

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

**REGULAR MEETING  
Monday, December 18, 2017  
9:00 a.m. – Closed Session  
9:30 a.m. – Open Session**

**AGENDA**

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

The Board of Retirement encourages your participation. The public, plan members, beneficiaries, and/or representatives may speak to any subject matter contained in the agenda at the time the item is addressed. Persons wishing to address items on the agenda should provide written notice to the Secretary of the Board prior to the Board's discussion on the item by filling out the Public Comment Form located in the back of the room. Members of the public may also comment on any matter that is within the subject matter jurisdiction of the Board during the noticed Public Comment period. When addressing the Board, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

Pledge of Allegiance

**CLOSED SESSION**

**E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)  
(GOVERNMENT CODE SECTION 54956.9)**

Adjourn pursuant to Government Code section 54956.9(d)(2)

**Recommendation:** Take appropriate action.

**E-2 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED  
(GOVERNMENT CODE SECTION 54956.9(d)(1))**

Jeffrey Gross v. OCERS, et al., CA Superior Court, Orange County (Case No. 30-2017-00944959CU WT-CJC); US District Court, Central District of California (Case No. 8:17-cv-02020-JVS (DFMx))

**Recommendation:** Take appropriate action

**OPEN SESSION**

**Upon recess of the closed session or 9:30 a.m., whichever is later.**

**CONSENT AGENDA**

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

**BENEFITS**

**C-1 OPTION 4 RETIREMENT ELECTION**

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

(1) Spencer Muir

**ADMINISTRATION**

**C-2 BOARD MEETINGS AND COMMITTEE MEETINGS**

Regular Board Meeting Minutes  
Governance Committee Minutes

November 13, 2017  
November 29, 2017

**Recommendation:** Authorize meeting and approve minutes.

**C-3 GOVERNANCE COMMITTEE OUTCOMES FROM NOVEMBER 29, 2017 MEETING**

**Recommendation:**

The Governance Committee recommends that the Board of Retirement adopt revisions to the Reserves and Interest-Crediting Policy (formerly known as the Undistributed Earnings Policy) as approved by the Governance Committee.

**C-4 NAPO'S 30TH ANNUAL POLICE, FIRE, EMS, AND MUNICIPAL EMPLOYEES PENSION AND BENEFITS SEMINAR**

**Recommendation:** Approve Steve Delaney and Roger Hilton's attendance and related expenses including overnight accommodations for the Napo's 30th Annual Police, Fire, Ems, and Municipal Employees Pension and Benefits Seminar, January 28-30, 2018, at the Caesars Palace Hotel and Casino, in Las Vegas, Nevada.

**C-5 2018 ANNUAL OCERS BOARD WORKPLAN**

**Recommendation:** Adopt Annual Workplan for 2018.

**INFORMATION ITEMS**

The following matters are informational only and no action by the Board is necessary. However, as stated above, the Board may discuss and take action on any item included in the agenda.

**I-1 MEMBER MATERIALS DISTRIBUTED**

*Written report only*

Application Notices  
Death Notices

December 18, 2017  
December 18, 2017

**I-2 CEO FUTURE AGENDAS AND 2017 OCERS BOARD WORK PLAN**

*Written report only*

**I-3 QUIET PERIOD – NON-INVESTMENT CONTRACTS**

*Written report only*

**I-4 OCERS TRUSTEE EDUCATION SUMMARY REPORT**

*Written report only*

**I-5 EXPLANATION OF THE CALIFORNIA GIFT REPORTING RULES**

*Written report only*

**I-6 RVK PUBLIC FUND UNIVERSE ANALYSIS REPORT**

*Written report only*

**I-7 BOARD COMMUNICATIONS**

*Written report only*

**I-8 RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY – ISSUES UPDATE**

*Presentation by Linda Robinson and Doug Storm, Co-Presidents, REAOC*

**I-9 OPERATIONAL RISK MANAGEMENT PRESENTATION**

*Presentation by Brenda Shott, Assistant Chief Executive Officer of Internal Operations and Jim Doezie, Contracts Administrator.*

