

Purpose and Background

1. The Board of Retirement (“Board”) of the Orange County Employees Retirement System (“OCERS”) adopts this Policy to establish guidelines and procedures regarding responses to requests made by the public including, but not limited to, the media, business entities, individuals, and any other person or entity unaffiliated with OCERS, pursuant to the California Public Records Act (“PRA”).

The Board is committed to transparency. The Board recognizes that it has an obligation to balance its members’ right to privacy with the public’s right to information regarding public business. This Policy is not intended to cover all of the complex legal and factual issues that may arise in responding to a PRA request. However, the Board has determined that it would be useful to establish certain guidelines for OCERS to consider when a request is made under the PRA, and to publish those guidelines for the benefit of its members, their beneficiaries, and the public at large.

This policy will operate in conjunction with OCERS’ Plan Sponsor, Member, and Stakeholder Data Request Policy, which provides guidelines for responding to requests for information from persons and entities that have a direct affiliation with OCERS.

Policy Objectives

2. The objectives of this policy are to provide guidelines to staff and assist in responding to public records requests from members of the public.
3. OCERS prefers that all requests under the PRA are made in writing in order to facilitate a clear understanding of the request and the records being sought by the requestor. When a request is made verbally, staff should ask the requesting party to put the request in writing. In the event the requesting party refuses to make a written request, staff should seek to clarify the request verbally and take detailed notes regarding the request.
4. The PRA generally requires OCERS to disclose “public records” unless the particular information is exempt from disclosure. “Public record” includes any writing containing information relating to the conduct of the public’s business (i.e., OCERS’ business) that is prepared, owned, used or retained by OCERS. It includes public records that are sent, received or stored in OCERS staff and Board member private accounts or on their private devices.
5. OCERS will not disclose records exempt from disclosure under the PRA, including, but not limited to, the following:
 - ▶ Records pertaining to pending litigation to which OCERS is a party until the litigation or claim has been finally adjudicated or otherwise settled
 - ▶ Records, the disclosure of which is exempted or prohibited pursuant to state or federal law, including, but not limited to, the provisions of the Evidence Code related to privilege
 - ▶ Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by OCERS in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure

Public Records Request Policy

- ▶ Sworn statements and individual records of members, pursuant to Government Code section 31532 which provides as follows: “Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter [the ‘37 Act] or upon order of a court of competent jurisdiction, or upon written authorization by the member.”
6. OCERS will respond to production requests in accordance with the decision in *Sonoma County Employees’ Retirement System v. Superior Court* (2011) 198 Cal.App.4th 986 which held that the retirement system was required to release the names and gross monthly benefit amounts paid to any member. However, the court ruled that the age at retirement of a member is confidential. The decision also provided guidance regarding the scope of the confidentiality required by section 31532. The Court found that the statute does make confidential all information submitted to a retirement system either by the member or by a third party (e.g., an employer) about a member that would not otherwise be considered public information.
7. In accordance with the *Sonoma* decision, in response to a PRA request, OCERS will publicly release the following information, to the extent available:
- ▶ Member or benefit recipient name
 - ▶ Current gross monthly benefit amount
 - ▶ Original gross monthly benefit amount
 - ▶ Cost of living adjustments
 - ▶ Total final compensation
 - ▶ The components of total final compensation
 - ▶ Total years of credited service
 - ▶ Effective date of retirement
 - ▶ Information regarding the member’s former employment department, agency and/or job class to the extent it is received by OCERS
 - ▶ Statutory basis for the benefit calculation formula
 - ▶ Type of retirement (e.g., service, service connected disability, non-service connected disability)
8. Also in accordance with the *Sonoma* decision, OCERS will not publicly disclose the following information:
- ▶ Social Security number
 - ▶ Date of birth
 - ▶ Age at any time
 - ▶ Address
 - ▶ Telephone and fax numbers
 - ▶ Email address

Public Records Request Policy

- ▶ Disability information and medical records
 - ▶ Spouse or registered domestic partner and beneficiary designations
 - ▶ Member contributions
 - ▶ Individual accounts
 - ▶ Gross refund amount
 - ▶ Personal retirement option election
 - ▶ Individual benefit calculation formula rate
 - ▶ The components of credited service
 - ▶ Personnel records
 - ▶ Non-public correspondence with OCERS
 - ▶ Non-public information provided to OCERS by the member
9. Requests for information not listed above will be determined on a case-by-case basis, in accordance with applicable law. Also, a request for disclosable records may be objectionable if it is unreasonably burdensome. In such situations, staff should consult with counsel.
10. If a request seeks public records held in Board members' or OCERS' employees' non-governmental accounts or on their personal devices, OCERS will communicate the request to the Board members and employees in question and they must thereafter perform a reasonable search of their personal files, accounts and devices for responsive material.
11. Applicable law allows OCERS to recover copying and data retrieval and compilation costs incurred due to a request under the PRA. OCERS will provide an estimate of the cost to copy or produce requested records and will fulfill the request for records as soon as possible after payment of the full estimated amount. Any payments made based on the estimate that are in excess of the actual cost for copying or producing the requested records will be refunded to the requestor.

Policy Review

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

Policy History

13. The Board adopted this Policy on March 19, 2012. The Board reviewed and amended this policy on December 14, 2015 and May 15, 2017.

Secretary's Certificate

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



OCERS Board Policy

Public Records Request Policy


Steve Delaney
Secretary of the Board

5/15/17

Date