Staff) to obtain all medical information relating to the Member's physical or mental illness or injury and permitting access to records relating to the Member's current and prior employment and (3) an Employee's Statement of Disability and (4) a physician's statement indicating that the Member is permanently incapacitated from performing the usual and customary duties of their OCERS covered position. If the employer is filing on the member's behalf, the employer need only submit the Application for Disability Retirement form. A notification letter will then be sent by OCERS Staff to the member, inviting the member to join-in on the application by submitting the required forms listed above.
2. **Requesting of Records:** The Member's employer shall complete forms provided by OCERS including the Employer's Statement of Disability and Supervisor Statement forms and provide information as deemed necessary. This is to include any necessary personnel file documents. All information received by OCERS or its agents shall be treated as confidential and not released to anyone except insofar as may be necessary for the administration of the retirement system or upon an order of a court of competent jurisdiction, as provided by Government Code section 31532. OCERS Staff will send a request to Workers' Compensation and/or any treating physicians identified outside of the Workers' Compensation system to obtain the member's relevant medical records. Requests shall be made using standardized request letters or by utilizing copy services.
3. **Determination of the Disability:** The determination of the Member's disability shall be limited to the condition as set forth in the Application for Disability Retirement and supported by a Physician's Statement of Disability.
4. **Additional Information:** If at any point in the process OCERS Staff determines that additional information is necessary; OCERS Staff may require the Member or the employer to submit the additional information.
5. **Medical and Investigatory Services:** OCERS Staff is authorized and directed to secure such medical, investigatory and other services and advice in connection with applications for disability retirement as they may be required in order to make its decision.
6. **Preparation of Records ("Premed"):** OCERS Staff will secure necessary records regarding the employment, injury, medical care, and accommodation of the Member within 180 days of the date the application was filed with OCERS. OCERS staff will then compile all obtained employer, medical, and relevant personnel documents into a single file known as the "premed." The



OCERS Administrative Procedure (OAP)

Disability Application Review Process

premed is to also consist of: (1) Employee's Statement of Disability; (2) Employer's Statement of Disability; (3) Physician's Statement of Disability; (4) Supervisor's Statement; (5) Workers' Compensation Information Request form, and; (6) Authorization form.

7. **Examination by an Independent Medical Examiner:** OCERS Staff shall schedule an appointment for the Member with an Independent Medical Examiner (IME). All examinations will be expected to occur within 60 days of finalization of medical record. OCERS Staff will notify the Member in writing of the date, time and location of the appointment. If the Member is unable to attend the appointment, the Member shall notify OCERS immediately, who shall re-schedule the appointment within 30 days of the original appointment, or at a mutually agreed upon future date not to exceed 90 days. As an alternative to an examination by an IME, OCERS Staff may refer the record to an IME for a records-only review. Alternatively, OCERS Staff may make a recommendation based on the medical evidence presented in the application.
8. **Receipt of Independent Medical Examiner opinion:** OCERS Staff will require the IME to submit their report within 45 days of the appointment (or within 45 days of the referral for a records-only review). OCERS Staff will forward a copy of the report to the Member and their attorney (if applicable) upon receipt, certain exceptions may apply to psychiatric claims.
9. **Supplemental Reports, Investigations, or Evaluations:** Within 60 days of receiving the IME report, the OCERS Staff shall complete any additional investigations, evaluations of reasonable accommodations, or request any supplemental reports of an IME. Any additional records obtained shall be sent to the IME along with a request letter outlining any additional questions to be addressed.
10. **Submission of Application to the Disability Committee or CEO:** When the OCERS Staff recommendation is to grant the disability retirement Application in full, the recommendation will be reviewed by the CEO. When the Staff recommendation is to deny the Application or grant only part of the application, OCERS Staff will make a recommendation to the Disability Committee The recommendation shall be submitted to the Committee or CEO within 30 days of receipt of the IME report or the completion of any additional investigations, evaluations of reasonable accommodations, or any supplemental reports of an IME.
11. **Denial of an Application for Failure to Cooperate:** OCERS Staff may recommend that an application for disability retirement be denied and considered null and void for one or more of the reasons set forth below, and the Member does not correct that failure within 90 days:
 - a. Failure of the Member to submit to a medical examination when directed by the OCERS Staff; or
 - b. Failure of the Member to timely submit additional information as requested by OCERS Staff; or
 - c. Any failure to cooperate by the Member or any other act or omission by the Member or Member's representative which prevents the Committee from hearing and making a recommendation to the Board of Retirement (the Board)



OCERS Administrative Procedure (OAP)

Disability Application Review Process

on the application for disability retirement within one year of the filing of the application.

Adjudication of Disability Application. The CEO, Committee and the Board shall adjudicate the application in accordance with the OCERS "Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)."



OCERS Administrative Procedure (OAP) Disability Presumptions

I. Purpose

The purpose of this OCERS administrative procedure (OAP) is to describe how OCERS' Board of Retirement (Board), the Board's Disability Committee, and the OCERS Chief Executive Officer (CEO) apply the rules governing disability presumptions under Government Code sections 31720.5, 31720.6, 31720.7, 31720.9, 7523.1, and 7523.2.

II. Authority

This OAP is established pursuant to the CEO Charter, which directs the CEO to develop staff policies and procedures to ensure the effective and efficient administration of member benefits. The OAP is in conformance with Board policy, the County Employees Retirement Law (California Government Code section 31450, *et seq.*) (CERL), and the Public Employees' Pension Reform Act (Government Code, sections 7522 - 7522.74) (PEPRA).

III. Introduction

A member of OCERS is eligible for a service-connected disability retirement allowance if:

1. The Board finds the member permanently incapacitated, physically or mentally, from performing the usual duties of any permanent assignment within their job classification;ⁱ and
2. The incapacity arose out of and in the course of their employment, and such employment contributed substantially to their being incapacitated.ⁱⁱ

This "arose out of and in the course of employment" element (sometimes referred to as AOE/COE or industrial causation) is necessary for service-connection. The member must establish that the incapacitating injury or disease arose out of and in the course of employment by offering evidence of a real and measurable connection between the employment and the injury or illness that causes the permanent incapacity.ⁱⁱⁱ The member has the burden to prove this connection by a preponderance of the evidence.

Ultimately, the Board determines from the evidence whether there is or is not a sufficient causal connection between the employment and the incapacity for the disability to be service-connected.

The disability presumptions ("heart trouble" at Gov. Code, § 31720.5, cancer at § 31720.6, blood-borne infectious disease or MRSA skin infection at § 31720.7, and exposure to biochemical substances at § 31720.9) provide a means of establishing the service-connected element for disability retirement when the member is unable to prove directly that their employment substantially contributed to their incapacity. In addition, there is a COVID-19 presumption that is effective until January 1, 2024.



OCERS Administrative Procedure (OAP) Disability Presumptions

These presumption statutes do not create a presumption that the member is incapacitated for duty. **The member must still prove that they are permanently incapacitated. Then, if a preponderance of the evidence establishes the other prerequisites for triggering the presumption, the incapacity is presumed to be service-connected.**

When the criteria of a disability presumption are met, the member is relieved of the burden of proving that the incapacitating injury or illness arose out of and in the course of employment, and industrial causation is presumed to exist. Accordingly, the member’s burden is only to prove the existence of the prerequisites specified in the Government Code section that give rise to the presumption of service-connection.

By establishing the criteria of one of the disability presumptions, the member does not have to prove industrial causation; instead, OCERS must disprove it.

The presumptions are rebuttable, i.e., they may be overcome by contrary evidence. A rebuttable presumption establishes the existence of a fact unless evidence is introduced which would support a finding that the presumed fact does not exist.^{iv} For example, the heart trouble presumption (Gov. Code, § 31720.5) shifts the burden of proof on the issue of service-connection from the public safety worker, who would otherwise have to prove that their heart trouble arose out of and in the course of employment and that the employment contributed substantially to the disability, to the employer to prove that the heart trouble did not arise out of and occur in the course of employment.

IV. Heart Trouble Presumption

If a member in one of the designated occupations has at least five years of service credit and becomes permanently incapacitated due to heart trouble, it will be presumed that the heart trouble developed out of and in the course and scope of their employment, unless there is evidence of a contemporaneous non-industrial cause. The member’s resulting disability retirement will be deemed service-connected.

Prerequisites for application of the heart trouble presumption under Gov. Code, § 31720.5

1. The member must be a safety member,^v a fireman member, or a member in active law enforcement

- "Fireman member" and "member in active law enforcement" includes a member engaged in active fire suppression or active law enforcement *regardless* of whether they are a safety member.
- "Active law enforcement" includes positions with principal duties which pertain to the active investigation and suppression of crime, the arrest and detention of



OCERS Administrative Procedure (OAP) Disability Presumptions

criminals, and the administrative control of such duties in the offices of the sheriff and district attorney, including Sheriff's Special Officers (SSOs).^{vi}

2. The member must have at least five years of service

- The member must have completed five years or more of service with OCERS, another retirement system established under the CERL or the Public Employees Retirement System (CalPERS), or a pension system established by the County Peace Officers' Retirement Law (Gov. Code, §§ 31900, *et seq.*), or the County Fire Service Retirement Law (Gov. Code, §§ 32200, *et seq.*). The "five years or more of service" does not have to be entirely with the county from which the member is retiring.

3. The member must develop heart trouble

- "Heart trouble" is any disease or malfunction of the heart.
- The heart trouble must begin prior to the termination of service or the last day on which the member worked in the specified occupation.

Once the member establishes that they are in one of the designated occupations, have sufficient years of service, and developed heart trouble that is permanently incapacitating, the presumption of service connection will apply unless OCERS rebuts it.

The presumption includes a non-attribution provision stating that the heart trouble will not be attributed to any disease existing before the development or manifestation of the heart trouble. However, the presumption may be rebutted by, for example, proof that a contemporaneous nonwork-related event was the cause of the heart trouble.

V. Cancer Presumption

If a specified safety member with at least five years of service credit becomes permanently incapacitated due to cancer and establishes they were exposed to a known carcinogen as a result of the performance of their job duties, it will be presumed that the cancer developed out of and in the course of employment. The resulting disability retirement allowance will be service-connected.

Prerequisites for application of the cancer presumption under Gov. Code, § 31720.6

1. Occupation

- The member must be, or must have been, a safety member,^{vii} a firefighter, or a member in active law enforcement.^{viii}



OCERS Administrative Procedure (OAP)

Disability Presumptions

- "Firefighter" and "member in active law enforcement" includes a member engaged in active fire suppression or active law enforcement *regardless* of whether they are a safety member.
 - "Member in active law enforcement " includes Sheriff's Special Officers (SSOs).
- 2. At least five years of service**
- The member must have completed five years or more of service with OCERS, another retirement system established under the CERL or the Public Employees Retirement System (CalPERS), or a pension system established by the County Peace Officers' Retirement Law (Gov. Code, §§ 31900, *et seq.*), or the County Fire Service Retirement Law (Gov. Code, §§ 32200, *et seq.*). The "five years or more of service" does not have to be entirely with the county from which the member is retiring.
- 3. The member develops cancer**
- 4. Permanent Incapacity**
- The member must be permanently incapacitated for the performance of duty because of the cancer to be entitled to the presumption.
- 5. Exposure to carcinogen**
- The member must demonstrate that they were exposed to a "known carcinogen" due to the performance of job duties.
 - "Known carcinogen" is defined as a carcinogenic agent recognized by the International Agency for Research on Cancer (IARC) or the Director of the Division of Industrial Accidents.^{ix}
 - There must be substantial evidence of a real and measurable exposure to a known carcinogen, albeit not necessarily a carcinogen that causes the cancer from which the member suffers.
- 6. Time limit**
- The time limitation in Section 31720.6, subdivision (c), must not have been exceeded. This presumption is extended to a member following termination of service for a period of three calendar months for each full year of the requisite service. The extension is from termination, but not to exceed sixty months commencing with the last day actually worked in the specified capacity, not from the date that service is discontinued. Therefore, if the member last worked in the specified occupation sixty months or more before the termination of service, the presumption does not apply.



OCERS Administrative Procedure (OAP) Disability Presumptions

Once the member establishes the six prerequisites above, the presumption of service connection will apply unless it is rebutted by OCERS.

The presumption is rebuttable by OCERS and may be controverted by evidence that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer, *provided* that the primary site of the cancer has been established. Therefore, to rebut the presumption of service-connection, evidence must be provided that (1) the primary site of the cancer is established and (2) that exposure to the identified carcinogen is not reasonably linked to the member's disabling cancer.

The presumption includes a non-attribution provision stating that the cancer will not be attributed to any disease existing prior to the development or manifestation of the cancer. Therefore, OCERS may not rebut the presumption by attributing the cancer to disease the member had previously.

VI. Blood-borne Infectious Disease Presumption

If a member in one of the designated occupations and becomes permanently incapacitated due to exposure to a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection (MRSA), it will be presumed that the disease developed out of and in the course of their employment, unless rebutted by contrary evidence. The resulting disability retirement will thus be considered service-connected.

Prerequisites for application of the blood-borne infectious disease presumption under Gov. Code, § 31720.7

1. Occupation

- The member must be, or must have been, a safety member,^x a firefighter, a county probation officer, or a member in active law enforcement.^{xi}
- A "member in active law enforcement" includes those who are not classified as a safety member and Sheriff's Special Officers (SSOs).
- *Absent from the blood-borne infectious disease presumption is the requirement that the member have five years of service.*

2. Member develops blood borne disease or MRSA

- "Blood borne infectious disease" is defined as "a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as blood-borne pathogens by the Department of Industrial Relations"(Gov. Code, § 31720.7, subsection (d)).



OCERS Administrative Procedure (OAP) Disability Presumptions

- The Department of Industrial Relations has defined the following as blood borne pathogens: hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).^{xii}
 - Proof of on-the-job exposure to a blood borne infectious disease or MRSA is *not* required for the presumption to arise.
- 3. Member becomes incapacitated for duty**
- The permanent incapacity must result from blood borne infectious disease or MRSA skin infection.
- 4. Time limitation to develop disease not exceeded**
- In the case of a blood-borne infectious disease, this presumption is extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed sixty months, commencing with the last date actually worked in the specified capacity. For example, a firefighter with three years of service would be eligible for the presumption if the disease developed within nine months of the date they stopped working.
 - In the case of a MRSA skin infection, the presumption is extended to a member following termination of service for a period of ninety days, commencing with the last day actually worked in the specified capacity.

The presumption is rebuttable by other evidence. To rebut the presumption, OCERS must prove the member did not meet one or more prerequisites.

The presumption includes a non-attribution provision stating that the blood-borne infectious disease or MRSA will in no case be attributed to any disease or skin infection existing prior to its development or manifestation.

VII. Exposure to Biochemical Substances Presumption

If a member in one of the designated occupations becomes ill or dies due to exposure to a biochemical substance, it will be presumed that the illness or injury resulting from exposure to a biochemical substance developed out of and in the course of employment, unless rebutted by contrary evidence. Thus, the resulting disability will be considered service-connected.



OCERS Administrative Procedure (OAP) Disability Presumptions

Prerequisites for application of the biochemical substance exposure presumption under Gov. Code, § 31720.9

1. Occupation

- The member must be a Peace Officer (as defined in Penal Code sections 830.1 to 830.5) or Firefighter
- Section 31720.9 does not expressly include those who are engaged in active law enforcement or active firefighting who are not safety members but does exclude a member whose principal duties are clerical or otherwise do not fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers (Gov. Code, § 31720.9, subsection (d)).
- *Absent from the biochemical substance presumption is the requirement that the member have five years of service.*

2. Exposure to a biochemical substance

- The member must identify the actual exposure to a weaponized biological or chemical agent, or nuclear or radiological agent, as defined in Penal Code §11417.^{xiii}

3. Member must be permanently incapacitated from exposure to a biochemical substance

- The member must become ill (or die) due to exposure to a biochemical substance, and the illness must render them permanently incapacitated for the performance of duty.

4. The illness (or death) resulting from the exposure must manifest while in service or within the extended period.

- This presumption is extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed sixty months from the last date actually worked in the specified capacity.

The presumption may be rebutted by other evidence. The presumption includes a non-attribution provision, stating that the illness that develops or manifests due to the exposure will not be attributed to any illness existing prior to that development or manifestation. However, OCERS may rebut the presumption by, for example, evidence that there was no exposure, that the member is not incapacitated by the resulting illness, or by scientific evidence that there is no reasonable link between the specific exposure and the incapacitating illness.



OCERS Administrative Procedure (OAP) Disability Presumptions

VIII. COVID-19 Presumption *(effective only until January 1, 2024)*

If a member retires for disability due, in whole or in part, to a COVID-19-related illness, it will be presumed that the disability arose out of, or in the course of, the member’s employment.^{xiv} Thus, the resulting disability retirement will be service-connected unless the presumption is rebutted by contrary evidence.

Note that this presumption is not restricted to safety members and there is no requirement of at least five years of service.

This COVID-19 disability retirement presumption will remain in effect until January 1, 2024.^{xv}

ⁱ See OCERS Administrative Procedure: Disability – Performance of Duty

ⁱⁱ Gov. Code, § 31720

ⁱⁱⁱ *Bowen v. Board of Retirement* (1986) 42 Cal.3d 572, 577-579

^{iv} Evid. Code, §§ 604 and 606

^v § 31469.4. "Safety members" defined

"Safety member" means persons employed as probation officers, juvenile hall or juvenile home group counselors, and group supervisors who are primarily engaged in the control and custody of delinquent youths who must be detained under physical security in order not to be harmful to themselves or others.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution make the provisions applicable.

Gov. Code, § 31469.4

^{vi} 22 Ops.Cal.Atty.Gen. 227 (1953) at p. 229

^{vii} "Safety member" as defined by Gov. Code, § 31469.4

^{viii} "Active law enforcement" includes positions with principal duties which pertain to the active investigation and suppression of crime, the arrest and detention of criminals, and the administrative



OCERS Administrative Procedure (OAP) Disability Presumptions

control of such duties in the offices of the sheriff and district attorney, including Sheriff's Special Officers (SSOs).

^{ix} For the IARC list of carcinogens go to the IARC web site at www.iarc.fr/. For the list of carcinogens recognized by the Director of the Division of Industrial Accidents, see Cal. Code Regs., tit. 8, § 330.

^x "Safety member" as defined by Gov. Code, § 31469.4

^{xi} "Member in active law enforcement" for purposes of Section 31720.7 means members employed by a sheriff's office, including Sheriff's Special Officers (SSOs), by a police or fire department of a city, county, city and county, or district or another public or municipal corporation or political subdivision, or who are described in Chapter 4.5 of the Penal Code, or members who are employed by a county forestry or firefighting department or unit, except any of those members whose principle duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers, and includes a member engaged in active law enforcement who is not classified as a safety member.

^{xii} Cal. Code Regs., tit. 8, § 5193

^{xiii} § 11417. Definitions

(a) For the purposes of this article, the following terms have the following meanings:

(1) "Weapon of mass destruction" includes chemical warfare agents, weaponized biological or biologic warfare agents, restricted biological agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon, or an aircraft, vessel, or vehicle, as described in Section 34500 of the Vehicle Code, which is used as a destructive weapon.

(2) "Chemical Warfare Agents" includes, but is not limited to, the following weaponized agents, or any analog of these agents:

(A) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.

(B) Choking agents, including Phosgene (CG) and Diphosgene (DP).

(C) Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).

(D) Blister agents, including mustards (H, HD [sulfur mustard], HN-1, HN-2, HN-3 [nitrogen mustard]), arsenicals, such as Lewisite (L), urticants, such as CX; and incapacitating agents, such as BZ.



OCERS Administrative Procedure (OAP) Disability Presumptions

(3) "Weaponized biological or biologic warfare agents" include weaponized pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous biological regulators (EBRs).

(4) "Nuclear or radiological agents" includes any improvised nuclear device (IND) which is any explosive device designed to cause a nuclear yield; any radiological dispersal device (RDD) which is any explosive device utilized to spread radioactive material; or a simple radiological dispersal device (SRDD) which is any act or container designed to release radiological material as a weapon without an explosion.

(5) "Vector" means a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host.

(6) "Weaponization" is the deliberate processing, preparation, packaging, or synthesis of any substance for use as a weapon or munition. "Weaponized agents" are those agents or substances prepared for dissemination through any explosive, thermal, pneumatic, or mechanical means.

(7) For purposes of this section, "used as a destructive weapon" means to use with the intent of causing widespread great bodily injury or death by causing a fire or explosion or the release of a chemical, biological, or radioactive agent.

(b) The intentional release of a dangerous chemical or hazardous material generally utilized in an industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes those agents with the intent to cause harm and the use places persons or animals at risk of serious injury, illness, or death, or endangers the environment.

(c) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not proscribed by this article.

(d) No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC) pursuant to Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to this article.

Pen. Code, § 11417

^{xiv} Gov. Code, § 7523.1

^{xv} Gov. Code, § 7523.2



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Megan Cortez, Member Services Manager
SUBJECT: Retiree Request to be Reinstated – Eleni Savvaides

Recommendation:

Reinstate Ms. Savvaides as an active member under the provisions of Government Code Section 31680.4 and 31680.5.

Background:

Application for re-employment of retired member

Orange County District Attorney's Office, Paralegal

Date of request: 04/13/2023; Date of entry to OCERS: 10/22/1999

Total years of service: 20.0570

Separation Date: 06/06/2019; Date of Service Retirement: 03/21/2021

Former position: Orange County District Attorney's Office, Paralegal

Discussion:

Ms. Savvaides service retired from the Orange County District Attorney's Office on March 21, 2021. She has requested to be reinstated as an active employee under the provisions of Government Code Sections 31680.4 and 31680.5.

Ms. Savvaides was a Paralegal prior to her separation from Orange County District Attorney's Office on June 6, 2019. The District Attorney's Office has offered to return her to regular full time employment as a Paralegal.

Pursuant to OCERS policy Ms. Savvaides underwent a physical examination on April 27, 2023 with an independent OCERS panel physician to determine whether she was physically capable of returning to full time employment. It is the panel physician's opinion that Ms. Savvaides can return to work without restriction.

C-4 Retiree Request to be Reinstated – Eleni Savvaides

1 of 2

Regular Board Meeting 05-17-2023

Submitted by:

MC-Approved _____

Megan Cortez
Member Service Manager



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: PRELIMINARY DECEMBER 31, 2022 ACTUARIAL VALUATION

Presentation

Background/Discussion

On May 17, representatives of Segal Consulting, will be reviewing the attached PowerPoint presentation which is the introduction to the December 31, 2022 Actuarial Valuation.

OCERS is nearly unique among Segal clients in that the Board receives this initial PowerPoint summary of valuation highlights a month prior to the full formal Actuarial Valuation. This informal approach allows OCERS' stakeholders time to review the data being used in the Actuarial Valuation and provide input prior to the OCERS Board giving final approval to the valuation.

This month's presentation does not require formal approval from the Board but instead, is an informational presentation. On June 19, the Segal representatives, will return to present the formal valuation that includes contribution rates to be effective July 1, 2024 and at that time, OCERS' staff will request the OCERS Board approve and finalize the valuation for distribution to all stakeholders.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

Orange County Employees
Retirement System

December 31, 2022 Actuarial Valuation

May 17, 2023

Prepared by Paul Angelo, Molly Calcagno, Todd Tauzer and Andy Yeung

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Agenda

Highlights/Changes Since Last Valuation

Plans of Benefit Offered at OCERS

Summary and Reconciliation of Employer Contribution Rates

**Calculation of Net Market, Actuarial and Valuation
Value of Assets**

Unfunded Actuarial Accrued Liability and Funded Ratio

Summary of Active and Retired Membership

Contribution Rates for Employers and Members

Highlights/Changes Since Last Valuation

- O.C. Superior Court has adopted Plan U for CalPEPRA member service earned effective July 1, 2023.
 - This change decreased the UAAL by \$63,000. When amortized over the O.C. Superior Court's payroll, this impact is less than 0.01% of payroll. For that reason, we have included the reduction in UAAL as a gain/loss item throughout this presentation.

- In this valuation, there were two minor refinements made to the valuation as recommended in the December 31, 2021 actuarial audit:
 - (1) use benefit service instead of eligibility service in determining 30-year member contribution cessation for Safety legacy members, and
 - (2) use the new actual entry age provided by OCERS to determine the member contribution rates.

The refinements result in a net decrease of 0.04% in the average employer rate and a net increase of 0.04% in the average member contribution rate but no change to the individual member contribution rates.

- OCFA contributed an additional \$11.8 million to pay off part of their UAAL.

Highlights/Changes Since Last Valuation (continued)

- O.C. Sanitation District (Rate Group #3), Transportation Corridor Agency (Rate Group #9), and O.C. Law Library (Rate Group #12) remain overfunded as of December 31, 2022, but less than 120% funded.
 - Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met. Therefore, their contribution rates are set equal to their normal cost rates.
- The O.C. Sanitation District UAAL Deferred Account has decreased from \$15.6 million to \$14.4 million to reflect market experience.
 - No transfer from this account to the Valuation Assets was necessary as of December 31, 2022.

Highlights/Changes Since Last Valuation (continued)

- On July 30, 2020, the California Supreme Court issued a decision in the case of Alameda County Deputy Sheriffs' Association et al. v. Alameda County Employees' Retirement Association (ACERA) and Board of Retirement of ACERA.
 - Based on actions taken by the Board, our understanding is that the membership data provided in this valuation reflects reduced salary for affected active members and recalculated benefits due to the reduction in salary for a small number of payees.
 - There were also refunds of contributions made to the members.
 - The effect of the Alameda Decision will be reflected as gains and losses as revisions are made to the membership data and financial information provided for this and subsequent valuations.

Plans of Benefit Offered at OCERS

General Plans

- Plan A (§31676.12) – 2% @ 57
- Plan B (§31676.1) – 1.67% @ 57.5
- Plans G and H (§31676.18) – 2.5% @ 55
- Plans I and J (§31676.19) – 2.7% @ 55
- Plans M and N (§31676.16) – 2% @ 55
- Plans O and P (§31676.01) – 1.62% @ 65
- Plan S (§31676.12) – 2% @ 57
- Plan T (§31676.01) – 1.62% @ 65 CalPEPRA
- Plan U (§7522.20(a)) – 2.5% @ 67 CalPEPRA
- Plan W (§31676.01) – 1.62% @ 65 CalPEPRA

Safety Plans

- Plans E and F (§31664.1) – 3% @ 50
- Plans Q and R (§31664.2) – 3% @ 55
- Plan V (§7522.25(d)) – 2.7% @ 57 CalPEPRA

Employer Contributions

- The sum of:
 - Normal Cost
 - Level percentage of payroll amortization of:
 - Balance of December 31, 2012 UAAL re-amortized over 20 years as of December 31, 2013 (with 11 years left as of December 31, 2022)
 - New UAAL established after December 31, 2012 amortized over separate 20-year periods
 - Adjustment to reflect 18-month delay between date of valuation and date of rate implementation
- Expressed as percent of pay

Employer Contribution Rates – Fiscal Years Beginning July 1, 2023 and July 1, 2024 (% of payroll)

	FY 24-25	FY 23-24 ¹	Difference
Rate Group #1			
General Plans A, B and U (County and IHSS)	13.71%	13.52%	0.19%
Rate Group #2			
General Plans I, J, O, P, S, T, U and W (County et al.)	38.44%	37.42%	1.02%
Rate Group #3			
General Plans B, G, H and U (OCSD)	11.63%	11.62%	0.01%
Rate Group #5			
General Plans A, B and U (OCTA)	30.28%	28.71%	1.57%
Rate Group #9			
General Plans M, N and U (TCA)	12.02%	12.63%	-0.61%
Rate Group #10			
General Plans I, J, M, N and U (OCFA)	23.13%	21.97%	1.16%
Rate Group #11			
General Plans M and N, future service, and U (Cemetery)	14.88%	13.40%	1.48%
Rate Group #12			
General Plans G, H and U (Law Library)	12.77%	12.94%	-0.17%
Rate Group #6			
Safety Plans E, F and V (Probation)	58.26%	52.77%	5.49%
Rate Group #7			
Safety Plans E, F, Q, R and V (Law Enforcement)	60.35%	58.10%	2.25%
Rate Group #8			
Safety Plans E, F, Q, R and V (OCFA)	35.41%	35.20%	0.21%
Average Total	38.71%	37.51%	1.20%

¹ The FY 23-24 composite rates have changed due to payroll shifting among plans within the Rate Groups. For Rate Group #2, we have also reflected the implementation of Plan U by O.C. Superior Court for their CalPEPRA members.