**ACTION ITEMS**

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

**A-2 ELECTION OF BOARD VICE-CHAIR**

*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

**Recommendation:** Elect a new OCERS Board Vice-Chair for calendar year 2018.

**A-3 GOVERNANCE COMMITTEE OUTCOMES REGARDING REFORM OF THE ADMINISTRATIVE HEARING PROCESS**

*Presentation by Gina M. Ratto, General Counsel, and Lee Fink, Deputy General Counsel*

**Recommendation:** The Governance Committee approved, and recommends that the Board of Retirement consider on a first reading, the following:

- (1) Creation of a Disability Committee;
- (2) The Disability Committee Charter;
- (3) The Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits to supersede and replace the existing Administrative Hearing Procedures Policy and OCERS Administrative Procedure on Appeals; and
- (4) Revisions to the Hearing Officer Selection Policy.

**A-4 OCERS' INTERNAL REVENUE CODE SECTION 415(M) AMENDED AND RESTATED REPLACEMENT BENEFIT PLAN**

*Presentation by Gina M. Ratto, General Counsel and Joe Fletcher, Counsel*

**Recommendation:** Adopt an Amended and Restated Replacement Benefit Plan for OCERS, as an employer, to further document and supplement existing policies and practices of OCERS as an employer and retirement system administrator governing the payment of retirement benefits to OCERS members that are otherwise capped by Internal Revenue Code section 415(b).

**A-5 2018 OCERS BOARD MEETING CALENDAR**

*Presentation by Steve Delaney, Chief Executive Officer*

**Recommendation:** Approve the 2018 OCERS Board and Investment Committee Meeting Calendars.

**A-6 ANNUAL CEO COMPENSATION REVIEW**

*Presentation by OCERS Board Chair, David Ball*

**Recommendation:** Take appropriate action.

**DISABILITY APPLICATIONS/MEMBER APPEALS AGENDA**

11:00 A.M.

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

\*\*\*\*\*

**DISABILITY CONSENT AGENDA**

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

**D-1: Amalia Netto**

Eligibility Technician, Orange County Social Services Agency

Date of employer filed application for service and non-service connected disability retirement:  
05/18/2015

Date of employee filed application for service and non-service connected disability retirement:  
05/20/2016

**Recommendation: Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate. (General Member)**

**D-2: Darrell Ennis**

**Recommendation: Dismiss the appeal for the member's failure to participate pursuant to Rule 23.**

**DISABILITY INDIVIDUAL AGENDA**

**D-3: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA**

**D-4: Keith Anderson**

Group Counselor II, Orange County Social Services Agency

Date of employer filed application for service connected disability retirement: 02/05/2016

Date of employee filed application for service connected disability retirement: 04/27/2016

**Recommendation: Grant service connected disability retirement with an effective date of January 7, 2016, the day following the last day of regular compensation as a Group Counselor II.**

Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65.

**Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective January 7, 2016, the date of the position change until the day Mr. Anderson wishes to retire from the new position. (General Member)**

**D-5: Kenneth Bonfadini**

Kennel Attendant I, Orange County Community Resources

Date of employee filed application for service and non-service connected disability retirement:  
11/01/2016

**Recommendation: Grant service connected disability retirement with an effective date of November 1, 2016. (General Member)**

**D-6: Deon Carrico**

Source Control Inspector II, Orange County Sanitation District

Date of employee filed application for service connected disability retirement: 01/13/2016

**Recommendation: Grant service connected disability retirement with an effective date of January 13, 2016. (General Member)**

**D-7: Tawiana Davis**

Coach Operator, Orange County Transportation Authority

Date of employee filed application for service connected disability retirement: 03/29/2017

**Recommendation: Grant service connected disability with an effective date of December 14, 2014. (General Member)**

**D-8: Shila Lee**

Section Supervisor IV, Orange County Transportation Authority

Date of employee filed application for non-service connected disability retirement: 09/12/2016

Date of employer filed application for non-service connected disability retirement:  
04/08/2016

