

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

**GOVERNANCE COMMITTEE MEETING
February 8, 2017
9:00 a.m.**

AGENDA

Committee: Roger Hilton, Chair; Tom Flanigan, Vice Chair; David Ball; Chris Prevatt

This agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action shall be taken on any item not appearing on the following agenda.

A. [PROPOSED REVISIONS TO OCERS SECURITIES LITIGATION POLICY](#)

Presented by Gina M. Ratto, Chief Legal Officer

Recommendation: Approve and recommend that the Board adopt the revised *OCERS Securities Litigation Policy*.

B. [OCERS POLICY ON MEMBERSHIP ELIGIBILITY REQUIREMENTS \(EXTRA HELP AND TEMPORARY EMPLOYEES\)](#)

Presented by Suzanne Jenike, Assistant CEO and Jeff Rieger, ReedSmith

Recommendation: Approve and recommend that the Board adopt OCERS Board Policy on Membership Eligibility Requirements.

PUBLIC COMMENTS: At this time the members of the public may address the Committee regarding an item within the subject matter jurisdiction of the Committee, provided that no action may be taken on any item not appearing on this agenda unless authorized by law.

COMMITTEE MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING
February 22, 2017
9:00 A.M.

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

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

It is OCERS' intention to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or participant at this meeting, you will need any special assistance beyond that normally provided, OCERS will attempt to accommodate your needs in a reasonable manner. Please contact OCERS via email at adminsupport@ocers.org 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.

A

Memorandum

DATE: February 8, 2017
TO: Members of the Governance Committee
FROM: Gina M. Ratto, Chief Legal Officer
SUBJECT: PROPOSED REVISIONS TO OCERS SECURITIES LITIGATION POLICY

Recommendation

Approve, and recommend that the Board adopt, the revised *OCERS Securities Litigation Policy*.

Background/Discussion

The Board of Retirement adopted the *OCERS Securities Litigation Policy* (Policy) on December 15, 2003. The Policy was last revised on May 20, 2013; and additional revisions were presented to the Board, pursuant to the Board's regular three-year review schedule, in December 2016. At its December 2016 meeting, the Board directed staff to present the Policy to the Governance Committee for discussion.

Revisions Proposed to the Board in December 2016

The revisions to the Policy proposed to the Board in December 2016 were designed to assist the Board and staff in determining when OCERS should take an active role in securities litigation cases and how to handle settlement offers in cases where OCERS must approve or reject a settlement offer:

- With the increase in international securities litigation, staff should examine cases closely to minimize exposure to adverse costs and other liabilities that may arise in non-U.S. venues. Staff will vet cases and bring meritorious cases to the Board with an explanation of anticipated risks and rewards of the litigation. (See proposed addition of paragraph 5.A.9 under section titled, "Staff Analysis Regrading OCERS' Direct Participation.")
- With respect to settlements, there are occasions when a decision on a settlement must be made in a time frame that does not allow staff to bring the proposed settlement to the Board for review and approval. Staff recommends that the CEO, after consultation with internal and external legal counsel, be empowered to approve and enter into a settlement on behalf of OCERS in securities litigation matters. Staff will then report the settlement to the Board. This structure will allow a more nimble response to settlement offers and protect confidentiality when required to accomplish the settlement. (See proposed addition of a new section titled, "Settlements" and paragraphs 9, 10 and 11 thereunder.)

Revisions Requested by the Board in December 2016

At its December 19, 2016 meeting, the Board asked that staff add, and present to the Governance Committee for consideration, revisions to the Policy to include a maximum term for contracts with securities litigation monitoring firms, so that Requests for Proposals (RFP) for these contracts are regularly released.

- Staff proposes adding a provision to the Policy that states that OCERS' contracts with securities monitoring firms will be for terms not exceeding six years, and prior to the expiration of the six year term, the CEO or his or her designee will conduct an RFP. (See new paragraph 6 under the section titled, "Monitoring and Reporting.")

In addition, the Chief Legal Officer will work with the CEO to ensure an RFP for securities litigation monitoring services is released during the first half of 2017.

Attachments

Submitted by:



Gina M. Ratto
Chief Legal Officer

Purpose and Background

1. The Securities Litigation Policy was implemented to assist the Board of Retirement and OCERS staff in identifying and tracking securities litigation cases in which OCERS may have an interest. The Legal department will Staff track and analyze litigation ~~and~~ to advise the Board regarding direct involvement by OCERS and inform the Board of recovered funds. The Securities Litigation Policy assists the Board in its duty to protect trust funds and provide benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system (Cal. Const. Art. XVI, § 17).

Monitoring and Reporting

2. Legal department will monitor and prepare reports listing new securities litigation case filings in which OCERS has identified losses, ~~new case filings in which there are no identified losses,~~ and case settlements on a monthly basis. OCERS will engage firms specializing in securities litigation monitoring to assist the Legal department with these responsibilities.
- ~~2.3.~~ The reports will identify the name of the security, the class period, OCERS' identified losses, and the claims filing deadlines.

Information on case filings and settlements will be obtained from:

- a. Internet sites;
 - b. Print and electronic publications;
 - c. Firms specializing in securities litigation monitoring;
 - d. Custodian Bank;
 - e. Any other reliable source of information.
- ~~3.4.~~ Legal department will provide the reports to the Investment division staff at the beginning of each month.
 5. The reports will also include a list of new cases in which OCERS' estimated losses exceed \$1,000,000.00 as identified by OCERS' securities litigation monitoring firms. This list will include a brief analysis of the merits of the litigation.
 - ~~4.6.~~ The contracts with securities monitoring firms will be for terms not exceeding six years. Prior to the expiration of the six year term, the Chief Executive Officer or his or her designee will conduct an RFP.