Reconciliation of Average Employer Contributions (\$000)

	Contribution Rate	Estimated Amount ¹
1. Average Recommended Contribution Rate as of Dec. 31, 2021	37.51%	\$797,077
2. Actuarial (gain)/loss items:		
a. Effect of investment loss (after smoothing)	0.20%	\$4,249
b. Effect of additional UAAL contributions from OCFA	-0.04%	-850
c. Effect of difference in actual versus expected contributions	0.00%	0
d. Effect of higher than expected COLA increases in 2023 ²	0.89%	18,910
e. Effect of difference in actual versus expected salary increases	0.09%	1,912
f. Effect of growth in total payroll more than expected	-0.18%	-3,824
g. Effect of other experience losses ³	0.37%	7,731
h. Effect of method refinements as a result of actuarial audit	-0.04%	-850
i. Effect of minimum funding requirement ⁴	<u>-0.09%</u>	<u>-1,912</u>
j. Subtotal	1.20%	\$25,366
3. Average Recommended Contribution Rate as of Dec. 31, 2022	38.71%	\$822,443

¹ Based on December 31, 2022 projected compensation of \$2,124,678,000.

² Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

³ Net of an adjustment to reflect 18-month delay between date of valuation and date of rate implementation for all actuarial experience of 0.31%.

⁴ RG#3, RG#9 and RG#12 were overfunded as of December 31, 2022. Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Reconciliation of Employer Contributions for General Members

	RG #1	RG #2	RG #3	RG #5	RG #9	RG #10	RG #11	RG #12
1. Average Recommended Contribution Rate as of December 31, 2021	13.52%	37.42%	11.62%	28.71%	12.63%	21.97%	13.40%	12.94%
2. Actuarial (gain)/loss items:								
a. Effect of investment loss (after smoothing)	0.08%	0.18%	0.24%	0.17%	0.20%	0.18%	0.15%	0.25%
b. Effect of additional UAAL contributions	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
c. Effect of difference in actual versus expected contributions	0.01%	0.09%	0.12%	-0.10%	0.13%	-0.07%	-0.13%	0.01%
d. Effect of higher than expected COLA increases in 2023 ¹	0.19%	0.76%	0.90%	0.64%	0.65%	0.73%	0.24%	0.48%
e. Effect of difference in actual versus expected salary increases	-0.08%	0.11%	0.19%	1.76%	0.43%	-0.62%	1.85%	-0.37%
f. Effect of growth in total payroll (greater)/less than expected	0.10%	-0.35%	0.00%	-0.86%	0.00%	0.40%	-0.06%	0.00%
g. Effect of other experience (gain)/loss ^{2,3}	-0.09%	0.27%	0.95%	0.00%	-0.46%	0.57%	-0.52%	-0.95%
h. Effect of method refinements as a result of actuarial audit	-0.02%	-0.04%	-0.03%	-0.04%	-0.02%	-0.03%	-0.05%	0.00%
i. Effect of minimum funding requirement	<u>0.00%</u>	<u>0.00%</u>	<u>-2.36%</u>	<u>0.00%</u>	<u>-1.54%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.41%</u>
j. Subtotal	0.19%	1.02%	0.01%	1.57%	-0.61%	1.16%	1.48%	-0.17%
3. Average Recommended Contribution Rate as of December 31, 2022	13.71%	38.44%	11.63%	30.28%	12.02%	23.13%	14.88%	12.77%

¹ Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

² Net of an adjustment to reflect 18-month delay between date of valuation and date of rate implementation for all actuarial experience.

³ Effect of other experience (gains)/losses for RG #3, RG #11, and RG #12 are 1.05%, -0.67%, and -0.64%, respectively, due to active retirement (gains)/losses.

Reconciliation of Employer Contributions for Safety Members

	RG #6	RG #7	RG #8
1. Average Recommended Contribution Rate as of Dec. 31, 2021	52.77%	58.10%	35.20%
2. Actuarial (gain)/loss items:			
a. Effect of investment loss (after smoothing)	0.33%	0.29%	0.26%
b. Effect of additional UAAL contributions	0.00%	0.00%	-0.52%
c. Effect of difference in actual versus expected contributions	0.06%	-0.18%	-0.42%
d. Effect of higher than expected COLA increases in 2023 ¹	1.35%	1.60%	1.13%
e. Effect of difference in actual versus expected salary increases	0.29%	0.12%	-1.11%
f. Effect of growth in total payroll (greater)/less than expected	2.30%	-0.12%	0.27%
g. Effect of other experience (gain)/loss ^{2,3}	1.22%	0.59%	0.63%
h. Effect of method refinements as a result of actuarial audit	-0.06%	-0.05%	-0.03%
i. Effect of minimum funding requirement	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
j. Subtotal	5.49%	2.25%	0.21%
3. Average Recommended Contribution Rate as of Dec. 31, 2022	58.26%	60.35%	35.41%

¹ Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

² Net of an adjustment to reflect 18-month delay between date of valuation and date of rate implementation for all actuarial experience. The adjustments are 0.84%, 0.60%, and 0.52% for RG #6, RG #7, and RG #8, respectively.

³ Effect of other experience losses for RG #6 is 0.34% due to active retirement losses.

Reconciliation of Average Member Contributions (\$000)

	Contribution Rate	Estimated Amount ¹
Average Recommended Contribution Rate as of December 31, 2021	12.06%	\$256,223
Effect of changes in demographics	-0.02%	-512
Effect of method refinements as a result of actuarial audit ²	<u>0.04%</u>	<u>850</u>
Subtotal	0.02%	\$338
Average Recommended Contribution Rate as of December 31, 2022	12.08%	\$256,561

¹ Based on December 31, 2022 projected compensation of \$2,124,678,000.

² This adjustment only affects the average member rate and has no impact on the individual member rates.

Calculation of Net Market, Actuarial and Valuation Value of Assets

- Net market value of Pension Fund is total market value reduced by:
 - Obligations under securities lending program including securities purchased
 - Unearned contributions, retiree payroll payable and other liabilities
 - County Investment Account
 - Remaining O.C. Sanitation District UAAL Deferred Account of \$14.4 million

- Actuarial value is a “smoothed” value to dampen effect of short-term market volatility
 - Based on spreading difference between actual market return and expected market return (7.00% starting in 2019) over 5 years
 - Return for 2022 on market value was -9.71%¹ (i.e., 16.71% less than assumed)
 - Return for 2022 on smoothed valuation value was 6.69% (i.e., 0.31% less than assumed)
 - As of December 31, 2022, there were \$1.157 billion in net deferred investment losses or about 6% of the net market value
 - Prior year: \$2.250 billion in net deferred investment gains or about 10% of the net market value

- Valuation value is actuarial value reduced by non-valuation reserves:
 - None as of December 31, 2022

¹ Return on market value was calculated using a modified dollar-weighted approach based on pension plan assets net of accounting liabilities. Actual investment return on net pension plan assets was -\$2,106,139,000 during 2022 after including both the administrative expenses and discount for prepaid contributions while excluding the losses credited to County Investment Account and O.C. Sanitation District UAAL Deferred Account. Without these adjustments, the actual investment return was -\$2,058,590,000.

Calculation of Net Market, Actuarial and Valuation Value of Assets

It is important to note that this actuarial valuation is based on plan assets as of December 31, 2022. The plan's funded status does not reflect short-term fluctuations of the market, but rather is based on the market values on the last day of the plan year. Moreover, this actuarial valuation does not include any possible short-term or long-term impacts on mortality of the covered population that may emerge after December 31, 2022 due to COVID-19. Segal is available to prepare projections of potential outcomes of market conditions and other demographic experience upon request.

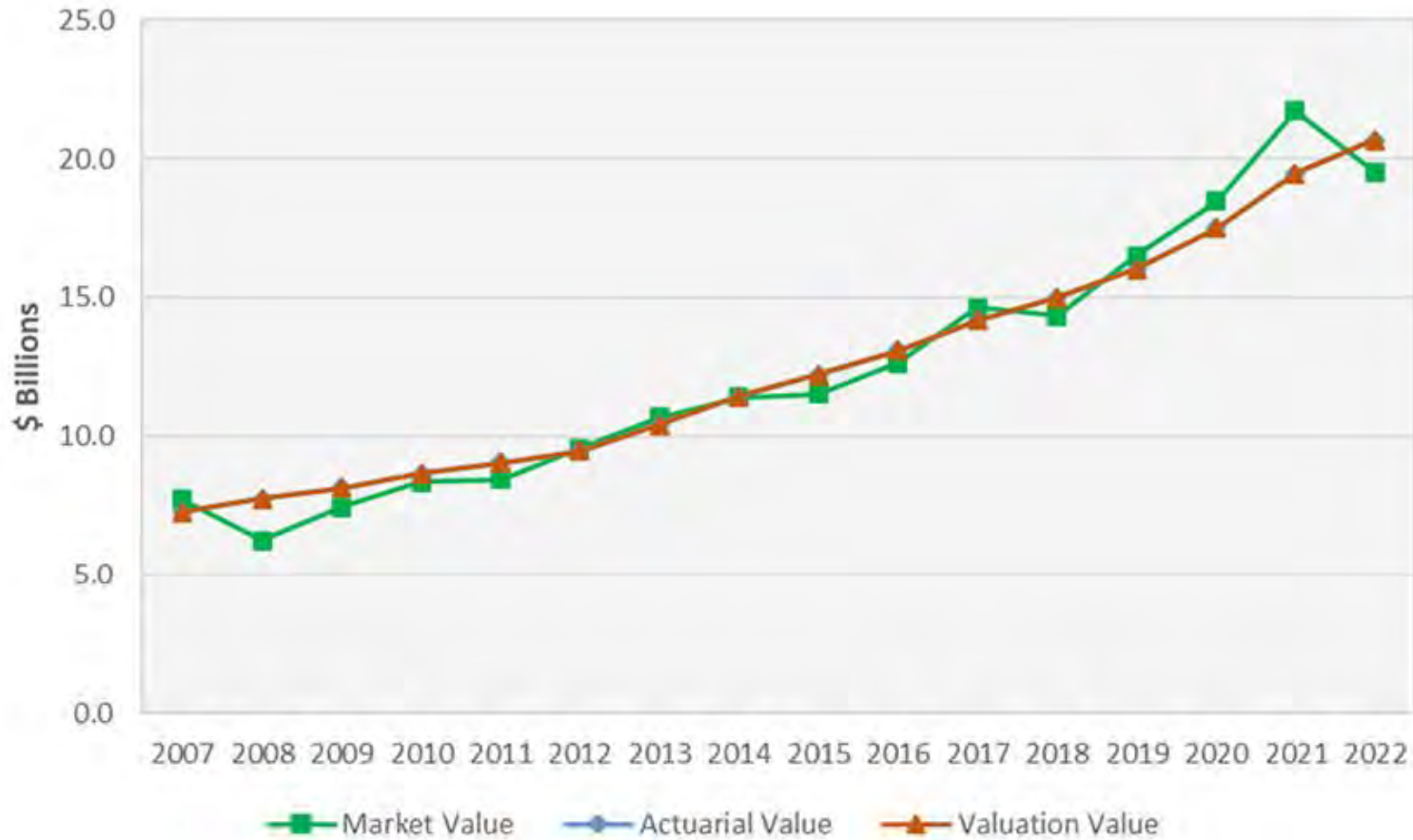
Market, Actuarial and Valuation Value of Assets (\$000)

Valuation Date	Net Market Value of Assets ^{1,2}	Actuarial Value of Assets ²	Valuation Value of Assets
December 31, 2007	\$7,719,690	\$7,292,205	\$7,288,900
December 31, 2008	\$6,248,558	\$7,750,751	\$7,748,380
December 31, 2009	\$7,464,761	\$8,155,654	\$8,154,687
December 31, 2010	\$8,357,835	\$8,673,473	\$8,672,592
December 31, 2011	\$8,465,593	\$9,064,580	\$9,064,355
December 31, 2012	\$9,566,874	\$9,469,423	\$9,469,208
December 31, 2013	\$10,679,507	\$10,417,340	\$10,417,125
December 31, 2014	\$11,428,223	\$11,450,001	\$11,449,911
December 31, 2015	\$11,548,529	\$12,228,098	\$12,228,009
December 31, 2016	\$12,657,418	\$13,103,066	\$13,102,978
December 31, 2017	\$14,652,607	\$14,197,211	\$14,197,125
December 31, 2018	\$14,349,790	\$14,994,505	\$14,994,420
December 31, 2019	\$16,516,108	\$16,036,953	\$16,036,869
December 31, 2020	\$18,494,462	\$17,525,201	\$17,525,117
December 31, 2021	\$21,738,794	\$19,488,761	\$19,488,761
December 31, 2022	\$19,534,631	\$20,691,659	\$20,691,659

¹ Net of amounts in County Investment Account, prepaid employer contributions and O.C. Sanitation District UAAL Deferred Account (after transfer), if any.

² Includes amounts in unclaimed member reserve and Medicare Medical Insurance Reserve. The balance in the Medicare Medical Insurance Reserve is \$0 as of December 31, 2022.

Market Value of Assets, Actuarial Value of Assets and Valuation Value of Assets as of December 31, 2007 – 2022



History of Return on Assets

	Market Value Return	Valuation Value Return	Expected Return
December 31, 2013	10.73%	9.11%	7.25%
December 31, 2014	4.52%	7.34%	7.25%
December 31, 2015	-0.45%	5.26%	7.25%
December 31, 2016	8.72%	6.33%	7.25%
December 31, 2017	14.79%	7.44%	7.25%
December 31, 2018	-2.46%	5.20%	7.00%
December 31, 2019	14.79%	6.66%	7.00%
December 31, 2020	12.01%	9.31%	7.00%
December 31, 2021	17.71%	11.38%	7.00%
December 31, 2022	-9.71%	6.69%	7.00%
Annualized 5-Year Average	5.92%	7.83%	
Annualized 10-Year Average	6.72%	7.46%	

Market Value and Valuation Value Rates of Return for Years Ended December 31, 2007 – 2022



Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio

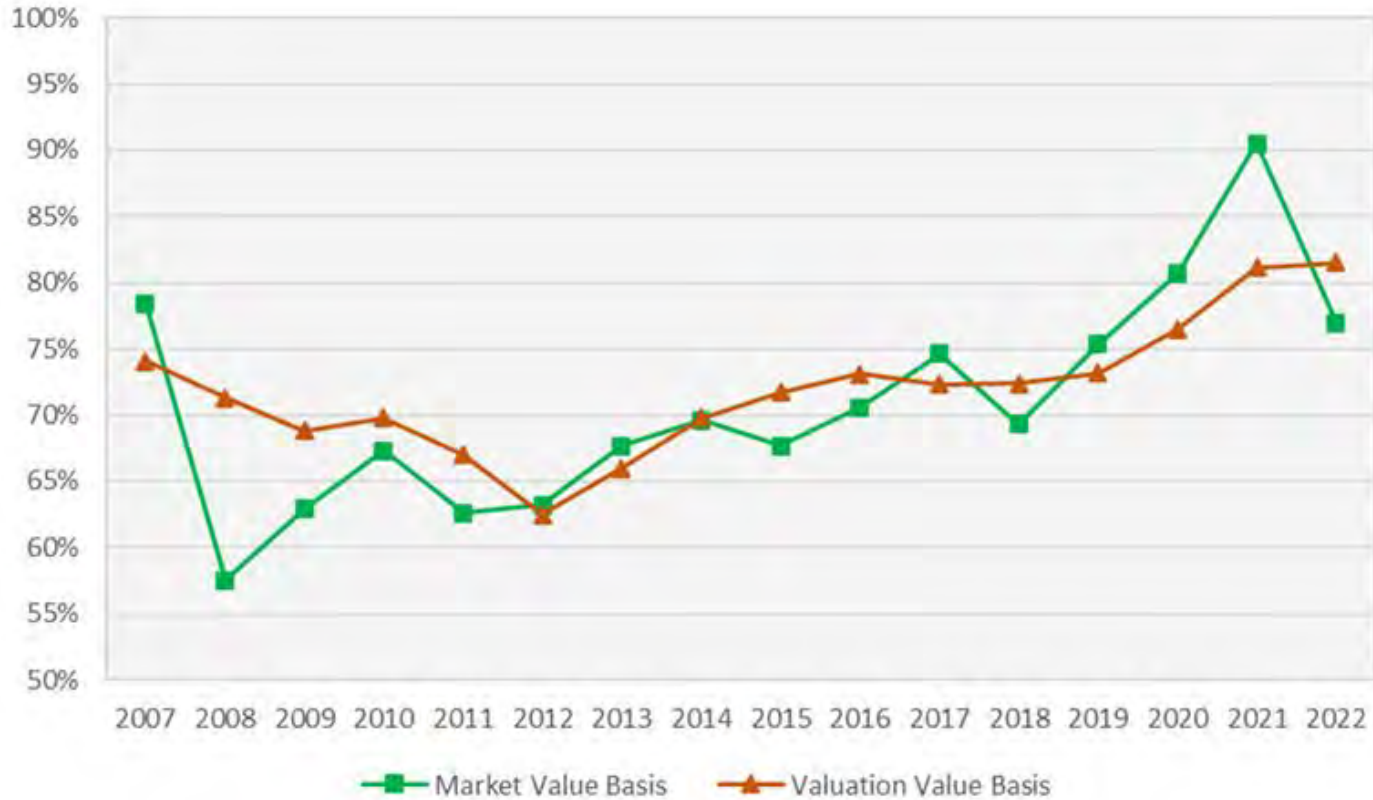
	December 31, 2022	December 31, 2021
Actuarial Accrued Liability	\$25,386,669	\$24,016,073
Valuation Value of Assets¹	20,691,659	19,488,761
Unfunded Actuarial Accrued Liability	4,695,010	4,527,312
Percent Funded on Valuation Value	81.51%	81.15%
Market Value of Assets¹	\$19,534,631	\$21,738,794
Percent Funded on Market Value	76.95%	90.52%

¹ Excludes County Investment Account, prepaid employer contributions, Medicare Medical Insurance Reserve and O.C. Sanitation District UAAL Deferred Account (after transfer), if any. The balance in the Medicare Medical Insurance Reserve is \$0 as of December 31, 2022.

Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio

Valuation Date	UAAL	Valuation Value Funded Ratio	Market Value Funded Ratio
December 31, 2007	\$2,549,786	74.1%	78.4%
December 31, 2008	\$3,112,335	71.3%	57.5%
December 31, 2009	\$3,703,891	68.8%	62.9%
December 31, 2010	\$3,753,281	69.8%	67.3%
December 31, 2011	\$4,458,623	67.0%	62.6%
December 31, 2012	\$5,675,680	62.5%	63.2%
December 31, 2013	\$5,367,917	66.0%	67.7%
December 31, 2014	\$4,963,213	69.8%	69.6%
December 31, 2015	\$4,822,348	71.7%	67.7%
December 31, 2016	\$4,830,483	73.1%	70.6%
December 31, 2017	\$5,438,302	72.3%	74.6%
December 31, 2018	\$5,708,929	72.4%	69.3%
December 31, 2019	\$5,879,861	73.2%	75.4%
December 31, 2020	\$5,379,858	76.5%	80.7%
December 31, 2021	\$4,527,312	81.2%	90.5%
December 31, 2022	\$4,695,010	81.5%	77.0%

Market Value and Valuation Value Funded Ratios for Years Ended December 31, 2007 – 2022



Changes in UAAL since December 31, 2021 Valuation

December 31, 2021 valuation	
• Total UAAL	\$4,527 million
Changes during calendar year 2022	
• Interest minus expected payments to UAAL	-\$184 million
• Difference in actual versus expected contributions	-1 million
• Additional UAAL contributions from OCFA, and anticipated payments from Cypress, DOE and U.C.I.	-17 million
• Investment losses (after smoothing)	60 million
• Difference in actual versus expected salary increases	27 million
• Effect of higher than expected COLA increases in 2023 ¹	261 million
• Other losses	<u>21 million</u>
• Subtotal	\$168 million
December 31, 2022 valuation	
• Total UAAL	\$4,695 million

¹ Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio by Rate Group

	UAAL	Funded Ratio
Rate Group #1 General Plans A, B and U (County and IHSS) ¹	\$53,112	90.47%
Rate Group #2 General Plans I, J, O, P, S, T, U and W (County et al.)	\$3,178,711	77.45%
Rate Group #3 General Plans B, G, H and U (OCSD)	-\$25,368	102.84%
Rate Group #5 General Plans A, B and U (OCTA)	\$189,122	83.59%
Rate Group #9 General Plans M, N and U (TCA)	-\$3,069	105.06%
Rate Group #10 General Plans I, J, M, N and U (OCFA)	\$22,526	92.90%
Rate Group #11 General Plans M and N, future service, and U (Cemetery)	\$572	96.10%
Rate Group #12 General Plans G, H and U (Law Library)	-\$1,128	108.98%
Rate Group #6 Safety Plans E, F and V (Probation)	\$175,151	83.63%
Rate Group #7 Safety Plans E, F, Q, R and V (Law Enforcement)	\$969,473	80.60%
Rate Group #8 Safety Plans E, F, Q, R and V (OCFA)	\$135,908	93.86%
Average Total	\$4,695,010	81.51%

¹ Includes payees from Vector Control, Cypress Recreation and Parks, U.C.I. and DOE.

Changes in UAAL for General Members (\$000)

	RG #1	RG #2	RG #3	RG #5	RG #9	RG #10	RG #11	RG #12
December 31, 2021 valuation								
• Total UAAL	\$53,950	\$3,097,129	-\$48,071	\$159,372	-\$4,231	\$22,370	\$242	-\$992
• Interest minus expected payments to UAAL	\$208	-\$113,545	-\$3,365	-\$7,463	-\$296	-\$1,882	-\$7	-\$69
• Difference in actual versus expected contributions	166	15,405	1,277	-1,624	119	-349	-36	2
• Additional UAAL contributions from OCFA, and anticipated payments from Cypress, DOE and U.C.I.	-4,335	0	0	0	0	0	0	0
• Investment losses (after smoothing)	1,461	31,627	2,682	2,792	185	853	41	40
• Difference in actual versus expected salary increases	-1,039	18,684	2,135	28,618	406	-2,903	516	-59
• Effect of higher than expected COLA increases in 2023 ¹	4,116	132,689	9,940	10,329	617	3,424	68	77
• Other (gains)/losses	<u>-1,415</u>	<u>-3,278</u>	<u>10,034</u>	<u>-2,902</u>	<u>131</u>	<u>1,013</u>	<u>-252</u>	<u>-127</u>
• Subtotal	-\$838	\$81,582	\$22,703	\$29,750	\$1,162	\$156	\$330	-\$136
December 31, 2022 valuation								
• Total UAAL	\$53,112	\$3,178,711	-\$25,368	\$189,122	-\$3,069	\$22,526	\$572	-\$1,128

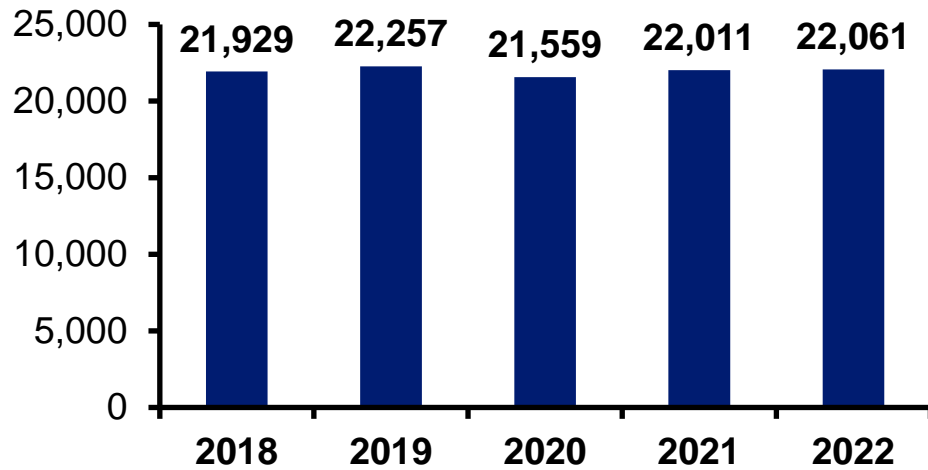
¹ Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

Changes in UAAL for Safety Members (\$000)

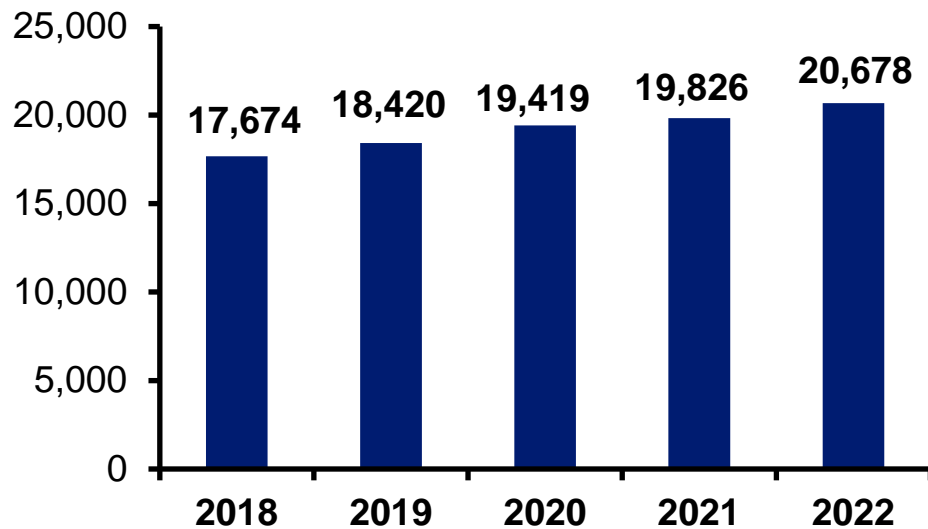
	RG #6	RG #7	RG #8
December 31, 2021 valuation			
• Total UAAL	\$161,071	\$934,471	\$152,001
• Interest minus expected payments to UAAL	-\$7,582	-\$38,107	-\$11,769
• Difference in actual versus expected contributions	483	-7,144	-9,698
• Additional UAAL contributions from OCFA, and anticipated payments from Cypress, DOE and U.C.I.	0	0	-12,175
• Investment losses (after smoothing)	2,578	11,623	5,967
• Difference in actual versus expected salary increases	2,277	4,579	-25,747
• Effect of higher than expected COLA increases in 2023¹	10,521	63,362	26,138
• Other (gains)/losses	<u>5,803</u>	<u>689</u>	<u>11,191</u>
• Subtotal	\$14,080	\$35,002	-\$16,093
December 31, 2022 valuation			
• Total UAAL	\$175,151	\$969,473	\$135,908

¹ Actuarial loss from payment of higher than the 2.75% COLA assumption (3.00% expected to be paid starting on each April 1st starting 2023 and the following 18 years).