**Recommendation Grant non-service connected disability retirement with an effective date of April 8, 2016. (General Member)**

**D-9: Victor Nguyen**

Dental Officer, Orange County Health Care Agency

Date of employee filed application for non-service connected disability retirement: 10/23/2017

**Recommendation Grant non-service connected disability retirement with an effective date of the day after the last date of regular compensation. (General Member)**

**D-10: Perla Peralta**

Mental Health Specialist, Orange County Health Care Agency

Date of employee filed application for service connected disability retirement: 09/19/2016

**Recommendation Grant service connected disability retirement with an effective date of September 19, 2016. (General Member)**

**D-11: Lisa Samsel-Weitze**

Deputy Sheriff II, Orange County Sheriff's Department

Date of employer filed application for service and non-service connected disability retirement:  
04/05/2016

Date of employee filed application for service and non-service connected disability retirement:  
06/06/2017

**Recommendation Grant service connected disability retirement with an effective date of the day after the last date of regular compensation. (Safety Member)**

**D-12: Janet Tott**

Park Ranger II, Orange County Community Resources

Date of employee filed application for service connected disability retirement: 01/24/2017

**Recommendation Grant service connected disability retirement with an effective date of March 3, 2017. (General Member)**

**D-13: Walter Rios**

Maintenance Worker, Orange County Sanitation District

Date of employer filed application for service and non-service connected disability retirement:  
05/11/2016

Date of employee filed application for service and non-service connected disability retirement:  
06/20/2016

**Recommendation Deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity. (General Member)**

**D-14: Paula Snyder**

Office Services Specialist, Orange County Fire Authority

Date of employee filed application for service connected disability retirement: 10/26/2016

**Recommendation Deny service connected disability retirement due to insufficient evidence of permanent incapacity. (General Member)**

**D-15: Rod Couey**

**Recommendation: Adopt the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Recommended Decision of July 7, 2017 ("Findings") with the exception of Proposed Conclusion of Law Number 3 and the legal argument supporting that conclusion; Adopt as an alternative Conclusion of Law that "For purposes of Government Code section 31724, 'regular compensation' does include payments resulting from other employees' voluntary donations of catastrophic leave time" and adopt the legal argument in this memorandum as support; Fix as November 1, 2013 the effective date for Applicant's disability benefits.**

**D-16: Dana Ohanesian**

**Recommendation: Affirm staff's determination to deny Mr. Ohanesian's request to have his 4.4730 years of Plan B (1.667% @ 57.5) while at the Orange County Vector Control District (OCVCD) upgraded to Plan J (2.7% @ 55).**

\*\*\*\*\*

**PUBLIC COMMENTS:** At this time members of the public may address the Board of Retirement regarding any items within the subject matter jurisdiction of the Board, provided that no action may be taken on non-agendized items unless authorized by law.

**BOARD MEMBER COMMENTS**

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

\*\*\*\*\*

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

**NOTICE OF NEXT MEETINGS**

**REGULAR BOARD MEETING  
January 16, 2018 (tentative)  
9:00 A.M.**

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

**INVESTMENT COMMITTEE MEETING  
January 25, 2018 (tentative)  
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](mailto:adminsupport@ocers.org) or call 714-558-6200 as soon as possible prior to the meeting to tell us about your needs and to determine if accommodation is feasible. We would appreciate at least 48 hours' notice, if possible. Please also advise us if you plan to attend meetings on a regular basis.



C-1

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT: OPTION 4 RETIREMENT ELECTION – SPENCER MUIR**

---

### Recommendation

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

### Background/Discussion

This member has requested Option 4 as the benefit payment option for his service retirement allowance effective October 27, 2017. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the Domestic Relations Order (DRO), the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

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

### Submitted by:



S. J. – APPROVED

Suzanne Jenike  
Assistant CEO, External Operations



100 Montgomery Street Suite 500 San Francisco, CA 94104-4308  
T 415.263.8200 www.segalco.com

DIRECT DIAL NUMBER  
415-263-8254

E-MAIL ADDRESS  
mcalcagno@segalco.com

PERSONAL & CONFIDENTIAL

VIA EMAIL & USPS

December 6, 2017

Ms. Adina Bercaru  
Member Services Manager  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System  
Option 4 Calculation for Spencer Muir**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Spencer Muir and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated December 4, 2017.