OCERS Board Policy Securities Litigation Policy

Staff Analysis Regarding OCERS' Direct Participation

5-7. For claims under \$1,000,000.00, OCERS will not consider taking an active role in the litigation unless OCERS cannot recover without active participation. The factors used in determining whether OCERS should take an active role in securities litigation cases are listed below under subsection A. If a loss over \$1,000,000.00 is incurred closely preceding or closely following the published claims period, staff will proceed as set forth below under subsection B. If the Legal department staff determines that direct participation is warranted under subsection A or a request should be made to revise the claims period under subsection B, the Legal department staff will prepare an appropriate analysis of the case for presentation to the Board. Other cases will be monitored under subsection C.

A. Factors to consider for losses incurred during the claims period:

1. The size of the loss;
2. The identity of the lead plaintiff and other parties, if known;
3. The merits of the case, both from a legal perspective and a business perspective;
4. The likely degree of recovery versus the time and costs involved in pursuing the matter actively;
5. Impact on the portfolio from potential trading restrictions arising from acquisition of inside information in litigation;
6. Effectiveness of potential alternatives for recovering the value of the claim, such as filing a claim and monitoring;
7. The effectiveness and availability of potential witnesses and ability for the investment staff and fund managers to respond to requested discovery;

8. Whether active involvement of OCERS would add value to the potential resolution or management of the case;

8-9. The forum and choice of law for the case. Active participation in foreign securities actions will be examined on a case-by-case basis, and the Legal department staff will present meritorious foreign cases to the Board to determine whether the potential recovery in such cases is sufficient to warrant participation and whether the funding arrangement is sufficient to protect OCERS from adverse cost claims.-

B. If a loss in excess of \$1,000,000.00 is identified closely preceding or following the claims period at issue in a case, the Legal department staff will seek advice regarding adjustment of the claims period from retained securities litigation firms. If warranted, the Legal department staff will prepare a recommendation to the Board to request that the claims period be expanded to include OCERS' loss, based upon the length of time preceding or following the claims period and the size of the loss. The Legal department will contact the plaintiffs if a decision is made to request an expansion of the claims period.

C. If a loss is suffered by OCERS, but the claim does not warrant active participation in the litigation, as determined pursuant to subsection 5 A or B above, the Legal department staff will monitor the case and coordinate with the Custodian Bank to ensure that a claim is filed on any

OCERS Board Policy

Securities Litigation Policy

settlement within the necessary claims period. The Legal department staff will track claims filed by the Custodian Bank and provide a summary report of claims filed and funds recovered to the Board semi-annually.

OCERS Direct Participation

6. If further action is required as a result of the analysis performed pursuant to paragraph 5 A or B above, General Counsel/Chief Legal Officer and the Chief Investment Officer shall inform the Chief Executive Officer of their analysis. The General Counsel/Chief Legal Officer, Chief Investment Officer, and Chief Executive Officer will jointly determine what recommendation to present to the Board of Retirement. If necessary, a Special Board meeting may be scheduled to discuss whether and to what extent OCERS will actively participate in litigation.
7. Securities Litigation law firms on OCERS' pre-approved panel are to be used for preparation of in-depth damages analyses and/or for representation in litigation. Other firms may be used for representation in litigation when firms on the OCERS' pre-approved panel are not involved in the litigation. Final approval of firms will rest with the Board of Retirement. The determination of which cases warrant an in-depth damages analysis will be made by the Legal department staff in accordance with this policy. The determination of which cases will proceed to litigation on OCERS' behalf will be made by the Board in accordance with this policy.
8. In cases where a filing deadline will pass prior to the date of the next available Board meeting, the Legal department staff may, upon approval by the Chief Executive Officer, authorize filing of a case or lead plaintiff petition. Such filing shall be provisional and subject to ratification by the Board at the next available Board meeting.

Settlements

9. In cases in which OCERS takes a direct role and a settlement is presented by the firm representing OCERS, the Legal department will inform the Chief Executive Officer and the Chief Investment Officer of the settlement terms. The Legal department's analysis will include the total amount of the proposed recovery, proposed costs and fees paid to attorneys, percentage of recovery of OCERS identified losses, analysis from the firm representing OCERS, and any other relevant information pertaining to the settlement.
10. Upon receipt of the Legal department's analysis, the Chief Executive Officer, in consultation with the Chief Investment Officer, Chief Legal Officer, and other relevant Investment and Legal department staff, may authorize Legal department to convey OCERS' decision regarding the settlement to litigation counsel. The Chief Executive Officer may also consult with the Board Chair and Vice Chair regarding the merits of the settlement and decide whether to present the settlement proposal to the full Board.
- 8-11. Settlements of cases in which OCERS takes an active role shall be reported to the Board in public meetings as appropriate.

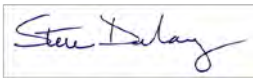
OCERS Board Policy Securities Litigation Policy

Policy History

~~9-12.~~ The Board adopted this policy on December 15, 2003. The Board amended this policy on December 20, 2004; ~~The Board~~ reviewed this policy with no changes on March 24, 2008; ~~and The Board~~ amended this policy on August 24, 2009; ~~The Board amended this policy on~~ May 20, 2013 and March 20, 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.



~~5/20/2013~~ 3/20/2017

Steve Delaney
Secretary of the Board

Date

Purpose and Background

1. The Securities Litigation Policy was implemented to assist the Board of Retirement and OCERS staff in identifying and tracking securities litigation cases in which OCERS may have an interest. The Legal department will track and analyze litigation and advise the Board regarding direct involvement by OCERS and inform the Board of recovered funds. The Securities Litigation Policy assists the Board in its duty to protect trust funds and provide benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system (Cal. Const. Art. XVI, § 17).