Entire OCERS Membership Demographics (as of December 31)



	2022	2021
Active Members	22,061	22,011
Average Age	44.5	44.9
Average Service	12.0	12.4
Average Compensation	\$96,309	\$93,258



	2022	2021
Retired Members and Beneficiaries	20,678	19,826
Average Age	70.4	70.4
Average Annual Benefit	\$54,751	\$52,542

Terminated Vested Members	7,894	7,238
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Questions and Discussion



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Summary of Active Membership

Rate Group #1 General – County and IHSS	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	1,619	1,692	-4.3%
Average age	42.8	43.2	-0.4
Average service	8.6	8.8	-0.2
Projected total compensation	\$99,025,407	\$98,969,172	0.1%
Projected average compensation	\$61,165	\$58,492	4.6%

Rate Group #2 General Plans I, J, O, P, S, T, U and W	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	14,271	14,079	1.4%
Average age	45.0	45.3	-0.3
Average service	12.1	12.5	-0.4
Projected total compensation	\$1,269,983,733	\$1,216,412,072	4.4%
Projected average compensation	\$88,991	\$86,399	3.0%

Summary of Active Membership

Rate Group #3 General – OCSD	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	605	620	-2.4%
Average age	46.4	46.8	-0.4
Average service	11.4	11.8	-0.4
Projected total compensation	\$80,358,365	\$78,995,802	1.7%
Projected average compensation	\$132,824	\$127,413	4.2%

Rate Group #5 General – OCTA	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	1,279	1,315	-2.7%
Average age	49.7	50.1	-0.4
Average service	12.7	12.8	-0.1
Projected total compensation	\$117,981,140	\$108,629,267	8.6%
Projected average compensation	\$92,245	\$82,608	11.7%

Summary of Active Membership

Rate Group #9 General – TCA	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	55	61	-9.8%
Average age	47.7	49.3	-1.6
Average service	8.6	9.1	-0.5
Projected total compensation	\$6,883,620	\$7,477,529	-7.9%
Projected average compensation	\$125,157	\$122,582	2.1%

Rate Group #10 General – OCFA	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	316	322	-1.9%
Average age	44.2	44.5	-0.3
Average service	10.2	10.1	0.1
Projected total compensation	\$34,319,033	\$34,703,406	-1.1%
Projected average compensation	\$108,605	\$107,775	0.8%

Summary of Active Membership

Rate Group #11 General – Cemetery District	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	25	25	0.0%
Average age	50.5	49.1	1.4
Average service	15.6	15.2	0.4
Projected total compensation	\$2,028,678	\$1,863,731	8.9%
Projected average compensation	\$81,147	\$74,549	8.9%

Rate Group #12 General – Law Library	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	14	14	0.0%
Average age	58.1	57.1	1.0
Average service	19.0	18.0	1.0
Projected total compensation	\$1,174,795	\$1,130,137	4.0%
Projected average compensation	\$83,914	\$80,724	4.0%

Summary of Active Membership

Rate Group #6 Safety – Probation Officers	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	616	662	-6.9%
Average age	44.8	45.0	-0.2
Average service	17.9	17.9	0.0
Projected total compensation	\$56,547,543	\$58,975,634	-4.1%
Projected average compensation	\$91,798	\$89,087	3.0%

Rate Group #7 Safety – Law Enforcement	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	2,049	2,035	0.7%
Average age	40.3	40.7	-0.4
Average service	11.9	12.5	-0.6
Projected total compensation	\$287,654,395	\$278,340,549	3.3%
Projected average compensation	\$140,388	\$136,777	2.6%

Summary of Active Membership

Rate Group #8 Safety – OCFA	Year Ended December 31		Change from Prior Year
	2022	2021	
Number	1,212	1,186	2.2%
Average age	41.1	42.0	-0.9
Average service	12.4	13.1	-0.7
Projected total compensation	\$168,722,671	\$167,208,543	0.9%
Projected average compensation	\$139,210	\$140,985	-1.3%

Summary of Retired Members and Beneficiaries

Rate Group #1 General – County and IHSS ¹	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	710	683	4.0%
Average monthly benefit ²	\$2,969	\$2,919	1.7%
Disabled members			
Number in pay status	37	36	2.8%
Average monthly benefit ²	\$2,720	\$2,655	2.4%
Beneficiaries			
Number in pay status	99	102	-2.9%
Average monthly benefit ²	\$1,562	\$1,522	2.6%

¹ Includes payees from Vector Control, Cypress Recreation and Parks, U.C.I. and DOE.

² Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #2 General Plans I, J, O, P, S, T, U and W	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	10,956	10,586	3.5%
Average monthly benefit ¹	\$4,394	\$4,222	4.1%
Disabled members			
Number in pay status	553	556	-0.5%
Average monthly benefit ¹	\$2,932	\$2,860	2.5%
Beneficiaries			
Number in pay status	1,689	1,630	3.6%
Average monthly benefit ¹	\$2,237	\$2,165	3.3%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #3 General – OCSD	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	491	453	8.4%
Average monthly benefit ¹	\$6,512	\$6,290	3.5%
Disabled members			
Number in pay status	20	20	0.0%
Average monthly benefit ¹	\$4,114	\$3,994	3.0%
Beneficiaries			
Number in pay status	92	91	1.1%
Average monthly benefit ¹	\$2,721	\$2,624	3.7%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #5 General – OCTA	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	1,085	1,046	3.7%
Average monthly benefit ¹	\$3,058	\$2,907	5.2%
Disabled members			
Number in pay status	266	268	-0.7%
Average monthly benefit ¹	\$2,692	\$2,610	3.1%
Beneficiaries			
Number in pay status	217	202	7.4%
Average monthly benefit ¹	\$1,571	\$1,541	1.9%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #9 General – TCA	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	63	54	16.7%
Average monthly benefit ¹	\$3,472	\$3,382	2.7%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	\$0	\$0	N/A
Beneficiaries			
Number in pay status	7	5	40.0%
Average monthly benefit ¹	\$889	\$836	6.3%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #10 General – OCFA	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	209	195	7.2%
Average monthly benefit ¹	\$5,071	\$4,891	3.7%
Disabled members			
Number in pay status	12	13	-7.7%
Average monthly benefit ¹	\$3,648	\$3,519	3.7%
Beneficiaries			
Number in pay status	14	14	0.0%
Average monthly benefit ¹	\$1,923	\$1,825	5.4%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #11 General – Cemetery District	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	7	7	0.0%
Average monthly benefit ¹	\$3,450	\$3,311	4.2%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	\$0	\$0	N/A
Beneficiaries			
Number in pay status	6	5	20.0%
Average monthly benefit ¹	\$1,609	\$1,622	-0.8%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #12 General – Law Library	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	13	13	0.0%
Average monthly benefit ¹	\$3,431	\$3,331	3.0%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	\$0	\$0	N/A
Beneficiaries			
Number in pay status	0	0	N/A
Average monthly benefit ¹	\$0	\$0	N/A

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #6 Safety – Probation Officers	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	499	449	11.1%
Average monthly benefit ¹	\$5,995	\$5,816	3.1%
Disabled members			
Number in pay status	39	38	2.6%
Average monthly benefit ¹	\$3,169	\$3,080	2.9%
Beneficiaries			
Number in pay status	50	44	13.6%
Average monthly benefit ¹	\$2,790	\$2,661	4.8%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #7 Safety – Law Enforcement	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	1,742	1,640	6.2%
Average monthly benefit ¹	\$8,048	\$7,815	3.0%
Disabled members			
Number in pay status	405	392	3.3%
Average monthly benefit ¹	\$6,324	\$5,984	5.7%
Beneficiaries			
Number in pay status	457	425	7.5%
Average monthly benefit ¹	\$3,680	\$3,498	5.2%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #8 Safety – OCFA	Year Ended December 31		Change from Prior Year
	2022	2021	
Retired members			
Number in pay status	535	480	11.5%
Average monthly benefit ¹	\$9,265	\$9,179	0.9%
Disabled members			
Number in pay status	256	238	7.6%
Average monthly benefit ¹	\$8,101	\$7,697	5.2%
Beneficiaries			
Number in pay status	148	140	5.7%
Average monthly benefit ¹	\$3,757	\$3,627	3.6%

¹ Excludes monthly benefits payable from the STAR COLA.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #1	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans A and B		
Normal Cost	10.26%	10.42%
UAAL ¹	<u>3.61%</u>	<u>3.33%</u>
Total	13.87%	13.75%
Plan U		
Normal Cost	10.03%	10.08%
UAAL ¹	<u>3.61%</u>	<u>3.33%</u>
Total	13.64%	13.41%
Rate Group 1 combined		
Normal Cost	10.10%	10.19%
UAAL ¹	<u>3.61%</u>	<u>3.33%</u>
Total	13.71%	13.52%

¹ These are “net” UAAL contribution rate for County and IHSS Public Authority without reflecting the UAAL contributions required for Vector Control, Cypress Recreation and Parks, U.C.I. and DOE.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #1 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plans A and B		
<u>Tier 2</u>		
Entry Age: 30	8.95%	8.96%
Entry Age: 35	9.77%	9.79%
Entry Age: 40	10.69%	10.71%
Plan U		
Entry Age: 30	9.10%	9.16%
Entry Age: 35	9.93%	10.00%
Entry Age: 40	10.84%	10.92%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023


Rate Group #2	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans I and J (Children & Families)		
Normal Cost	14.57%	14.67%
UAAL	<u>4.79%</u>	<u>3.50%</u>
Total	19.36%	18.17%
Plans I and J (non-Children & Families)		
Normal Cost	14.57%	14.67%
UAAL ¹	<u>27.14%</u>	<u>26.14%</u>
Total	41.71%	40.81%
Plans O and P		
Normal Cost	6.17%	6.22%
UAAL	<u>27.14%</u>	<u>26.14%</u>
Total	33.31%	32.36%

¹ Before adjustments for future service benefit improvements.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #2 <i>continued</i>	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plan S		
Normal Cost ¹	15.97%	16.61%
UAAL	<u>27.14%</u>	<u>26.14%</u>
Total	43.11%	42.75%
Plan T		
Normal Cost	7.29%	7.09%
UAAL	<u>27.14%</u>	<u>26.14%</u>
Total	34.43%	33.23%
Plan U (Children & Families)		
Normal Cost	9.24%	9.17%
UAAL	<u>4.79%</u>	<u>3.50%</u>
Total	14.03%	12.67%

¹ The decrease in the employer Normal Cost rate from last year to this year is primarily due to the change in the average entry age from 43.5 to 41.4.  48

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #2 <i>continued</i>	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plan U (non-Children & Families)		
Normal Cost	9.24%	9.17%
UAAL ¹	<u>27.14%</u>	<u>26.14%</u>
Total	36.38%	35.31%
Plan W		
Normal Cost ²	7.82%	8.95%
UAAL	<u>27.14%</u>	<u>26.14%</u>
Total	34.96%	35.09%
Rate Group 2 combined		
Normal Cost	11.34%	11.32%
UAAL	<u>27.10%</u>	<u>26.10%</u>
Total	38.44%	37.42%

¹ Before adjustments for future service benefit improvements.

² The decrease in the employer Normal Cost rate from last year to this year is primarily due to the change in the average entry age from 58.0 to 43.2.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #2 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plans I and J		
<u>Tier 1</u>		
Entry Age: 30	13.26%	13.29%
Entry Age: 35	14.53%	14.55%
Entry Age: 40	15.95%	15.97%
<u>Tier 2</u>		
Entry Age: 30	12.72%	12.75%
Entry Age: 35	13.93%	13.95%
Entry Age: 40	15.20%	15.23%
Plan P		
<u>Tier 2</u>		
Entry Age: 30	8.23%	8.24%
Entry Age: 35	8.99%	9.00%
Entry Age: 40	9.84%	9.85%
Plan S		
<u>Tier 2</u>		
Entry Age: 30	11.33%	11.35%
Entry Age: 35	12.37%	12.39%
Entry Age: 40	13.54%	13.56%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #2 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plan T		
Entry Age: 30	6.58%	6.45%
Entry Age: 35	7.19%	7.04%
Entry Age: 40	7.88%	7.72%
Plan U		
Entry Age: 30	8.43%	8.42%
Entry Age: 35	9.20%	9.19%
Entry Age: 40	10.05%	10.04%
Plan W		
Entry Age: 30	6.18%	6.11%
Entry Age: 35	6.75%	6.67%
Entry Age: 40	7.39%	7.31%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #3	Employer Rate	
	FY 24 – 25	FY 23 – 24
Plans G and H		
Normal Cost	13.36%	13.47%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	13.36%	13.47%

Plan B		
Normal Cost	12.81%	13.09%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	12.81%	13.09%

Plan U		
Normal Cost	9.97%	9.82%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	9.97%	9.82%

Rate Group 3 combined		
Normal Cost	11.63%	11.62%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	11.63%	11.62%

¹ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #3 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plans G and H		
<u>Tier 2</u>		
Entry Age: 30	12.43%	12.44%
Entry Age: 35	13.60%	13.62%
Entry Age: 40	14.85%	14.87%
Plan B		
<u>Tier 2</u>		
Entry Age: 30	9.33%	9.31%
Entry Age: 35	10.18%	10.17%
Entry Age: 40	11.15%	11.13%
Plan U		
Entry Age: 30	8.66%	8.59%
Entry Age: 35	9.45%	9.38%
Entry Age: 40	10.32%	10.24%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #5	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans A and B		
Normal Cost	12.32%	12.54%
UAAL	<u>18.11%</u>	<u>16.37%</u>
Total	30.43%	28.91%

Plan U		
Normal Cost	11.89%	11.99%
UAAL	<u>18.11%</u>	<u>16.37%</u>
Total	30.00%	28.36%

Rate Group 5 combined		
Normal Cost	12.17%	12.34%
UAAL	<u>18.11%</u>	<u>16.37%</u>
Total	30.28%	28.71%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #5 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plans A and B		
<u>Tier 1</u>		
Entry Age: 30	6.85%	6.88%
Entry Age: 35	7.48%	7.51%
Entry Age: 40	8.19%	8.23%
<u>Tier 2</u>		
Entry Age: 30	9.17%	9.20%
Entry Age: 35	10.01%	10.04%
Entry Age: 40	10.95%	10.99%
Plan U		
Entry Age: 30	9.92%	9.96%
Entry Age: 35	10.83%	10.87%
Entry Age: 40	11.82%	11.87%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #9	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans M and N		
Normal Cost ¹	13.95%	14.89%
UAAL ²	<u>0.00%</u>	<u>0.00%</u>
Total	13.95%	14.89%

Plan U		
Normal Cost	10.79%	11.18%
UAAL ²	<u>0.00%</u>	<u>0.00%</u>
Total	10.79%	11.18%

Rate Group 9 combined		
Normal Cost	12.02%	12.63%
UAAL ²	<u>0.00%</u>	<u>0.00%</u>
Total	12.02%	12.63%

¹ The decrease in the employer Normal Cost rate from last year to this year is primarily due to the change in the average entry age from 37.2 to 35.9.

² Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #9 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plans M and N		
<u>Tier 2</u>		
Entry Age: 30	9.51%	9.58%
Entry Age: 35	10.38%	10.46%
Entry Age: 40	11.36%	11.45%
Plan U		
Entry Age: 30	8.65%	8.75%
Entry Age: 35	9.44%	9.55%
Entry Age: 40	10.31%	10.43%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #10	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans I and J		
Normal Cost	14.99%	15.25%
UAAL	<u>10.50%</u>	<u>9.37%</u>
Total	25.49%	24.62%
Plans M and N		
Normal Cost	17.22%	16.98%
UAAL	<u>10.50%</u>	<u>9.37%</u>
Total	27.72%	26.35%
Plan U		
Normal Cost	9.98%	9.87%
UAAL	<u>10.50%</u>	<u>9.37%</u>
Total	20.48%	19.24%
Rate Group 10 combined		
Normal Cost	12.63%	12.60%
UAAL	<u>10.50%</u>	<u>9.37%</u>
Total	23.13%	21.97%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #10 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plan J		
<u>Tier 2</u>		
Entry Age: 30	12.67%	12.68%
Entry Age: 35	13.87%	13.88%
Entry Age: 40	15.14%	15.15%

Plan N		
<u>Tier 2</u>		
Entry Age: 30	10.19%	10.20%
Entry Age: 35	11.13%	11.14%
Entry Age: 40	12.18%	12.19%

Plan U		
Entry Age: 30	8.97%	8.88%
Entry Age: 35	9.79%	9.69%
Entry Age: 40	10.69%	10.58%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #11	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans M and N		
Normal Cost	12.67%	12.71%
UAAL	<u>2.45%</u>	<u>1.02%</u>
Total	15.12%	13.73%
Plan U		
Normal Cost	12.04%	11.97%
UAAL	<u>2.45%</u>	<u>1.02%</u>
Total	14.49%	12.99%
Rate Group 11 combined		
Normal Cost	12.43%	12.38%
UAAL	<u>2.45%</u>	<u>1.02%</u>
Total	14.88%	13.40%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #11 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plans M and N		
<u>Tier 2</u>		
Entry Age: 30	9.51%	9.58%
Entry Age: 35	10.38%	10.46%
Entry Age: 40	11.36%	11.45%
Plan U		
Entry Age: 30	9.62%	9.68%
Entry Age: 35	10.50%	10.57%
Entry Age: 40	11.47%	11.54%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #12	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans G and H		
Normal Cost	13.49%	13.79%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	13.49%	13.79%
Plan U		
Normal Cost	10.48%	10.48%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	10.48%	10.48%
Rate Group 12 combined		
Normal Cost	12.77%	12.94%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	12.77%	12.94%

¹ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #12 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plan H		
<u>Tier 2</u>		
Entry Age: 30	12.35%	12.40%
Entry Age: 35	13.52%	13.57%
Entry Age: 40	14.75%	14.81%
Plan U		
Entry Age: 30	8.58%	8.80%
Entry Age: 35	9.37%	9.61%
Entry Age: 40	10.23%	10.49%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #6	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans E and F		
Normal Cost	22.65%	23.16%
UAAL	<u>36.48%</u>	<u>30.55%</u>
Total	59.13%	53.71%
Plan V		
Normal Cost	16.11%	16.11%
UAAL	<u>36.48%</u>	<u>30.55%</u>
Total	52.59%	46.66%
Rate Group 6 combined		
Normal Cost	21.78%	22.22%
UAAL	<u>36.48%</u>	<u>30.55%</u>
Total	58.26%	52.77%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #6 <i>continued</i>	Sample Member Rates	
	FY 24 – 25	FY 23 – 24
Plan F		
<u>Tier 2</u>		
Entry Age: 30	18.26%	18.24%
Entry Age: 35	19.81%	19.79%
Entry Age: 40	21.44%	21.42%
Plan V		
Entry Age: 30	16.27%	16.31%
Entry Age: 35	17.55%	17.59%
Entry Age: 40	19.05%	19.10%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #7	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans E and F		
Normal Cost	26.26%	26.62%
UAAL	<u>37.86%</u>	<u>35.53%</u>
Total	64.12%	62.15%
Plans Q and R		
Normal Cost	24.38%	24.74%
UAAL	<u>37.86%</u>	<u>35.53%</u>
Total	62.24%	60.27%
Plan V		
Normal Cost	18.07%	17.76%
UAAL	<u>37.86%</u>	<u>35.53%</u>
Total	55.93%	53.29%
Rate Group 7 combined		
Normal Cost	22.49%	22.57%
UAAL	<u>37.86%</u>	<u>35.53%</u>
Total	60.35%	58.10%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #7 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plan F		
<u>Tier 2</u>		
Entry Age: 30	19.07%	19.19%
Entry Age: 35	20.65%	20.78%
Entry Age: 40	22.26%	22.39%
Plan R		
<u>Tier 2</u>		
Entry Age: 30	17.99%	18.07%
Entry Age: 35	19.49%	19.57%
Entry Age: 40	21.00%	21.08%
Plan V		
Entry Age: 30	17.69%	17.46%
Entry Age: 35	19.08%	18.83%
Entry Age: 40	20.72%	20.44%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #8	Employer Rates	
	FY 24 – 25	FY 23 – 24
Plans E and F		
Normal Cost	25.93%	27.09%
UAAL	<u>12.96%</u>	<u>12.35%</u>
Total	38.89%	39.44%
Plans Q and R		
Normal Cost	26.48%	26.65%
UAAL	<u>12.96%</u>	<u>12.35%</u>
Total	39.44%	39.00%
Plan V		
Normal Cost	15.89%	15.29%
UAAL	<u>12.96%</u>	<u>12.35%</u>
Total	28.85%	27.64%
Rate Group 8 combined		
Normal Cost	22.45%	22.85%
UAAL	<u>12.96%</u>	<u>12.35%</u>
Total	35.41%	35.20%

Contribution Rates

Fiscal Years Beginning July 1, 2024 and July 1, 2023

Rate Group #8 <i>continued</i>	Sample Member Rate	
	FY 24 – 25	FY 23 – 24
Plan F		
<u>Tier 2</u>		
Entry Age: 30	17.71%	18.19%
Entry Age: 35	19.24%	19.76%
Entry Age: 40	20.87%	21.43%
Plan R		
<u>Tier 2</u>		
Entry Age: 30	17.60%	18.29%
Entry Age: 35	19.13%	19.87%
Entry Age: 40	20.75%	21.55%
Plan V		
Entry Age: 30	16.08%	15.54%
Entry Age: 35	17.34%	16.76%
Entry Age: 40	18.83%	18.20%



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, OCERS General Counsel
SUBJECT: **ANNUAL FIDUCIARY EDUCATION**

Presentation

The Board's fiduciary counsel will present the Annual Fiduciary Education to the Board.

Submitted by:



Gina M. Ratto
General Counsel

TOO MANY HATS??

FIDUCIARY & CONFLICTS EDUCATION

Board of Retirement
Orange County Employees
Retirement System

May 17, 2023
Maytak Chin
Harvey L. Leiderman
Reed **Smith** LLP



OCERS BOARD MEMBERS ARE FIDUCIARIES

Retirement boards owe a fiduciary duty to their members and their beneficiaries because they are responsible for the timely payment of promised benefits, and stewardship of the assets they hold in trust to make those payments.

Legal Source of Duty:

- California Constitution, Article XVI, section 17
- Common law, trust law, prudent investor statutes

WHY DO WE HAVE FIDUCIARY DUTIES?

To restrain human nature and avoid “situational ethics.” We are more used to looking out for our *own* interests.

Examples of some behaviors fiduciaries must avoid:

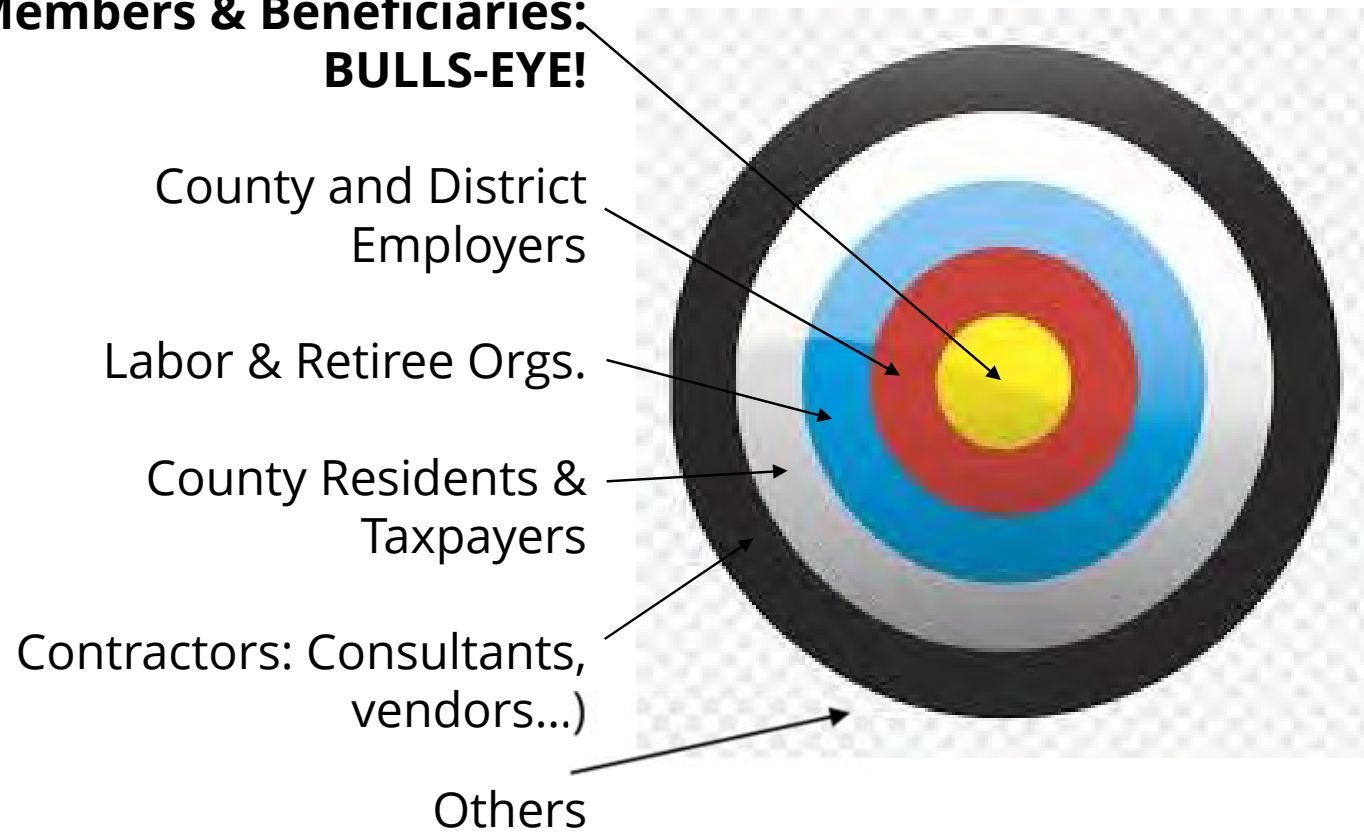
- Acting for our own gain or for those we like
- Acting to disadvantage those we don't like
- Acting on our biases
- Going along with the group to avoid controversy
- Bowing to pressure from others that don't share our responsibility
- Acting emotionally, not rationally
- Cutting “back-room” deals

FIVE FUNDAMENTAL FIDUCIARY DUTIES

1. **Duty of Loyalty**. You owe your primary duty to members and beneficiaries of the trust. All other obligations must be subordinated.
2. **Exclusive Benefit Rule**. The assets of the trust may be used only to pay benefits and reasonable administrative expenses.
3. **Prudent Expert Rule**. You must exercise the care and skill of a knowledgeable, prudent person charged with similar duties under similar circumstances. And assure the competency of the assets of the trust.
4. **Diversify Investments**. You must diversify the portfolio to maximize return and minimize risk unless it is imprudent to do so (aka “Modern Portfolio Theory.”)
5. **Follow the law**. You must obey the plan documents, which includes the law, policies, regulations and governing documents of the Plan.

THE DUTY OF LOYALTY IS NOT OWED TO ALL "STAKEHOLDERS"

**Members & Beneficiaries:
BULLS-EYE!**



A TRUSTEE IS NOT A REPRESENTATIVE!

- Your role is to be a fair and unbiased steward of other peoples' money and financial security, and an independent arbiter of their rights
- Your job is not to “deliver the pork” to the people who put you on the Board...
- ...or to promote your own personal interests

ONE COURT SAYS IT ALL

The fiduciary provisions of trust law were designed to prevent a trustee from being put in a position where he has dual loyalties, and therefore, he cannot act exclusively for the benefit of a plan's participants and beneficiaries. **An employee benefit fund trustee is a fiduciary whose duty to the trust beneficiaries must overcome any loyalty to the interest of the party that appointed him.** Thus, the statutes defining the duties of a management-appointed trustee make it virtually self-evident that trustees are not representatives.