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

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	October 27, 2017
Plan of Membership	General Plan B & Safety Plan F
Monthly Unmodified Benefit:	
	Plan B: \$6.38
	Plan F: <u>7,838.94</u>
	Total: \$7,845.32
Ex-Spouse's Share of Monthly Unmodified Benefit	27.69%
Retirement Type	Service Retirement

**Option 4 Benefit**

<b>The ex-spouse bears the cost of Option 4 reduction for the DRO benefit</b>	<u>Payable while the Member is Alive</u>	<u>Payable After the Member's Death while the Ex-Spouse is Alive</u>
Monthly Benefit Payable to Member		
Plan B Annuity:	\$1.56	
Plan B Pension:	3.05	
Plan F Annuity:	910.98	
Plan F Pension:	<u>4,757.36</u>	
Total:	\$5,672.95	\$0
Monthly Benefit Payable to Ex-Spouse (or to the estate of the ex-spouse if the ex-spouse pre-deceases the member)	\$1,994.71*	\$1,994.71

\* This is equal to 27.69% of the member's unmodified benefit (i.e., 27.69% \* \$7,845.32 or \$2,172.37) adjusted further to provide a benefit payable over the ex-spouse's lifetime.

**ACTUARIAL ASSUMPTIONS<sup>1</sup>**

Effective interest rate of 4.126214% per year, which is calculated using an investment return assumption of 7.25% per year together with a cost-of-living adjustment assumption of 3.00% per year.

RP-2000 Combined Healthy Mortality Table projected with Scale BB to 2020 set back two years weighted 80% male and 20% female for members.

RP-2000 Combined Healthy Mortality Table projected with Scale BB to 2020 weighted 20% male and 80% female for beneficiaries.

The actuarial calculations contained in this letter were performed under my supervision. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions herein.

<sup>1</sup> Since the member last worked as a Safety member, we used Safety assumptions in determining optional benefits even for benefits paid from General Plan.

Ms. Adina Bercaru  
December 6, 2017  
Page 3

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

Sincerely,

A handwritten signature in cursive script that reads "Molly Calcagno".

Molly Calcagno, ASA, MAAA  
Assistant Actuary

AW/hy

**OCERS Retirement Benefit Payment Option Election**

**Please verify the information below, check the box, then sign and date.**

I, Spencer Muir, understand that my retirement option is irrevocable; by choosing Option 4, I will take a monthly reduction in order to provide 27.69% continuance to Tiffany Ann Muir.

*Spencer Muir*

Member Signature

*12-8-17*

Date

RECEIVED

DEC 08 2017

Orange County Employees  
Retirement System

C-2

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

**REGULAR MEETING  
Monday, November 13, 2017  
9:00 a.m.**

**MINUTES**

Vice Chair Prevatt called the meeting to order at 9:02 a.m.

Attendance was as follows:

Present: Chris Prevatt, Vice Chair; Eric Gilbert, Chuck Packard, Russell Baldwin, Wayne Lindholm, Shawn Dewane, Roger Hilton; Frank Eley and Shari Freidenrich

Also Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Finance and Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investment Officer; Jenny Sadoski, Director of Information Technology; Gina Ratto, General Counsel; Lee Fink, Deputy General Counsel; Anthony Beltran, Visual Technician; Megan Cortez; Disability Coordinator; Cammy Danciu, Recording Secretary.

Guests: Harvey Leiderman and Andy Yeung

Absent: David Ball, Chair

*Mr. Dewane led the Pledge of Allegiance.*

**ACTION CONSENT AGENDA**

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

Items C-3 and C-6 were pulled for discussion.

Following discussion, a **motion** was made by Mr. Dewane **seconded** by Mr. Eley to move the remainder of the action consent agenda.

