

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

**GOVERNANCE COMMITTEE MEETING
Wednesday, May 31, 2023
9:30 a.m.**

Members of the Committee

Chris Prevatt, Chair
Arthur Hidalgo, Vice-Chair
Shari Freidenrich
Richard Oates

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/87551294178</p> <p>Meeting ID: 875 5129 4178 Passcode: 063096</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p> | <p>Join by Telephone (Audio Only)</p> <p>Dial by your location</p> <ul style="list-style-type: none"> +1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York) <p>Meeting ID: 875 5129 4178 Passcode: 063096</p> |
| <p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p> | |

AGENDA

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

OPEN SESSION

1. **CALL MEETING TO ORDER AND ROLL CALL**
2. **BOARD MEMBER STATEMENT REGARDING PARTICIPATION VIA ZOOM (IF NECESSARY)
(Government Code section 54953(f))**
3. **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

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

March 23, 2023

ACTION ITEMS

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

A-2 TRIENNIAL REVIEW OF THE PLANNING POLICY

Presentation by Steve Delaney, Chief Executive Officer

Recommendation: Approve, and recommend the Board adopt, revisions to the Planning Policy.

A-3 TRIENNIAL REVIEW OF THE QUIET PERIOD POLICY

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

Recommendation: Approve, and recommend the Board adopt, revisions to the Quite Period Policy.

A-4 TRIENNIAL REVIEW OF THE BUDGET APPROVAL POLICY

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

Recommendation: Approve, and recommend the Board adopt, revisions to the Budget Approval Policy.

A-5 TRIENNIAL REVIEW OF THE COMMUNICATIONS POLICY

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

Recommendation: Review and recommend the Board approve the Communications Policy.

A-6 PROPOSED AMENDMENTS TO THE OCERS CONFLICT OF INTEREST CODE

Presentation by Manuel Serpa, Deputy General Counsel

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed revisions to the Conflict of Interest Code.

A-7 OCERS ADMINISTRATIVE PROCEDURE REGARDING RECIPROCITY

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

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed OCERS Administrative Procedure (OAP) regarding Reciprocity as presented.

INFORMATION ITEMS

I-1 PREVIEW OF FUTURE GOVERNANCE COMMITTEE MEETINGS

Presentation by Gina M. Ratto, General Counsel

COMMITTEE MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT

NOTICE OF NEXT MEETINGS

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.

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**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.

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

**GOVERNANCE COMMITTEE MEETING
Thursday, March 23, 2023
9:30 a.m.**

MINUTES

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

Recording Secretary administered the roll call.

Attendance was as follows:

Present: Chris Prevatt, Chair; Arthur Hidalgo, Vice-Chair; Shari Freidenrich, Board Member; Richard Oates, Board Member.

Also present: Steve Delaney, CEO; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Manuel Serpa, Deputy General Counsel; Anthony Beltran, Audio Visual Technician; Marielle Horst, Recording Secretary.

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

October 19, 2022

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

The motion passed **unanimously**.

INFORMATION ITEMS

I-2 DISCUSS COMMITTEE WORK PLAN AND MEETING SCHEDULE FOR 2023

Presentation by Gina M. Ratto, General Counsel

The Committee Members agreed to schedule the 2023 meetings on the following dates and times:

May 31, 2023, at 9:30 a.m.

August 24, 2023, at 9:30 a.m.

November 16, 2023, at 9:30 a.m.

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

A-2 TRIENNIAL REVIEW OF THE GOVERNANCE COMMITTEE CHARTER

Presentation by Gina M. Ratto, General Counsel

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed revisions to the Governance Committee Charter as presented.

After discussion, **MOTION** by Mr. Hidalgo, **seconded** by Ms. Freidenrich, to adopt all of staff’s recommended revisions to the Charter, with one additional change: to delete section 4.d. of the Charter, which reads:

- “4. The Governance Committee will:
 - ...
 - d. Monitor the implementation of and compliance with governance related policies;”

The motion passed **unanimously**.

A-3 TRIENNIAL REVIEW OF THE CEO CHARTER

Presentation by Gina M. Ratto, General Counsel

Recommendation: Approve, and recommend that the Board of Retirement adopt, the proposed revisions to the CEO Charter as presented.

After discussion, **MOTION** by Mr. Oates, **seconded** by Mr. Hidalgo, to adopt all of staff’s recommended revisions to the Charter, with one additional change to section 5.b as follows:

- “5. The CEO will:
 - ...
 - b. ~~Assist the Board in implementing its~~ **Implement Board-approved** governance policies, charters, and By-Laws; and.

The motion passed **unanimously**.

The Committee recessed for break at 11:10 a.m.

The Committee reconvened from break at 11:20 a.m.

The Chair administered the Roll Call attendance.

A-6 OUT OF CYCLE REVIEW OF THE PROCUREMENT AND CONTRACTING POLICY

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

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed revisions to the Procurement and Contracting Policy as presented.

After discussion, **MOTION** by Ms. Freidenrich, **seconded** by Mr. Oates, to adopt staff recommendations and incorporate Committee changes to sections II.C.4, III.A.7, III.C, III.D and V.A.6.

The Committee also discussed whether Securities Litigation Monitoring Firms (Monitoring Firms) should be added as Named Service Providers in Section V of the Procurement and Contracting Policy. Currently, selection of the Monitoring Firms is delegated by the Board to the General Counsel, with approval of the CEO. The Procurement and Contracting Policy states that the performance of Named Service Providers will be reviewed by the Board. Staff noted that there is little or no basis for the Board to evaluate performance of the Monitoring Firms since all interaction is between the Monitoring Firms and the Legal Division. Reports from the Monitoring Firms are delivered to the Legal Division and used by staff to prepare a quarterly report to the Investment Committee. Based on this understanding of the role of the Monitoring Firms, the Committee decided to not recommend adding the Monitoring Firms as Named Service Providers to the Procurement and Contracting Policy.

The motion passed **unanimously**.

The Committee recessed for break at 12:37 p.m.

Mr. Hidalgo departed at 12:37 p.m.

The Committee reconvened from break at 12:41 p.m.

The Chair administered the Roll Call attendance.

A-4 TRIENNIAL REVIEW OF THE PUBLIC RECORDS AND DATA REQUEST POLICY

Presentation by Manuel Serpa, Deputy General Counsel

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed revisions to the Public Records and Data Request Policy as presented.

MOTION by Mr. Oates, **seconded** by Ms. Freidenrich to adopt staff's recommendations.

The motion passed **unanimously**.

A-5 TRIENNIAL REVIEW OF THE SACRS VOTING AUTHORITY POLICY

Presentation by Gina M. Ratto, General Counsel

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed revisions to the SACRS Voting Authority Policy as presented.

MOTION by Mr. Oates, **seconded** by Ms. Freidenrich, to adopt staff recommendations.

The motion passed **unanimously**.

A-7 OUT OF CYCLE REVIEW OF THE OCERS RULES OF PARLIAMENTARY PROCEDURE

Presentation by Gina M. Ratto, General Counsel

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March 23, 2023
Governance Committee Meeting – Minutes

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

MOTION by Mr. Oates, **seconded** by Ms. Freidenrich, to adopt staff recommendations.

The motion passed **unanimously**.

A-8 OCERS ADMINISTRATIVE PROCEDURE RE: DOCUMENTATION OF BIRTHDATE AND MARRIAGE/DOMESTIC PARTNERSHIP

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

Recommendation: Approve, and recommend the Board of Retirement adopt, the proposed OAP re: Documentation of Birthdate and Marriage/Domestic Partnership as presented.

MOTION by Ms. Freidenrich, **seconded** by Mr. Oates, to adopt staff recommendations.

INFORMATION ITEMS

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

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

Ms. Jenike informed the Committee of the pay items that were approved from September 2021 through December 2022.

COMMITTEE MEMBER COMMENTS

None

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Mr. Delaney thanked staff for their work and informed the Committee there is an increase in workload as the number of retirement applications increased due to the 7.5% COLA.

COUNSEL COMMENTS

None

ADJOURNMENT

Chair adjourned meeting at 1:05 p.m.

Submitted by:

Approved by:

Gina Ratto
General Counsel/Staff Liaison

Steve Delaney
Chief Executive Officer/Secretary

Chris Prevatt
Chair



Memorandum

DATE: May 31, 2023
TO: Members of the Governance Committee
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: TRIENNIAL REVIEW OF THE PLANNING POLICY

Recommendation

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

Background/Discussion

The Board adopted the Planning Policy on February 19, 2002; it was last reviewed and revised in April 2020. It is scheduled for review and approval by the Board, after review by the Governance Committee, in 2023.

Proposed Revisions

The proposed revision to the Policy includes non-substantive changes. The revisions are set forth in underlined/strikeout text in the attached copy of the Policy.

Attachment

Planning Policy

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



OCERS Board Policy Planning Policy

Purpose and Background

1. The purpose of the OCERS Planning Policy is to provide a framework for developing the strategic direction of OCERS and the creation of both a multi-year Strategic Plan and a one-year Business Plan that document the goals and objectives that underlie OCERS' strategic direction. In performing the planning process, the Board of Retirement recognizes its fiduciary responsibility to provide the prompt delivery of benefits to the OCERS membership while maintaining or reducing costs to ~~plan sponsors~~ participating employers and reducing the likelihood of unpredicted and wide swings in expenses.