* * *

One of the means of insuring neutrality in the administration of a trust was to give each side of the bargaining table an equal voice in the selection of trustees. It is also a recognition of the fact that the administration of a trust fund often gives rise to questions over which representatives of management and labor may have legitimate differences of opinion that are entirely consistent with their fiduciary duties.

The guarantee of impartiality in making decisions of this kind is not a total divorce of every trustee from the interests that appointed him. **There is a distinction between the process by which a person is appointed to office and the manner in which he performs that office after he has been appointed.**

NLRB v. Amax Coal Co., 433 U. S. 322 (1981)

ReedSmith

YOU MAKE COLLECTIVE DECISIONS, NOT INDIVIDUAL DECISIONS

- This is a diverse board that brings multiple perspectives...but must speak with only one voice...



- ...so you must establish collective trust among yourselves as well

DUTY OF LOYALTY, EXCLUSIVE BENEFIT RULE AND PRUDENCE ALL REQUIRE AVOIDING CONFLICTS OF INTEREST

“[A] person cannot serve two masters simultaneously. ... If a public official is pulled in one direction by his financial interest and in another direction by his official duties, his judgment cannot and should not be trusted, even if he attempts impartiality. ... Where a prohibited interest is found, ... the official ... is subject to a host of civil and (if the violation was willful) criminal penalties, including imprisonment and disqualification from holding public office in perpetuity.”

Lexin v. Superior Court (2010) 47 Cal.4th 1050

ReedSmith

MULTIPLE RULES AND REGULATIONS COVERING CONFLICTS OF INTEREST

- Section 1090: Prohibiting personal financial interests in Plan contracts
- Political Reform Act: Prohibiting personal financial interests in Plan decisions
- FPPC Regulations: Limits on gifts, honoraria, travel, lodging, meals; required disclosures
- Section 7513.95: Prohibiting marketing investments to public pension plans
- Plan Conflict of Interest Codes, Ethics Rules
- County ordinances
- Common law prohibitions

THE FUNDAMENTAL PROHIBITION

Fair Political Practices Commission Regulation 18700:

“No public official may make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests, unless that interest is indistinguishable from the public generally.”

AVOIDING CONFLICTS OF INTEREST

- Critical duty of loyalty – a trustee cannot serve two masters – the members on one hand and the trustee or others on the other hand
- Most serious of all fiduciary duties; severe penalties for breach
- Impacts all decisions: contracts, hiring of consultants and vendors, relations with the County and districts, unions, retirees, personal business interests, litigation, etc...
- Exercising independent judgment and avoiding unduly influencing others is essential
- Rules are complicated and often not intuitive; seek counsel when in doubt

SCENARIO #1

Board member Charlie is a retiree who has a gemology degree. When he attends SACRS and other conferences, he likes to host a late night sales auction in his hotel room, where he auctions off various gems and jewelry to the highest bidders. The winning bidders are usually personnel of investment managers attending the conference, who can afford the \$1,000+ prices.

Earlier on the day of an auction, the firm of one of the successful bidders responded to an open RFP issued by Charlie's Board.

What are the fiduciary issues raised by these events?

ReedSmith

SCENARIO #2

In her spare time, Board member Linda has developed an app that helps predict the impact of currency fluctuations on global investments. One of your Plan's domestic equity managers has a Belgian affiliate in fixed income that is interested in Linda's app, and she starts negotiating a personal licensing deal with the Belgian affiliate. The app will not be used by the domestic equity manager in connection with any of the Plan's investments.

Is it OK for Linda to participate in the following investment activities of the Board:

- *Setting asset class and sub-class allocations*
- *Selecting domestic equity managers through an RFP process*
- *Expanding the current domestic equity manager's contract to add \$100 million for a new mandate*
- *Negotiating a new contract with the Belgian fixed income affiliate*

TEN COMMANDMENTS OF FIDUCIARY CONDUCT & ETHICS

1. Adhere to fundamental fiduciary duties
2. Obey conflict of interest laws and OCERS' Code of Ethics and Standards of Professional Conduct Policy
3. Avoid activities that improperly influence or impair your judgment, or are inconsistent with your duty to act in the best interest of the system
4. Disclose conflicting interests; recuse when appropriate and timely
5. Comply with all legal limitations on gifts and things of value
6. Honor the "quiet period" during investment manager searches
7. Avoid using your public position for private gain or influence
8. Maintain the confidentiality of closed sessions
9. Conduct yourself with civility and respect at board meetings
10. Use care in communications with service providers, members and plan sponsors

ReedSmith

DISCUSSION

ORANGE COUNTY
 **Retirement Board Meeting**
 May 17, 2023
Application Notices

MEMBER NAME	AGENCY/EMPLOYER	RETIREMENT DATE
AGUAYO, YVETTE	Social Services Agency	3/10/2023
AGUIRRE, IDALIA	County Clerk/Recorder	3/10/2023
ALFARO, MANUEL	Sheriff's Dept	3/10/2023
AMBRIZ, JOSE	Sanitation District	3/10/2023
ANDERSON, ELIZABETH	Child Support Services	3/24/2023
ARCHIE, STEPHANIE	Sanitation District	3/23/2023
ARTEAGA, FERNANDO	Social Services Agency	3/13/2023
ASHBY, COLTON	Fire Authority (OCFA)	3/10/2023
BALDUCK, RANDALL	Social Services Agency	3/10/2023
BARBOUR, JOHN	Sheriff's Dept	3/10/2023
BARILLA, ROBERT	OC Public Works	3/10/2023
BARRINGTON TULL, GINA	Social Services Agency	3/10/2023
BAYRON, CLAUDIA	Social Services Agency	3/10/2023
BECKNER-PAVONE, TAMMY	Social Services Agency	3/10/2023
BLACKBURN, DOUGLAS	Sheriff's Dept	3/10/2023
BOLISAY, CORAZON	Superior Court	3/24/2023
BREKENFELD, MARC	OCTA	2/26/2023
BROWN, SHEILA	Probation	3/10/2023
BURKS, JEREMY	Sheriff's Dept	3/24/2023
CAHILL, JENNIFER	OCTA	3/4/2023
CAMPBELL, JAMES	County Executive Office (CEO)	3/10/2023
CARLSON, WILLIAM	OCTA	3/3/2023
CASTILLO, FAITH	District Attorney	3/10/2023
CHANDLER, JOHN	Fire Authority (OCFA)	3/10/2023
CHLEBOWSKI, JESSICA	Social Services Agency	3/10/2023
CHRISTIANSEN, STEPHANIE	OC Community Resources	3/24/2023
CISZEK, JANET	Social Services Agency	3/24/2023
CLARK, AARON	Fire Authority (OCFA)	3/10/2023
CLARK, CELESTE	Health Care Agency	3/17/2023
CLODFELTER, KATHLEEN	Health Care Agency	3/10/2023
CLOUSER, VERN	Sheriff's Dept	3/23/2023
COALSON, GRACE	Assessor	3/24/2023
COBB, DONNA	Social Services Agency	3/10/2023
COFFMAN, CARRIE	Probation	3/10/2023
COOK, IRMA	Superior Court	2/24/2023
CORRAO, ANNETTE	Sheriff's Dept	3/10/2023
COTE, STEPHEN	Auditor Controller	3/24/2023
COUNTS, CHRISTOPHER	Sheriff's Dept	3/10/2023



Retirement Board Meeting

May 17, 2023

Application Notices

CUNNINGHAM, CYNTHIA	Health Care Agency	3/24/2023
DAMBERT, MARCI	Superior Court	3/18/2023
DARUVALA, JONATHAN	Sheriff's Dept	3/10/2023
DE LA O, DENNIS	Sheriff's Dept	3/10/2023
DEGRAFFENREID, KORTNEY	District Attorney	3/24/2023
DELGADO, MARK	Health Care Agency	3/24/2023
DIEGO, REYNALDO	OC Public Works	3/24/2023
DOMINGO, REYNALDO	Sanitation District	3/10/2023
DOYLE, KIMBERLY	District Attorney	3/24/2023
EASTON, KATRINA	District Attorney	3/10/2023
FERNANDEZ, SUSANA	Child Support Services	3/24/2023
FERRAIZ, JASON	Sheriff's Dept	3/10/2023
FOLEY, JOHN	Sheriff's Dept	3/10/2023
FRANCO, MIGUEL	Health Care Agency	3/10/2023
FRANKLIN, THOMAS	OCTA	2/2/2023
GALICIA, BARBARA	Sheriff's Dept	3/10/2023
GARCES, BEATRICE	Superior Court	3/24/2023
GARCIA, KRISTINE	Sheriff's Dept	3/10/2023
GAXIOLA, ARNOLDO	District Attorney	3/24/2023
GETTLESON, CHRISTOPHER	Health Care Agency	3/24/2023
GILLIAM, SHARON	OC Public Works	3/10/2023
GONZALEZ-MAYO, MARIA	Health Care Agency	3/24/2023
GOVEA, NOELY	Child Support Services	3/24/2023
GUNDERSON, DEBORAH	Fire Authority (OCFA)	3/4/2023
GWISDALLA, DAVID	Sheriff's Dept	3/24/2023
HAIGHT, KIM	Sheriff's Dept	3/10/2023
HALL, MAUREEN	District Attorney	3/10/2023
HANNAH, MARLA	Superior Court	3/24/2023
HARADON, LESLIE	Superior Court	3/24/2023
HARRISON, MICHELE	County Clerk/Recorder	3/10/2023
HAYES, ANDREW	Sheriff's Dept	3/10/2023
HEFLIN, E A BIXBY	Sheriff's Dept	3/10/2023
HENCKE, WILLIAM	Fire Authority (OCFA)	3/10/2023
HENNINGHAM, LA VETTE	Superior Court	12/30/2022
HERNANDEZ, MARTHA	Social Services Agency	3/24/2023
HETHERINGTON, MICHELLE	Sanitation District	3/24/2023
HEYDE, CRAIG	Health Care Agency	3/10/2023
HUANG, STEVEN	County Executive Office (CEO)	3/24/2023
HUDSON, JEANETTE	Health Care Agency	3/10/2023



Retirement Board Meeting

May 17, 2023

Application Notices

HUDSON, MERRY	Sheriff's Dept	3/10/2023
JIMENEZ, ESTHER	OCTA	3/5/2023
KAYANO, ALAN	Sheriff's Dept	3/10/2023
KIA, FARIBA	Social Services Agency	3/10/2023
KING, RICHARD	Health Care Agency	3/10/2023
KINNEY, ELIZABETH	Sheriff's Dept	3/10/2023
KINSLER, ROBERT	OCERS	3/10/2023
KIRK, SARAH	Social Services Agency	3/18/2023
KNUTSON, GARY	Sheriff's Dept	3/10/2023
KRATOCHVIL, FREDRIC	Sheriff's Dept	3/10/2023
KUKREJA, SAPNA	OC Community Resources	3/24/2023
LACKEY, WILLIAM	Fire Authority (OCFA)	3/10/2023
LAGOS, DAVID	Probation	3/10/2023
LEONARD, THERESA	OCTA	3/2/2023
LIZOTTE, MICHEL	Health Care Agency	3/10/2023
LOCKHART, MATTHEW	District Attorney	3/24/2023
LONG, ROBERT	District Attorney	3/10/2023
LOPEZ, LETICIA	Social Services Agency	3/10/2023
LUNA, ELIZABETH	Health Care Agency	3/10/2023
LUTTON, TERRY	Sheriff's Dept	2/24/2023
MAC DOWELL, LUVINA	Auditor Controller	3/24/2023
MACIAS, CELIA	Social Services Agency	3/8/2023
MACIAS, RIGEL	Health Care Agency	3/10/2023
MADRID, YAIRA	Fire Authority (OCFA)	3/10/2023
MARLEY, MICHAEL	Public Defender	3/16/2023
MARTINEZ, CARLOS	Sheriff's Dept	3/23/2023
MASANGKAY, BENJAMIN	District Attorney	3/10/2023
MATHEWS, LINDA	Human Resources Dept	3/10/2023
MCDERMOTT, MARK	Fire Authority (OCFA)	3/10/2023
MCLEAN, JAMES	District Attorney	3/24/2023
MENDOZA, MICHELLE	Social Services Agency	3/10/2023
MILLIGAN, COLLIN	District Attorney	3/24/2023
MIRAMONTES, KELLY	Probation	3/10/2023
MIRZA FLOREA, ALEXANDRINA	Auditor Controller	3/24/2023
MONREAL, SUSAN	Probation	3/10/2023
MOULTON, ALEXIS	Health Care Agency	3/24/2023
MUGICA, RALPH	OC Community Resources	3/10/2023
MUNCK, DERRICK	Public Defender	3/24/2023
MURPHY, TRACEY	Sanitation District	3/10/2023



Retirement Board Meeting

May 17, 2023

Application Notices

NALEPKA, LAURA	Superior Court	3/10/2023
NELSON, ROBERT	District Attorney	2/9/2023
NGO, LYNN	Social Services Agency	3/10/2023
NGUY, YEN THU	Social Services Agency	3/10/2023
NGUYEN, KEVIN	Health Care Agency	3/10/2023
NGUYEN, MINDY	Superior Court	3/24/2023
NGUYEN, TRUNG	Sheriff's Dept	3/23/2023
NICHOLAS, MARIA	Health Care Agency	3/24/2023
NUGYEN, TAM THI	Social Services Agency	3/10/2023
OGATA, SNORRI	Superior Court	3/24/2023
PADILLA, PHILLIP	Probation	3/10/2023
PAREDES, GUADALUPE	Superior Court	3/24/2023
PARISH, LAWRENCE	Auditor Controller	3/24/2023
PATRON, RICHARD	Sheriff's Dept	3/9/2023
PAYNE, RENEE	Social Services Agency	3/10/2023
PEDROZA, GRACIELA	Probation	3/24/2023
PELAYO, JOSE	Sheriff's Dept	3/24/2023
PERRY, ERENIA	Health Care Agency	3/24/2023
PHAM, HONG	Social Services Agency	3/10/2023
POLMAN, JOSEPH	Probation	3/10/2023
POULALION, DEBRA	Health Care Agency	3/10/2023
PRICE-THOMPSON, ZINA	Sheriff's Dept	3/10/2023
QUINN, LANCE	OC Public Works	3/10/2023
RALEY, KATHLEEN	Sheriff's Dept	3/10/2023
RAMIREZ, MONICA	Superior Court	3/17/2023
RAMIREZ, RICHARD	Assessor	3/24/2023
RANGEL, KIMBERLY	OC Community Resources	3/10/2023
RENCK, LORRI	Assessor	3/24/2023
REYES, ANGELA	Social Services Agency	3/10/2023
RICHARDS, DANNY	OC Public Works	11/23/2022
RIPALDA, ANA	OCTA	3/5/2023
RITCHEY, JAYNE	OCERS	3/10/2023
ROBERTSON, PAUL	Fire Authority (OCFA)	3/10/2023
RONALD, JEFFREY	Probation	3/24/2023
ROWE, ERIN	District Attorney	1/20/2023
RUBALCAVA, ALMA	Child Support Services	3/24/2023
RUFINO-GARCIA, JOBITA	Health Care Agency	3/24/2023
RUIZ_DIONICIO	Superior Court	3/24/2023
SALCIDO, STEPHEN	County Executive Office (CEO)	3/10/2023



Retirement Board Meeting

May 17, 2023

Application Notices

SANCHEZ, NELDA	OC Community Resources	3/10/2023
SANCHEZ, RANDY	OCWR	3/10/2023
SANTINI, KENNETH	Social Services Agency	3/24/2023
SANTOS, AVELINO	Health Care Agency	3/10/2023
SCHAFF, PAUL	Sheriff's Dept	3/10/2023
SHAFIEBIEG, DORENA	Social Services Agency	3/10/2023
SHELDON, BRIAN	District Attorney	3/24/2023
SMITH, CHAD	Sheriff's Dept	3/10/2023
SMITH, GARY	OC Public Works	3/10/2023
SOLIS, ELIZABETH	Social Services Agency	3/10/2023
SOWA, THERESA	Assessor	2/24/2023
THIEDE, ROBERT	Sanitation District	3/23/2023
TORRES, CYNTHIA	Superior Court	3/10/2023
TORREZ, ROBERT	Sheriff's Dept	3/10/2023
TOUMASIAN, SOROUSH	OCTA	3/12/2023
TOVAR, RAUL	Probation	3/10/2023
TRAN, LINH T	Social Services Agency	3/22/2023
TRUDELL, KATHLEEN	District Attorney	3/10/2023
TUCKER, JEFFRY	Sheriff's Dept	3/10/2023
ULMER, HEATHER	Sheriff's Dept	3/10/2023
VALDEZ, CHRISTINA	Health Care Agency	3/10/2023
VASQUEZ, JOANN	Auditor Controller	3/8/2023
VELASQUEZ, CHARLES	OC Public Works	3/10/2023
VO, HUY	Health Care Agency	3/10/2023
VOGEL, JAMES	Sheriff's Dept	3/24/2023
WANG, WEIXING	Assessor	3/10/2023
WASHINGTON, LOLIA	Sheriff's Dept	3/10/2023
WEBB, BOBETTE	Superior Court	3/24/2023
WERTHEIMER, JEFFREY	Superior Court	3/24/2023
WHITE, MARY	Superior Court	3/10/2023
WIDMANN-GUMLIA, KRISTEN	Public Defender	3/24/2023
WIGGINS, MARC	County Executive Office (CEO)	3/10/2023
WONGMOUNG, DANUPHOP	OCTA	3/1/2023
WOODWARD, JEFF	Sanitation District	3/21/2023
YORK, KATHERINE	Auditor Controller	3/10/2023
ZAVALA, HERIBERTO	OC Public Works	3/10/2023



Retirement Board Meeting

May 17, 2023

Death Notices

ACTIVE DEATHS	AGENCY/EMPLOYER
RODRIGUEZ, JENIFER L	Social Services Agency
MANLIGUIS, CARL K	Probation
CANE, GLORIA	Sheriff's Dept
MASH, PATRICK J	Probation

RETIRED MEMBERS	AGENCY/EMPLOYER
ADLER, SALLY C	Superior Court
ANDERSON, LARRY B	OCTA
ARMSTRONG, JUNE A	Health Care Agency
AUERBACH, RAY ALAN	City of San Juan Capistrano
BENDER, BILLY E	Auditor Controller
BLACKBURN, DONALD JOSEPH	Fire Authority (OCFA)
BOER, EVERT	OCTA
CAMILO, ISABEL	OC Public Works
CANBY, LEONARD D	Social Services Agency
CLAXTON, ETTA M	District Attorney
COSPER, VIRGINIA	County Counsel
COSTLEY, RUTH L	Sheriff's Dept
COZZA, GUSTAVO A	OCTA
DATENO, BERNADINE	Health Care Agency
DEGEN, DONNA	Health Care Agency
DIXON, STEVEN W	Social Services Agency
DOMINGUEZ, ANTONIO	OC Public Works
DUHN, ELROY N	OCTA
EDNEY, STEPHEN J	Sheriff's Dept
ELIASON, CARVEL H	District Attorney
ELLIS, JEAN T	Social Services Agency
ESPINOSA, ROLANDO M	OCWR
FARLEY, BARBARA J	District Attorney
GAMBOA, CAROLINA M	Social Services Agency
GAVELIN, MARLENE K	Superior Court
GEANEY, WILLIAM C	Sheriff's Dept
GOMEZ, ERNEST	Registrar of Voters
GUTIERREZ, ANTONIO	Sanitation District
HANLEY, NANCY J	Health Care Agency
HENDERSON, DONALD J	Registrar of Voters
HENNINGHAM, LA VETTE S	Superior Court
HODGE, DOUGLAS J	Superior Court
HORTON, MARK B	Health Care Agency
ITOW, JAMES K	Superior Court



Retirement Board Meeting

May 17, 2023

Death Notices

JALBERT, EUGENE F	Health Care Agency
JOLLY, LINDA C	UCI
JONES, ALICE J	OC Public Works
JONES, ALICE J	OC Public Works
KEELER, CAROLYN A	Superior Court
KING, NANCY	Health Care Agency
KMETZ, DONALD	Probation
KONO, SAWAKO	Law Library
KULL, WELCOME S	Registrar of Voters
KUMAR, JITENDRA	Social Services Agency
LE RAY, LAWRENCE B	District Attorney
LEE, VICTOR Y	OC Public Works
LEONHARDT, MARIE J	Probation
LUCAS, MILA A	Superior Court
LUND, ROBERT J	Public Defender
MACK, GERALD J	OC Public Works
MATHEWS, ANN M	OC Public Works
MATTHEWS, SHARON L	Probation
MCKENZIE, ELAINE SUE	Sheriff's Dept
MERLO, MARY ANN	Probation
MIDDLEBROOKS, JOHN K	Sheriff's Dept
MILLER, DALE R	OCTA
MILLER, DOUGLAS W	Fire Authority (OCFA)
MITCHELL, CAROL B	Social Services Agency
MIYASHIRO, SUSUMU	Registrar of Voters
MORISON, WILLIAM J	District Attorney
MOSCINSKI, JAMES	Superior Court
MURPHY, DANNAH R	Public Defender
MURPHY, ELLA M	Probation
NATHAN, ROBERT A	OCTA
NICOLOSI, RITA V	Sheriff's Dept
PFEIFFER, THOMAS R	Sheriff's Dept
PHIPPS, RAMONA B	Social Services Agency
PIRISKY, JOHN E	Fire Authority (OCFA)
POWERS, JEANNE ALBERT	Social Services Agency
READMAN, MARY L	UCI
REGINER, GERARD J	OCTA
ROBLEDO, MARIE ANNE	Superior Court
SAPPINGTON, RICHARD D	Sheriff's Dept
SCHARFE, RENE W	Sheriff's Dept
SILVA, MANUEL M	Probation



Retirement Board Meeting

May 17, 2023

Death Notices

SLAVICK, NORIS R	Public Defender
SMITH, ANTHONY E	Sheriff's Dept
SMITH, KENNETH E	OC Public Works
SPARIOSU, MARIA	Social Services Agency
STITT, LOIS I	Social Services Agency
SULLIVAN, LORRAINE J	County Clerk/Recorder
TOWE, GALE D	UCI
TRAN, HUONG	Social Services Agency
TURACK, PAUL A	OCWR
TURNER, LAURIE E	OC Community Resources
VIZCARRA, ELISANDRO C	Sheriff's Dept
WASSERMAN, BERNARD	Health Care Agency
WILSON, LA RAINE C	Health Care Agency
WOODINGTON, BRADFORD E	District Attorney
YOUNG, JACK	Public Defender

SURVIVING SPOUSES	
BREEN, SYLVIA JEANNE	
COLAMARINO, LOUISE	
DAVEY, WALTER	
DAY, EMMA LOUISE	
FRASER, JUDITH C	
HAMM, BONNIE LIND	
HART, HERMINE JOYCE	
HOWARD, WILMA	
JOHNSON SR, JEFFREY N	
JOHNSON, HILDA J	
KAY, STANLEY	
LAO, SALLY	
MANDELL, JON D	
MYERS, LILAH LOUISE	
RICCARDI, SANDRA	
ROELS, PATRICIA F	
STEENBLIK, GEORGINE	
TRUITT, JAMES A	
VAZQUEZ, CARMEN	



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2023 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

JUNE

December 31, 2022 Actuarial Valuation- Final Approval
OCERS 2023 Business Plan and 2023-2025 Strategic Plan: Mid-year Review
Strategic Planning Workshop – Proposed Agenda
GASB 68 Valuation and Audit Report
Audited Financial Statements and Annual Comprehensive Financial Reports
CIO Comments

JULY

Approve Early Payment Rates for Fiscal Year 2023-25
Approve Actuarial Experience Study 2020-2022
Strategic Planning Workshop – Final Agenda
SEGAL Cost Illustrations
Quarterly Travel and Training Expense Report
Contract Status for Named Services Providers
CIO Comments

AUGUST

Employer Employee Contribution Matrix
OCERS by the Numbers
The Evolution of the OCERS UAAL
Quarterly Unaudited Financial Statements
Quarterly Budget vs Actual Report

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2023 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight	Receive Quality of Member Services Report (I)	STAR COLA Posting (I)	Approve 2023 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2022 Valuation (I)	Mid-Year Review of 2023 Business Plan Progress (I)	Approve Early Payment Rates for Fiscal Year 2023-25 (A)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Approve 2024-2026 Strategic Plan (A)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
	Receive OCERS Innovation Report (I)	Approve 2023 COLA (A)	Quarterly 2023-2025 Strategic Plan Review (A)			Approve December 31, 2022 Actuarial Valuation & Funded Status of OCERS (A)	Approve Actuarial Experience Study 2020-2022 (A)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2024 Business Plan (A)	Approve 2024 Administrative (Operating) Budget (A)	
						Approve 2022 Comprehensive Annual Financial Report (A)		Receive Evolution of the UAAL (I)	State of OCERS (I)	Employer & Employee Pension Cost Comparison (I)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2023-2025 Strategic Plan Review (A)						
											Adopt 2024 Board Meeting Calendar (A)	
Board Governance												Adopt Annual Work Plan for 2024 (A)
												Vice-Chair Election (A)
												Receive 2024 Board Committee Assignments (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2022 (I)			Form 700 Due (A)		Receive Financial Audit (I)						

(A) = Action (I) = Information



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report Background/Discussion

1. **Quiet Period Policy Guidelines**

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

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

2. **Quiet Period Guidelines**

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

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

Distributed RFP's

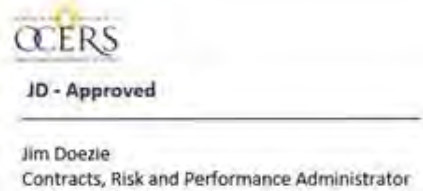
The RFP's noted below are subject to the quiet period until such time as a contract is finalized.

- A Request for Proposal (RFP) was distributed in February to select a firm that will provide External Quality Assessment Services related to the Internal Audit department of OCERS. A vendor has been selected for which we are in contract negotiations.
- We distributed an RFP for an Executive Recruiting Firm in February. This service is needed in the event OCERS wants to use an Executive Recruiting firm for upcoming position vacancies. We are currently evaluating the six (6) responses that were received.
- A Request for Proposal (RFP) was distributed early May to select a firm that will provide Project Management / Owner's Representation services for building a new OCERS headquarters. Proposals are due June 16th.



Memorandum

Submitted by:





Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

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

News Links

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

From Steve Delaney:

- NASRA News Clips
- An alternative approach to the pay down of UAAL at City of San Diego
<https://www.sandiegouniontribune.com/news/politics/story/2023-04-09/major-revamp-pension-payment-could-yield-100m-a-year>

Other Items: (See Attached)

- Monthly summary of OCERS staff activities and updates, starting with an overview of key customer service metrics, for the month of MARCH 2023.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



OCERS Activities & Update Report

March 2023

To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS' team activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for MARCH 2023.

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received				Customer Service Statistics						
Month	2021	2022	2023	Month	Unplanned Recalculations	Member Satisfaction Approval Rate	Calls Received via Call Center	Calls Direct to Extension	Calls Received by Operator	Total Calls (monthly)
January	117	346	244	January	1	98%	2,485	4,553	859	7,897
February	91	151	152	February	0	98%	2,113	4,367	928	7,408
March	51	120	135	March	2	98%	1,763	5,223	992	7,978
April	39	47		April						
May	52	65		May						
June	49	73		June						
July	64	54		July						
August	59	58		August						
September	70	42		September						
October	67	70		October						
November	95	78		November						
December	93	86		December						
Grand Total	847	1190	531	Grand Total	3	98%	6,361	14,143	2,779	23,283

MEMBER SURVEY RESPONSE

"The customer support representative who helped me has been a pleasure to work with and is amazing"

March 2023

"Your customer support representative left me with a warm feeling of gratitude and since our meeting I have thought of them often. The level of customer service provided by your customer support representative is something rare on this earth."