Monitoring and Reporting

2. Legal department will monitor and prepare reports listing new securities litigation case filings in which OCERS has identified losses and case settlements on a monthly basis. OCERS will engage firms specializing in securities litigation monitoring to assist the Legal department with these responsibilities.
3. The reports will identify the name of the security, the class period, OCERS' identified losses, and the claims filing deadlines.

Information on case filings and settlements will be obtained from:

- a. Internet sites;
 - b. Print and electronic publications;
 - c. Firms specializing in securities litigation monitoring;
 - d. Custodian Bank;
 - e. Any other reliable source of information.
4. Legal department will provide the reports to the Investment division staff at the beginning of each month.
 5. The reports will also include a list of new cases in which OCERS' estimated losses exceed \$1,000,000.00 as identified by OCERS' securities litigation monitoring firms. This list will include a brief analysis of the merits of the litigation.
 6. The contracts with securities monitoring firms will be for terms not exceeding six years. Prior to the expiration of the six year term, the Chief Executive Officer or his or her designee will conduct an RFP.

OCERS Board Policy **Securities Litigation Policy**

Staff Analysis Regarding OCERS' Direct Participation

7. For claims under \$1,000,000.00, OCERS will not consider taking an active role in the litigation unless OCERS cannot recover without active participation. The factors used in determining whether OCERS should take an active role in securities litigation cases are listed below under subsection A. If a loss over \$1,000,000.00 is incurred closely preceding or closely following the published claims period, staff will proceed as set forth below under subsection B. If the Legal department determines that direct participation is warranted under subsection A or a request should be made to revise the claims period under subsection B, the Legal department will prepare an appropriate analysis of the case for presentation to the Board. Other cases will be monitored under subsection C.
 - A. Factors to consider for losses incurred during the claims period:
 1. The size of the loss;
 2. The identity of the lead plaintiff and other parties, if known;
 3. The merits of the case, both from a legal perspective and a business perspective;
 4. The likely degree of recovery versus the time and costs involved in pursuing the matter actively;
 5. Impact on the portfolio from potential trading restrictions arising from acquisition of inside information in litigation;
 6. Effectiveness of potential alternatives for recovering the value of the claim, such as filing a claim and monitoring;
 7. The effectiveness and availability of potential witnesses and ability for the investment staff and fund managers to respond to requested discovery;
 8. Whether active involvement of OCERS would add value to the potential resolution or management of the case;
 9. The forum and choice of law for the case. Active participation in foreign securities actions will be examined on a case-by-case basis, and the Legal department will present meritorious foreign cases to the Board to determine whether the potential recovery in such cases is sufficient to warrant participation and whether the funding arrangement is sufficient to protect OCERS from adverse cost claims.
 - B. If a loss in excess of \$1,000,000.00 is identified closely preceding or following the claims period at issue in a case, the Legal department will seek advice regarding adjustment of the claims period from retained securities litigation firms. If warranted, the Legal department will prepare a recommendation to the Board to request that the claims period be expanded to include OCERS' loss, based upon the length of time preceding or following the claims period and the size of the loss. The Legal department will contact the plaintiffs if a decision is made to request an expansion of the claims period.
 - C. If a loss is suffered by OCERS, but the claim does not warrant active participation in the litigation, as determined pursuant to subsection 5 A or B above, the Legal department will monitor the case and coordinate with the Custodian Bank to ensure that a claim is filed on any

settlement within the necessary claims period. The Legal department will track claims filed by the Custodian Bank and provide a summary report of claims filed and funds recovered to the Board semi-annually.

OCERS Direct Participation

6. If further action is required as a result of the analysis performed pursuant to paragraph 5 A or B above, Chief Legal Officer and the Chief Investment Officer shall inform the Chief Executive Officer of their analysis. The Chief Legal Officer, Chief Investment Officer, and Chief Executive Officer will jointly determine what recommendation to present to the Board of Retirement. If necessary, a Special Board meeting may be scheduled to discuss whether and to what extent OCERS will actively participate in litigation.
7. Securities Litigation law firms on OCERS' pre-approved panel are to be used for preparation of in-depth damages analyses and/or for representation in litigation. Other firms may be used for representation in litigation when firms on the OCERS' pre-approved panel are not involved in the litigation. Final approval of firms will rest with the Board of Retirement. The determination of which cases warrant an in-depth damages analysis will be made by the Legal department in accordance with this policy. The determination of which cases will proceed to litigation on OCERS' behalf will be made by the Board in accordance with this policy.
8. In cases where a filing deadline will pass prior to the date of the next available Board meeting, the Legal department may, upon approval by the Chief Executive Officer, authorize filing of a case or lead plaintiff petition. Such filing shall be provisional and subject to ratification by the Board at the next available Board meeting.

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10. Upon receipt of the Legal department's analysis, the Chief Executive Officer, in consultation with the Chief Investment Officer, Chief Legal Officer, and other relevant Investment and Legal department staff, may authorize Legal department to convey OCERS' decision regarding the settlement to litigation counsel. The Chief Executive Officer may also consult with the Board Chair and Vice Chair regarding the merits of the settlement and decide whether to present the settlement proposal to the full Board.
11. Settlements of cases in which OCERS takes an active role shall be reported to the Board in public meetings as appropriate.

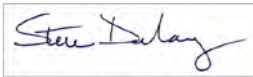
OCERS Board Policy
Securities Litigation Policy

Policy History

12. The Board adopted this policy on December 15, 2003. The Board amended this policy on December 20, 2004; reviewed this policy with no changes on March 24, 2008; and amended this policy on August 24, 2009, May 20, 2013 and March 20, 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.