Policy Objectives

2. The objectives of the Planning Policy are to:
 - a. Ensure that OCERS actively and systematically plans for the future needs of the System;
 - b. Facilitate discussion and agreement between the Board and management on the strategic direction and business priorities of OCERS; and
 - c. Facilitate the communication of OCERS' Strategic Plan and Business Plan throughout the organization and the public.

Policy Guidelines

Roles and Responsibilities

3. The Board will be responsible for:
 - a. ~~Participate-Participating~~ with OCERS management to identify strategic risks, opportunities to mitigate strategic risks, and future needs of the System;
 - b. Establishing OCERS' strategic direction and priorities;
 - c. Approving ~~the~~ OCERS' Strategic Plan and Business Plan and ensuring adequate resources are in place to support them; and
 - d. Monitoring the implementation of ~~the~~ OCERS' Strategic Plan and Business Plan.
4. Management will be responsible for:
 - a. Identifying business risks, opportunities to mitigate business risks and future needs of the System;
 - b. Identifying and prioritizing business initiatives and the processes and resources necessary to achieve ~~those~~ these initiatives;
 - c. Drafting ~~the~~ OCERS' Strategic Plan and Business Plan for the Board's consideration and approval;
 - d. Implementing ~~the~~ OCERS' Strategic Plan and Business Plan.



OCERS Board Policy Planning Policy

5. Service providers and experts, such as the actuary and investment consultants, may be called upon to provide input to the Board and management regarding the identification of strategic and business risks, opportunities for risk mitigation and future needs of the System.

Strategic Planning Workshop

6. The Chief Executive Officer will organize and participate in the strategic planning process. An annual strategic planning workshop ([Strategic Planning Workshop](#)) will be held as a forum to educate and elicit the Board's views on current issues and proposed strategies.
7. The Chief Executive Officer will structure an agenda for the Strategic Planning Workshop to include the following topics, at a minimum:
 - a. The progress made in implementing ~~the current year's~~OCERS' Business Plan [for the current year](#);
 - b. The continued appropriateness of OCERS' strategic direction as outlined in ~~the~~OCERS' Strategic Plan, which will include a consideration of the following issues:
 - i. The needs currently served by OCERS;
 - ii. The services OCERS offers; and
 - iii. The level of excellence OCERS strives to achieve; [and](#)
 - c. Whether OCERS is well positioned and has the resources to fulfill its strategic direction as outlined in ~~the~~OCERS' Strategic Plan; [and](#)
 - d. Proposed initiatives to be undertaken in the coming 12-36 month period.
8. Upon the conclusion of the Strategic Planning Workshop, the Chief Executive Officer will summarize the Board's discussion and views on current issues and proposed strategies and agendize the written summary for Board approval at its next meeting.

Formulation of the Strategic Plan and Business Plan

9. Following the Strategic Planning Workshop, the Chief Executive Officer will ~~prepare~~[formulate a](#) OCERS' Strategic Plan which will include, at a minimum, recommended initiatives to be undertaken or continued, along with the necessary supporting information and planning parameters, such as:
 - a. Rationale for undertaking each initiative including financial and non-financial benefits, impact, and consequences of not undertaking the initiative;
 - b. Timelines for completion;
 - c. Assignment of responsibilities for implementation;
 - d. Budget impacts;
 - e. Criteria for assessing the success of each initiative; and
 - f. Provisions for reporting to the Board.
10. Additionally, OCERS management will formulate ~~a~~OCERS' Business Plan to provide detail as to how ~~the~~OCERS' Strategic Plan will be advanced in the coming calendar year.



OCERS Board Policy Planning Policy

11. The Chief Executive Officer will present the proposed OCERS' Strategic Plan and Business Plan to the Board for approval. In approving the pPlans, the Board will satisfy itself that the pPlans are reasonable and support the mission of OCERS.
12. In order to ensure adequate resources to implement the initiatives within the-OCERS' Business Plan, the resources needed to implement each bBusiness pPlan initiative will be reflected in OCERS' budget. If the budgeted funds associated with a particular initiative fail to receive approval by the Board, the-OCERS' Business Plan will be amended accordingly.
13. Approval of the-OCERS' Business Plan represents an immediate commitment by the Board and management to accomplish the strategic goals and objectives set forth within approved parameters. Because of the long-term nature of a multi-year OCERS' Strategic Plan, adjustments and corrections are more easily accommodated over time. Modification of the-OCERS' Business Plan should occur only when exceptional circumstances are present.
14. If management determines that changing circumstances will not allow it to meet a particular parameter or require that a new initiative be undertaken, the Board will be informed in a timely manner and OCERS'the Strategic Plan and Business Plan will be adjusted accordingly.

Review of Strategic Plan and Business Plan Initiatives

15. The Chief Executive Officer will provide the Board with a quarterly review and any recent activities or updates of each initiative in the-OCERS' Strategic Plan.
16. On a semi-annual basis the Chief Executive Officer will provide the Board with a review and any recent activities or updates of each initiative in the-OCERS' Business Plan.

Communications

17. The-OCERS' Strategic Plan and Business Plan will be posted to OCERS' website and communicated to all OCERS staff and employers and to the public on a timely basis after Board approval.

Policy Review

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

Policy History

19. The Board adopted this policy on February 19, 2002.
20. The policy was revised on May 16, 2005, April 16, 2007 and January 18, 2011, reviewed without changes on March 17, 2014 and revised on July 17, 2017, ~~and~~ April 20, 2020, and MONTH DATE, 2023.



OCERS Board Policy Planning Policy

Secretary's Certificate

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

Steve Delaney

04/20/2020

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy Planning Policy

Purpose and Background

1. The purpose of the OCERS Planning Policy is to provide a framework for developing the strategic direction of OCERS and the creation of both a multi-year Strategic Plan and a one-year Business Plan that document the goals and objectives that underlie OCERS' strategic direction. In performing the planning process, the Board of Retirement recognizes its fiduciary responsibility to provide the prompt delivery of benefits to the OCERS membership while maintaining or reducing costs to participating employers and reducing the likelihood of unpredicted and wide swings in expenses.

Policy Objectives

2. The objectives of the Planning Policy are to:
 - a. Ensure that OCERS actively and systematically plans for the future needs of the System;
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 - c. Facilitate the communication of OCERS' Strategic Plan and Business Plan throughout the organization and the public.

Policy Guidelines

Roles and Responsibilities

3. The Board will be responsible for:
 - a. Participating with OCERS management to identify strategic risks, opportunities to mitigate strategic risks, and future needs of the System;
 - b. Establishing OCERS' strategic direction and priorities;
 - c. Approving OCERS' Strategic Plan and Business Plan and ensuring adequate resources are in place to support them; and
 - d. Monitoring the implementation of OCERS' Strategic Plan and Business Plan.
4. Management will be responsible for:
 - a. Identifying business risks, opportunities to mitigate business risks and future needs of the System;
 - b. Identifying and prioritizing business initiatives and the processes and resources necessary to achieve those initiatives;
 - c. Drafting OCERS' Strategic Plan and Business Plan for the Board's consideration and approval;
 - d. Implementing OCERS' Strategic Plan and Business Plan.



OCERS Board Policy Planning Policy

5. Service providers and experts, such as the actuary and investment consultants, may be called upon to provide input to the Board and management regarding the identification of strategic and business risks, opportunities for risk mitigation and future needs of the System.

Strategic Planning Workshop

6. The Chief Executive Officer will organize and participate in the strategic planning process. An annual strategic planning workshop (Strategic Planning Workshop) will be held as a forum to educate and elicit the Board's views on current issues and proposed strategies.
7. The Chief Executive Officer will structure an agenda for the Strategic Planning Workshop to include the following topics, at a minimum:
 - a. The progress made in implementing OCERS' Business Plan for the current year;
 - b. The continued appropriateness of OCERS' strategic direction as outlined in OCERS' Strategic Plan, which will include a consideration of the following issues:
 - i. The needs currently served by OCERS;
 - ii. The services OCERS offers; and
 - iii. The level of excellence OCERS strives to achieve; and
 - c. Whether OCERS is well positioned and has the resources to fulfill its strategic direction as outlined in OCERS' Strategic Plan; and
 - d. Proposed initiatives to be undertaken in the coming 12-36 month period.
8. Upon the conclusion of the Strategic Planning Workshop, the Chief Executive Officer will summarize the Board's discussion and views on current issues and proposed strategies and agendize the written summary for Board approval at its next meeting.

Formulation of the Strategic Plan and Business Plan

9. Following the Strategic Planning Workshop, the Chief Executive Officer will prepare OCERS' Strategic Plan which will include, at a minimum, recommended initiatives to be undertaken or continued, along with the necessary supporting information and planning parameters, such as:
 - a. Rationale for undertaking each initiative including financial and non-financial benefits, impact, and consequences of not undertaking the initiative;
 - b. Timelines for completion;
 - c. Assignment of responsibilities for implementation;
 - d. Budget impacts;
 - e. Criteria for assessing the success of each initiative; and
 - f. Provisions for reporting to the Board.
10. Additionally, OCERS management will formulate OCERS' Business Plan to provide detail as to how OCERS' Strategic Plan will be advanced in the coming calendar year.