Motion passed unanimously.

<b>BENEFITS</b>
-----------------

**C-1 OPTION 4 RETIREMENT ELECTION**



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

- (1) Darren Sandberg
- (2) Andrew Ferguson

<b>ADMINISTRATION</b>
-----------------------

**C-2 BOARD MEETINGS AND COMMITTEE MEETINGS**

Regular Board Meeting Minutes	October 16, 2017
Audit Committee Meeting Minutes	October 16, 2017
Governance Committee Minutes	October 24, 2017

**Recommendation:** Authorize meeting and approve minutes.

**C-3 GOVERNANCE COMMITTEE OUTCOMES FROM OCTOBER 24, 2017 MEETING**

**Recommendation:**

The Governance Committee recommends that the Board of Retirement adopt:

- (1) Revisions to the Securities Litigation Policy as approved by the Committee;
- (2) Revisions to the Investment Committee Charter as approved by the Committee; and
- (3) Revisions to the OCERS Rules of Parliamentary Procedure as approved by the Committee; and
- (4) Revisions to the Actuarial Valuation Policy.

**C-4 PROPOSED SACRS BY-LAWS AMENDMENT AND DIRECTION TO VOTING DELEGATE**

**Recommendation:** Direct the SACRS voting delegate and alternate delegates to vote "yes" on the proposed amendments to the SACRS By-Laws, which will be presented to the SACRS membership for a vote at the SACRS business meeting on November 17, 2017.

**INFORMATION CONSENT AGENDA**

The following matters are informational only and no action by the Board is necessary.

**C-5 MATERIAL DISTRIBUTED**

Application Notices	November 13, 2017
Death Notices	November 13, 2017

**C-6 WORKFORCE ANALYSIS OBSERVATIONS BY MANAGEMENT PARTNERS**

**C-7 CEO FUTURE AGENDAS AND 2017 OCERS BOARD WORK PLAN**

- C-8 QUIET PERIOD – NON-INVESTMENT CONTRACTS
- C-9 THIRD QUARTER 2016 BUDGET TO ACTUALS REPORT
- C-10 THIRD QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2017
- C-11 THIRD QUARTER BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN UPDATE
- C-12 BOARD COMMUNICATIONS

\*\*\*\*\* END OF CONSENT AGENDAS \*\*\*\*\*

### INDIVIDUAL ITEMS AGENDA

#### ACTION ITEMS

#### I-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDAS

C-3

Ms. Freidenrich asked staff for clarification on the protocols for voting when an appointed Board member is absent. Ms. Ratto explained that under the statute, the alternate seventh member votes in place of any elected Board member who is absent; however, the statute does not provide for anyone to vote in place of an absent appointed member.

Ms. Ratto explained that the proposed changes to the OCERS Rules of Parliamentary Procedure, approved by the Governance Committee, will express OCERS' interpretation of Government Code section 31520.1 as follows: when an elected Board member is absent, the alternate seventh member will vote in place of the absent/vacant board member, and the seventh member will vote as the safety member, even on retirement applications of OCERS members who are of the same service as the alternate seventh member. This interpretation best preserves the Legislature's intent to create a balance on the retirement board of elected and appointed members (four each) voting on OCERS member determinations, and results in voting by all board members present at the meeting. It also represents an interpretation of the statute that is shared by half of the CERL systems that have alternate seventh board members.

The Governance Committee approved, and recommended that the Board approve the proposed changes to the OCERS Rules of Parliamentary Procedure.

Following discussion, a **motion** was made by Ms. Freidenrich **seconded** by Mr. Eley to approve the Governance Committee recommendation.

Motion passed **unanimously**.

C-6

Ms. Freidenrich asked for clarification for the new agenda format for item C-6.

Ms. Ratto discussed the new format of the agenda.

Mr. Leiderman suggested changing the label from “information consent agenda” to “information items.”

Mr. Dewane suggested taking this item and new agenda format back to the Governance Committee meeting and address the concern of the Treasurer.