3/20/17

Steve Delaney
Secretary of the Board

Date

B

Memorandum

DATE: February 8, 2017
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Assistant CEO and Jeff Rieger, Reed Smith LLP
SUBJECT: **OCERS Policy on Membership Eligibility Requirements (Extra Help and Temporary Employees)**

Recommendation

Approve and recommend that the Board adopt OCERS Board Policy on Membership Eligibility Requirements (Policy) (copy attached), as a clarification of OCERS' existing Regulations (copy attached).

Background/Discussion

Public retirement benefits "are established for a public reason and may not be waived by private agreement." *Metropolitan Water District v. Superior Court* (2004) 32 Cal.4th 491, 507. Thus, a person who meets the requirements of enrollment must be enrolled, absent a statutory exception. *Id.* at 500-01.

Under the County Employees' Retirement Law, generally speaking, all full-time officers and employees of OCERS participating employers must become members of OCERS (see Gov't Code §§ 31551, 31552, 31554 and 31557). Under CERL section 31527(e), however, OCERS' Regulations may include provisions "for the exemption or exclusion ... from membership altogether ... of persons whose tenure is temporary, seasonal, intermittent, or for part time only." OCERS' existing Regulations provide for the exclusion of employees who (a) are designated "part-time" and work less than half time, and/or (b) are designated "extra-help."

The Board determined last year that it should provide clarification regarding the proper designation of "extra-help" employees for the purposes of administering OCERS' Regulations, and delegated this task to the Governance Committee.

Staff and Fiduciary Counsel provided draft language to the Governance Committee on August 17, 2016. At that meeting, the Committee directed staff to meet with a working group of employer and labor representatives to refine the language for the Policy. The working group met several times in 2016 and most recently on January 25, 2017. In addition, Staff received further input from the Governance Committee on September 22, 2016.

Staff and Fiduciary Counsel now present a proposed Policy that they believe is generally acceptable to all parties who participated in the working group. Those parties also have been encouraged to raise any remaining concerns they may have for discussion at the Governance Committee's February 8, 2017 meeting.

Staff and Fiduciary Counsel believe that the terms of the proposed Policy merely clarify OCERS' existing Regulations, which do not adequately define "extra-help;" and therefore formal amendment of the Regulations is not necessary. In addition, because other unrelated amendments to the Regulations will be brought to the

Board for consideration in the near future, Staff and Fiduciary Counsel recommend that the Board adopt the proposed Policy now and revisit the question of whether to propose formal amendments of OCERS' Regulations to include the terms of the Policy when the Board considers the other amendments to the Regulations.

Staff recommends an effective date of the Policy of either July 1, 2017 or January 1, 2018; depending upon how much time the participating employers believe they need to modify their systems to track the information that will be necessary to ensure compliance with the Policy.

Submitted by:



S. J. – APPROVED

Suzanne Jenike, Assistant CEO

Jeff Rieger, Reed Smith LLP

Membership Eligibility Requirements

Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use as a basis for determining the eligibility of persons to be members of the System.

Policy Objectives

2. All persons eligible to be members of the System who have not executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60) must be enrolled in the System. Conversely, persons ineligible for membership in the System must be excluded from membership. The objective of this Policy is to clarify existing law (Government Code sections 31550, et. seq.) and OCERS' regulations with respect to the persons who are eligible for membership in OCERS.

Roles and Responsibilities

3. Each Participating Employer is responsible for determining, in accordance with this Policy, which of the Participating Employer's employees are eligible for membership in OCERS and is responsible for enrolling those eligible employees into OCERS membership.

Policy Guidelines

4. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:

Any employee of the Participating Employer who is:

- a. Hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph 5 below.

5. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement; or
- b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or
- c. Is hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 hours in every year, and is classified as "extra help" by the Participating Employer because he or she works in a position that:

Membership Eligibility Requirements

1. Requires professional or highly technical skills;
 2. Is designated “intern” (entry level and consistent with the Participating Employer’s salary resolution or comparable classification scheme);
 3. Is designated “seasonal” (works in less than seven calendar months per year); or
 4. Is designated “intermittent” (works on an irregular, as-needed basis).
6. The Board may grant exceptions to the requirements of Paragraphs 4 and 5 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. For example:
- a. The Board may consider an employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership; and
 - b. The Board may consider whether an employee’s work hours exceeded the relevant maximum due to administrative oversight.
7. When a Participating Employer fails to comply with the requirements of Paragraphs 4 and 5, and the Board does not grant an exception under Paragraph 6, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
8. For purposes of Paragraphs 4 and 5, the term “year” refers to a fiscal year or a calendar year, whichever is used by the Participating Employer for employment purposes.
9. A Participating Employer that temporarily employs an individual (i) who previously was the employee of a labor supplier with which the Participating Employer contracted, and (ii) who would otherwise be excluded from OCERS membership under this Policy, will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case, but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.
10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

Policy Review

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

Policy History

12. This Policy was adopted by the Board of Retirement on MONTH, DATE, YEAR.



Membership Eligibility Requirements

Secretary's Certificate

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

Steve Delaney
Secretary of the Board

Date

Membership Eligibility Requirements

Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use as a basis for determining the eligibility of persons to be members of the System.

Policy Objectives

2. All persons eligible to be members of the System who have not executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60) must be enrolled in the System. Conversely, persons ineligible for membership in the System must be excluded from membership. The objective of this Policy is to clarify existing law (Government Code sections 31550, et. seq.) and OCERS' regulations with respect to the persons who are eligible for membership in OCERS.

Roles and Responsibilities

3. Each Participating Employer is responsible for determining, in accordance with this Policy, which of the Participating Employer's employees are eligible for membership in OCERS and is responsible for enrolling those eligible employees into OCERS membership.