OCERS Board Policy Planning Policy

11. The Chief Executive Officer will present the proposed OCERS' Strategic Plan and Business Plan to the Board for approval. In approving the plans, the Board will satisfy itself that the plans are reasonable and support the mission of OCERS.
12. In order to ensure adequate resources to implement the initiatives within OCERS' Business Plan, the resources needed to implement each business plan initiative will be reflected in OCERS' budget. If the budgeted funds associated with a particular initiative fail to receive approval by the Board, OCERS' Business Plan will be amended accordingly.
13. Approval of OCERS' Business Plan represents an immediate commitment by the Board and management to accomplish the strategic goals and objectives set forth within approved parameters. Because of the long-term nature of a multi-year OCERS' Strategic Plan, adjustments and corrections are more easily accommodated over time. Modification of OCERS' Business Plan should occur only when exceptional circumstances are present.
14. If management determines that changing circumstances will not allow it to meet a particular parameter or require that a new initiative be undertaken, the Board will be informed in a timely manner and OCERS' Strategic Plan and Business Plan will be adjusted accordingly.

Review of Strategic Plan and Business Plan Initiatives

15. The Chief Executive Officer will provide the Board with a quarterly review and any recent activities or updates of each initiative in OCERS' Strategic Plan.
16. On a semi-annual basis the Chief Executive Officer will provide the Board with a review and any recent activities or updates of each initiative in OCERS' Business Plan.

Communications

17. OCERS' Strategic Plan and Business Plan will be posted to OCERS' website and communicated to all OCERS staff and employers and to the public on a timely basis after Board approval.

Policy Review

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

Policy History

19. The Board adopted this policy on February 19, 2002.
20. The policy was revised on May 16, 2005, April 16, 2007 and January 18, 2011, reviewed without changes on March 17, 2014 and revised on July 17, 2017, April 20, 2020, and MONTH DATE, 2023.



OCERS Board Policy Planning Policy

Secretary's Certificate

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

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

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: May 23, 2023
TO: Members of the Governance Committee
FROM: Brenda Shott, Assistant CEO, Finance and Internal Operations
SUBJECT: TRIENNIAL REVIEW OF THE QUIET PERIOD POLICY

Recommendation

Approve, and recommend that the Board adopt, revisions to the Quiet Period Policy.

Background/Discussion

The Quiet Period Policy was adopted by the Board on July 17, 2006, and was last reviewed and revised on April 20, 2020. It is scheduled for review and approval by the Board, after review by the Governance Committee, in 2023.

The Policy is accurate and there are no recommended changes needed at this time.

Attachments

Submitted by:

A digital signature of Brenda Shott, consisting of the CCERS logo and the text "B.S. - Approved" in a stylized font.

Brenda Shott, Assistant CEO, Finance and Internal Operations



OCERS Board Policy Quiet Period Policy

Purpose and Background

1. The Quiet Period Policy establishes guidelines for Board Members and OCERS staff when communicating with financially interested parties during the process leading to an award of any contract by OCERS.

Policy Objectives

2. The objectives of the policy are to ensure that:
 - a. Potential service providers competing for a contract with OCERS (also referred to as candidates) have equal access to information regarding the search parameters, candidate selection and contract award processes;
 - b. Communications related to the search, selection and award of the contract are consistent and accurate; and
 - c. The search, selection and contract award processes are efficient, diligent, and fair.

Policy Guidelines

3. The following guidelines will apply during the process leading to an award of any contract by OCERS:
 - a. A quiet period will commence upon the release/publication of a solicitation for a contract with OCERS and will end when a contract is signed;
 - b. To help prevent inadvertent violations of this policy, the CEO (or his or her designee) will ensure that for every solicitation, the initiation, continuation and conclusion of the quiet period is (i) communicated to Board Members and OCERS staff, (ii) publicly communicated, and (iii) published on OCERS' website;
 - c. Except as provided in section h., below, during the quiet period, 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;
 - d. During the quiet period, if any Board Member or staff member is contacted by a party financially interested in a prospective contract with OCERS, the individual contacted shall refer the party to the OCERS consultant or staff member identified as the contact person(s) in the solicitation document;
 - e. Any authority related to a search conducted by the Board shall be exercised solely by the Board as a whole, and not by individual Board Members;
 - f. Any information related to a search conducted by the Board shall be communicated by OCERS consultants and staff to the Board as a whole, and not to individual Board Members;
 - g. The quiet period does not prevent Board approved due diligence or client conference attendance; however discussions related to the pending solicitation shall be avoided during those activities;



OCERS Board Policy Quiet Period Policy

- h. The quiet period does not apply to communications that are:
 - (i) part of the process expressly described in the solicitation;
 - (ii) part of a noticed Board meeting;
 - (iii) related to services currently provided by the candidate under an existing contract with OCERS;
 - (iv) incidental, exclusively social and that do not involve OCERS or its business; or
 - (v) within the scope of the Board or staff member’s private business or public office wholly unrelated to OCERS and that do not involve OCERS or its business;
- i. The provisions of this policy will be communicated to candidates in the solicitation document and candidates will be required to acknowledge the receipt and requirements of the policy; and
- j. Any candidate who knowingly violates this policy will be disqualified from the search process.

Policy Review

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

Policy History

- 5. The Board of Retirement adopted this policy on July 17, 2006.
- 6. The policy was revised on April 16, 2007, May 17, 2011 December 19, 2011, October 20, 2014, July 17, 2017, ~~and~~ April 20, 2020, June 19, 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.

04/20/2020

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: May 23, 2023
TO: Members of the Governance Committee
FROM: Brenda Shott, Assistant CEO, Finance and Internal Operations
SUBJECT: TRIENNIAL REVIEW OF THE BUDGET APPROVAL POLICY

Recommendation

Approve, and recommend that the Board adopt, revisions to the Budget Approval Policy.

Background/Discussion

The Budget Approval Policy was adopted by the Board on February 19, 2002, and was last reviewed and revised on April 20, 2020. It is scheduled for review and approval by the Board, after review by the Governance Committee, in 2023.

Proposed Revisions

All of the proposed revisions to the Policy are non-substantive, clarifying, corrective, or represent deletions of unnecessary language.

The revisions are set forth in underlined/strikeout text in the attached copy of the Policy. An unmarked version of the Policy is also attached.

Attachments

Submitted by:

The logo for CCERS B.S. - Approved features a sunburst icon above the text "ORANGE COUNTY" and "CCERS B.S. - Approved" in a stylized font, with "EMPLOYEES RETIREMENT SYSTEM" in a smaller font below.

Brenda Shott, Assistant CEO, Finance and Internal Operations



OCERS Board Policy Budget Approval Policy

Purpose and Background

1. The Board of Retirement annually adopts a budget covering the expenses of administering the retirement system. The administration expenses, as defined in Government Code Section 31580.2, incurred in any year will be charged against the earnings of the retirement fund and will not exceed 21 basis points of the actuarial accrued liability of the system.
2. The purpose of the Budget Approval Policy is to establish the process by which the OCERS annual budget is approved by the Board of Retirement.

Roles

3. The preparation and presentation of the budget is the responsibility of the Chief Executive Officer.
4. The adoption of an annual budget is the responsibility of the Board of Retirement.

Guidelines

General Provisions

5. The Chief Executive Officer will present to the Board of Retirement a proposed administrative budget for the next calendar year that supports the initiatives set out in the proposed Business Plan, which is directly linked to OCERS three year Strategic Plan, along with ongoing operations of the system. The Budget will be presented to the Board during the month of November.
6. The proposed budget will be compiled based upon budget requests approved by the Chief Executive Officer from each functional department within OCERS as follows:
 - a. Board;
 - b. Communications;
 - c. Disabilities;
 - d. Executive;
 - e. Finance;
 - f. Human Resources;
 - g. Information Security;
 - h. Information Technology;
 - i. Internal Audit;
 - j. Investments;
 - k. Legal;
 - l. Member Services;
 - m. Operations Support Services; and/or
 - n. Such other functions that may be adopted by OCERS in the future.



OCERS Board Policy

Budget Approval Policy

7. The budget shall be organized ~~by~~into three broad categories of expenditures:

a. Salaries and Benefits;

The Salaries and Benefits category ~~will~~shall include salaries, overtime, fringe benefits-, temporary help costs and any other costs directly related to employee and Board member compensation.

b. Services and Supplies

The Services and Supplies category ~~for each department shall~~will include items such as professional services, legal services, equipment, information technology infrastructure and software expenses (other than those that are capitalized on OCERS' books as assets that will be depreciated over time and budgeted as ~~a~~capital expenditures), maintenance costs, office expenses, training, and meetings & travel costs. Investment management fees (including directly billed fees, indirectly paid fees reported on investment manager statements, fees and costs for investment management that are netted in portfolio returns, foreign income tax and security lending fees) are not to be included in the annual administrative budget. These expenses are to be managed and reported in accordance with the Board of Retirement's Investment Fee Policy; and

c. Capital Projects.