February 2023

"I want to express my gratitude to two of your OCERS representatives for their efforts in helping me purchase service credit. My case was very complicated as my records had to be retrieved from microfiche. Additionally, I had went from extra help to part time, back to extra help so this complicated things even further. I recognize that I was relentless but both representatives were courteous and patient with the numerous emails from me inquiring about the status as well as the process of my request. I recognize and am so appreciative of their outstanding efforts in helping me, and finally, I just looked online and my account has been credited with the service credit.

Thank you so very much. They are outstanding!!!"

January 2023



OCERS Activities & Update Report

March 2023

ACTIVITIES

FENTANYL PRESENTATION

Having recently read a disturbing Wall Street Journal article that followed a single evening of Fentanyl use in NYC, leading to the separate deaths of a school teacher, a stock broker and an artist who had all used the same drug dealer, I wanted to do what we could to get the OCERS team talking openly about the danger facing our community, and by extension, our own OCERS family.

Sergeant Brian Gunsolley of the Orange County Sheriff's Department kindly came and presented on this topic on two different dates, providing opportunity for more than half of the OCERS staff to voluntarily attend.





OCERS Activities & Update Report

March 2023

ANNUAL EXECUTIVE TEAM BREAKFAST

Another annual event has happily returned post COVID. Once each year the executive team cooks up a full breakfast for the OCERS family as our way of saying “thank you” to the team for the incredible work they are performing on behalf of our members.





OCERS Activities & Update Report

March 2023

UPDATES

STAFFING

Ms. Hockless reports:

The Human Resources department onboarded a total of six (6) new employees. This included one Information Technology Systems Technician I and five (5) Retirement Program Specialists. The Information Technology Systems Technician I filled a new Board approved position in the Information Technology department. Additionally, the department received, reviewed, and processed over three hundred sixty-four (364) applications in the month of March. This includes inviting one hundred and sixteen (116) candidates to participate in a Spark Hire pre-screening video interview and scheduling thirty-two in-person (32) interviews.

OCERS started the year with one hundred twenty-seven (127) budgeted positions. We have a total of one hundred and three (103) employees on payroll and twenty-four (24) vacancies. In March, six (6) employees separated from the agency. The separations were due to the end of one (1) extra-help assignment, two (2) retirements, two (2) employees that found employment with another agency or organization, and one (1) involuntary separation.

YTD Summary

The year-to-date turnover rate is estimated at **8%**. The turnover rate is the number of separated employees divided by the number of employees on payroll, multiplied by 100. The current vacancy rate is estimated to be **19%**. The vacancy rate is calculated by taking the number of vacant positions, multiplying that number by 100, and dividing that result by the total number of budgeted positions.

MEMBER SERVICE OUTREACH

Mr. Ardeleanu reports:

March 2023 consisted of the following seminars completed by the Customer Service team:



OCERS Activities & Update Report

March 2023

- 3.1.2023 – OCTA in-person Retirement Seminar
- 3.15.2023 – REAOC Luncheon – Assisted retired members and responded to questions posed
- 3.8.2023 – OCERS in-person pre-retirement seminar
- 3.22.2023 – OCERS virtual pre-retirement seminar

March was a slower month for outreach, compared to previous months.

It's possible that members who retired wanting to take advantage of the 4.1.2023 COLA had already attended previous months' seminars, and had likely made their retirement decisions prior to March 2023.

INVESTMENT TEAM

Mr. Beeson reports:

As of February 28, 2023, the portfolio year-to-date is up 2.4% net of fees, while the one-year return is down 2.1%. The fund value now stands at \$20.9 billion. OCERS' Investment Team closed on two re-up private equity funds, one new private equity co-investment, two private credit funds (one new and one re-up), and one re-up infrastructure fund in March. The OCERS Investment Team terminated one emerging market debt manager during March. OCERS' Investment Team, together with the OCERS Finance Team, continued to evaluate the semifinalists for the Global Custody Services RFP in March. OCERS' Investment Team worked with Meketa on the upcoming asset allocation study scheduled to begin at the April Investment Committee Meeting. Finally, as the Silicon Valley Bank collapse began, the OCERS Investment Team spent a significant amount of time during March to figure out OCERS' exposure to the regional banks in trouble and any additional fallout from the regional banking crisis. OCERS' portfolio has minimal direct exposure to the troubled regional banks, and the U.S. government stepped in to protect all deposits in a bid to stem a wider fallout.



OCERS Activities & Update Report

March 2023

OCERS BUILDING OPERATIONS

Mr. Tse reports:

The Facilities & Operations Support Services Department:

- Processed and executed various contracts and review processes.
- Completed the Procurement Policy review and presented the results and improvement suggestions to the Governance Committee.
- Arranged and trimmed overgrown landscape hedges to maintain low heights and reduced density for safe vehicle movement sight lines and distances.
- Identified various parking lot depressed pavement areas for future improvement projects.
- Created new and modified existing building floor spaces to accommodate new hires.
- Implemented low-cost emergency lighting along exit corridors throughout the office building to the occupants in case of power outage.
- Collaborated with a Wellington Avenue neighbor to implement safer roadway traffic circulation patterns along our Wellington Avenue frontage to eliminate potential vehicle movement conflicts within the public road and spillage onto our parking lot.

New Headquarters Project (HQ Project)

- The Verizon Wireless (VzW) cellular communications tower existing on our “Tustin Property” is essentially located at the center of our parcel. If it remains as-is, our ability to utilize our parcel’s full potential to site and size our HQ Project will be severely limited. Staff therefore met with and successfully discussed with VzW on said tower’s relocation. VzW has agreed to relocate their existing tower to a location within our parcel where it will not interfere with our HQ Project while maintaining at least the current VzW service level.
- Two hundred and sixty-five (265) vendors were electronically notified of our Request for Qualifications (RFQ) for Owner’s Representative/Program Manager (OR/PM) services. Of the sixteen (16) vendors that downloaded our RFQ for their pursuance, five (5) submitted Statement of Qualifications (SOQ). Staff will soon finalize the SOQ ratings and invite the qualified firms to propose on the OR/PM work.



OCERS Activities & Update Report

March 2023

ALAMEDA PROJECT MANAGEMENT CONTRACT

During CEO comments on March 7, I informed the Board that for reasons documented and approved by the OCERS Chair and Vice Chair, I was prepared to conclude a second sole source contract with Ms. Sally Choi, former CEO of the LA City Retirement System. Ms. Choi's work on the Alameda recalculation project in 2022 had been exceptional, and now with the recent resolution by the Board of Supervisors making it possible for some OCERS members previously impacted by Alameda to retain their on-call pay and other similar items as part of their Final Average Salary, it was just as important to recontract with Ms. Choi in 2023. I informed the Board that for open transparency I would add a note to this March 2023 Activities and Update report to confirm the signing of that contract, which occurred in the week following.



As a reminder, you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the MAY 17 of the OCERS Board of Retirement.



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: LEGISLATIVE UPDATE

Written Report

State Legislative Update

The California Legislature reconvened on January 4, 2023, for the first year of the 2023 – 2024 Legislative Session. April 28 was the last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their houses. May 5 was the last day for policy committees to hear and report to the floor non-fiscal bills introduced in their houses.

A comprehensive list and summary of the pending bills that staff is monitoring during the first year of the 2023 – 2024 legislative session is attached. **New or updated information since the last report to the Board are indicated in bold text.**

SACRS Sponsored Bills

SB 885 (Senate Committee on Public Employment and Retirement) Annual CERL, PERL and Education Code Housekeeping Bill

This bill would amend the Education Code to authorize CalSTRS to collect specified criminal history information in the prescribed manner for employees of CalSTRS and each applicant for employment while a tentative offer is still pending if the position includes specified duties.

The PERL permits the CalPERS board to charge interest on payments due and unpaid by a contracting agency at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10%. This bill would remove the board's option to charge interest at the annual return on the system's investments for the year prior in which payments are not timely made, and instead require the board to charge interest at a simple annual rate of 10%.

The California Employers' Pension Prefunding Trust Program and the California Employers' Pension Prefunding Trust Fund allow state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. Existing law authorizes an employer, upon terms and conditions set by the board, to elect to participate in the prefunding plan by entering into a contract with the board relative to the prefunding plan. This bill would authorize an employer participating in the program, upon terms and conditions established by the board, to request a disbursement of funds from its account in the California Employers' Pension Prefunding Trust Fund and transfer those funds directly into the Public Employees' Retirement Fund. By authorizing the transfer of funds from the continuously

appropriated California Employers' Pension Prefunding Trust Fund to the continuously appropriated Public Employees' Retirement Fund, this bill would make an appropriation.

The Judges' Retirement System II, administered by the board of CalPERS, permits a member of this retirement system to select from various optional settlements for the purpose of structuring their retirement benefits. Existing law, under optional settlement 1, provides for payment of a retirement allowance until death and the payment of any remaining contributions at death to their surviving spouse or estate. Under an optional settlement 1 retirement, this bill would allow, if there is no surviving spouse, for the remaining contributions at death to be paid to a judge's designated beneficiary.

The CERL provides for a defined retirement benefit based upon credited service, final compensation, and age at retirement subject to specified formulas relating to membership classification. This bill would clarify the definition of final compensation for specified members, members who are subject to PEPRA, and members whose services are on a tenure that is temporary, seasonal, intermittent, or part time in the CERL, as described.

CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to begin paying an unmodified retirement allowance to a member, or a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance, not later than April 1 following the calendar year in which the member attains 72 years of age, if the member can be located but does not submit a proper application for a deferred retirement allowance, as specified. Existing law prescribes alternate requirements if a member cannot be located and attains 72 years of age. Existing law establishes the Deferred Retirement Option Program, which a county or district may elect to offer and which provides an additional benefit on retirement to participating members.

This bill would clarify that the above-described notice shall be provided by the board. The bill would revise the age at which the retirement system is required to either start payment of an unmodified retirement allowance or make a one-time distribution of accumulated contributions and interest to the age specified by federal law. The bill would change the age threshold from April 1 of the calendar year in which the member attains 72 years of age to the age specified by federal law with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program. This bill would correct several erroneous references and also make other technical, nonsubstantive changes to these provisions.

(STATUS: Introduced; Read first time on 03/14/23. Referred to Coms. on L., P.E. & R. and PUB S. on 03/22/23. From committee with author's amendments; read second time and amended; re-referred to Com. on L., P.E. & R. on 04/17/23. From committee: Do pass and re-refer to Com. on PUB S. with recommendation: To consent calendar on 04/20/23. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/26/23.)

Bills That Would Amend the CERL or Other Laws (PEPRA, the Brown Act, etc.) That Apply to OCERS

AB 557 (Hart, Garcia, Pacheco)

The Brown Act allows for meetings to occur via teleconferencing subject to certain requirements, including that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to

address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with the above-noted requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Existing law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Existing law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.

This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely. The bill would also extend the period for a legislative body to make the above-described findings related to a continuing state of emergency and social distancing to not later than 45 days after the first teleconferenced meeting, and every 45 days thereafter, in order to continue to meet under the abbreviated teleconferencing procedures.

(STATUS: Introduced 02/08/23. Referred to Com. on L. GOV. on 02/17/23. **Coauthors revised; from committee: Do pass on 04/27/23. Read second time; ordered to third reading on 05/01/23.**)

AB 739 (Lackey)

The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA prohibits a public employer's contribution to a defined benefit plan, in combination with employee contributions to the plan, from being less than the normal cost rate, as defined, for the plan in a fiscal year. Existing law authorizes a public retirement system to suspend contributions if certain conditions are satisfied, one of which is that the plan be funded by more than 120%, based on a computation by the retirement system actuary in accordance with specified standards, that is included in the annual valuation. This bill would revise the conditions for suspending contributions to a public retirement system defined benefit plan to increase the threshold percentage amount of plan funding to more than 130%.

(STATUS: Introduced; Read first time on 02/13/23. Referred to Com. P.E. & R. on 02/23/23. In committee: Set, first hearing; hearing cancelled at the request of author on 03/13/23.)

AB 817 (Pacheco, Wilson)

The Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.

This bill would authorize a subsidiary body, defined as a legislative body that serves exclusively in an advisory capacity and that is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements, to use alternative teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

(STATUS: Introduced; Read first time on 02/13/23. Referred to Com. on L. GOV.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on 03/16/23. Re-referred to Com. on L. GOV. on 03/20/23. **In committee: Hearing postponed by committee on 04/25/23.**)

AB 1020 (Grayson)

The CERL prescribes the rights, benefits, and duties of members of the retirement systems established pursuant to its provisions. Existing law requires, if a safety member, a firefighter member, or a member in active law enforcement who has completed five years or more of service develops heart trouble, that the heart trouble be presumed to arise out of and in the course of employment. This bill would additionally require, if a safety member, firefighter, or member in active law enforcement who has completed 5 years or more of service develops hernia or pneumonia, that the hernia or pneumonia be presumed to arise out of and in the course of employment.

Existing law provides that participants in certain membership categories may be entitled to special benefits if the injury that causes their disability arises in the course of their employment. Existing law creates a presumption, for purposes of qualification for disability retirement benefits for specified members, that certain injuries, including, but not limited to, a bloodborne infectious disease or a methicillin-resistant *Staphylococcus aureus* skin infection, arose out of and in the course of employment. Existing law authorizes the presumption to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system is required to find in accordance with the presumption. This bill would expand the scope of this presumption to include additional injuries, including post-traumatic stress disorder, tuberculosis, and meningitis, if the injury develops or manifests while a member is in a specified membership classification or job classification. This bill would authorize the presumption relating to these additional injuries to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system is required to find in accordance with the presumption.

(STATUS: Introduced 02/15/23. Referred to Com. on P.E. & R. on 03/09/23. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/13/23. Re-referred to Com. on P.E. & R. on 03/14/23. **From committee: Do pass on 04/12/23. Read second time; ordered to third reading on 04/13/23. Read third time; passed out of Assembly; ordered to the Senate; read first time in Senate on 04/20/23.**)

AB 1379 (Papan)

The Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

This bill, with respect to those general provisions on teleconferencing, would require a legislative body electing to use teleconferencing to instead post agendas at a singular designated physical meeting location, as defined, rather than at all teleconference locations. The bill would remove the requirements for the legislative body of the local agency to identify each teleconference location in the notice and agenda, that each teleconference location be accessible to the public, and that at least a quorum of the members participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would instead provide that, for purposes of establishing a quorum of the legislative body, members of the body may participate remotely, at the designated physical location, or at both the designated physical meeting location and remotely. The bill would require the legislative body to have at least two meetings per year in which the legislative body's members are in person at a singular designated physical meeting location.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing provisions without complying with the general teleconferencing requirements that agendas be posted at each teleconference, that each teleconference location be identified in the notice and agenda, and that each teleconference location be accessible to the public, if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is

open to the public and situated within the local agency's jurisdiction. Under existing law, these alternative teleconferencing provisions require the legislative body to provide at least one of two specified means by which the public may remotely hear and visually observe the meeting. Under existing law, these alternative teleconferencing provisions authorize a member to participate remotely if the member is participating remotely for just cause, limited to twice per year, or due to emergency circumstances, contingent upon a request to, and action by, the legislative body, as prescribed. Existing law specifies that just cause includes travel while on official business of the legislative body or another state or local agency.

This bill would revise the alternative provisions, operative until January 1, 2026, to make these provisions operative indefinitely. The bill would delete the restriction that prohibits a member, based on just cause, from participating remotely for more than two meetings per calendar year. The bill would delete the requirement for the legislative body to provide at least one of two specified means by which the public may remotely hear and visually observe the meeting. The bill would also delete a provision that requires a member participating remotely to publicly disclose at the meeting before action is taken whether there are individuals 18 years of age present in the room at the remote location and the general nature of the member's relationship to those individuals. The bill would further delete a provision that prohibits a member from participating remotely for a period of more than three consecutive months or 20% of the regular meetings within a calendar year, or more than two meetings if the legislative body regularly meets fewer than ten times per calendar year. The bill would expand the definition of just cause to include travel related to a member of a legislative body's occupation. The bill would make related, conforming changes.

(STATUS: Introduced; read first time on 02/17/23. Referred to Com. on L. GOV.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on 03/23/23. Re-referred to Com. on L. GOV. on 03/27/23. **In committee: Set, first hearing; hearing canceled at the request of author on 04/24/23.**)

AB 1637 (Irwin)

This bill, no later than January 1, ~~2025~~, **2026**, would require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level ~~domain, domain~~ and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, ~~2025~~, **2026**, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

(STATUS: Introduced; read first time on 02/17/23. Referred to Coms. on L. GOV. and P. & C.P.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on

03/16/23. Re-referred to Com. on L. GOV. on 03/20/23. **Re-referred to Com. on P. & C.P. on 04/20/23. From committee: Amend, and do pass as amended and re-refer to Com. on APPR. on 04/26/23. Read second time and amended on 04/27/23. Re-referred to Com. on APPR. on 05/01/23.)**

SB 411 (Portantino, Menjivar, Assembly Member Luz Rivas)

This bill would amend the teleconference provisions of the Brown Act. The bill was amended on April 24, 2023 to apply only to neighborhood councils that are advisory bodies with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on GOV. & F. and JUD. 02/22/23. **From committee: Do pass as amended and re-refer to Com. on JUD. on 04/20/23. Read second time and amended on 04/24/23. Set for hearing May 2 on 04/26/23.)**

SB 537 (Becker)

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely.

This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

~~This~~ The bill would authorize ~~certain legislative bodies~~ the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions ~~similar to the emergency provisions indefinitely and without regard to a state of emergency.~~ if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require ~~a~~ the legislative body to provide a record of attendance **and the number of public comments** on its internet website within seven days after a teleconference meeting, as specified. The bill would ~~define "legislative body" for this purpose to mean a board, commission, or advisory body of a multijurisdictional cross county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the act. The bill would also define "multijurisdictional" to mean a legislative body that includes~~

~~representatives from more than one county, city, city and county, special district, or a joint powers entity,~~ require at least a quorum of members of the legislative body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from each member will participate via teleconference. The bill would prohibit a member from participating remotely pursuant to these provisions unless the remote location is the member's office or another location in a publicly accessible building and is more than 40 miles from the location of the in person meeting. The bill would repeal these alternative teleconferencing provisions on **January 1, 2028.** ~~With respect to the alternative teleconferencing provisions operative until January 1, 2026, the bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.~~ This bill would declare that it is to take effect immediately as an urgency statute. (STATUS: Introduced; read first time on 02/14/23. Referred to Com. on RLS on 02/22/23. From committee with author's amendments; read second time and amended; re-referred to Com. on RLS. on 03/22/23. Re-referred to Coms. on GOV. & F. and JUD. on 03/29/23. **From committee: Do pass as amended and re-refer to Com. on JUD. on 04/20/23. Read second time and amended; re-referred to Com. on JUD. on 04/24/23. Set for hearing May 2 on 04/26/23.**)

Other Bills of Interest

AB 699 (Weber, Ward)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a rebuttable presumption that specified injuries, such as meningitis, tuberculosis, or hernia, sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment. Existing law creates a rebuttable presumption that skin cancer that develops or manifests in the course of employment of a lifeguard, as specified, arose out of and in the course of employment. Existing law authorizes a lifeguard to file a claim for skin cancer after employment has terminated for a specified period based on years of employment, not to exceed 60 months. This bill would expand presumptions for hernia, pneumonia, heart trouble, cancer, tuberculosis, bloodborne infectious disease, methicillin-resistant Staphylococcus aureus skin infection, and meningitis-related illnesses and injuries to a lifeguard employed on a year-round, full-time basis in the Boating Safety Unit by the City of San Diego Fire-Rescue Department. The bill would increase the period of time after termination of employment that a lifeguard employed on a year-round, full-time basis in the Boating Safety Unit by the City of San Diego Fire-Rescue Department can file a claim for skin cancer. The bill would expand the presumptions for illness or injury related to post-traumatic stress disorder or exposure to biochemical substances, as defined, to a lifeguard employed in the Boating Safety Unit by the City of San Diego Fire-Rescue Department.

(STATUS: Introduced; Read first time on 02/13/23. Referred to Com. on INS. on 02/23/23. From committee: Do pass and re-refer to Com. on APPR. on 03/22/23. **From committee: Do pass; to Consent Calendar on 04/19/23. Read second time; ordered to Consent Calendar on 04/20/23. Read third time; passed out of Assembly; ordered to the Senate; read first time in Senate on 04/27/23.**)

AB 1025 (Dixon)

Existing law requires a county board of supervisors, upon request of the county assessor or sheriff, to contract with legal counsel to assist the assessor, auditor-controller, or sheriff with duties for which the district attorney or county counsel would have a conflict of interest in representing the assessor, auditor-controller, or sheriff. In the event the board of supervisors does not concur with the assessor, auditor-controller, or sheriff that a conflict of interest exists, existing law authorizes the county assessor, auditor-controller, or sheriff to initiate an ex parte proceeding before the presiding judge of the superior court, as provided. This bill would extend these provisions to additionally require the board of supervisors to contract with legal counsel to assist the elected treasurer-tax collector, as described above. By adding to the duties of county boards of supervisors with respect to contracts for legal counsel, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(STATUS: Introduced 02/15/23. Referred to Com. on L. GOV. on 03/02/23. From committee: Do pass and re-referred to Com. on APPR. on 03/29/23. **In committee: Set, first hearing; referred to suspense file on 04/19/23.**)

AB 1145 (Maienschein)

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law, until January 1, 2025, provides that, in the case of certain state and local firefighting personnel and peace officers, the term "injury" includes post-traumatic stress disorder that developed or manifested during a period while the member is in the service of the department or unit, and establishes a disputable presumption in this regard. This bill would provide, only until January 1, 2030, that in the case of certain state nurses, psychiatric technicians, and various medical and social services specialists, the term "injury" also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2024. The bill would prohibit compensation from being paid for a claim of injury unless the member has performed services for the department or unit for at least six months, unless the injury is caused by a sudden and extraordinary employment condition.

(STATUS: Introduced; Read first time on 02/16/23. Referred to Com. on INS. on 03/02/23. **Re-referred to Com. on APPR. on 04/12/23. In committee: Set, first hearing; referred to suspense file on 04/26/23.**)

SB 265 (Hurtado, Umberg)

Existing law requires the California Office of Emergency Services (Cal OES) to establish the California Cybersecurity Integration Center (Cal-CSIC) with the primary mission of reducing the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. Existing law requires Cal-CSIC to provide warnings of cyberattacks to government agencies and nongovernmental partners, coordinate information sharing among these entities, assess risks to critical infrastructure information networks, enable cross-sector coordination and sharing of best practices and security measures, and support certain cybersecurity assessments, audits, and accountability programs. Existing law also requires Cal-CSIC to develop a statewide cybersecurity strategy to improve how

cyber threats are identified, understood, and shared in order to reduce threats to California government, businesses, and consumers, and to strengthen cyber emergency preparedness and response and expand cybersecurity awareness and public education.

This bill would require Cal OES to direct Cal-CSIC to prepare, and Cal OES to submit to the Legislature on or before January 1, 2025, a strategic, multiyear outreach plan to assist critical infrastructure sectors, as defined, in their efforts to improve cybersecurity and an evaluation of options for providing grants or alternative forms of funding to, and potential voluntary actions that do not require funding and that assist, that sector in their efforts to improve cybersecurity preparedness.

(STATUS: Introduced; read first time on 01/31/23. Referred to Com. on G.O. on 02/09/23. Set for hearing 03/14. From committee: Do pass and re-referred to Com. on APPR. on 03/14/23. **Placed on APPR suspense file on 04/10/23.**)

SB 391 (Blakespear)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law provides, among other things, that skin cancer developing in active lifeguards, as defined, is presumed to arise out of and in the course of employment, unless the presumption is rebutted. This bill would expand the scope of those provisions to certain peace officers of the Department of Fish and Wildlife and the Department of Parks and Recreation.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. L., P.E. & R. on 02/22/23. **From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/20/23. Set for hearing May 1 on 04/21/23. Placed on APPR suspense file on 05/01/23.**)

Bills that Apply to CalPERS and/or CalSTRS Only

AB 621 (Irwin)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment, which, in the case of the death of an employee, includes a death benefit. Existing law provides, however, that no benefits, except reasonable expenses of burial not exceeding \$1,000, shall be awarded under the workers' compensation laws on account of the death of an employee who is an active member of CalPERS, unless the death benefits available under the Public Employees' Retirement Law are less than the workers' compensation death benefits. In that case, the surviving spouse and children of the employee are also entitled to the difference between the two death benefit amounts. Existing law exempts local safety members and patrol members, as defined, from this limitation. This bill would expand that exemption to include state safety members, peace officers, and firefighters for the Department of Forestry and Fire Protection who are members of Bargaining Unit 8.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on INS. on 02/17/23. From committee: Do pass and re-refer to Com. on APPR. on 03/22/23. **In committee: Set, first hearing; referred to suspense file on 04/26/23.**)

AB 658 (Fong)

The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by CalPERS, authorizes the CalPERS board to contract for health benefit plans for employees and annuitants, as defined, which may include employees and annuitants of contracting agencies. Under existing law, the employee's or annuitant's contribution is the total cost per month of coverage less the portion contributed by the employer. Existing law prescribes a minimum level for the employer's contribution toward the employee's or annuitant's health benefits coverage. This bill would authorize the City of San Gabriel to enter into an agreement with specified employees hired on or after January 1, 2023, to provide employer contributions for postretirement health care coverage to employees with at least 5 years of credited service with the City of San Gabriel. The bill would provide that its provisions for postretirement health benefits apply to employees who retire on or after the date that a memorandum of understanding that authorizes this benefit becomes effective. The bill also requires the City of San Gabriel to provide notice, as prescribed, of the agreement and any additional information necessary to implement these benefits.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on P.E. & R.; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/23/23. Re-referred to Com. on P.E. & R. on 03/27/23. **From committee: Amend, do pass as amended and re-refer to Com. on APPR. on 04/12/23. Read second time and amended on 04/13/23. Re-referred to Com. on APPR. on 04/17/23. From committee: Do pass; to Consent Calendar on 04/26/23. Read second time; ordered to Consent Calendar on 04/27/23.**)

AB 1246 (Nguyen)

Existing law permits a member of CalPERS who retires on or before December 31, 2017 to elect from among several optional settlements for the purpose of structuring the member's retirement allowance. Existing law prohibits a member who elects to receive specified optional settlements from changing the member's optional settlement and designated beneficiary after election of an optional settlement unless a specified event occurs, including the death of a beneficiary who predeceased the member, a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, or in an annulment of marriage in which the court confirms the annulment. This bill would extend the ability of a retiree to change their designated beneficiary to include naming a new spouse following a retiree's divorce and subsequent remarriage. The bill would allow a retiree's new spouse to receive the retiree's post-divorce retirement settlement benefits.

(STATUS: Introduced; read first time on 02/16/23. Referred to Com. on P.E. & R.; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/16/23. Re-referred to Com. on P.E. & R. on 03/20/23. **From committee: Do pass and re-refer to Com. on APPR. on 04/12/23. In committee: Hearing postponed by committee on 04/26/23.**)

SB 300 (Seyarto Niello, Ochoa-Bogh, Wilk)

This bill would require any bill, introduced on or after January 1, 2024, that is referred to the Senate Labor, Public Employment and Retirement Committee and relates to CalPERS to include a fiscal impact analysis from the Legislative Analyst's Office that describes the fiscal impact of the bill on CalPERS and what the outcome of the bill would be if implemented.