Policy Guidelines

4. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:

Any employee of the Participating Employer who is:

- a. Hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph 5 below.

5. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement; or
- b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or
- c. Is hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 hours in every year, and is classified as "extra help" by the Participating Employer because he or she works in a position that:

Membership Eligibility Requirements

1. Requires professional or highly technical skills;
 2. Is designated “intern” (entry level and consistent with the Participating Employer’s salary resolution or comparable classification scheme);
 3. Is designated “seasonal” (works in less than seven calendar months per year); or
 4. Is designated “intermittent” (works on an irregular, as-needed basis).
6. The Board may grant exceptions to the requirements of Paragraphs 4 and 5 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. For example:
- a. The Board may consider an employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership; and
 - b. The Board may consider whether an employee’s work hours exceeded the relevant maximum due to administrative oversight.
7. When a Participating Employer fails to comply with the requirements of Paragraphs 4 and 5, and the Board does not grant an exception under Paragraph 6, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
8. For purposes of Paragraphs 4 and 5, the term “year” refers to a fiscal year or a calendar year, whichever is used by the Participating Employer for employment purposes.
9. A Participating Employer that temporarily employs an individual (i) who previously was the employee of a labor supplier with which the Participating Employer contracted, and (ii) who would otherwise be excluded from OCERS membership under this Policy, will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case, but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.
10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

Policy Review

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

Policy History

12. This Policy was adopted by the Board of Retirement on MONTH, DATE, YEAR.



Membership Eligibility Requirements

Secretary's Certificate

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

Steve Delaney
Secretary of the Board

Date

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

REGULATIONS

SECTIONS 31525 - 31527

ARTICLE I. MEMBERSHIP

1. Eligible: Persons eligible for membership in the Retirement System shall become members as of the first day employed in this status. Individuals eligible for membership are:

a. All full-time employees, including limited term employees, whose normal scheduled working hours are eighty (80) hours or more per biweekly pay period or whose regular scheduled working hours are considered full-time by the employing agency or district.

b. All employees who are part-time, including limited term employees, whose scheduled hours are equal to twenty (20) hours or more per weekly period or who are scheduled to work at least 1/2 of a regular scheduled pay period will become members effective on the first day they are on pay status beginning on or after August 27, 1976.

c. All employees classified as part-time, who are scheduled to work less than the time prescribed in "b" above, or who are classified as extra-help regardless of number of hours worked, are hereby excluded from membership.

2. A person is no longer a member as defined in Government Code Section 31470 effective with termination of employment or transfer to a non-eligible position with the County or District except when deferred retirement is requested and is approved by the Board or its authorized representative. When a member terminates employment and is appointed to the same or another regular position in County or District service in the same or next succeeding payroll period, membership shall be deemed continuous unless accumulated contributions have been refunded. Accumulated contributions and interest cannot be refunded unless 15 days have passed following the date of termination.

3. Types of Membership: "Safety" are all eligible County or District employees whose principal duties consist of active law enforcement or active fire suppression as described in Government Code Sections 31470.2 and 31470.4. "General" are all eligible County or District employees not classified "Safety".

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4. Membership Request: Every person who is or becomes a member of the OCERS shall, upon his/her entry into the System, fill out and properly execute a sworn statement as required.

5. Compensation Earnable: Pursuant to Government Code Section 31461, the "compensation earnable" of a member means the average compensation as determined by the Board of Retirement, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. "Compensation earnable" does not include additional elements of compensation such as bonuses, differential pay, and the like, which are paid to an employee over and above his/her regular base salary and are not necessarily paid to all employees in the same grade or class of positions, or paid in the same amounts.

The Board of Retirement recognizes that compensation paid by an employer to an employee may take many different forms, some of which may not be known to this Board, and it is not feasible for this Board to compile a complete and comprehensive list of all elements of compensation which are to be included in, or excluded from, the definition of "compensation earnable". However, the following are examples of the types of items of compensation which are to be excluded from a member's "compensation earnable" under Government Code Sections 31460 and 31461:

- Overtime pay
- Bonuses
- Payoffs of unused sick leave, vacation, or compensatory time
- Shift differential pay
- Educational incentive pay (including POST pay)
- Uniform and automobile allowances
- Bilingual pay
- Flexible benefits paid under a cafeteria plan

The following items of compensation are to be included in a member's "compensation earnable":

- Amounts deducted from a member's salary for participation in a deferred compensation program under Section 457 of the Internal Revenue Code.
- The amount of any salary reduction, such as under a premium only plan (POP) or a dependent care plan designed, and qualified to reduce an employee's taxable gross income.

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- Premium pay under the Federal Fair Labor Standards Act (FSLA) which is included in the compensation paid to firefighters (including fire apparatus engineers and fire captains) who work the regular duty schedule averaging 56 hours per week, will be included in such employees' "compensation earnable" for retirement purposes. However, premium pay for overtime hours worked over and above the regular duty schedule averaging 56 hours per week is not included in compensation earnable.

- = Holiday pay for safety members if all or substantially all of the safety members in a particular job classification receive pay for a holiday, whether or not they actually work that holiday.

6. Determination of Compensation Earnable: As to any items of compensation not specifically referred to in Article III, Part 5 above, the Board of Retirement will determine, pursuant to Government Code Section 31461, what is to be included in, and what is to be excluded from, "compensation earnable".

7. Contributions: Shall be calculated on compensation earned and shall be deducted from each salary or wage warrant or check drawn in favor of each member for each pay period. The pay period shall be as determined by the Board of Supervisors or District's governing body.