The Capital Project budget category will include the current year's costs for all capital asset purchases. Capital assets include items such as buildings, building improvements, vehicles, machinery, equipment, internally generated computer software, computer hardware and all other tangible or intangible assets that are used in operations, cost more than \$25,000 per item, and have initial useful lives extending beyond a single reporting period.

8. The Chief Executive Officer, or the Assistant CEO, Finance & Internal Operations, is granted authority to transfer funds within a category. Funds may not be moved from one category to another without the approval of the Board of Retirement.

~~8-9.~~ The value of the actuarial accrued liability (AAL) at the beginning of the budget year will be used for purposes of calculating the 21 basis point test. That value will be calculated by the system's actuary using the prior year's beginning AAL and projecting it to the beginning of the budget year.

~~9-10.~~ The Chief Executive Officer may request that the Board amend the budget for the current fiscal year by presenting reasons for the budget amendment, its expected impact, and the cost of the amendment for the remainder of the budget year.

Policy Review

~~10-11.~~ The Board shall review this policy at least every three years to ensure that it remains relevant and appropriate.

Policy History

~~11-12.~~ This policy was adopted by the Board of Retirement on February 19, 2002.

~~12-13.~~ The policy was revised on October 27, 2003, May 16, 2005, March 24, 2008, March 22, 2010, January 18, 2011, June 18, 2012, July 20, 2015, July 17, 2017, ~~and~~ April 20, 2020 and June 19, 2023.



OCERS Board Policy Budget Approval Policy

Secretary's Certificate

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

Steve Delaney

4/20/2020

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy Budget Approval Policy

Purpose and Background

1. The Board of Retirement annually adopts a budget covering the expenses of administering the retirement system. The administration expenses, as defined in Government Code Section 31580.2, incurred in any year will be charged against the earnings of the retirement fund and will not exceed 21 basis points of the actuarial accrued liability of the system.
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Guidelines

General Provisions

5. The Chief Executive Officer will present to the Board of Retirement a proposed administrative budget for the next calendar year that supports the initiatives set out in the proposed Business Plan, which is directly linked to OCERS three year Strategic Plan, along with ongoing operations of the system. The Budget will be presented to the Board during the month of November.
6. The proposed budget will be compiled based upon budget requests approved by the Chief Executive Officer from each functional department within OCERS as follows:
 - a. Board;
 - b. Communications;
 - c. Disabilities;
 - d. Executive;
 - e. Finance;
 - f. Human Resources;
 - g. Information Security;
 - h. Information Technology;
 - i. Internal Audit;
 - j. Investments;
 - k. Legal;
 - l. Member Services;
 - m. Operations Support Services; and/or
 - n. Such other functions that may be adopted by OCERS in the future.



OCERS Board Policy

Budget Approval Policy

7. The budget shall be organized into three broad categories of expenditures:
 - a. Salaries and Benefits;

The Salaries and Benefits category will include salaries, overtime, fringe benefits, temporary help costs and any other costs directly related to employee and Board member compensation.
 - b. Services and Supplies

The Services and Supplies category will include items such as professional services, legal services, equipment, information technology infrastructure and software expenses (other than those that are capitalized on OCERS' books as assets that will be depreciated over time and budgeted as capital expenditures), maintenance costs, office expenses, training, and meetings & travel costs. Investment management fees (including directly billed fees, indirectly paid fees reported on investment manager statements, fees and costs for investment management that are netted in portfolio returns, foreign income tax and security lending fees) are not to be included in the annual administrative budget. These expenses are to be managed and reported in accordance with the Board of Retirement's Investment Fee Policy; and
 - c. Capital Projects.
8. The Capital Project budget category will include the current year's costs for all capital asset purchases. Capital assets include items such as buildings, building improvements, vehicles, machinery, equipment, internally generated computer software, computer hardware and all other tangible or intangible assets that are used in operations, cost more than \$25,000 per item, and have initial useful lives extending beyond a single reporting period. The Chief Executive Officer, or the Assistant CEO, Finance & Internal Operations, is granted authority to transfer funds within a category. Funds may not be moved from one category to another without the approval of the Board of Retirement.
9. The value of the actuarial accrued liability (AAL) at the beginning of the budget year will be used for purposes of calculating the 21 basis point test. That value will be calculated by the system's actuary using the prior year's beginning AAL and projecting it to the beginning of the budget year.
10. The Chief Executive Officer may request that the Board amend the budget for the current fiscal year by presenting reasons for the budget amendment, its expected impact, and the cost of the amendment for the remainder of the budget year.

Policy Review

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

Policy History

12. This policy was adopted by the Board of Retirement on February 19, 2002.
13. The policy was revised on October 27, 2003, May 16, 2005, March 24, 2008, March 22, 2010, January 18, 2011, June 18, 2012, July 20, 2015, July 17, 2017, April 20, 2020 and June 19, 2023.



OCERS Board Policy Budget Approval Policy

Secretary's Certificate

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

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

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: May 31, 2023
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Asst. CEO, External Operations
SUBJECT: **TRIENNIAL REVIEW OF THE COMMUNICATIONS POLICY**

Recommendation

Review and recommend the Board approve the Communications Policy.

Background/Discussion

This is the triennial review of the Communications Policy. The Policy is accurate and there are no recommended changes needed at this time.

Submitted by:



SJ-APPROVED

Suzanne Jenike
Asst. CEO, External Operations



OCERS Board Policy

Communications Policy

Background

1. The OCERS Board of Retirement (Board) recognizes that effective communication is integral to good governance. In order to achieve the mission and objectives of OCERS, the Board wishes to establish protocols and mechanisms for communications among Board members; and between Board members and OCERS management, employers, members, and external parties. The Board has adopted this Policy to provide the Board as a whole, individual Board members, and OCERS team members with guidelines for executing the communications function of the Board.

Policy Objectives

2. To encourage and facilitate open, accurate, timely, and effective communications with all relevant parties.
3. To mitigate risks to OCERS, the Board, and Board members that may arise in connection with communications.

Principles and Assumptions

4. Inappropriate or erroneous communications from Board members may represent a significant risk to OCERS, the Board, and individual Board members.
5. A Board member communications policy must balance the need to mitigate that risk with the need for open and efficient communication.

Policy Guidelines

General Guidelines

6. Members of the Board and the OCERS team represent many differing backgrounds and viewpoints. Therefore, Board members and staff will not send partisan political communications to members of the Board, OCERS team members, contractors, temporary employees, or others working for or providing services to OCERS.
7. Members of the Board and OCERS team members will not use OCERS equipment for disseminating partisan political communications to anyone, except where specifically authorized for fulfillment of duties of a duly appointed labor representative.
8. Members of the Board and OCERS team members will not engage in communications that may be considered offensive, profane, vulgar, or based on any characteristics of a protected class under Federal law or laws in the State of California, regardless of the motivation for such communications.
9. Electronic mail allows for near instantaneous communications between individuals and / or groups of people. Electronic communications also present challenges in managing communications, potential violations of the *Ralph M. Brown Act* (Gov. Code §§ 54950-54962) (the "Brown Act") and challenges in complying with the Public Records Act (Gov. Code §§6250, et.seq.). As such, the Board has adopted the following guidelines for use and management of electronic mail by Board members:



OCERS Board Policy

Communications Policy

- a. Electronic mail pertaining to OCERS business constitutes a business record of OCERS subject to the OCERS Records Retention and Guidelines Policy and the Public Records Act.
- b. Electronic mail between Board members must not violate any provision of the Brown Act.
- c. Communications that a Board member wishes to disseminate to a majority of the members of the Board or a majority of the members of a standing committee of the Board shall be submitted to the CEO or his or her designee only. The CEO or his or her designee will then, in his or her discretion, forward said communications to the full Board via a special email. Regardless of whether or not provided via a special email, unless the content of the message is inconsistent with OCERS' policies or applicable law (e.g., violates paragraph 8 above of this policy), it will be distributed publicly to the entire Board as a communications item posted with the public agenda for the next regular Board meeting. This paragraph in no way authorizes serial communications or communications by or between a majority of the members of the Board or a standing committee of the Board that would violate the Brown Act.
- d. In the event that an electronic mail communication is sent by a member of the OCERS team to a Board member's personal email account, the OCERS team member shall retain a copy of the email communication according to the Records Retention and Guidelines Policy and for purposes of compliance with the Public Records Act.
- e. Electronic mail communications regarding OCERS business are public records disclosable under the Public Records Act (unless otherwise covered by an exemption) regardless of the fact that they were sent, received or stored in a personal email account. Whenever possible, electronic mail communications regarding OCERS business should be sent to and from an OCERS email address. In the event an electronic mail communication pertaining to OCERS business is sent from a personal email account to a member of the OCERS team, other Board members or to any other party, the Board member shall copy the electronic mail message to an OCERS email address so that OCERS can maintain a record of the electronic mail communication and produce it in response to a request for it under the Public Records Act. This paragraph in no way authorizes serial communications or communications by or between a majority of the members of the Board or a standing committee of the Board that would violate the Brown Act.