(STATUS: Introduced. Read first time. To Com. on RLS. for assignment on 02/02/23. Referred to Coms. on L., P.E. & R. and APPR. on 02/22/23. **Set for hearing April 26 on 04/13/23.**)

SB 327 (Laird)

Existing law authorizes a member of CalSTRS who is eligible and applies for a disability allowance or retirement to apply to receive a service retirement pending the determination of their application for disability, subject to meeting certain conditions. These include that the member submit an application on a form prescribed by the system and, if the application for disability benefits is denied or canceled, the service retirement date of a member who submits an application for retirement under these provisions may not be earlier than January 1, 2014. This bill would instead prohibit the service retirement date of a member who submits an application for retirement under these provisions from being earlier than 180 calendar days prior to when the application for service retirement is received by the system.

Existing law, with respect to an application for disability benefits that is denied or canceled, prohibits the service retirement date from being earlier than one day after the date on which a retirement allowance was terminated, as specified, provided that the retirement allowance is terminated on or after January 1, 2014. This bill would instead provide that the retirement allowance under the above-described circumstances is terminated no earlier than 180 calendar days prior to when the application for service retirement is received by the system.

Existing law provides that a service retirement allowance under CalSTRS becomes effective on a date designated by the member, provided all of specified conditions are met, including that the member executes an application for service retirement allowance no earlier than 6 months before the effective date of retirement allowance. This bill would provide that the effective date of a member who files an application for service retirement under a specified formula applicable to members 55 years of age or older is no earlier than 180 calendar days prior to when the application for service retirement is received by the system. The bill, with respect to the above members, would delete a provision specifying that the retirement date of a member who files an application for retirement on or after January 1, 2012, is no earlier than January 1, 2012.

The bill would require the board to determine a date when CalSTRS has the capacity to implement the above-described changes and to post the date on the CalSTRS website no later than January 1, 2026. The bill would make those provisions operative on the date determined by the board, and would repeal those existing provisions on January 1, 2026. By changing the method for calculating the service retirement date of certain members of STRS, the bill would affect moneys in a continuously appropriated fund, thereby making an appropriation.

(STATUS: Introduced and read first time on 02/07/23. Referred to Com. on L., P.E. & R. and APPR. on 02/15/23.

Set for hearing April 26 on 04/13/23. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/26/23.)

SB 432 (Cortese)

The Teachers' Retirement Law establishes CalSTRS and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final

compensation, credited service, and age at retirement, subject to certain variations. Existing law creates the Cash Balance Benefit Program to provide a retirement plan for the benefit of participating employees who perform creditable service for less than 50% of full time.

Existing law commits the administration of CalSTRS and its defined benefit program and the Cash Balance Benefit Program to the CalSTRS Board. Existing law generally prohibits adjustments in new rates of contribution adopted by the board on the basis of an investigation, valuation, and determination or because of an amendment to the Teachers' Retirement Law with respect to the Defined Benefit Program, for time prior to the effective date of the adoption or amendment. Existing law prohibits an action of the board, other than for correction of errors in calculating the allowance or annuity at the time of retirement, disability, or death of a member, from changing the allowance or annuity payable to a retired member or beneficiary prior to the date the action is taken. Existing law prescribes various duties for CalSTRS, as well as for employers participating in the system and members and their beneficiaries, in connection with law relating to the applicability of creditable compensation and creditable service. Existing law, for purposes of audits or other system actions, requires that employers be responsible for the rules in effect at the time the compensation is reported, except when expressly superseded by state or federal law or an executive order of the Governor.

Under existing law, new or different interpretations related to creditable compensation and service are required to take effect after notice is issued to employers and exclusive representatives and are prohibited from being applied retroactively to compensation reported prior to that notice, unless a retroactive interpretation is expressly required by state or federal law or an executive order of the Governor. Existing law requires that, if compensation is reported in accordance with CalSTRS rules and is later determined by CalSTRS to have been reported in error, the resulting overpayment be deemed to be an error by the system. Existing law requires that overpayments made due to an error by the system be recovered pursuant to a specified process, and a portion of this recovery is funded by a continuous appropriation from the General Fund.

This bill would revise those provisions to specify that compensation reported in accordance with CalSTRS' rules includes rules relating to timeliness and accuracy and would eliminate the requirement that supersession by other law or order be express, as described above. By broadening the circumstances that may lead to recovery pursuant to the above-described continuous appropriation, this bill would make an appropriation.

Existing law also prohibits those changes in interpretations from applying before the next July 1, unless changes to state or federal law, an executive order of the Governor, an advisory letter, or programs require application or revision of the creditability of compensation on an earlier basis. This bill would delete the prohibition against changes in interpretations applying before the next July 1.

The bill would require CalSTRS to provide a prescribed written notice if it determines that compensation has been reported in error. The bill would require that a determination of error be based on the law applicable at the time that the compensation was reported. The bill would require that the prescribed notice be in writing, identify the pertinent error, document the basis of the error, and specify the total amount, if any, overpaid due to the error. The bill would specify that overpayments, in this context, are those made to the member.

Existing law authorizes an employer or an exclusive labor representative to submit a request to CalSTRS for an advisory letter, which is defined as a formal written guidance relating to the proper reporting of compensation in publicly available agreement consistent with laws governing creditable compensation. These provisions require, if compensation that is reported in accordance with the advisory letter is later determined by CalSTRS to have been reported in error, that a resulting overpayment be deemed an error by the system.

This bill would require notice of determination of an error in compensation reported to the system in accordance with a system advisory letter be provided in writing. The bill would require that a determination of error in this context be based on the law that was applicable at the time that the compensation was reported. Existing law prescribes various requirements and methods for the repayment of amounts that have been overpaid by CalSTRS.

This bill would require that amounts that have been overpaid resulting from compensation that is determined to have been paid to enhance a member's benefits, as specified, be recovered from the member, participant, former participant, or beneficiary receiving the allowance or annuity benefit, or the employer, or both. (STATUS: Introduced; read first time on 02/13/23. Referred to Com. on L., P.E. & R. on 02/22/23. Set for hearing April 26 on 04/13/23. **From committee: Do pass as amended and re-refer to Com. on APPR with recommendation: To consent calendar on 05/01/23.**)

SB 548 (Niello)

The PERL requires, for counties that contract for retirement benefits through CalPERS for eligible employees, as of the implementation date of the Trial Court Employment Protection and Governance Act, that a trial court and a county in which the trial court is located jointly participate in the system by joint contract. Existing law requires the CalPERS board to do one-time, separate computations of the assets and liabilities of two counties and the trial courts in the counties. PEPRA establishes a variety of requirements and restrictions on public employers offering defined benefit pension plans, including limiting the benefits that may be provided to new members.

This bill would authorize a county and the trial court located within the county to elect to separate their joint CalPERS contract into individual contracts, if the county and the trial court make that election voluntarily, and would prescribe a process for this. The bill would prohibit the separation from being a cause for modification of employee retirement benefits, as specified. The bill would require the CalPERS board, within its existing resources, to do a specified computation of assets and liabilities for a county and trial court seeking to separate their joint contract. For purposes of PEPRA, the bill would authorize a county and a trial court to provide employees the defined benefit plan or formula that those employees received from their respective employers prior to the exercise of the option to separate, as specified.

(STATUS: Introduced; read first time on 02/15/23. Referred to Com. on L., P.E. & R. on 02/22/23. **From committee: Do pass as amended and re-refer to Com. on APPR with recommendation: To consent calendar on 04/20/23. Read second time and amended; re-referred to Com. on APPR. on 04/24/23. Set for hearing May 1 on 04/25/23. Placed on APPR suspense file on 05/01/23.**)

SB 660 (Alvarado-Gil)

The PERL prescribes various definitions of final compensation based on employment classification, bargaining unit, date of hire, and date of retirement, among other things. The PERL authorizes public agencies to join CalPERS and prescribes the rights and duties of agencies participating in CalPERS. Existing law authorizes CalPERS to enter into agreements with specified public retirement systems to establish reciprocity between CalPERS and those public retirement systems. Existing law provides that an agency that has entered into an agreement establishing reciprocity with CalPERS is deemed to have obtained the same rights and limitations that apply to all other public agencies that have entered into similar reciprocal agreements with CalPERS.

This bill would establish the California Public Retirement System Agency Cost and Liability Panel, located in the Controller's office, with members as defined. The bill would assign responsibilities to the panel related to retirement benefit costs, including determining how costs and unfunded liability are apportioned to a public agency when a member changes employers within the same public retirement system or when a member concurrently retires with 2 or more retirement systems that have entered into reciprocity agreements. The bill would require the panel to meet no later than March 31, 2024, and quarterly beginning on April 1, 2024, and to submit a report to the Legislature, no later than December 31, 2024, providing information regarding the financial impact a public agency assumes when an employee transfers to another public agency within the same retirement system or when an employee transfers to a public agency in a reciprocal retirement system and concurrently retires under 2 or more systems.

(STATUS: Introduced; read first time on 02/16/23. Referred to Com. on RLS. on 03/01/23. From committee with author's amendments; read second time and amended; re-referred to Com. on RLS. on 03/21/23. Re-referred to Com. on L., P.E. & R. on 03/29/23. **From committee: Do pass and re-refer to Com. on APPR. on 04/20/23. Set for hearing May 1 on 04/21/23. Placed on APPR suspense file on 05/01/23.**)

Divestment Proposals (CalPERS and CalSTRS Only)**SB 252 (Gonzalez, Stern, and Weiner)**

Existing law prohibits the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would prohibit the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, ~~2030~~ **2031**. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a

board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified.

(STATUS: Introduced and read first time on 01/30/23. Referred to Coms. on L., P.E. & R. and JUD. on 02/09/23.

Re-referred to Com. on JUD. on 04/13/23. From committee: Do pass as amended and re-refer to Com. on APPR. on 04/19/23. Set for hearing May 1; placed on APPR suspense file on 04/25/23.)

Federal Legislative Update

At the end of 2022, Congress passed the Consolidated Appropriations Act of 2023, which includes the SECURE 2.0 Act of 2022 ("SECURE 2.0"). SECURE 2.0 includes many significant changes for retirement plans. Set forth below are the main changes impacting governmental defined benefit plans:

Required Minimum Distributions (RMD)

- Section 107 increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033; and (ii) 75 for an individual who attains age 74 after December 31, 2032. It is effective for distributions made after December 31, 2022, for individuals who attain age 72 after that date.
- Section 302 reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. It further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window. It is effective for taxable years beginning after the date of enactment.
- Section 327 allows a spousal beneficiary to irrevocably elect to be treated as the employee for RMD purposes, and if the spouse is the employee's sole designated beneficiary, the applicable distribution period after the participant's year of death is determined under the uniform life table. It is effective for calendar years beginning after December 31, 2023.

Correction and the IRS Employee Plans Compliance Resolution System (EPCRS)

- Section 301 provides that a 401(a), 403(a), 403(b), and governmental plan (but not including a 457(b) plan) will not fail to be a tax favored plan merely because the plan fails to recover an "inadvertent benefit overpayment" (a defined term in the bill) or otherwise amends the plan to permit this increased benefit. In certain cases, the overpayment is also treated as an eligible rollover distribution. It is effective upon enactment with certain retroactive relief for prior good faith interpretations of existing guidance.
- Section 305 allows any "eligible inadvertent failure" (a defined term in the bill) to be self-corrected under EPCRS at any time (regardless of whether the error is significant or insignificant) unless (i) the IRS

identified the failure before self-corrective measures commenced, or (ii) the self-correction was not completed in a reasonable period after the failure was identified. It is effective upon enactment.

Tax Treatment of Distributions

- Section 328 amends the HELPS Act by allowing the plan to distribute funds to pay for qualified health insurance premiums (1) directly to the insurer or (2) directly to the participant (but the participant must include a self-certification that such funds did not exceed the amount paid for premiums in the year of the distribution when filing the tax return for that year). It is effective for distributions made after the date of enactment.
- Section 309 excludes service-connected, disability pension payments (from a 401(a), 403(a), governmental 457(b), or 403(b) plan) from gross income of first responders after reaching retirement age up to an annualized excludable disability amount. The term “qualified first responder service” means service as a law enforcement officer, firefighter, paramedic, or emergency medical technician. It is effective for plan years beginning after December 31, 2023.
- Section 323 clarifies that the exception to the 10% tax on early distributions from tax-preferred retirement accounts for substantially equal periodic payments continues to apply after certain rollovers and for certain annuities. It is effective for transfers, rollovers, and exchanges after December 31, 2023, and effective for annuity distributions on or after the date of enactment.
- Section 329 extends the age 50 exception to the 10% early withdrawal penalty to those qualified public safety employees who have separated from service and have attained age 50 or 25 years of service, whichever comes first. It is effective for distributions made after the date of enactment.
- Section 330 expands the definition of qualified public safety employee to include certain corrections officers and forensic security employees, thus making them eligible for the age 50 exception to the 10% early withdrawal penalty. It is effective for distributions made after the date of enactment.

Amendment Deadlines

- Section 501 allows plan amendments made pursuant to the bill to be made by the end of the 2027 plan year for governmental plans as long as the plan operates in accordance with such amendments as of the effective date of a legislative or regulatory requirement or amendment. If a plan operates as such and meets the amendment timeline and requirements of this bill, then the plan will be treated as being operated in accordance with its terms. It also extends the plan amendment deadlines under the SECURE Act, CARES Act, and Taxpayer Certainty and Disaster Relief Act of 2020 to these new remedial amendment period dates, as previously reflected in IRS notices. It is effective upon enactment.

Attachments:

Legislative Update

2023 Tentative Legislative Calendar

Submitted by:



Gina M. Ratto
General Counsel



**OCERS BOARD OF RETIREMENT
May 17, 2023 MEETING**

**LEGISLATIVE UPDATE – ATTACHMENT
2023 - 2024 CALIFORNIA STATE LEGISLATIVE SESSION
BILLS OF INTEREST**

New or updated information in bold text

AB 557 (Hart, Garcia, Pacheco)

The Brown Act allows for meetings to occur via teleconferencing subject to certain requirements, including that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with the above-noted requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Existing law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Existing law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.

This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely. The bill would also extend the period for a legislative body to make the above-described findings related to a continuing state of emergency and social distancing to not later than 45 days after the first teleconferenced meeting, and every 45 days thereafter, in order to continue to meet under the abbreviated teleconferencing procedures.

(STATUS: Introduced 02/08/23. Referred to Com. on L. GOV. on 02/17/23. **Coauthors revised; from committee: Do pass on 04/27/23. Read second time; ordered to third reading on 05/01/23.**)

AB 621 (Irwin)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment, which, in the case of the death of an employee, includes a death benefit. Existing law provides, however, that no benefits, except reasonable expenses of burial not exceeding \$1,000, shall be awarded under the workers' compensation laws on account of the death of an employee who is an active member of CalPERS, unless the death benefits available under the PERL are less than the workers' compensation death benefits. In that case, the surviving spouse and children of the employee are also entitled to the difference between the two death benefit amounts. Existing law exempts local safety members and patrol members, as defined, from this limitation. This bill would expand that exemption to include state safety members, peace officers, and firefighters for the Department of Forestry and Fire Protection who are members of Bargaining Unit 8.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on INS. on 02/17/23. From committee: Do pass and re-refer to Com. on APPR. on 03/22/23. **In committee: Set, first hearing; referred to suspense file on 04/26/23.**)

AB 658 (Fong)

The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by CalPERS, authorizes the CalPERS board to contract for health benefit plans for employees and annuitants, as defined, which may include employees and annuitants of contracting agencies. Under existing law, the employee's or annuitant's contribution is the total cost per month of coverage less the portion contributed by the employer. Existing law prescribes a minimum level for the employer's contribution toward the employee's or annuitant's health benefits coverage. This bill would authorize the City of San Gabriel to enter into an agreement with specified employees hired on or after January 1, 2023, to provide employer contributions for postretirement health care coverage to employees with at least 5 years of credited service with the City of San Gabriel. The bill would provide that its provisions for postretirement health benefits apply to employees who retire on or after the date that a memorandum of understanding that authorizes this benefit becomes effective. The bill also requires the City of San Gabriel to provide notice, as prescribed, of the agreement and any additional information necessary to implement these benefits.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on P.E. & R.; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/23/23. Re-referred to Com. on P.E. & R. on 03/27/23. **From committee: Amend, pass as amended and re-refer to Com. on APPR. on 04/12/23. Read second time and amended on 04/13/23. Re-referred to Com. on APPR. on 04/17/23. From committee: Do pass; to Consent Calendar on 04/26/23. Read second time; ordered to Consent Calendar on 04/27/23.**)

AB 699 (Weber, Ward)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a rebuttable presumption that specified injuries, such as meningitis, tuberculosis, or hernia, sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment. Existing law creates a rebuttable presumption that skin cancer that develops or manifests in the course of employment of a lifeguard, as specified, arose out of and in the course of employment. Existing law authorizes a lifeguard to file a claim for skin cancer after employment has terminated for a specified period based on years of employment, not to exceed 60 months. This bill would expand presumptions for hernia, pneumonia, heart trouble, cancer, tuberculosis, bloodborne infectious disease, methicillin-resistant *Staphylococcus aureus* skin infection, and meningitis-related illnesses and injuries to a lifeguard employed on a year-round, full-time basis in the Boating Safety Unit by the City of San Diego Fire-Rescue Department. The bill would increase the period of time after termination of employment that a lifeguard employed on a year-round, full-time basis in the Boating Safety Unit by the City of San Diego Fire-Rescue Department can file a claim for skin cancer. The bill would expand the presumptions for illness or injury related to post-traumatic stress disorder or exposure to biochemical substances, as defined, to a lifeguard employed in the Boating Safety Unit by the City of San Diego Fire-Rescue Department.

(STATUS: Introduced; Read first time on 02/13/23. Referred to Com. on INS. on 02/23/23. From committee: Do pass and re-refer to Com. on APPR. on 03/22/23. **From committee: Do pass; to Consent Calendar on 04/19/23. Read second time; ordered to Consent Calendar on 04/20/23. Read third time; passed out of Assembly; ordered to the Senate; read first time in Senate on 04/27/23.**)

AB 739 (Lackey)

The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA prohibits a public employer's contribution to a defined benefit plan, in combination with employee contributions to the plan, from being less than the normal cost rate, as defined, for the plan in a fiscal year. Existing law authorizes a public retirement system to suspend contributions if certain conditions are satisfied, one of which is that the plan be funded by more than 120%, based on a computation by the retirement system actuary in accordance with specified standards, that is included in the annual valuation. This bill would revise the conditions for suspending contributions to a public retirement system defined benefit plan to increase the threshold percentage amount of plan funding to more than 130%.

(STATUS: Introduced; Read first time on 02/13/23. Referred to Com. P.E. & R. on 02/23/23. In committee: Set, first hearing; hearing cancelled at the request of author on 03/13/23.)

AB 817 (Pacheco, Wilson)

The Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the

public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.

This bill would authorize a subsidiary body, defined as a legislative body that serves exclusively in an advisory capacity and that is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements, to use alternative teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

(STATUS: Introduced; read first time on 02/13/23. Referred to Com. on L. GOV.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on 03/16/23. Re-referred to Com. on L. GOV. on 03/20/23. **In committee: Hearing postponed by committee on 04/25/23.**)

AB 1020 (Grayson)

The CERL prescribes the rights, benefits, and duties of members of the retirement systems established pursuant to its provisions. Existing law requires, if a safety member, a firefighter member, or a member in active law enforcement who has completed five years or more of service develops heart trouble, that the heart trouble be presumed to arise out of and in the course of employment. This bill would additionally require, if a safety member, firefighter, or member in active law enforcement who has completed 5 years or more of service develops hernia or pneumonia, that the hernia or pneumonia be presumed to arise out of and in the course of employment.

Existing law provides that participants in certain membership categories may be entitled to special benefits if the injury that causes their disability arises in the course of their employment. Existing law creates a presumption, for purposes of qualification for disability retirement benefits for specified members, that certain

injuries, including, but not limited to, a bloodborne infectious disease or a methicillin-resistant *Staphylococcus aureus* skin infection, arose out of and in the course of employment. Existing law authorizes the presumption to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system is required to find in accordance with the presumption. This bill would expand the scope of this presumption to include additional injuries, including post-traumatic stress disorder, tuberculosis, and meningitis, if the injury develops or manifests while a member is in a specified membership classification or job classification. This bill would authorize the presumption relating to these additional injuries to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system is required to find in accordance with the presumption.

(STATUS: Introduced 02/15/23. Referred to Com. on P.E. & R. on 03/09/23. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/13/23. Re-referred to Com. on P.E. & R. on 03/14/23. **From committee: Do pass on 04/12/23. Read second time; ordered to third reading on 04/13/23. Read third time; passed out of Assembly; ordered to the Senate; read first time in Senate on 04/20/23.**)

AB 1025 (Dixon)

Existing law requires a county board of supervisors, upon request of the county assessor or sheriff, to contract with legal counsel to assist the assessor, auditor-controller, or sheriff with duties for which the district attorney or county counsel would have a conflict of interest in representing the assessor, auditor-controller, or sheriff. In the event the board of supervisors does not concur with the assessor, auditor-controller, or sheriff that a conflict of interest exists, existing law authorizes the county assessor, auditor-controller, or sheriff to initiate an ex parte proceeding before the presiding judge of the superior court, as provided. This bill would extend these provisions to additionally require the board of supervisors to contract with legal counsel to assist the elected treasurer-tax collector, as described above. By adding to the duties of county boards of supervisors with respect to contracts for legal counsel, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(STATUS: Introduced 02/15/23. Referred to Com. on L. GOV. on 03/02/23. From committee: Do pass and re-referred to Com. on APPR. on 03/29/23. **In committee; Set, first hearing; referred to suspense file on 04/19/23.**)

AB 1145 (Maienschein)

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law, until January 1, 2025, provides that, in the case of certain state and local firefighting personnel and peace officers, the term "injury" includes post-traumatic stress disorder that developed or manifested during a period while the member is in the service of the department or unit, and establishes a disputable presumption in this regard. This bill would provide, only until January 1, 2030, that in the case of certain state nurses, psychiatric technicians, and various medical and social services

specialists, the term “injury” also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2024. The bill would prohibit compensation from being paid for a claim of injury unless the member has performed services for the department or unit for at least six months, unless the injury is caused by a sudden and extraordinary employment condition.

(STATUS: Introduced; Read first time on 02/16/23. Referred to Com. on INS. on 03/02/23. **Re-referred to Com. on APPR. on 04/12/23. In committee: Set, first hearing; referred to suspense file on 04/26/23.**)

AB 1246 (Nguyen)

Existing law permits a member of CalPERS who retires on or before December 31, 2017 to elect from among several optional settlements for the purpose of structuring the member’s retirement allowance. Existing law prohibits a member who elects to receive specified optional settlements from changing the member’s optional settlement and designated beneficiary after election of an optional settlement unless a specified event occurs, including the death of a beneficiary who predeceased the member, a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, or in an annulment of marriage in which the court confirms the annulment. This bill would extend the ability of a retiree to change their designated beneficiary to include naming a new spouse following a retiree’s divorce and subsequent remarriage. The bill would allow a retiree’s new spouse to receive the retiree’s post-divorce retirement settlement benefits.

(STATUS: Introduced; read first time on 02/16/23. Referred to Com. on P.E. & R.; from committee chair, with author’s amendments: Amend, and re-refer to Com. on P.E. & R.; read second time and amended on 03/16/23. Re-referred to Com. on P.E. & R. on 03/20/23. **From committee: Do pass and re-refer to Com. on APPR. on 04/12/23. In committee: Hearing postponed by committee on 04/26/23.**)

AB 1379 (Papan)

The Brown Act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

This bill, with respect to those general provisions on teleconferencing, would require a legislative body electing to use teleconferencing to instead post agendas at a singular designated physical meeting location, as defined, rather than at all teleconference locations. The bill would remove the requirements for the legislative body of the local agency to identify each teleconference location in the notice and agenda, that each teleconference location be accessible to the public, and that at least a quorum of the members participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would instead provide that, for purposes of establishing a quorum of the legislative body, members of the body may participate remotely, at the designated physical location, or at both the designated physical meeting location and remotely.

The bill would require the legislative body to have at least two meetings per year in which the legislative body's members are in person at a singular designated physical meeting location.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing provisions without complying with the general teleconferencing requirements that agendas be posted at each teleconference, that each teleconference location be identified in the notice and agenda, and that each teleconference location be accessible to the public, if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under existing law, these alternative teleconferencing provisions require the legislative body to provide at least one of two specified means by which the public may remotely hear and visually observe the meeting. Under existing law, these alternative teleconferencing provisions authorize a member to participate remotely if the member is participating remotely for just cause, limited to twice per year, or due to emergency circumstances, contingent upon a request to, and action by, the legislative body, as prescribed. Existing law specifies that just cause includes travel while on official business of the legislative body or another state or local agency.

This bill would revise the alternative provisions, operative until January 1, 2026, to make these provisions operative indefinitely. The bill would delete the restriction that prohibits a member, based on just cause, from participating remotely for more than two meetings per calendar year. The bill would delete the requirement for the legislative body to provide at least one of two specified means by which the public may remotely hear and visually observe the meeting. The bill would also delete a provision that requires a member participating remotely to publicly disclose at the meeting before action is taken whether there are individuals 18 years of age present in the room at the remote location and the general nature of the member's relationship to those individuals. The bill would further delete a provision that prohibits a member from participating remotely for a period of more than three consecutive months or 20% of the regular meetings within a calendar year, or more than two meetings if the legislative body regularly meets fewer than ten times per calendar year. The bill would expand the definition of just cause to include travel related to a member of a legislative body's occupation. The bill would make related, conforming changes.

(STATUS: Introduced; read first time on 02/17/23. Referred to Com. on L. GOV.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on 03/23/23. Re-referred to Com. on L. GOV. on 03/27/23. **In committee: Set, first hearing; hearing canceled at the request of author on 04/24/23.**)

AB 1637 (Irwin)

This bill, no later than January 1, ~~2025~~, **2026**, would require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level ~~domain, domain~~ and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, ~~2025~~, **2026**, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov"

domain name or a “.ca.gov” domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

(STATUS: Introduced; read first time on 02/17/23. Referred to Coms. on L. GOV. and P. & C.P.; from committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV.; read second time and amended on 03/16/23. Re-referred to Com. on L. GOV. on 03/20/23. **Re-referred to Com. on P. & C.P. on 04/20/23. From committee: Amend, and do pass as amended and re-refer to Com. on APPR. on 04/26/23. Read second time and amended on 04/27/23. Re-referred to Com. on APPR. on 05/01/23.)**

SB 252 (Gonzalez, Stern, and Weiner)

Existing law prohibits the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board’s fiduciary responsibilities established in the California Constitution.

This bill would prohibit the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, ~~2030~~ **2031**. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board’s fiduciary responsibilities established in the California Constitution.

This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill’s requirements, as specified.

(STATUS: Introduced and read first time on 01/30/23. Referred to Coms. on L., P.E. & R. and JUD. on 02/09/23.)

Re-referred to Com. on JUD. on 04/13/23. From committee: Do pass as amended and re-refer to Com. on APPR. on 04/19/23. Set for hearing May 1; placed on APPR suspense file on 04/25/23.)