All districts participating in the OCERS shall have the following responsibilities: To enroll new members as members of OCERS; to report members who terminate employment along with the date of termination; and to make appropriate payroll deductions and collect and remit to OCERS, on a timely basis, both employee and employer retirement contributions along with written or magnetic tape reports of such contributions. Such contributions (along with the required reports) shall be submitted to OCERS [within five (5) days of each payroll date] the date that paychecks are issued. If the contributions from any district are received after such [five-day period] pay date, the district must pay OCERS interest on the overdue contributions. Such interest shall be equal to the current daily treasury bill rate, for each day the contributions are delinquent.

In addition, all participating districts shall submit to OCERS a hard copy contribution report in the format specified by the retirement office, certified by the agency that the data is correct. The report is to indicate on the top of each page: The

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name of the employer submitting the report; the period of time covered by the report; and the titles of the data being reported on each employee. The data in the report is to contain at least the last name, no less than the first initial and middle initial, employee's social security number, retirement membership tier, salary being reported, the contributions rate of the employee, the contributions creditable to the employee's account, the hours worked for the period, and the tax status of the contributions being reported. The hard copy contribution report is also to contain totals for the following fields: hours worked for the period, salary reported, the employee contributions and the number of entries[.] and a breakdown of the employer contributions which includes a report of the normal contributions, UAAL, and employer pick-up of employee contributions by tier and general/safety category.

Annually the participating districts shall submit to OCERS a electronic data tape of W-2 wages in the same manner and form as submitted to the Internal Revenue Service.

If a participating district submits a report or magnetic tape which does not conform to the format provided, OCERS may charge the district a reasonable time and service charge to recover the costs of having the data keypunched, or to recover the amount of any investment interest lost during the time necessary to prepare a report or tape which conforms with the above format.

8. Additional Contributions: The Board of Retirement by administrative procedure shall establish regulations by which eligible employees may make additional contributions for the purpose of providing additional benefits subject to Government Code Section 31627.

9. Withdrawal of Contributions upon Termination: A withdrawal of contributions plus accrued interest is allowed following termination and written request by the former member. A minimum waiting period of fifteen (15) days following the date of termination shall be required before processing of the withdrawal request. The maximum waiting period for withdrawal, as established by Government Code Section 31628, shall be no longer than six (6) months following the member's separation date. An employee's membership in OCERS terminates as of his or her last day of employment, unless the member is eligible to, and elects to, leave his or her retirement contributions on deposit and elect a deferred retirement pursuant to Government Code Section 31700. In order to

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elect a deferred retirement pursuant to Section 31700, the member must have at least five years of service or transfer to a reciprocal system. If a member leaves his or her retirement contributions on deposit and does not elect a deferred retirement or is not eligible to do so, such contributions shall earn no additional interest after the last day of employment.

Former members who do not apply for a withdrawal of their contributions and interest shall be notified by the retirement office that their funds remain on deposit. Failure to claim the contributions and interest or failure to elect deferred status within the time specified by law shall result in the transfer of the contributions and interest of the former member to the current pension reserve fund with no further legal claim being allowed by the former member.

10. Misstatement of Age: If a member has misstated his or her age on the enrollment affidavit filed with OCERS, and if as a result of such misstatement the employee contributions made to OCERS are less than what would have been contributed if the member's age had been correctly stated in the first place, OCERS will correct such misstatement upon the request of the member and upon proper proof of age being shown, provided:

(a) Prior to retirement, the member must deposit in the retirement fund additional employee contributions equal to the difference between the contributions which were actually made and what would have been made if the member's age had been properly stated in the first place, plus simple interest of ten (10) percent per annum added thereto; or

(b) If such additional contributions and interest are not deposited by the member prior to retirement, the member's retirement allowance will be actuarial reduced in order to allow OCERS to recover the amount of such additional contributions and interest.

(c) If the member's misstatement of age results in an overstatement of the member's age, OCERS will, upon receipt of a certified copy of member's birth certificate, refund the amount of the difference between the employee contributions actually paid, and the contributions which should have been paid, plus interest at the rate credited member accounts.

11. Payment of Retirement Allowance: Retirement benefits are payable the first day of each month, for the preceding month. No payment of retirement allowances shall begin until final payroll

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compensation is received from the member's district and until the Board has approved the retirement effective date at a regular meeting as contained within the scheduled consent calendar items.

When making an application for retirement benefits, or upon request by OCERS staff, a member and/or beneficiary shall be required to submit a copy of his or her birth certificate in order to verify the date of birth of such member or beneficiary. In addition, members and/or their beneficiaries shall, upon request, submit copies of their marriage certificates or other suitable proof of marriage, in order to establish an individual's status as an eligible spouse of a member who may become entitled to survivor's benefits.

12. Definitions: The definitions of categories of employees shall be the same as the definitions contained in the Orange County Personnel and Salary Resolution.

13. Rollover of Member Contributions: Member Contributions and interest which have not been taxed are eligible for rollover in an IRA Account to the extent permitted by the Internal Revenue Code.

ARTICLE II. DEDUCTION OF PAST-DUE CONTRIBUTIONS

1. Where through clerical or administrative error a member's mandatory contributions are not deducted at the time and in the manner required by law or under the bylaws and regulations, and where the deduction of the total due would cause a difficulty and a hardship to the member, the Retirement Administrator, on behalf of the Board in his/her discretion, may approve the deduction thereof over a period not to exceed two (2) years, but in no event may the additional contribution be less than TWENTY dollars (\$20.00) per Pay Period.

ARTICLE III. REDEPOSIT OF CONTRIBUTIONS WITHDRAWN

1. Any member who elects, as authorized by law pursuant to Government Code Section 31652, to redeposit in the retirement fund within one (1) year the amount previously withdrawn, may make a written request to the Board for an extension of time to make such redeposit. The Retirement Administrator, in his/her discretion, may on behalf of the Board, approve such extension of time for making such redeposit, not to exceed two (2) additional years.