Communications Among Board Members

10. The Board shall carry out its activities in accordance with the spirit of open governance, including the provisions of the Brown Act, which include, but are not limited to:
 - a. Ensuring that communications by and between Board members comply with the Brown Act (section 54952.2 of the Brown Act);
 - b. Properly noticing and posting an agenda for Board and Committee meetings (section 54954.2 of the Brown Act);
 - c. Allowing proper public comment on agenda items before or during consideration by the Board (section 54954.3 of the Brown Act);
 - d. Properly describing all items to be considered in closed session in the notice or agenda for the meeting (section 54954.5 of the Brown Act);



OCERS Board Policy Communications Policy

- e. Not conducting or participating in a series of communications one at a time or in a group that in total constitutes a quorum of the Board or Committee either directly or through intermediaries or electronic devices, for the purpose of developing a concurrence as to action to be taken (a serial or secret meeting prohibited by section 54952.3 of the Brown Act);
 - f. Not taking any action, whether preliminary or final, by secret ballot (section 54953(c) of the Brown Act); and
 - g. Ensuring Board and committee meeting agenda materials are properly made available to members of the public, upon request and without delay (section 54957.5 of the Brown Act).
- 11. Internal or external counsel for OCERS shall provide biennial Brown Act training/education to members of the Board.
 - 12. A member of the Board shall disclose information in his or her possession pertinent to the affairs of OCERS to the entire Board in a timely manner.
 - 13. During meetings of the Board and its committees, Board members shall communicate in a straightforward, constructive manner with due respect and professionalism.

Board Member Communications with OCERS Members and Employers

- 14. Members of the Board shall mitigate the risk of miscommunication with employers, OCERS active and deferred members, and retirees, and potential liability through adverse reliance by third parties by avoiding giving explicit advice, counsel, or education with respect to the technicalities of the plan provisions, policies, or processes.
- 15. Where explicit advice, counsel, or education with respect to the technicalities of the plan provisions, policies, or process is needed, Board members will refer inquiries to the CEO or appropriate designee. The CEO or such designee will inform the Board member when and how the matter was resolved.
- 16. Board members shall not disclose confidential communications received orally or in writing in closed session meetings of the Board or a committee of the Board or received orally or in writing from internal or external legal counsel unless the communication is specifically identified by legal counsel as not confidential.

Board Member Communications with OCERS Management

- 17. a. Board members who seek information solely in order to respond to inquiries from members about OCERS' policies and practices may direct their inquiries to the CEO or, with notice to the CEO, to the appropriate Assistant CEO or department head, who shall in turn direct subordinate staff as appropriate.
- b. All other Board member requests for information shall be directed to the CEO, who shall in turn direct staff as appropriate.
- c. All Board member expressions of concern and ideas about OCERS' policies, administration, contracting, investments, benefits, media relations and public policy issues shall be directed



OCERS Board Policy

Communications Policy

solely to the CEO. Under no circumstances shall Board members directly communicate about any such matters with any staff subordinate to the CEO outside of a duly noticed Board or committee meeting, without the CEO's prior express permission. If exigent circumstances arise during the CEO's absence, such matters may be directed to the CEO's designee, who shall act in lieu of the CEO.

18. a. The CEO may decline to accept Board member requests for information that require the expenditure of significant staff time or external resources, provided that the CEO then places the matter on the next subsequent Board or committee agenda, as appropriate, for consideration and direction by the full Board or committee.
- b. The Board and individual Board members shall not retaliate against either the CEO or any of OCERS' staff for acting consistently with this Policy. Board member conduct inconsistent with this Policy may subject the Board member to public censure or reprimand, loss of committee membership or other privileges of office, and/or other appropriate action by the Board.
19. The CEO shall ensure that all information requested by one or more Board members is made available to the entire Board.
20. Board members shall share any information in their possession pertinent to the affairs of OCERS with the CEO in a timely manner. Similarly, the CEO shall ensure that all relevant and pertinent information is disclosed to all of the Board members in a timely manner.

Board Member Communications with External Parties

21. In general, in communicating with external parties, the following guidelines will apply:
 - a. The purpose of any communications by members of the Board shall be consistent with their sole and exclusive fiduciary duty to represent the interests of all OCERS members;
 - b. Board members and OCERS management are expected to respect the decisions and policies of the Board in external communications even if they may have opposed them or disagreed with them during Board deliberations;
 - c. Board members shall not disclose confidential communications received orally or in writing in closed session meetings of the Board or a committee of the Board or received orally or in writing from internal or external legal counsel unless the communication is specifically identified by legal counsel as not confidential;
 - d. Individual Board members shall not speak for the Board as a whole unless authorized by the Board to do so; and
 - e. In external communications, Board members are expected to disclose when they are not representing an approved position of the Board or are not speaking in their capacity as a member of the Board.
22. Subject to section 21 above, in situations that call for a spokesperson for the Board, the Chair or his or her designee shall act as spokesperson for the Board. Generally, the spokesperson should request that reporters put questions in writing.



OCERS Board Policy Communications Policy

- 23. When interviewed, or otherwise approached by the media for information concerning the affairs of OCERS, members of the Board shall refrain from making any unilateral commitments on behalf of the Board or OCERS.
- 24. To help ensure the accuracy of any oral and/or written material created for the purpose of publication or presentation by members of the Board, in their capacity as such, and to ensure that neither OCERS, the Board, or such member of the Board is placed at risk thereby, all such material shall be peer reviewed by the CEO or legal counsel prior to being submitted for publication or presentation.

Policy Review

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

Policy History

- 26. This policy was adopted by the Board of Retirement on November 18, 2002.
- 27. The policy was revised on April 16, 2007, March 24, 2008, May 17, 2011, March 17, 2014, January 20, 2015, March 16, 2015, May 15, 2017, and April 20, 2020.

Secretary's Certificate

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

04/20/2020

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: May 31, 2023
TO: Members of the Governance Committee
FROM: Manuel Serpa, Deputy General Counsel
SUBJECT: Proposed Amendments to the OCERS Conflict of Interest Code

Recommendation

Approve, and recommend the Board of Retirement adopt, the proposed revisions to the Conflict of Interest Code.

Background

The Political Reform Act of 1974, Government Code sections 81000, *et. seq.* (the "Act"), requires certain local public agencies, including OCERS, to adopt conflict of interest codes that identify the agency officials who must file financial disclosures. The Act is enforced by the Fair Political Practices Commission (the "FPPC"). The requirements of a conflict of interest code are set out in FPPC Regulation 18730, which contains the elements of a standard model code. According to Section 82011(b) of the Act, the Orange County Board of Supervisors serves as the code-reviewing body for OCERS; and the County has established certain disclosure categories for the agencies whose codes the County reviews and approves.

The Act requires an agency's conflict of interest code to be reviewed biennially and updated when titles and positions of the agency are added or changed. The OCERS Code was last reviewed and updated in February of this year. Since then, two new position titles have been added: Director of Disability and Director of Enterprise Project Management Office. Given that the OCERS Procurement and Contracting Policy provides that a "Director" can be one of the two required signatories to contracts valuing up to \$99,999, it is appropriate for these two positions to be added as designated filers. Thus, staff now recommends the following revisions to the OCERS Code.

Proposed Revisions

Staff recommends that the following positions be added to the OCERS Code as "Designated Filers:"

- Director of Enterprise Project Management Office
- Director of Disability

A copy of the OCERS Code, with the proposed revisions indicated in underlined/strikeout text, is attached; and the bases for the staff's recommendations are more fully set forth below.

Designated Filer Positions

The Act requires that every position within OCERS that makes, participates in making, or influences, governmental decisions be designated in the OCERS Code. Persons holding the positions designated in the code ("Designated Filers") are required to disclose their financial interests. Guidance from the FPPC for developing a

list of Designated Filers indicates that an agency should include in the code the broad policy/decision makers and eliminate positions whose duties are clerical, secretarial, ministerial, or manual. Then the agency should review the duty statements of everyone between these two levels, looking closely at how many levels of substantive review these positions have.

Section 18700 of the FPPC regulations set forth the basic rule on conflict of interest as follows:

A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision when he or she knows or has reason to know he or she has a disqualifying financial interest. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or his or her immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein.

Section 18704 defines making and participating in making a governmental decision as follows:

(a) Making a Decision. A public official makes a governmental decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency.

(b) Participating in a Decision. A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.

Examples of making a decision include:

- Voting on a matter
- Approving the budget
- Adopting policy
- Making purchasing decisions
- Entering into contracts

Examples of participating in a decision include:

- Negotiating the terms of a contract
- Writing the specifications of a bid
- Advising or making recommendations to the decision-maker or governing body without significant intervening substantive review

The OCERS Code currently designates the following positions as Designated Filers¹ because they make, participate in making, or influence governmental decisions and who are therefore required to disclose their financial interests:

- Assistant Chief Executive Officer, External Operations
- Assistant Chief Executive Officer, Internal Operations
- General Counsel
- Deputy General Counsel

¹ Note that officials who manage public investments as defined in §87200 of the Act and the FPPC regulations thereunder must also disclose their financial interests. These positions include the members of the Board, the Chief Executive Officer, the Chief Investment Officer, the Managing Director of Investments, the Director of Investments and certain consultants. These officials are not subject to the OCERS Code but are listed in the code for informational purposes.