SB 265 (Hurtado, Umberg)

Existing law requires the California Office of Emergency Services (Cal OES) to establish the California Cybersecurity Integration Center (Cal-CSIC) with the primary mission of reducing the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. Existing law requires Cal-CSIC to provide warnings of cyberattacks to government agencies and nongovernmental partners, coordinate information sharing among these entities, assess risks to critical infrastructure information networks, enable cross-sector coordination and sharing of best practices and security measures, and support certain cybersecurity assessments, audits, and accountability programs. Existing law also requires Cal-CSIC to develop a statewide cybersecurity strategy to improve how cyber threats are identified, understood, and shared in order to reduce threats to California government, businesses, and consumers, and to strengthen cyber emergency preparedness and response and expand cybersecurity awareness and public education.

This bill would require Cal OES to direct Cal-CSIC to prepare, and Cal OES to submit to the Legislature on or before January 1, 2025, a strategic, multiyear outreach plan to assist critical infrastructure sectors, as defined, in their efforts to improve cybersecurity and an evaluation of options for providing grants or alternative forms of funding to, and potential voluntary actions that do not require funding and that assist, that sector in their efforts to improve cybersecurity preparedness.

(STATUS: Introduced; read first time on 01/31/23. Referred to Com. on G.O. on 02/09/23. From committee: Do pass and re-referred to Com. on APPR. on 03/14/23. **Placed on APPR suspense file on 04/10/23.**)

SB 300 (Seyarto Niello, Ochoa-Bogh, Wilk)

This bill would require any bill, introduced on or after January 1, 2024, that is referred to the Senate Labor, Public Employment and Retirement Committee and relates to CalPERS to include a fiscal impact analysis from the Legislative Analyst's Office that describes the fiscal impact of the bill on CalPERS and what the outcome of the bill would be if implemented.

(STATUS: Introduced. Read first time. To Com. on RLS. for assignment on 02/02/23. Referred to Coms. on L., P.E. & R. and APPR. on 02/22/23. **Set for hearing April 26 on 04/13/23.**)

SB 327 (Laird)

Existing law authorizes a member of CalSTRS who is eligible and applies for a disability allowance or retirement to apply to receive a service retirement pending the determination of their application for disability, subject to meeting certain conditions. These include that the member submit an application on a form prescribed by the system and, if the application for disability benefits is denied or canceled, the service retirement date of a member who submits an application for retirement under these provisions may not be earlier than January 1, 2014. This bill would instead prohibit the service retirement date of a member who submits an application for

retirement under these provisions from being earlier than 180 calendar days prior to when the application for service retirement is received by the system.

Existing law, with respect to an application for disability benefits that is denied or canceled, prohibits the service retirement date from being earlier than one day after the date on which a retirement allowance was terminated, as specified, provided that the retirement allowance is terminated on or after January 1, 2014. This bill would instead provide that the retirement allowance under the above-described circumstances is terminated no earlier than 180 calendar days prior to when the application for service retirement is received by the system.

Existing law provides that a service retirement allowance under CalSTRS becomes effective on a date designated by the member, provided all of specified conditions are met, including that the member executes an application for service retirement allowance no earlier than 6 months before the effective date of retirement allowance. This bill would provide that the effective date of a member who files an application for service retirement under a specified formula applicable to members 55 years of age or older is no earlier than 180 calendar days prior to when the application for service retirement is received by the system. The bill, with respect to the above members, would delete a provision specifying that the retirement date of a member who files an application for retirement on or after January 1, 2012, is no earlier than January 1, 2012. The bill would require the board to determine a date when CalSTRS has the capacity to implement the above-described changes and to post the date on the CalSTRS website no later than January 1, 2026. The bill would make those provisions operative on the date determined by the board, and would repeal those existing provisions on January 1, 2026.

(STATUS: Introduced and read first time on 02/07/23. Referred to Com. on L., P.E. & R. and APPR. on 02/15/23. **Set for hearing April 26 on 04/13/23. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/26/23.**)

SB 391 (Blakespear)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law provides, among other things, that skin cancer developing in active lifeguards, as defined, is presumed to arise out of and in the course of employment, unless the presumption is rebutted. This bill would expand the scope of those provisions to certain peace officers of the Department of Fish and Wildlife and the Department of Parks and Recreation.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. L., P.E. & R. on 02/22/23. **From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/20/23. Set for hearing May 1 on 04/21/23. Placed on APPR suspense file on 05/01/23.**)

SB 411 (Portantino, Menjivar, Assembly Member Rivas)

This bill would amend the teleconference provisions of the Brown Act. The bill was amended on April 24, 2023 to apply only to neighborhood councils that are advisory bodies with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established

pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act.

(STATUS: Introduced; read first time on 02/09/23. Referred to Com. on GOV. & F. and JUD. 02/22/23. **From committee: Do pass as amended and re-refer to Com. on JUD. on 04/20/23. Read second time and amended on 04/24/23. Set for hearing May 2 on 04/26/23.**)

SB 432 (Cortese)

The Teachers' Retirement Law establishes CalSTRS and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. Existing law creates the Cash Balance Benefit Program to provide a retirement plan for the benefit of participating employees who perform creditable service for less than 50% of full time.

Existing law commits the administration of CalSTRS and its defined benefit program and the Cash Balance Benefit Program to the CalSTRS Board. Existing law generally prohibits adjustments in new rates of contribution adopted by the board on the basis of an investigation, valuation, and determination or because of an amendment to the Teachers' Retirement Law with respect to the Defined Benefit Program, for time prior to the effective date of the adoption or amendment. Existing law prohibits an action of the board, other than for correction of errors in calculating the allowance or annuity at the time of retirement, disability, or death of a member, from changing the allowance or annuity payable to a retired member or beneficiary prior to the date the action is taken. Existing law prescribes various duties for CalSTRS, as well as for employers participating in the system and members and their beneficiaries, in connection with law relating to the applicability of creditable compensation and creditable service. Existing law, for purposes of audits or other system actions, requires that employers be responsible for the rules in effect at the time the compensation is reported, except when expressly superseded by state or federal law or an executive order of the Governor.

Under existing law, new or different interpretations related to creditable compensation and service are required to take effect after notice is issued to employers and exclusive representatives and are prohibited from being applied retroactively to compensation reported prior to that notice, unless a retroactive interpretation is expressly required by state or federal law or an executive order of the Governor. Existing law requires that, if compensation is reported in accordance with CalSTRS rules and is later determined by CalSTRS to have been reported in error, the resulting overpayment be deemed to be an error by the system. Existing law requires that overpayments made due to an error by the system be recovered pursuant to a specified process, and a portion of this recovery is funded by a continuous appropriation from the General Fund.

This bill would revise those provisions to specify that compensation reported in accordance with CalSTRS' rules includes rules relating to timeliness and accuracy and would eliminate the requirement that supersession by other law or order be express, as described above. By broadening the circumstances that may lead to recovery pursuant to the above-described continuous appropriation, this bill would make an appropriation.

Existing law also prohibits those changes in interpretations from applying before the next July 1, unless changes to state or federal law, an executive order of the Governor, an advisory letter, or programs require application or revision of the creditability of compensation on an earlier basis. This bill would delete the prohibition against changes in interpretations applying before the next July 1.

The bill would require CalSTRS to provide a prescribed written notice if it determines that compensation has been reported in error. The bill would require that a determination of error be based on the law applicable at the time that the compensation was reported. The bill would require that the prescribed notice be in writing, identify the pertinent error, document the basis of the error, and specify the total amount, if any, overpaid due to the error. The bill would specify that overpayments, in this context, are those made to the member.

Existing law authorizes an employer or an exclusive labor representative to submit a request to CalSTRS for an advisory letter, which is defined as a formal written guidance relating to the proper reporting of compensation in publicly available agreement consistent with laws governing creditable compensation. These provisions require, if compensation that is reported in accordance with the advisory letter is later determined by CalSTRS to have been reported in error, that a resulting overpayment be deemed an error by the system.

This bill would require notice of determination of an error in compensation reported to the system in accordance with a system advisory letter be provided in writing. The bill would require that a determination of error in this context be based on the law that was applicable at the time that the compensation was reported. Existing law prescribes various requirements and methods for the repayment of amounts that have been overpaid by CalSTRS.

This bill would require that amounts that have been overpaid resulting from compensation that is determined to have been paid to enhance a member's benefits, as specified, be recovered from the member, participant, former participant, or beneficiary receiving the allowance or annuity benefit, or the employer, or both. (STATUS: Introduced; read first time on 02/13/23. Referred to Com. on L., P.E. & R. on 02/22/23. Set for hearing April 26 on 04/13/23. **From committee: Do pass as amended and re-refer to Com. on APPR with recommendation: To consent calendar on 05/01/23.**)

SB 537 (Becker)

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members

participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely.

This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

~~This~~ The bill would authorize ~~certain legislative bodies~~ the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions ~~similar to the emergency provisions indefinitely and without regard to a state of emergency.~~ if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require ~~a~~ the legislative body to provide a record of attendance ~~and the number of public comments~~ on its internet website within seven days after a teleconference meeting, as specified. The bill would ~~define "legislative body" for this purpose to mean a board, commission, or advisory body of a multijurisdictional cross county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the act. The bill would also define "multijurisdictional" to mean a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity.~~ require at least a quorum of members of the legislative body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from each member will participate via teleconference. The bill would prohibit a member from participating remotely pursuant to these provisions unless the remote location is the member's office or another location in a publicly accessible building and is more than 40 miles from the location of the in person meeting. The bill would repeal these alternative teleconferencing provisions on January 1, 2028. ~~With respect to the alternative teleconferencing provisions operative until January 1, 2026, the bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.~~ This bill would declare that it is to take effect immediately as an urgency statute. (STATUS: Introduced; read first time on 02/14/23. Referred to Com. on RLS on 02/22/23. From committee with author's amendments; read second time and amended; re-referred to Com. on RLS. on 03/22/23. Re-referred to Coms. on GOV. & F. and JUD. on 03/29/23. **From committee: Do pass as amended and re-refer to Com. on JUD. on 04/20/23. Read second time and amended; re-referred to Com. on JUD. on 04/24/23. Set for hearing May 2 on 04/26/23.**)

SB 548 (Niello)

The PERL requires, for counties that contract for retirement benefits through CalPERS for eligible employees, as of the implementation date of the Trial Court Employment Protection and Governance Act, that a trial court and a county in which the trial court is located jointly participate in the system by joint contract. Existing law requires

the CalPERS board to do one-time, separate computations of the assets and liabilities of two counties and the trial courts in the counties. PEPRA establishes a variety of requirements and restrictions on public employers offering defined benefit pension plans, including limiting the benefits that may be provided to new members.

This bill would authorize a county and the trial court located within the county to elect to separate their joint CalPERS contract into individual contracts, if the county and the trial court make that election voluntarily, and would prescribe a process for this. The bill would prohibit the separation from being a cause for modification of employee retirement benefits, as specified. The bill would require the CalPERS board, within its existing resources, to do a specified computation of assets and liabilities for a county and trial court seeking to separate their joint contract. For purposes of PEPRA, the bill would authorize a county and a trial court to provide employees the defined benefit plan or formula that those employees received from their respective employers prior to the exercise of the option to separate, as specified.

(STATUS: Introduced; read first time on 02/15/23. Referred to Com. on L., P.E. & R. on 02/22/23. **From committee: Do pass as amended and re-refer to Com. on APPR with recommendation: To consent calendar on 04/20/23. Read second time and amended; re-referred to Com. on APPR. on 04/24/23. Set for hearing May 1 on 04/25/23. Placed on APPR suspense file on 05/01/23.**)

SB 660 (Alvarado-Gil)

The PERL prescribes various definitions of final compensation based on employment classification, bargaining unit, date of hire, and date of retirement, among other things. The PERL authorizes public agencies to join CalPERS and prescribes the rights and duties of agencies participating in CalPERS. Existing law authorizes CalPERS to enter into agreements with specified public retirement systems to establish reciprocity between CalPERS and those public retirement systems. Existing law provides that an agency that has entered into an agreement establishing reciprocity with CalPERS is deemed to have obtained the same rights and limitations that apply to all other public agencies that have entered into similar reciprocal agreements with CalPERS.

This bill would establish the California Public Retirement System Agency Cost and Liability Panel, located in the Controller's office, with members as defined. The bill would assign responsibilities to the panel related to retirement benefit costs, including determining how costs and unfunded liability are apportioned to a public agency when a member changes employers within the same public retirement system or when a member concurrently retires with 2 or more retirement systems that have entered into reciprocity agreements. The bill would require the panel to meet no later than March 31, 2024, and quarterly beginning on April 1, 2024, and to submit a report to the Legislature, no later than December 31, 2024, providing information regarding the financial impact a public agency assumes when an employee transfers to another public agency within the same retirement system or when an employee transfers to a public agency in a reciprocal retirement system and concurrently retires under 2 or more systems.

(STATUS: Introduced; read first time on 02/16/23. Referred to Com. on RLS. on 03/01/23. From committee with author's amendments; read second time and amended; re-referred to Com. on RLS. on 03/21/23. Re-referred to Com. on L., P.E. & R. on 03/29/23. **From committee: Do pass and re-refer to Com. on APPR. on 04/20/23. Set for hearing May 1 on 04/21/23. Placed on APPR suspense file on 05/01/23.**)

SB 885 (Senate Committee on Public Employment and Retirement)

This bill would amend the Education Code to authorize CalSTRS to collect specified criminal history information in the prescribed manner for employees of CalSTRS and each applicant for employment while a tentative offer is still pending if the position includes specified duties.

The PERL permits the CalPERS board to charge interest on payments due and unpaid by a contracting agency at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10%. This bill would remove the board's option to charge interest at the annual return on the system's investments for the year prior in which payments are not timely made, and instead require the board to charge interest at a simple annual rate of 10%.

The California Employers' Pension Prefunding Trust Program and the California Employers' Pension Prefunding Trust Fund allow state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. Existing law authorizes an employer, upon terms and conditions set by the board, to elect to participate in the prefunding plan by entering into a contract with the board relative to the prefunding plan. This bill would authorize an employer participating in the program, upon terms and conditions established by the board, to request a disbursement of funds from its account in the California Employers' Pension Prefunding Trust Fund and transfer those funds directly into the Public Employees' Retirement Fund. By authorizing the transfer of funds from the continuously appropriated California Employers' Pension Prefunding Trust Fund to the continuously appropriated Public Employees' Retirement Fund, this bill would make an appropriation.

The Judges' Retirement System II, administered by the board of CalPERS, permits a member of this retirement system to select from various optional settlements for the purpose of structuring their retirement benefits. Existing law, under optional settlement 1, provides for payment of a retirement allowance until death and the payment of any remaining contributions at death to their surviving spouse or estate. Under an optional settlement 1 retirement, this bill would allow, if there is no surviving spouse, for the remaining contributions at death to be paid to a judge's designated beneficiary.

The CERL provides for a defined retirement benefit based upon credited service, final compensation, and age at retirement subject to specified formulas relating to membership classification. This bill would clarify the definition of final compensation for specified members, members who are subject to PEPR, and members whose services are on a tenure that is temporary, seasonal, intermittent, or part time in the CERL, as described.

CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to begin paying an unmodified retirement allowance to a member, or a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance, not later than April 1 following the calendar year in which the member attains 72 years of age, if the member can be located but does not submit a proper application for a deferred retirement allowance, as specified. Existing law prescribes alternate requirements if a member cannot be located and attains 72 years of age. Existing law establishes the Deferred Retirement Option Program, which a county or district may elect to offer and which provides an additional benefit on retirement to participating members.

This bill would clarify that the above-described notice shall be provided by the board. The bill would revise the age at which the retirement system is required to either start payment of an unmodified retirement allowance or make a one-time distribution of accumulated contributions and interest to the age specified by federal law. The bill would change the age threshold from April 1 of the calendar year in which the member attains 72 years of age to the age specified by federal law with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program. This bill would correct several erroneous references and also make other technical, nonsubstantive changes to these provisions.

(STATUS: Introduced; Read first time on 03/14/23. Referred to Coms. on L., P.E. & R. and PUB S. on 03/22/23. From committee with author's amendments; read second time and amended; re-referred to Com. on L., P.E. & R. on 04/17/23. From committee: Do pass and re-refer to Com. on PUB S. with recommendation: To consent calendar on 04/20/23. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar on 04/26/23.)

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11/4/2022

DEADLINES

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

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

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

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

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

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 4](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- [Jan. 16](#) Martin Luther King, Jr. Day
- [Jan. 20](#) Last day to submit **bill requests** to the Office of Legislative Counsel

- [Feb. 17](#) Last day for bills to **be introduced** (J.R. 61(a),(1)(J.R. 54(a)).
- [Feb. 20](#) Presidents' Day.

- [Mar. 30](#) **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).

- [Mar. 31](#) Cesar Chavez Day.

- [Apr. 10](#) Legislature reconvenes from **Spring recess** (J.R. 51(a)(2)).

- [Apr. 28](#) Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(a)(2)).

- [May 5](#) Last day for **policy committees** to hear and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3)).

- [May 12](#) Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).

- [May 19](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).

Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).

- [May 29](#) Memorial Day.

- [May 30-June 2](#) **Floor Session Only**. No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

*Holiday schedule subject to Senate Rules committee approval

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11/4/2022

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

June 2 Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

June 5 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

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

July 4 Independence Day.

July 14 Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).

Summer Recess begins upon adjournment of session provided Budget Bill has been passed (J.R. 51(a)(3)).

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

Aug. 14 Legislature reconvenes from **Summer Recess** (J.R. 51(a)(3)).

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

Sept. 1 Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(11)).

Sept. 4 Labor Day.

Sept. 5-14 **Floor session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(12)).

Sept. 8 Last day to **amend** on the floor (J.R. 61(a)(13)).

Sept. 14 Last day for **each house to pass bills** (J.R. 61(a)(14)).
Interim Study Recess begins at the end of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2023

Oct. 14

Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in his possession after Sept. 14 (Art. IV, Sec.10(b)(1)).

2024

Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3

Legislature reconvenes (J.R. 51(a)(4)).



Memorandum

DATE: May 15, 2023
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: FIRST QUARTER 2023 BUDGET TO ACTUALS REPORT

Written Report

Highlights

First Quarter Target: 25% Used /75% Remaining

	Actuals to Date	Budget	Budget Remaining (\$)	Budget Remaining (%)
Administrative Expenses				
Personnel Costs	\$ 5,754,901	\$ 23,697,171	\$ 17,942,270	75.7 %
Services and Supplies	3,121,879	14,951,725	11,829,846	79.1 %
Capital Expenditures	-	1,226,000	1,226,000	100.0 %
Grand Total	\$ 8,876,780	\$ 39,874,896	\$ 30,998,116	77.7 %

Background/Discussion

The Board of Retirement approved OCERS' Administrative Budget for Fiscal Year 2023 (FY23) on November 14, 2022, for \$39,874,896 to fund administrative expenses.

OCERS' budgeting authority, which is regulated by California Government Code Sections 31580.2 and 31596.1, includes a provision that limits the OCERS' budget for administrative expenses to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system. This provision (commonly referred to as the 21-basis points test) excludes investment related costs and expenditures for computer software, hardware, and related technology consulting services. The approved FY23 administrative budget represents 10.73 basis points of the projected actuarial accrued liability.

The Chief Executive Officer, or the Assistant CEO, has the authority to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be transferred from one broad category to another without approval from the Board of Retirement.

Administrative Summary

For the three months ended March 31, 2023, year-to-date actual administrative expenses were \$8,876,780 or 22.3% of the \$39,874,896 administrative budget and below the 25% target set for the end of the first quarter

[@Bcl@5c0e02edR-7 1st Quarter 2023 Budget To Actuals Report](#)

1 of 4

Regular Board Meeting 5-16-2023

budget by approximately \$1.1 million. A summary of all administrative expenses and explanations of significant variances are below:

	Actual to Date	Budget	Budget Remaining (\$)	Budget Used (%)	Prorated Budget*	(Over)/Under Prorated Budget
Administrative Expenses						
Personnel Costs	\$ 5,754,901	\$ 23,697,171	\$ 17,942,270	24.3 %	\$ 5,924,293	\$ 169,392
Services and Supplies						
Building Property Management and Maintenance	257,170	975,000	717,830	26.4 %	243,750	(13,420)
Due Diligence Expenses	13,012	130,000	116,988	10.0 %	32,500	19,488
Equipment - Rent and Leases	10,006	50,000	39,994	20.0 %	12,500	2,494
Equipment and Software	344,841	1,081,100	736,259	31.9 %	270,275	(74,566)
Infrastructure	324,722	1,957,140	1,632,418	16.6 %	489,285	164,563
Legal Services	262,634	1,100,000	837,366	23.9 %	275,000	12,366
Meetings and Related Costs	14,934	54,300	39,366	27.5 %	13,576	(1,358)
Memberships	45,901	91,245	45,344	50.3 %	22,811	(23,090)
Office Supplies	30,512	100,000	69,488	30.5 %	25,000	(5,512)
Postage and Delivery Costs	54,563	161,000	106,437	33.9 %	40,250	(14,313)
Printing Cost	21,790	67,000	45,210	32.5 %	16,750	(5,040)
Professional Services	1,539,621	8,149,340	6,609,719	18.9 %	2,037,336	497,715
Subscriptions and Periodicals	13,508	56,300	42,792	24.0 %	14,075	567
Telephone and Internet	89,555	391,200	301,645	22.9 %	97,800	8,245
Training and Related Costs	99,110	588,100	488,990	16.9 %	147,026	47,916
Total Services and Supplies	3,121,879	14,951,725	11,829,846	20.9 %	3,737,934	616,055
Administrative Expense - Subtotal	8,876,780	38,648,896	29,772,116	23.0 %	9,662,227	785,447
Capital Expenditures**	-	1,226,000	1,226,000	0.0 %	306,500	306,500
Grand Total	\$ 8,876,780	\$ 39,874,896	\$ 30,998,116	22.3 %	\$ 9,968,727	\$ 1,091,947

*Prorated budget represents 25% (3 months/12 months) of annual budget.

**Capital expenditures represent purchase of assets to be amortized in future periods.

Personnel Costs

Personnel Costs as of March 31, 2023, were approximately \$5.8 million or 24.3% of the annual budget for this category, under the prorated budget by \$169,392. Although these costs are slightly under budget, lump sum payments made during the first quarter are included in these costs. Once a year lump sum payments are typically paid in January. Additionally, incentive compensation awards for eligible investment team members were paid in accordance with the Incentive Compensation Program approved by the Board on August 15, 2022. The awards, based on 2022 performance metrics, totaled approximately \$478,000 and are payable in two equal installments; the first payment was paid at the end of March 2023 and the second payment will be paid in March 2024 to investment team members who are still employed by OCERS at the time of payment. Annual leave expense and liability accounts are adjusted each quarter based on the annual leave balances of OCERS employees. Leave balances are slightly higher at the end of the quarter than at the beginning of the year which increases the personnel costs. Personnel costs are closely monitored and are expected to be within budget for the year.

Services and Supplies

Expenditures for services and supplies were approximately \$3.1 million or 20.9% of the annual budget for this category. The variance of \$616,055 between the prorated budget and year-to-date actuals in this category is primarily due to the following (note: under budget differences that are under budget and less than \$5,000 have been deemed immaterial and are excluded from the discussion below):

- Building Property Management and Maintenance costs utilized 26.4% of the annual budget and were slightly higher than the prorated budget by \$13,420. The higher overall cost is primarily due to the timing of funding requests from OCERS property manager for operating expenses. Maintenance costs do not occur evenly and will fluctuate throughout the year. This category is expected to remain within budget.
- Due Diligence Expenses are at 10.0% of the annual budget and lower than the prorated budget by \$19,488. Most of the investment team travel is included in this category. The investment team has increased their travel to investment conferences and meetings with investment managers from the prior year and more travel is expected as the year progresses.
- Equipment and Software expense utilized 31.9% of the annual budget, and higher than the prorated budget by \$74,566. The higher-than-expected expenditures are related to the 2023 business plan initiative to replace aging Surface tablet computers with upgraded laptops, many which were purchased during the first quarter.
- Infrastructure costs are at 16.6% of the annual budget resulting in an unused prorated budget of \$164,563. The lower than budgeted costs are due to the timing of maintenance agreement renewals, which renew throughout the year, as well as various costs associated with software and hardware support services that are utilized on an as-needed basis.
- Legal Services are at 23.9% of the budget and are lower than the prorated budget by \$12,366. Legal services for investments, litigation and tax counsel are utilized on an as-needed basis. Investment legal services are higher than the prorated budget by approximately \$12,000 due to the addition of several new investment managers during the first quarter. General board, tax counsel and outside counsel services, and other litigation costs are under the prorated budget by approximately \$24,000. Total legal fees are not anticipated to exceed the budget for the year but will be closely monitored throughout the year.
- Meetings and Related Costs are \$14,934 or 27.5% of the total budget, and over the prorated budget by \$1,358. This category represents expenditures related to Board and Committee meetings, as well as team member meetings. This category is over the prorated budget due to the annual launch event for all team members which occurs in January each year. This category is expected to be within budget for the year.
- Memberships expense is at 50.3% of the annual budget and above the prorated budget by \$23,090. Many of the memberships and periodicals renew in the first quarter of the year. Additionally, payment of one annual membership from two prior years had not been made and was paid during the first quarter of this year. This difference is expected to diminish as the year continues and remain within budget for this category.
- Office Supplies are at 30.5% of the budget and over the prorated budget by \$5,512. During the first quarter, additional furniture and supplies were purchased for the training room and new team members, respectively. This category is expected to remain within budget for the year.
- Postage and Delivery Costs are at 33.9% of the annual budget and above the prorated budget by \$14,313. The costs are higher due to the mailing of two quarterly newsletters (Winter and Spring 2023) in the first quarter versus one. Also included in the incurred costs is the postage for the mailing of 1099-R Forms to our members, and other Alameda mailings. Postage usage fluctuates based on current needs. This category will be closely monitored throughout the year.

- Printing Cost is at 32.5% of the annual budget and over the prorated budget by \$5,040. The printing of the quarterly newsletter was higher than expected, and there were additional mailings related to Alameda correspondence.
- Professional Services utilized 18.9% of the annual budget and are lower than the prorated budget by \$497,715. As of the end of the first quarter all departments are under budget for professional services. Consulting and professional services are used on an as needed basis which results in costs fluctuating throughout the year. Some professional services budgeted with little to no costs incurred include white board video consulting; external financial audit; information security policy development and cyber security assessment services: pension administrative system consulting and RPA (robotic process automation) as well as the compensation study. Contracts have been executed on several of these initiatives and the projects are now underway. This category is expected to be within budget for the year.
- Telephone and Internet expenditures were 22.9% of the annual budget, under the prorated budget by \$8,245. Telephone and internet services have increased from prior years due to the increase in team members and the increase in the number of OCERS issued phones. OCERS' security provisions only allow access to OCERS email with an authorized OCERS issued device.
- Training and Related Costs are at 16.9% of the annual budget and lower than the prorated budget by \$47,916. Training costs are trending higher when compared with the prior year. More board members and team members are attending in-person conferences now that the pandemic restrictions are lifted, although virtual training is also being utilized. Several LOD (Learning and Organizational Development) training programs have begun in the first quarter including executive and director coaching, and the launch of the Leadership Edge Program for OCERS mid-level leaders.

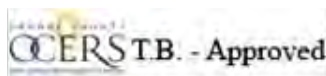
Capital Expenditures

No Capital Expenditures have been incurred as of the end of the first quarter. The capital expenditures budget includes project costs of \$250,000 for electronic content and document management, \$215,000 for additional board room audio-visual enhancement, \$250,000 for the data center server virtual replacement, \$300,000 for building space planning and \$211,000 for other building and property improvements. Many of these projects are expected to incur costs during the second quarter.

Conclusion:

As of the end of the first quarter, the Administrative budget based on actuals is at 22.3% of the annual budget. As actual administrative expenses are under the annual budget, OCERS complies with the 21-basis point test.