2. In the event the employee does not repay the contributions

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and interest within the time prescribed, all monies received for the time being purchased will be returned to the employee. The employee shall not be granted any additional time for the time being purchased other than that provided in Section 31652.

3. If the employee elects at a later time to repurchase the time in which the contributions were refunded to the employee, the employee must redeposit within the time prescribed in the applicable Government Code Section.

4. If a member encounters a temporary layoff from his or her employment and withdraws retirement contributions, and is then reinstated to his or her employment within one year and redeposits such previously-withdrawn retirement contributions, this will not constitute a break in the continuity of service, as provided in Government Code Section 31642, provided the member makes such redeposit within ninety (90) days of re-entrance into service. If such redeposit is not made within such 90-day period, the member may still redeposit previously-withdrawn contributions pursuant to Government Code Section 31652; however, the member's age at entry, for purposes of determining the member's contribution rate, will be the age upon his or her re-entrance into employment.

ARTICLE IV. PRIOR SERVICE

1. Prior service shall be defined as county service prior to January 1, 1945. Credit for prior service shall be allowed and entered in the records of the Retirement System at a rate of one month or fraction thereof for which compensation was received through the County Payroll System. The length of such prior service shall be established by any available official county or court record. Affidavits may be accepted at the discretion of the Board to establish prior service where no official records are available.

ARTICLE V. PUBLIC SERVICE

1. A member who, prior to becoming a member of the Retirement System, was in public service pursuant to Government Code Sections 31478 and 31479, excluding service with the United States of America as provided by resolution of the Board of Supervisors adopted pursuant to Government Code Section 31641.95, may elect by written notice to purchase and receive credit for all allowed public service time.

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2. Public service credit shall not be considered for minimum qualifications for vesting or retirement.

3. A person who is eligible to repurchase credit in another retirement system (but has not yet done so) is eligible to purchase public service credit in OCERS, provided the member waives the right to purchase service credit in the other retirement system. If the member purchases public service credit in OCERS and subsequently receives service credit in the other agency's retirement system for the same period of service, the purchase of public service credit in OCERS will be canceled, and the member(s) will be refunded any unused monies deposited, plus interest thereon.

ARTICLE VI. MILITARY LEAVE

1. Any employee of the County of Orange or member district, who is a member of the OCERS, who was on military leave of absence pursuant to Government Code Section 31649, from County or District employment and who is entitled to and wishes to purchase and receive retirement service credit for the period of military leave, may do so pursuant to applicable statutes and in accordance with the Retirement System's administrative procedure.

ARTICLE VII. SERVICE CREDITS

1. Members shall receive credit for time in the Retirement System for periods of membership for which they contributed or were exempt from contributing.

2. One hour of service credit shall equal .00576923 months of service credit. Service credit is derived by dividing 12 months by 2080 hours (standard number of hours worked in a year) equalling .00576923.

3. Service credit calculation shall be calculated by multiplying the fraction $12/2080$ times the hours of service reported calculated to the minimum of the fifth decimal point rounded to the fourth decimal point.

ARTICLE VIII. RETROACTIVE APPROVAL OF DEFERRED STATUS

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1. A member who was not notified in writing as required by California Government Code Sections 31628 and 31629, regarding their contributions and interest left on deposit, and who did not elect deferred status within one hundred eighty (180) days subsequent to termination, may petition the Board through the Administrator for retroactive deferred status. The Board hereby delegates the authority to approve/disapprove retroactive deferred status to the Retirement Administrator.

ARTICLE IX . DISABILITY RETIREMENT
OF DEFERRED/RECIPROCAL MEMBERS

1. Definition: As used in this article, the term "deferred/reciprocal member" shall mean a member who terminates employment and leaves his or her retirement contributions on deposit with OCERS, and establishes reciprocity with another retirement system (PERS or other 1937 Act system). This article of the bylaws is intended to establish the procedure for calculating the retirement allowance payable by OCERS to a deferred/reciprocal member who is granted a disability retirement from the reciprocal system.

2. Disability Retirement from OCERS. In order to receive a disability retirement allowance from OCERS which will be concurrent with the disability retirement received from the reciprocal system, the deferred/reciprocal member must file an application with OCERS for disability retirement. A finding by the reciprocal system that the member is entitled to a disability retirement will be binding on OCERS.

3. Calculation of Non-Service Connected Disability Retirement. If the deferred /reciprocal member receives a non-service connected disability retirement from the reciprocal system, and is also granted a disability retirement from OCERS, the member's disability retirement allowance will be subject to the limitations of Government Code Section 31838.5, so that the total disability retirement allowance payable to the member by both retirement systems will not exceed the allowance which would have been paid if all of the member's service had been with one system. In applying this rule, OCERS will first ascertain the amount of the non-service connected disability retirement allowance which would have been paid to the member by the reciprocal system if all of the member's service had been under that system. OCERS will then pay the member a fraction of that amount, which said fraction will have as its numerator the total years of service credit the member has with OCERS and as its

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denominator the total years of service credit the member has with OCERS and the reciprocal system combined.

If the reciprocal system pays the member a disability retirement allowance which, when combined with the amounts payable by OCERS, exceeds the allowance which would have been paid if all of the member's service had been with the reciprocal system, OCERS will reduce the monthly allowance it pays to the member to insure that the total benefit received by the member does not exceed the limitations set forth in Section 31838.5.

4. Calculation of Service-Connected Disability Allowance. If a deferred/reciprocal member is granted a service-connected disability retirement from the reciprocal system, and 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 his or her retirement contributions, pursuant to Government Code Section 31837.