- Director of Internal Audit
- Director of Finance
- Director of Human Resources
- Director of Information Technology
- Director of Information Security
- Director of Member Services
- Senior Manager of Facilities and Operations
- Contracts, Risk & Performance Manager
- Investment Officer/Senior Investment Officer
- Investment Analyst/Senior Investment Analyst
- Consultant

Staff has conducted a review of OCERS' titles and duty statements and recommends that the following OCERS-direct employees be added to the list of Designated Filers in the OCERS Code:

- Director of Disability
- Director of Enterprise Project Management Office

According to the job descriptions of each of these positions, the person has delegated decision-making authority, participates in negotiating the terms of a contract, writes the specifications of a bid, or advises or makes recommendations to the decision-maker or governing body without significant intervening substantive review.

Conclusion

If the Board adopts the recommended amendments to the OCERS Code, the amendments will be forwarded to the County Board of Supervisors. Once approved by the Board of Supervisors, the amendments will become effective and part of the OCERS Code.

Attachment

Submitted by:



MS - Approved

Manuel Serpa
Deputy General Counsel

Approved by:



SD - Approved

Steve Delaney
Chief Executive Officer

CONFLICT OF INTEREST CODE FOR THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

The Political Reform Act, Government Code Sections 81000, et seq. (the "Act"), requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission ("FPPC") has adopted a regulation (2 Cal. Code of Regs. Section 18730; "Section 18730") that contains the terms of a standard Conflict of Interest Code, which may be incorporated by reference in an agency's code. After public notice and hearing, the FPPC may amend Section 18730 to conform to amendments in the Act. Therefore, the terms of Section 18730 and any amendments thereto, along with the attached Exhibits A and B designating positions and establishing disclosure categories, are hereby incorporated by reference, and shall constitute the Conflict of Interest Code of the Orange County Employees Retirement System ("OCERS").

DESIGNATED POSITIONS

OCERS employees whose positions are listed in Exhibit A hereto shall file statements of economic interests with the office of the Clerk of the Orange County Board of Supervisors, which will make the statements available for public inspection and reproduction (Gov. Code Sec. 81008). All statements will be retained by the Clerk of the Orange County Board of Supervisors. Consultants designated in Exhibit A will file statements of economic interests with the OCERS Chief Executive Officer, who will retain the original statements for seven years and make them available for public inspection and reproduction (Gov. Code Sec. 81008). The applicable Disclosure Category for each Designated Position is set forth in Exhibit A; and the Disclosure Categories are described in Exhibit B.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3.(b), are not subject to OCERS' Conflict of Interest Code but are listed here for informational purposes. Unlike the Designated Positions, the reporting obligations of these officials are not limited by reference to a disclosure category. It has been determined that the positions listed below are the OCERS officials who manage public investments:

- Members of the Board of Retirement including the Alternate Member
- Chief Executive Officer
- Chief Investment Officer
- Managing Director of Investments
- Director of Investments
- Consultants Who Manage Public Investments

Officials who manage public investments shall file statements of economic interests with the Clerk of the Orange County Board of Supervisors who is the filing officer for these positions.

The disclosure categories and requirements for these positions are set forth in Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200 et seq. They generally require the disclosure of interests in real property in the agency's jurisdiction, as well as investments, business positions, and sources of income (including gifts, loans, and travel payments).

EXHIBIT A

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
LIST OF DESIGNATED POSITIONS**

| Position | Disclosure Category |
|--|-----------------------|
| Assistant Chief Executive Officer, External Operations | OC-01 |
| Assistant Chief Executive Officer, Internal Operations | OC-01 |
| General Counsel | OC-01 |
| Director of Internal Audit | OC-01 |
| Director of Finance | OC-01 |
| Director of Human Resources | OC-11 |
| Director of Information Technology | OC-08 |
| Director of Information Security | OC-08 |
| Director of Member Services | OC-06 |
| Director of Enterprise Project Management Office | OC-06 |
| Director of Disability | OC-06 |
| Deputy General Counsel | OC-01 |
| Investment Officer/Senior Investment Officer | OC-01 |
| Contracts, Risk & Performance Manager | OC-06 |
| Investment Analyst/Senior Investment Analyst | OC-01 |
| Consultant | OC-30 |
| Senior Manager of Facilities and Operations | OC-06 |

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3.(b), are NOT subject to the System's code, but are subject to the disclosure requirements of the Act (Government Code Section 87200 et seq., Regs. §18730(b)(3)). These positions are listed here for informational purposes only.

| Position | Disclosure Category |
|-------------------------------------|---------------------|
| Board Member/Alternate Board Member | 87200 Filer |
| Chief Executive Officer | 87200 Filer |
| Chief Investment Officer | 87200 Filer |

| | |
|---|-------------|
| Managing Director of Investments | 87200 Filer |
| Director of Investments | 87200 Filer |
| Consultants Who Manage Public Investments | 87200 Filer |

EXHIBIT B

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
DISCLOSURE CATEGORIES/DESCRIPTIONS**

| Disclosure Category | Disclosure Description |
|----------------------------|--|
| OC-01 | All interests in real property in Orange County, as well as investments, business positions and sources of income (including gifts, loans, and travel payments). |
| OC-06 | All investments in, business positions with and income (including gifts, loans, and travel payments) from sources that provide leased facilities and goods, supplies, equipment, vehicles, machinery, or services (including training and consulting services) of the types used by OCERS. |
| OC-08 | All investments in, business positions with and income (including gifts, loans and travel payments) from sources that develop or provide computer hardware/software, voice data communications, or data processing goods, supplies, equipment, or services (including training and consulting services) used by OCERS. |
| OC-11 | All interests in real property in Orange County, as well as investments in, business positions with and income (including gifts, loans, and travel payments) from sources that are engaged in the supply of equipment or services related to recruitment, employment search & marketing, classification, training, or negotiation with personnel; employee benefits, and health and welfare benefits. |
| OC-30 | Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code subject to the following limitation: The CEO may determine that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and based upon that description, a statement of the extent of disclosure required. The determination of disclosure is a public record and shall be filed with the Form 700 and retained by the Filing Officer for public inspection. |

**CONFLICT OF INTEREST CODE FOR THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

The Political Reform Act, Government Code Sections 81000, et seq. (the "Act"), requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission ("FPPC") has adopted a regulation (2 Cal. Code of Regs. Section 18730; "Section 18730") that contains the terms of a standard Conflict of Interest Code, which may be incorporated by reference in an agency's code. After public notice and hearing, the FPPC may amend Section 18730 to conform to amendments in the Act. Therefore, the terms of Section 18730 and any amendments thereto, along with the attached Exhibits A and B designating positions and establishing disclosure categories, are hereby incorporated by reference, and shall constitute the Conflict of Interest Code of the Orange County Employees Retirement System ("OCERS").

DESIGNATED POSITIONS

OCERS employees whose positions are listed in Exhibit A hereto shall file statements of economic interests with the office of the Clerk of the Orange County Board of Supervisors, which will make the statements available for public inspection and reproduction (Gov. Code Sec. 81008). All statements will be retained by the Clerk of the Orange County Board of Supervisors. Consultants designated in Exhibit A will file statements of economic interests with the OCERS Chief Executive Officer, who will retain the original statements for seven years and make them available for public inspection and reproduction (Gov. Code Sec. 81008). The applicable Disclosure Category for each Designated Position is set forth in Exhibit A; and the Disclosure Categories are described in Exhibit B.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3.(b), are not subject to OCERS' Conflict of Interest Code but are listed here for informational purposes. Unlike the Designated Positions, the reporting obligations of these officials are not limited by reference to a disclosure category. It has been determined that the positions listed below are the OCERS officials who manage public investments:

- Members of the Board of Retirement including the Alternate Member
- Chief Executive Officer
- Chief Investment Officer
- Managing Director of Investments
- Director of Investments
- Consultants Who Manage Public Investments

Officials who manage public investments shall file statements of economic interests with the Clerk of the Orange County Board of Supervisors who is the filing officer for these positions.

The disclosure categories and requirements for these positions are set forth in Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200 et seq. They generally require the disclosure of interests in real property in the agency's jurisdiction, as well as investments, business positions, and sources of income (including gifts, loans, and travel payments).