Submitted by:



Tracy Bowman, Director of Finance
Director of Finance



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FIRST QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE THREE MONTHS ENDED MARCH 31, 2023**

Written Report

Background/Discussion

The attached financial statements reflect the unaudited financial activity for the three months ended March 31, 2023. These statements are unaudited and are not the official financial statements of OCERS. The following statements represent a review of the progress to date for the first quarter of 2023. The official financial statements of OCERS are included in the Annual Comprehensive Financial Report (ACFR), which will be available for the year ended December 31, 2022, on our website, www.ocers.org, after the completion of the 2022 year-end audit in June 2023.

Summary

Statement of Fiduciary Net Position (Unaudited)

As of December 31, 2022, the net position restricted for pension, other postemployment benefits and employer is \$20.8 billion, a decrease of \$896.8 million, or -4.1%, from March 31, 2022. The change is a result of a decrease in total assets of \$1.5 billion and a decrease in total liabilities of \$616.9 million as described below:

The \$1.5 billion decrease in total assets can be attributed to decreases of \$422.7 million in cash and short term investments, \$1.3 billion in investments at fair value and \$2.2 million in capital assets, offset by an increase of \$168.5 million in total receivables.

The decrease of \$422.7 million in total cash and short-term investments consists of a \$405.8 million decrease in cash and cash equivalents due to the County of Orange opting not to participate in the FY 2023-2024 contribution prepayment program, the timing of investing employee and employer contributions received during the quarter and a \$16.9 million decrease in securities lending collateral driven primarily by decreased fixed income demand.

The increase of \$168.5 million in total receivables is related to the timing of pending security sales, which increased by \$176.3 million, offset by a decrease in investment income receivables of \$7.7 million.

Total investments at fair value decreased \$1.3 billion, or -5.7%, from March 31, 2022 to March 31, 2023. The total portfolio reported a net loss of -3% for the one-year period ending March 31, 2023 compared to net return of 11.4% for the same one-year period ending March 31, 2022. The first quarter of 2023 was challenging for asset classes, driven by macro-economic factors and a potential banking crisis; investors' fears of a recession,

contractionary monetary policy from central banks, and sticky inflation contributed to market volatility. Global public equity decreased by \$602.6 million, private equity decreased by \$72.1 million, core fixed income decreased by \$627.6 million, credit decreased by \$116.6 million and risk mitigation decreased by \$390.4 million. These decreases were offset by increases in real assets of \$548.5 million and unique strategies of \$3.6 million. Global public equity continued its decline and reported a loss of -7% for the one-year period. Emerging markets were a drag on the equity portfolio. Private equity reported a one-year loss of -4.2% for the first quarter in 2023. Significant private equity distributions helped enhance the performance returns as there is a lag in mark-to-market reporting by the private equity investment managers and the turmoil in public markets is not yet fully reflected. The core fixed income portfolio was down -3.5% for the one-year period due to high inflation and aggressive interest rate hikes. Corporate bonds and high yield bonds underperformed government bonds as spreads widened. The credit portfolio reported a loss of -2.5% for the one-year period, which underperformed the benchmark of -1.8%. The private credit portfolio held up better than public credit. Risk mitigation, designed to protect the portfolio during down periods, reported a loss of -0.6% for the one-year period. Real assets returned 11.3% for the one-year period, benefitting from high oil and energy prices, while real estate faced headwinds in the first quarter. Unique strategies reported a one-year return of 7.1% for 2023 compared to a one-year return of 3.5% in 2022.

The decrease in capital assets of \$2.2 million from the prior year represents depreciation expense, which is primarily attributed to the Pension Administration System Solution (PASS).

Total liabilities decreased \$616.9 million, or -46.1%, from March 31, 2022 to March 31, 2023, primarily due to unearned contributions, which decreased \$560.6 million due to the County of Orange opting to not participate in the FY 2023-2024 contribution prepayment program. Retiree payroll payable also decreased \$70.6 million due to the timing of when the April 1 participant benefits were paid out. April 1 landed on a Saturday in 2023, therefore the electronic benefit payments were paid out on March 31. These decreases were offset by an increase of \$34.1 million related to the timing of securities purchased.

Statement of Changes in Fiduciary Net Position (Unaudited)

The ending net position restricted for pension, other postemployment benefits and employer as of March 31, 2023, decreased by \$896.8 million or -4.1%, when compared to the same period ending March 31, 2022.

Total additions to fiduciary net position increased 291.7% or \$1.4 billion from the previous year. Net investment income for the three months ended March 31, 2023, was \$664.6 million versus a loss of -\$735.3 million for the three months ended March 31, 2022, an increase of \$1.4 billion or 190.4%. The main cause of the increase is due to the net appreciation/(depreciation) in fair value of investments, which increased \$1.6 billion from the prior year and was slightly offset by a decrease in dividends, interest, and other investment income of \$149.7 million. The first quarter in 2023 reported a year-to-date return of 3.3%, compared to a year-to-date loss of -1.8% for the first quarter in 2022. Global public equity, core fixed income, credit and unique strategies reported positive year-to-date returns in 2023 compared to negative year-to-date returns in 2022. These positive returns were offset by negative returns for private equity and risk mitigation. Real assets also saw a decrease in their year-to-date return for the first quarter in 2023, earning 0.1% compared to 6.7% in the first quarter in 2022. Total investment fees and expenses increased by \$8.5 million in March 2023 primarily due to a \$7.6 million increase in other fund

expenses. Security lending rebate fees increased \$2.3 million due to increases in the “risk free rate”, such as the Federal Funds Target Range or Overnight Bank Funding Rate (OBFR), that are used to negotiate rebates to borrowers.

Total contributions increased \$7.6 million over the prior year due to employer contributions which increased \$5 million and employee contributions which increased \$2.6 million. The increases can be attributed to an increase in contribution rates.

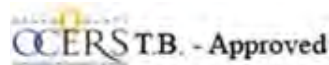
Total deductions from fiduciary net position increased 9%, or \$25.8 million, from the previous year. Participant benefits increased by \$23.3 million, which is expected due to the continued growth in member pension benefit payments, both in the total number of OCERS’ retired members receiving a pension benefit and an increase in the average benefit received. In March 2023, there were 20,494 payees with an average benefit payment of \$4,673 compared to 19,677 payees with an average benefit payment of \$4,486 in March 2022. Total death benefits and members withdrawals and refunds had a net increase of \$781 million and will fluctuate from year-to-year based on the occurrence of these events.

Other Supporting Schedules

In addition to the basic financial statements for the three months ended March 31, 2023, the following supporting schedules are provided for additional information pertaining to OCERS:

- Total Plan Reserves
- Schedule of Contributions
- Schedule of Investment Expenses
- Schedule of Administrative Expenses
- Administrative Expense Compared to Actuarial Accrued Liability

Submitted by:



Tracy Bowman
Director of Finance



Orange County Employees Retirement System

Unaudited Financial Statements

For the Three Months Ended March 31, 2023

Orange County Employees Retirement System

Unaudited Financial Statements For the Three Months Ended March 31, 2023

Table of Contents

Statement of Fiduciary Net Position (Unaudited).....	1
Statement of Changes in Fiduciary Net Position (Unaudited).....	2
Total Plan Reserves.....	3
Schedule of Contributions.....	4
Schedule of Investment Expenses.....	5
Schedule of Administrative Expenses.....	6
Administrative Expense Compared to Actuarial Accrued Liability.....	7

Statement of Fiduciary Net Position (Unaudited)

As of March 31, 2023

(with summarized comparative amounts as of March 31, 2022)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund- County	Health Care Fund- OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2022
Assets						
Cash and Short-Term Investments						
Cash and Cash Equivalents	\$ 210,365	\$ 4,753	\$ 585	\$ 326	\$ 216,029	\$ 621,781
Securities Lending Collateral	<u>231,543</u>	<u>5,231</u>	<u>644</u>	<u>-</u>	<u>237,418</u>	<u>254,326</u>
Total Cash and Short-Term Investments	441,908	9,984	1,229	326	453,447	876,107
Receivables						
Investment Income	21,014	475	58	-	21,547	29,252
Securities Sales	254,730	5,755	708	-	261,193	84,903
Contributions	18,244	-	-	-	18,244	19,268
Foreign Currency Forward Contracts	630	14	2	-	646	699
Other Receivables	<u>6,671</u>	<u>151</u>	<u>19</u>	<u>-</u>	<u>6,841</u>	<u>5,802</u>
Total Receivables	301,289	6,395	787	-	308,471	139,924
Investments at Fair Value						
Global Public Equity	9,205,347	207,967	25,589	12,347	9,451,250	10,053,891
Private Equity	3,267,700	73,824	9,083	-	3,350,607	3,422,715
Core Fixed Income	1,650,196	37,281	4,587	5,411	1,697,475	2,325,099
Credit	1,482,335	33,489	4,121	-	1,519,945	1,636,559
Real Assets	2,899,164	65,498	8,059	-	2,972,721	2,424,253
Risk Mitigation	1,665,560	37,628	4,630	-	1,707,818	2,098,263
Unique Strategies	<u>73,301</u>	<u>1,656</u>	<u>204</u>	<u>-</u>	<u>75,161</u>	<u>71,569</u>
Total Investments at Fair Value	20,243,603	457,343	56,273	17,758	20,774,977	22,032,349
Capital Assets, Net	<u>8,416</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>8,416</u>	<u>10,589</u>
Total Assets	<u>20,995,216</u>	<u>473,722</u>	<u>58,289</u>	<u>18,084</u>	<u>21,545,311</u>	<u>23,058,969</u>
Liabilities						
Obligations Under Securities Lending Program	231,544	5,231	644	-	237,419	254,325
Securities Purchased	201,060	4,542	559	-	206,161	172,027
Unearned Contributions	233,196	-	-	-	233,196	793,843
Foreign Currency Forward Contracts	1,466	33	4	-	1,503	934
Retiree Payroll Payable	14,757	5,124	919	-	20,800	91,394
Other	<u>22,739</u>	<u>514</u>	<u>63</u>	<u>-</u>	<u>23,316</u>	<u>26,757</u>
Total Liabilities	<u>704,762</u>	<u>15,444</u>	<u>2,189</u>	<u>-</u>	<u>722,395</u>	<u>1,339,280</u>
Net Position Restricted for Pension, Other Postemployment Benefits and Employer	<u>\$20,290,454</u>	<u>\$ 458,278</u>	<u>\$ 56,100</u>	<u>\$ 18,084</u>	<u>\$20,822,916</u>	<u>\$21,719,689</u>

Statement of Changes in Fiduciary Net Position (Unaudited)

For the Three Months Ended March 31, 2023

(with summarized comparative amounts for the Three Months Ended March 31, 2022)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund- County	Health Care Fund- OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2022
Additions						
Contributions						
Employer	\$ 186,320	\$ -	\$ 5,075	\$ -	\$ 191,395	\$ 186,437
Employee	68,872	-	-	-	68,872	66,264
Employer OPEB Contributions	-	-	-	180	180	171
Total Contributions	255,192	-	5,075	180	260,447	252,872
Investment Income						
Net Appreciation/(Depreciation) in Fair Value of Investments	669,497	15,350	1,780	1,055	687,682	(870,347)
Dividends, Interest, & Other Investment Income	19,350	437	54	4	19,845	169,530
Securities Lending Income						
Gross Earnings	2,510	57	7	-	2,574	236
Less: Borrower Rebates and Bank Charges	(2,297)	(52)	(6)	-	(2,355)	(68)
Net Securities Lending Income	213	5	1	-	219	168
Total Investment Income/(Loss)	689,060	15,792	1,835	1,059	707,746	(700,649)
Investment Fees and Expenses	(42,111)	(951)	(117)	-	(43,179)	(34,692)
Net Investment Income/(Loss)	646,949	14,841	1,718	1,059	664,567	(735,341)
Total Additions	902,141	14,841	6,793	1,239	925,014	(482,469)
Deductions						
Participant Benefits	289,888	9,277	1,693	-	300,858	277,544
Death Benefits	131	-	-	-	131	179
Member Withdrawals and Refunds	4,444	-	-	-	4,444	3,615
Employer OPEB Payments	-	-	-	370	370	362
Administrative Expenses	7,245	6	5	6	7,262	5,569
Total Deductions	301,708	9,283	1,698	376	313,065	287,269
Net Increase/(Decrease)	600,433	5,558	5,095	863	611,949	(769,738)
Net Position Restricted For Pension, Other Postemployment Benefits and Employer, Beginning of Year	19,690,021	452,720	51,005	17,221	20,210,967	22,489,427
Ending Net Position Restricted For Pension, Other Postemployment Benefits and Employer	\$ 20,290,454	\$ 458,278	\$ 56,100	\$ 18,084	\$ 20,822,916	\$ 21,719,689

Total Plan Reserves

For the Three Months Ended March 31, 2023

(with summarized comparative amounts for the Three Months Ended March 31, 2022)

(Dollars in Thousands)

	2023	2022
Pension Reserve	\$ 11,709,335	\$ 11,141,706
Employee Contribution Reserve	3,787,609	3,730,190
Employer Contribution Reserve	3,632,324	3,294,909
Annuity Reserve	2,644,789	2,333,248
Health Care Reserve	514,378	536,095
Custodial Fund Reserve	18,084	20,111
County Investment Account (POB Proceeds) Reserve	142,958	159,915
OCSD UAAL Deferred Reserve	14,398	15,643
Contra Account and Actuarial Deferred Return	<u>(1,640,959)</u>	<u>487,872</u>
Total Net Position Restricted for Pension, Other Postemployment Benefits and Employer	<u>\$ 20,822,916</u>	<u>\$ 21,719,689</u>

Schedule of Contributions

For the Three Months Ended March 31, 2023

(with summarized comparative amounts for the Three Months Ended March 31, 2022)

(Dollars in Thousands)

	2023		2022	
	Employee	Employer	Employee	Employer
Pension Trust Fund Contributions				
County of Orange	\$ 51,418	\$ 148,787	\$ 49,455	\$ 137,785
Orange County Fire Authority	7,748	21,985 ¹	7,583	23,799 ¹
Orange County Superior Court of California	3,827	11,267	3,639	9,853
Orange County Transportation Authority	2,858	8,427	2,702	7,845
Orange County Sanitation District	2,150	2,221	2,077	2,126
Orange County Employees Retirement System	346	1,150	291	885
UCI - Medical Center and Campus	-	770 ²	-	837 ²
City of San Juan Capistrano	151	575	146	507
Transportation Corridor Agencies	188	216	211	242
Orange County Department of Education	-	79 ²	-	120 ²
Orange County Cemetery District	48	72	45	64
Orange County Local Agency Formation Commission	14	61	13	54
Orange County In-Home Supportive Services Public Authority	38	50	34	46
Children and Families Commission of Orange County	44	68	28	44
Orange County Public Law Library	42	32	40	32
Contributions Before Prepaid Discount	68,872	195,760	66,264	184,239
Prepaid Employer Contributions Discount	-	(9,440)	-	(8,934)
Total Pension Trust Fund Contributions	68,872	186,320	66,264	175,305
Health Care Fund - County Contributions	-	-	-	9,742
Health Care Fund - OCFA Contributions	-	5,075	-	1,390
Custodial Fund - OCTA OPEB Contributions	-	180	-	171
Total Contributions	\$ 68,872	\$ 191,575	\$ 66,264	\$ 186,608

¹ Unfunded actuarial accrued liability payments were made in 2023 for \$3.5 million and 2022 for \$2.6 million for the Orange County Fire Authority.

² Unfunded actuarial accrued liability payments have been made in accordance with a separate 20-year level dollar payment schedule to include liabilities for employee benefits related to past service credit.

Schedule of Investment Expenses

For the Three Months Ended March 31, 2023

(with summarized comparative amounts for the Three Months Ended March 31, 2022)

(Dollars in Thousands)

	2023	2022
Investment Management Fees*		
Global Public Equity	\$ 2,936	\$ 4,219
Core Fixed Income	570	672
Credit	2,447	2,752
Real Assets	9,352	7,818
Private Equity	11,316	9,183
Risk Mitigation	2,082	3,984
Unique Strategies	258	271
Short-Term Investments	43	48
Total Investment Management Fees	29,004	28,947
Other Fund Expenses¹	11,872	4,285
Other Investment Expenses		
Consulting/Research Fees	547	572
Investment Department Expenses	1,469	631
Legal Services	137	106
Custodian Services	145	145
Investment Service Providers	5	5
Total Other Investment Expenses	2,303	1,459
Security Lending Activity		
Security Lending Fees	56	44
Rebate Fees	2,299	24
Total Security Lending Activity	2,355	68
Custodial Fund - OCTA Investment Fees and Expenses	-	1
Total Investment Expenses	\$ 45,534	\$ 34,760

* Does not include undisclosed fees deducted at source.

¹ These costs include, but are not limited to, foreign income tax and other indirect flow-through investment expenses such as organizational expenses in limited partnership structures.

Schedule of Administrative Expenses

For the Three Months Ended March 31, 2023

(with summarized comparative amounts for the Three Months Ended March 31, 2022)

(Dollars in Thousands)

	2023	2022
Pension Trust Fund Administrative Expenses		
Expenses Subject to the Statutory Limit		
Personnel Services		
Employee Salaries and Benefits	\$ 4,455	\$ 3,510
Board Members' Allowance	2	4
Total Personnel Services	4,457	3,514
Office Operating Expenses		
Depreciation/Amortization	672	651
Professional Services	713	308
General Office and Administrative Expenses	657	472
Rent/Leased Real Property	268	206
Total Office Operating Expenses	2,310	1,637
Total Expenses Subject to the Statutory Limit	6,767	5,151
Expenses Not Subject to the Statutory Limit		
Information Technology Professional Services	123	65
Information Security Professional Services	33	19
Finance Professional Services	5	25
Actuarial Fees	94	97
Equipment/Software	223	195
Total Expenses Not Subject to the Statutory Limit	478	401
Total Pension Trust Fund Administrative Expenses	7,245	5,552
Health Care Fund - County Administrative Expenses	6	5
Health Care Fund - OCFA Administrative Expenses	5	6
Custodial Fund - OCTA Administrative Expenses	6	6
Total Administrative Expenses	\$ 7,262	\$ 5,569

Administrative Expense Compared to Actuarial Accrued Liability

For the Three Months Ended March 31, 2023

(Dollars in Thousands)

Actuarial Accrued Liability (AAL) as of 12/31/22	\$ 25,386,669
Maximum Allowed for Administrative Expense (AAL * 0.21%)	53,312
Actual Administrative Expense ¹	<u>6,767</u>
Excess of Allowed Over Actual Expense	<u>\$ 46,545</u>
Actual Administrative Expense for the three months ended 3/31/23 as a Percentage of Actuarial Accrued Liability as of 12/31/22	0.03%
Actual Administrative Expense for the three months ended 3/31/22 as a Percentage of Actuarial Accrued Liability as of 12/31/21	0.02%
¹ Administrative Expense Reconciliation	
Administrative Expense per Statement of Changes in Fiduciary Net Position	\$ 7,245
Less: Administrative Expense Not Considered per CERL Section 31596.1	<u>(478)</u>
Administrative Expense Allowable Under CERL Section 31580.2	<u>\$ 6,767</u>



Memorandum

DATE: May 17, 2023
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: INCENTIVE COMPENSATION PROGRAM (2022)

Written Report

Background/Discussion

In support of its stated strategic goal to “recruit, retain and empower a high-performing workforce,” the OCERS’ Board of Trustees on August 15, 2022 approved an Incentive Compensation Program (“the Program”) for the OCERS Investment Team. The Program became effective immediately with the first calculation period ending on December 31, 2022. Below is a summary of the results of the inaugural period.

As part of the April 2023 OCERS Board of Retirement agenda, a report was provided on incentive compensation paid out to the OCERS Investment Team in March 2023 based on the Board’s approved program. Several Trustees asked for additional material to further explain the calculation methodology used in determining the incentive compensation payments. This report is in response to that request.

The Program

There are three components of the Program:

- 1) excess return over the total portfolio benchmark (alpha) measured over the prior three years (2020 – 2022)
- 2) relative risk-adjusted returns (Sharpe Ratio);
- 3) annual team member performance appraisal ratings.

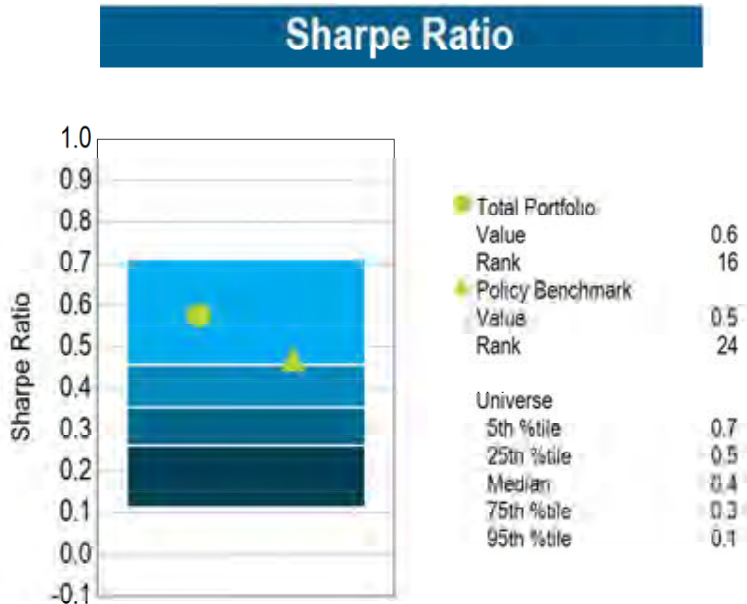
Quantitative Components

The quantitative components of the Program represent 80% of the maximum payout to all eligible employees. Per the Q4 2022 performance results, calculated independently and reported by Meketa to the Investment Committee at the February 2023 meeting, the OCERS’ portfolio three-year annualized results were 62 basis points above the Total Plan Benchmark.

		MKT VAL \$(000)	% of plan	1 Month	3 Month	YTD	1 Year	3 Year
TOTAL FUND - Total	JV00A1	20,496,084	100.0	-2.07	3.87	-7.17	-7.37	6.62
TOTAL FUND - Net All	JV00A1	20,496,084	100.0	-2.10	3.75	-7.04	-7.84	6.16
TOTAL FUND EX OVERLAY	JV00A1B	20,447,285	99.8	-2.08	3.69	-7.61	-7.61	6.25
TOTAL PLAN BENCHMARK (1)	OCERSTPB			-2.16	4.75	-9.02	-9.02	5.54

The Sharpe Ratio statistics for the portfolio show:

- OCERS had a Sharpe Ratio of 0.6 compared to the benchmark of 0.5.
- OCERS’ Sharpe Ratio of 0.6 exceeded the Median Peer rank of 0.4.
- OCERS ranked in the first quartile of peers (top 16%), with the Total Plan Policy Benchmark ranking in the top 24% of the peer group.



Qualitative Component

The OCERS’ annual performance evaluation process represents the qualitative component of the Program (20%). The median eligible employee earned an “exceeds” rating on their 2022 annual performance evaluation.

Summary

The table below shows a green check mark for each level of achievement. Each check mark equals 10% of the possible maximum payout. For the period ended, the median eligible employee earned 70% of the maximum for their position.

QUANTITATIVE COMPONENT (Rolling 3-year period, net of fees)	% of Incentive	% of Incentive
Portfolio Excess Return vs Benchmark (Alpha)		0-50%
0-25 bps	10%	✓
26-50 bps	+10%	✓
51-75 bps	+10%	✓
76-100 bps	+10%	
>101 bps	+10%	
Risk Adjusted Return (Sharpe Ratio)		0-30%
A) Portfolio Sharpe Exceeds Benchmark	10%	✓
B) Above Median Peer Rank	10%	✓
1 st Quartile Peer Rank	+10%	✓
QUALITATIVE COMPONENT		
Annual Employee Performance Appraisal		0-20%
Meets	0%	
Exceeds	10%	✓
Exceptional	20%	

- 1) For the three-year measuring period ended December 31, 2022, the OCERS' portfolio earned 62 basis points of annualized excess return over the total portfolio benchmark, as calculated by State Street and reviewed by Meketa. Performance results were presented to the OCERS' Investment Committee by Meketa at the February 2023 Investment Committee meeting. ***In dollar terms, OCERS' Investment Team created approximately \$350 million of additional return over the past three years, based on average assets over the same period.***
- 2) OCERS' history of prudent risk management continued, with the Sharpe Ratio of the portfolio beating the total portfolio benchmark and ranking in the top quartile of its peer group, also reported by Meketa at the February Investment Committee meeting.
- 3) The median employee earned an "exceeds" rating on their 2022 annual performance appraisals.

On December 31, 2022, the Investment Team was comprised of ten OCERS' direct employees covered under the Program. Seven of ten were eligible for payment based on the three-year measuring period results. The other three employees were not employed for the full year and, thus, did not become eligible under the requirements of the Program. One employee was eligible for a prorated payment and two employees received mid-year promotions which required a blended calculation.

Incentive compensation awards ranged between 70-80% of maximum allowed, with a median award of 70%. The total team award for the period ended December 31, 2022 was \$478,272, payable in two equal installments of \$239,136. The first payments were paid at the end of March 2023, and the second payments will be paid in March 2024 to team members who are still employed by OCERS at the time of payment.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: April 17, 2023
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: INCENTIVE COMPENSATION PROGRAM (2022)

Written Report

Background/Discussion

In support of its stated strategic goal to “recruit, retain and empower a high-performing workforce,” the OCERS’ Board of Trustees on August 15, 2022 approved an Incentive Compensation Program (“the Program”) for the OCERS Investment Team. The Program became effective immediately with the first calculation period ending on December 31, 2022. Below is a summary of the results of the inaugural period.

The Program

There are three components of the Program:

- 1) excess return over the total portfolio benchmark (alpha) measured over the prior three years (2020 – 2022)
- 2) relative risk-adjusted returns (Sharpe Ratio);
- 3) annual team member performance appraisal ratings.

Results

- 1) For the three-year measuring period ended December 31, 2022, the OCERS’ portfolio earned 62 basis points of annualized excess return over the total portfolio benchmark, as calculated by State Street and reviewed by Meketa. Performance results were presented to the OCERS’ Investment Committee by Meketa at the February 2023 Investment Committee meeting. In dollar terms, OCERS’ Investment Team created approximately \$350 million of additional return over the past three years, based on average assets over the same period.
- 2) OCERS’ history of prudent risk management continued, with the Sharpe Ratio of the portfolio beating the total portfolio benchmark and ranking in the top quartile of its peer group, also reported by Meketa at the February Investment Committee meeting.
- 3) The median employee earned an “exceeds” rating on their 2022 annual performance appraisals.

On December 31, 2022, the Investment Team was comprised of ten OCERS’ direct employees covered under the Program. Seven of ten were eligible for payment based on the three-year measuring period results. The other three employees were not employed for the full year and, thus, did not become eligible under the requirements of the Program. One employee was eligible for a prorated payment and two employees received mid-year promotions which required a blended calculation.

Incentive compensation awards ranged between 70-80% of maximum allowed, with a median award of 70%. The total team award for the period ended December 31, 2022 was \$478,272, payable in two equal installments

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Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

May 2023 Board of Retirement Meeting

E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED

(GOVERNMENT CODE SECTION 54956.9(d)(1))

Adjourn pursuant to Government Code section 54956.9(d)(1).

James B. Morell v. Board of Retirement, OCERS; Los Angeles County Superior Court, Case No. 22STCP02345

Recommendation: Take appropriate action.

Finalized memo with exhibits on the Morell case can be found in the "Closed Session" tab in Diligent.