5. Waiver of Disability Benefits from OCERS. A deferred/reciprocal member who is granted a disability retirement from the reciprocal system may waive disability retirement benefits from OCERS and elect instead a deferred retirement allowance from OCERS, if eligible. Doing so will break reciprocity, and the member's deferred retirement allowance from OCERS will be based on his or her final compensation as a member of OCERS. A member who has less than five years' credited service in OCERS is not eligible for a deferred retirement allowance from OCERS. All other members must meet the statutory eligibility requirements for a deferred retirement, pursuant to Government Code Section 31700. In accordance with Government Code Section 31838.5, if the member is retired from the reciprocal system on a non-service connected disability retirement, or if the member first became a member of the reciprocal system after January 1, 1984, and is retired from that system on a service-connected disability retirement, the total of the retirement allowances from the two systems (the deferred retirement allowance from OCERS and the disability retirement allowance from the reciprocal system) cannot exceed the disability retirement allowance the member would have received from the reciprocal system if all of the member's service had been with that system. In order to ensure that the member's total retirement allowance (from the two systems) does not exceed this limitation, OCERS will pro-rate the member's deferred retirement allowance from OCERS, and if necessary, reduce such retirement allowance, using the calculation set forth in Part 3

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of this Article.

ARTICLE X. RETROACTIVE RETIREMENT
FOR DEFERRED/RECIPROCAL MEMBER

1. Definition: As used in this Article, the term "deferred/reciprocal member" shall have the same meaning as set forth in Section 1 of Article XI of these Bylaws and Regulations.

2. Retroactive Retirement. If a deferred/reciprocal member retires from a reciprocal system on a service retirement, and fails to apply to OCERS for concurrent retirement pursuant to Government Code Section 31835, and if such failure to apply is due to oversight or excusable neglect and not due to willful misconduct, the member may later apply to OCERS for, and be granted, a deferred retirement allowance with an effective date which is retroactive to the effective date of the member's service retirement from the reciprocal system. The member will then qualify for reciprocal benefits from OCERS pursuant to Sections 31835 and 31836 of the Government Code.

ARTICLE XI. COMPENSATION EARNABLE

1. Final compensation as defined by Government Code Section 31462 shall mean the three years of compensation preceding the member's termination unless the member elects a different period of time during which the member has earned three full years of credit.

2. Final compensation as defined by Government Code Section 31462.1 shall mean the one year of compensation preceding the member's termination unless the member elects a different period of time during which the member has earned one full year of credit.

3. Final compensation as defined by Government Code Section 31462.2, for part-time employees, or a member who has both part-time and full time service, shall mean the equivalent of three years of compensation [prior to termination] for the 6,280 hours of service rendered prior to termination, unless the member elects a different period of time during which the member has earned the equivalent of three years of service.

ARTICLE XII. ANNUITY CERTIFICATES

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1. Upon retirement, a member of the Retirement System shall be furnished with a letter signed by the Administrator, Assistant Administrator, or other person(s) designated by the Administrator, setting forth the member's name, address, date of retirement, the amount of contributions that were subject to taxes, and the amount of his/her allowance in lieu of an annuity certificate.

ARTICLE XIII. SUBPOENA

1. The Chairperson and Secretary of the Board are hereby authorized to issue and sign subpoenas for documents and/or attendance at [Board hearings on] disability retirement hearings/applications, upon request of the applicant or member, the applicant's or member's attorney, or designated retirement personnel.

2. The Board hereby delegates the subpoena power to each referee appointed to hear a disability retirement application.

3. Witnesses subpoenaed will be provided a witness fee plus reimbursement for necessary travel. The amount to be paid shall be established by Board policy.

ARTICLE XIV. APPEAL TO BOARD OF RETIREMENT

1. A member's application for disability retirement benefits, and any appeal from a denial of such benefits, shall be processed and heard in accordance with the procedures established for disability retirement adopted by this Board.

2. A member's request for any other right or benefit may be made to the Retirement Administrator. If denied by the Retirement Administrator, the member has the right to appeal the Administrator's decision to the Board.

3. An appeal must be filed at the retirement office in care of the Retirement Administrator.

4. The member's written request will be included in the next regular Board agenda in accordance with the date received.

ARTICLE XV. RE-EMPLOYMENT AFTER RETIREMENT

1. For purposes applying the provisions of Government Code

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Sections 31641.04 and 31680.6 to individuals who are re-employed after retirement, the County fiscal year will be used as the 12-month period for determining the maximum number of hours or days such individuals may be employed without a loss of retirement benefits. For persons re-employed by the County after retirement, the Human Resources Department will be responsible for notifying OCERS if such individual's work period exceeds the maximum allowed by Section 31641.04 or 31680.6. For persons re-employed by a district, the personnel manager of the district will have such responsibility.

2. For purposes of applying Government Code Sections 31725.5 and 31725.6 to individuals who are re-employed after having been found to be disabled, the member's status as a general or safety member in the position for which the member has been re-employed will be determined based on the duties of that position.

3. If a member who has been retired for service is re-employed his or her retirement allowance will be discontinued unless the member is re-employed as an extra help or temporary employee, and does not work more than the maximum number of days or hours allowed by statute.

ARTICLE XVI. WAIVER OF BENEFITS

A retired member may voluntarily waive a benefit adjustment increase. The waiver must be in writing. Such a waiver does not prohibit the member from accepting future pension increases granted by the Board of Retirement.

ARTICLE XVII. AMENDMENTS

1. These regulations may be amended from time to time by two-thirds (2/3) vote of the Retirement Board and are subject to Board of Supervisors' approval.

ARTICLE XVIII. REPEALS

1. All former regulations and amendments are hereby repealed. The foregoing regulations become effective when approved by the Board of Supervisors in accordance with Section 31525 of the Government Code.

2. Date Approved: April 10, 1995 by the Board of Retirement.