EXHIBIT A**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
LIST OF DESIGNATED POSITIONS**

| Position | Disclosure Category |
|--|----------------------------|
| Assistant Chief Executive Officer, External Operations | OC-01 |
| Assistant Chief Executive Officer, Internal Operations | OC-01 |
| General Counsel | OC-01 |
| Director of Internal Audit | OC-01 |
| Director of Finance | OC-01 |
| Director of Human Resources | OC-11 |
| Director of Information Technology | OC-08 |
| Director of Information Security | OC-08 |
| Director of Member Services | OC-06 |
| Director of Enterprise Project Management Office | OC-06 |
| Director of Disability | OC-06 |
| Deputy General Counsel | OC-01 |
| Investment Officer/Senior Investment Officer | OC-01 |
| Contracts, Risk & Performance Manager | OC-06 |
| Investment Analyst/Senior Investment Analyst | OC-01 |
| Consultant | OC-30 |
| Senior Manager of Facilities and Operations | OC-06 |

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3.(b), are NOT subject to the System's code, but are subject to the disclosure requirements of the Act (Government Code Section 87200 et seq., Regs. §18730(b)(3)). These positions are listed here for informational purposes only.

| Position | Disclosure Category |
|-------------------------------------|----------------------------|
| Board Member/Alternate Board Member | 87200 Filer |
| Chief Executive Officer | 87200 Filer |
| Chief Investment Officer | 87200 Filer |

| | |
|---|-------------|
| Managing Director of Investments | 87200 Filer |
| Director of Investments | 87200 Filer |
| Consultants Who Manage Public Investments | 87200 Filer |

EXHIBIT B

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
DISCLOSURE CATEGORIES/DESCRIPTIONS**

| Disclosure Category | Disclosure Description |
|----------------------------|--|
| OC-01 | All interests in real property in Orange County, as well as investments, business positions and sources of income (including gifts, loans, and travel payments). |
| OC-06 | All investments in, business positions with and income (including gifts, loans, and travel payments) from sources that provide leased facilities and goods, supplies, equipment, vehicles, machinery, or services (including training and consulting services) of the types used by OCERS. |
| OC-08 | All investments in, business positions with and income (including gifts, loans and travel payments) from sources that develop or provide computer hardware/software, voice data communications, or data processing goods, supplies, equipment, or services (including training and consulting services) used by OCERS. |
| OC-11 | All interests in real property in Orange County, as well as investments in, business positions with and income (including gifts, loans, and travel payments) from sources that are engaged in the supply of equipment or services related to recruitment, employment search & marketing, classification, training, or negotiation with personnel; employee benefits, and health and welfare benefits. |
| OC-30 | Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code subject to the following limitation: The CEO may determine that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and based upon that description, a statement of the extent of disclosure required. The determination of disclosure is a public record and shall be filed with the Form 700 and retained by the Filing Officer for public inspection. |



Memorandum

DATE: May 31, 2023
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Asst. CEO, External Operations
SUBJECT: OCERS ADMINISTRATIVE PROCEDURE REGARDING RECIPROCITY

Recommendation

Approve, and recommend the Board of Retirement adopt, the proposed OCERS Administrative Procedure (OAP) regarding Reciprocity as presented.

Background/Discussion

OCERS Administrative Procedures (OAP) are meant to inform members and stakeholders of how certain situations will be handled. Reciprocity can be a complicated process with many variables. For example, coordinating information with the reciprocal systems regarding final average salary, contribution basis age as well as determining that the eligibility requirements for reciprocity are met. This OAP outlines the processes associated to reciprocity and the steps OCERS staff will take when coordinating benefits between reciprocal systems.

Submitted by:



SJ-APPROVED

Suzanne Jenike
Asst. CEO, External Operations



OCERS Administrative Procedure (OAP)

Reciprocity

I. Purpose

The purpose of this OCERS administrative procedure (OAP) is to describe how OCERS' Board of Retirement (Board) applies the rules governing reciprocity.

II. Authority

This OAP is established pursuant to the Chief Executive Officer (CEO) Charter, section 8.f., which directs the CEO to develop staff policies and procedures to ensure effective and efficient administration of member benefits. The OAP is in conformance with Board Policy, the County Employees Retirement Law (California Government Code section 31450, *et seq.*) (CERL), and the Public Employees' Pension Reform Act (Government Code, sections 7522 - 7522.74) (PEPRA).

III. Overview

"Reciprocity" under the CERL refers to the relationship between certain specified California retirement systems that permits public employees to move between those systems without losing the rights and benefits they already earned.ⁱ Reciprocal retirement systems can protect an employee's earned retirement benefits when those employees enter employment with a reciprocal system within six months (180 days) of terminating employment with the prior system. They do so by enabling a public employee to count all their years of qualifying public service as a single unbroken career with the payment of their total retirement allowance apportioned among each participating system. Reciprocity applies to an OCERS member when the member has worked for a California public retirement system that has reciprocity with OCERS and meets the requirements set forth below.

The reciprocity rules are intended to encourage career public service by eliminating the adverse consequences of having to start over again in a new retirement system. The rules also delineate the financial obligations of each system so they are shared equitably.ⁱⁱ

The following systems have reciprocity with OCERS:

County Retirement Systems

Alameda
 Contra Costa
 Fresno
 Imperial
 Kern
 Los Angeles



OCERS Administrative Procedure (OAP) Reciprocity

- Marin
- Mendocino
- Merced
- Sacramento
- San Bernardino
- San Diego
- San Joaquin
- San Mateo
- Santa Barbara
- Sonoma
- Stanislaus
- Tulare
- Ventura

- California Public Employees' Retirement System (CalPERS)
- California State Teachers' Retirement System (CalSTRS)
- Judges Retirement System (JRS I and JRS II)

Advantages of Reciprocity

- The public employee becomes a member of both (or all, if more than two) retirement systems and is subject to the rights, benefits, and membership requirements of each system.
- If applicable, the member's entry age will be based upon the age they were when they entered the first system.ⁱⁱⁱ This is significant because it may affect the member's contribution rate. When entering a public retirement system, some systems (like OCERS) use a member's age of entry as a factor to calculate the amount the member has to contribute to help fund their retirement. The younger the age of entry, the less a member must pay in member contributions (payroll deductions) to the retirement system. With reciprocity, a member may pay less in member contributions to the second system than they otherwise would if reciprocity did not apply.
- A member whose membership in an eligible reciprocal system began before January 1, 2013, may be eligible for the benefit plan formula in place prior to January 1, 2013, i.e., Legacy member status. Legacy member status is pre-PEPRA, which took effect on January 1, 2013.



OCERS Administrative Procedure (OAP) Reciprocity

- Upon concurrent retirement from all reciprocal systems, the member's service under each reciprocal retirement system will count towards the vesting and retirement eligibility requirements of each system.^{iv}
- In calculating the amount of the retirement allowance, each system will use the member's highest "compensation earnable" (for Legacy Members) or "pensionable compensation" for (PEPRA Members), regardless of under which system it was earned if that compensation is recognized as pensionable in the reciprocal system.^v

IV. Requirements of Reciprocity

To be eligible for the advantages of reciprocity, the public employee must:

1. Maintain membership in the prior retirement system by leaving their contributions on deposit with that system^{vi} (i.e., elect deferred retirement); and
2. Enter employment that results in membership in the new system within six months (180 days) of leaving employment with their prior reciprocal system employer.^{vii}

If these two initial eligibility requirements are met, members may elect reciprocity when they join OCERS. However, OCERS must be informed of membership in the prior system(s) to effectuate reciprocity. **Thus, new members must notify OCERS of all previous retirement system memberships and certify whether they wish to elect reciprocity.** This election of reciprocity is irrevocable.

Reciprocity can apply on an incoming basis when a public employee becomes an OCERS member and on an outgoing basis when an OCERS member terminates employment with an OCERS employer and enters a reciprocal retirement system within six months. In addition, each move a public employee makes between systems is considered a separate reciprocal event, and thus they would need to meet the requirements of reciprocity for each move.^{viii}

Concurrent Retirement Required

To be credited with the period of service under each reciprocal system at the time of retirement, the member must apply to retire from each system separately and concurrently, that is, on the same date.^{ix} The member will then receive separate retirement allowances from each system.

However, if a member that elected deferred retirement with OCERS then retires from a reciprocal system but fails to apply to OCERS for concurrent retirement due to oversight or excusable



OCERS Administrative Procedure (OAP)

Reciprocity

neglect, the member may apply to OCERS for a service retirement allowance that will be effective as of the date of the member's retirement from the reciprocal system.^x

Overlapping Service Prohibited

Service credit cannot be granted from more than one retirement system at a time.^{xi} Thus, periods of service with more than one system may not overlap. That means that a member must discontinue employment with their former system before entering membership with the subsequent system. So, an employee entering membership with OCERS must not still be on the job, or exhausting vacation hours, sick leave credits, or other types of leave with their prior system employer. To the extent permissible under the law, OCERS will adjust the member's entry or exit date to avoid overlap.^{xii}

Breaking Reciprocity

Once established, to maintain reciprocity, the member may not withdraw their accumulated contributions from the reciprocal system and must retire from all reciprocal systems on the same date.^{xiii} Otherwise, they will break reciprocity and lose its advantages, i.e., the member will then be required to meet the minimum eligibility requirements for retirement, disability, and survivor benefits based solely on their employment with the OCERS member employer. For example, an OCERS member with established reciprocity cannot rescind their election of deferred retirement with the previous system(s) or withdraw any of their accumulated contributions and interest. If they did, reciprocity would be broken and no longer recognized by OCERS. In addition, their age-based contribution rate would change to align with their age of entry into OCERS.

Likewise, an OCERS member who transfers to a reciprocal system cannot withdraw funds from OCERS while still a member of the reciprocal system. Such members would need to provide proof of permanent separation and withdrawal of contributions from the other retirement systems to be eligible for a refund of their OCERS contributions.

Should a member retire concurrently with each system but later re-instate membership by returning to work with one of the system's employers, reciprocity will be broken as the retirement date from both systems will no longer be the same.

V. Disability Retirement and Reciprocity

The advantages of reciprocity may also apply to disability retirement benefits. Once reciprocity is established, the disability allowance, as with the service retirement allowance, will be based on the service credit earned with each reciprocal system.^{xiv}



OCERS Administrative Procedure (OAP) Reciprocity

A member who terminates employment with an OCERS employer, leaves their retirement contributions on deposit with OCERS (is a deferred member), and establishes reciprocity with a reciprocal system may be entitled to a retirement allowance from OCERS when the reciprocal system grants them a disability allowance. A finding by the reciprocal system that the deferred member is entitled to a disability retirement will be binding on OCERS.^{xv} When a reciprocal system grants a deferred member a service-connected disability retirement and the member applies for and is granted a concurrent disability retirement from OCERS, the only benefit payable to the member from OCERS will be an annuity based on their retirement contributions.^{xvi}

Disability Offset

The disability allowance received by a member credited with service in more than one system cannot exceed the amount they would have received had all their service been with only one system.^{xvii} The CERL imposes this benefit cap to ensure the disability allowance awarded does not result in the member receiving an amount that, when combined with any amount the member receives from other counties or the California Public Employees' Retirement System (CalPERS), is greater than the amount the member would have received had all the member's service been with only one entity. The system granting a disability allowance is required to "offset" (reduce) the benefits to be paid to the member to avoid any excess.

For example, ordinarily, a service-connected disability retirement benefit qualifies the retiring employee to receive one-half of their final compensation, or, if eligible, a service allowance.^{xviii} But, again, where a member retires on disability and receives retirement benefits from more than one California public pension system, a disability offset will apply to cap the disability retirement allowance so that it does not exceed a member's final compensation with any one system.

When a member is granted a disability retirement from OCERS and a reciprocal system also grants the member a non-service-connected disability, OCERS will first ascertain the amount of the allowance that would have been paid to the member if all of the member's service had been under one system. OCERS will then pay the member a fraction of that amount, with the numerator of that fraction being the total years of service credit the member has with OCERS and the denominator the total years of service credit the member has with OCERS and the reciprocal system combined.^{xix}

However, when a member receives a service retirement under a California public pension system and becomes a member of a second system but does not elect reciprocity, their first service pension cannot be considered part of a disability allowance and is thus not subject to offset under section 31838.5.^{xx}



OCERS Administrative Procedure (OAP)

Reciprocity

Calculating the Disability Offset

Following is the process OCERS will follow when applying the disability offset pursuant to Gov. Code, § 31838.5:

1. Is OCERS paying a service-connected disability retirement?
 - a. If no, continue to step 2. If yes, did the member become employed by OCERS on or after January 1, 1984? If no, stop as the offset does not apply. If yes, continue to step 2.

2. Is the first system paying an annuity or a return of contributions? If no, continue to step 3. If yes, then OCERS will pay the full disability retirement amount as no offset applies.

3. Determine the figure subject to offset:
 - a. Add OCERS non-service-connected disability benefit amount to the other system's benefit amount. This is Amount A.

 - b. Determine what the disability retirement allowance would be if the member's combined years of service had been with whichever system would have yielded the highest amount. This is Amount B. (This benefit amount cannot be greater than 100% of the highest Final Average Salary)
 - i. If Amount B is greater than Amount A, there is no offset.

 - ii. If Amount A exceeds Amount B, subtract B from A.

 - iii. This is the figure subject to offset: Amount C ($A-B=C$).

Example: The member with established reciprocity receives a retirement allowance from a reciprocal system and a disability allowance from OCERS. The member's allowance from the other system is \$1000, and their allowance from OCERS is \$2000, for a total of \$3000 (Amount A).

Also, assume that had all the member's service been with OCERS, the member would have received \$2750 (Amount B) and this amount is higher than if all service had been with the reciprocal system.



OCERS Administrative Procedure (OAP) Reciprocity

Since Amount A is greater than Amount B, an offset applies and OCERS would then subtract Amount B (\$2750) from Amount A (\$3000) to equal Amount C (\$250).

4. Determine the percentage of the offset:
 - a. Divide the member's service time with OCERS by the total amount of service time with all systems to determine the percentage of total time that is OCERS.
 - b. Then multiply Amount C by the percentage of OCERS time to determine the amount of the offset.

Example: Assume the member has 24 years of total service, 8 years of which are with OCERS and 16 years with a reciprocal system: $8 \div 24 = 33.3\%$.

Taking Amount C from above, multiply \$250 by 33.3% to determine the amount of offset to apply: $\$250 \times 33.3\% = \83.25 .

The disability allowance provided by OCERS will thus be the original allowance of \$2,000 minus \$83.25, which equals \$1916.75.

Note: OCERS will apply the entire offset amount to the OCERS benefit should the other system not apply the offset to their benefits.

Waiver of Disability Benefits from OCERS

A deferred member who is granted a disability retirement from a reciprocal system may waive disability retirement benefits from OCERS and elect a deferred retirement allowance from OCERS instead.^{xxi} Doing so will break reciprocity, and their vesting requirements and final compensation determination will be based only on their service with OCERS.



OCERS Administrative Procedure (OAP) Reciprocity

ⁱ Gov. Code, §§ 31830-31840.8 govern reciprocal retirement benefits granted to public employees who are entitled to retirement rights and benefits from two or more retirement systems that are subject to the reciprocity rules. Under the Public Employees Retirement Law (PERL), reciprocity is governed by Gov. Code, §§ 20350 *et. seq.*

ⁱⁱ Gov. Code, § 31830

ⁱⁱⁱ Gov. Code, § 31833

^{iv} Gov. Code, § 31836

^v Gov. Code, § 31835

^{vi} Gov. Code, § 31831. In order to elect a deferred retirement from OCERS, the member must have at least five years of service with an OCERS employer or must transfer to a reciprocal system (Gov. Code, § 31700).

^{vii} Gov. Code, §§ 31835, 31840.4

^{viii} If a member moves back and forth between active memberships in OCERS and a reciprocal system, the member can maintain reciprocity so long as there is at least one break that is less than six months with no overlapping service credit. The existence of other breaks of more than six months with that system will not disqualify a member for reciprocity.

^{ix} Gov. Code, § 31835. Exceptions may apply. For example, a member required to retire because of age may be entitled to have his final compensation and service determined as if he had retired concurrently with their prior system (Gov. Code, § 31835.1).

^x OCERS Regulations, Art. X.

^{xi} Gov. Code, § 31836

^{xii} Persons eligible for membership in OCERS normally become a member as of the first day employed with an OCERS member employer (OCERS Regulations, Art. I, April 10, 1995).

^{xiii} Gov. Code, § 31831

^{xiv} Gov. Code, §31837

^{xv} OCERS Regulations, Art. IX.2.

^{xvi} Gov. Code, § 31837, OCERS Regulations, Art. IX.4.

^{xvii} Gov. Code, § 31838.5



OCERS Administrative Procedure (OAP) Reciprocity

^{xviii} Gov. Code, § 31727.4

^{xix} OCERS Regulations, Art. IX.3.

^{xx} *Casson v. Orange County Employees Retirement System* (Cal. Ct. App., Jan. 30, 2023, No. G060950) 2023 WL 1097958, at *5

^{xxi} OCERS Regulations, Art. IX.5.



Memorandum

DATE: May 31, 2023
TO: Members of the Governance Committee
FROM: Gina M. Ratto, General Counsel
SUBJECT: **PREVIEW OF FUTURE GOVERNANCE COMMITTEE MEETINGS**

Reviewed and Approved at the March 23, 2023 Committee Meeting:

1. Governance Committee Charter
2. CEO Charter
3. Triennial Review of the Public Records and Data Request Policy
4. Triennial Review of the SACRS Voting Authority Policy
5. Out of Cycle Review of the Procurement and Contracting Policy
6. Out of Cycle Review of the OCERS Rules of Parliamentary Procedure
7. OAP re: Documentation of Birthdate and Marriage/Domestic Partnership
8. Review of New Pay Items Pursuant to Pay Item Review Policy

To be Reviewed at the May 31, 2023 Committee Meeting:

9. Triennial Review of the Budget Approval Policy
10. Triennial Review of the Communications Policy
11. Triennial Review of the Planning Policy
12. Triennial Review of the Quiet Period Policy
13. Updates to the OCERS Conflict of Interest Code
14. OAP Regarding Reciprocity

Remaining Work of the Committee -- August 24, 2023 Committee Meeting:

15. Triennial Review of the Actuarial Valuation Policy
16. Triennial Review of the Board Elections Procedures
17. Triennial Review of the Membership Eligibility Requirements Policy
18. Out of Cycle Review of the Actuarial Funding Policy
19. Out of Cycle Review of the Securities Litigation Policy

The committee also scheduled a meeting for November 16, 2023 in the event there is any remaining work of the committee or additional assignments from the Board. The final meeting can be canceled if it is not needed.

Submitted by:



GMR- Approved

Gina M. Ratto
General Counsel