Vice Chair Prevatt directed staff to review the new agenda format at the Governance Meeting and to bring it back to the Regular Board Meeting at a later time.

Item C-6 was left as a pulled item.

**I-2 OCERS’ ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2018**

*Presentation by Brenda Shott, Assistant Chief Executive Officer of Internal Operations, and Tracy Bowman, Director of Finance*

**Recommendation:**

**1. Fiscal Year 2018 Staffing Plan**

Approve the 2018 Staffing Plan of 92 authorized positions, included as Appendix C of the 2018 Administrative Budget, which includes the addition of 12 positions (one of which is Extra Help) and new salary ranges for three new OCERS Direct positions as listed in Section III, page 7 of the 2018 Administrative Budget.

**2. Approve Compensation Philosophy Related Items**

- a. Performance/Salary Adjustments for OCERS’ direct employees based on a rating scale of 3% for meets expectations, up to 5% for exceeds expectations, and up to 6% for exceptional performance;
- b. Pay item of 5.5% of salary for CFA, CPA, and future Board approved professional certifications.

**3. Adopt the Administrative Budget for Fiscal Year 2018 in the amount of \$25,508,054 which includes:**

- a. Personnel costs in the amount of \$13,925,194
- b. Services and supplies in the amount of \$10,487,860
- c. Capital expenditures in the amount of \$1,095,000

Brenda Shott and Tracy Bowman presented the OCERS’ Administrative Budget for Fiscal Year 2018.

Ms. Freidenrich stated that it’s difficult managing a budget where every year the budget vs actuals trend is so far off. She would like to see the Board approve a proposed budget that would more accurately represent past year “actuals”.

Mr. Eley stated that he too would like for the budget to be closer in numbers to the actual budget. He thinks we’re on the right track with this budget.

Mr. Baldwin stated that he sees the budget as a moving target and that you will never get to the exact number.

Mr. Packard stated that OCERS should be looking at major changes made to the budget for next year not minor changes, as the budget has been vetted in detail at the budget workshop on October 16, 2017.

**Mr. Hilton stepped out at 10:03a.m.**

**Mr. Hilton returned at 10:05a.m.**

**Vice Chair Prevatt stepped out at 10:07a.m.**

**Vice Chair Prevatt returned at 10:09a.m.**

**Mr. Gilbert stepped out at 10:11a.m.**

**Mr. Gilbert returned at 10:13a.m.**

**Mr. Lindholm stepped out at 10:16a.m.**

**Mr. Lindholm returned at 10:18a.m.**

Mr. Dewane asked Mr. Delaney if he 100% agrees with the three staff recommendations brought to the Board.

Mr. Delaney stated yes, he agrees 100% with the three recommendations brought to the Board by staff.

Following discussion, a **motion** was made by Mr. Dewane **seconded** by Mr. Packard to approve all three recommendations.

Mr. Prevatt stated that the Board will vote separately for each recommendation.

*Recommendation #1:*

Motion passed **unanimously**.

Mr. Hilton asked Mr. Delaney to report back on how many people will receive a 3%, 5%, or 6% increase without names added to the positions.

*Recommendation #2:*

Part A – Motion passed **unanimously**.

Part B – Motion passed **7-1** with Ms. Freidenrich voting “No”.

*Recommendation #3:*

Motion passed **unanimously**.

***The Board recessed for break at 10:53 a.m.***

***The Board reconvened from break at 11:05 a.m.***

**I-3 2018 OCERS BOARD MEETING CALENDAR**  
*Presentation by Steve Delaney, Chief Executive Officer*

**Recommendation:** Approve the 2018 OCERS Board Meeting Calendar as well 2018 Calendar for the Investment Committee.

Mr. Dewane asked if this matter can be sent back to staff to poll individual Board members offline and determine the most efficient 2018 Board meeting calendar.

The board concurred and no was taken for this item.

***The Board recessed for lunch 12:01 p.m.***

***The Board reconvened from lunch 12:45 p.m.***

### **INFORMATION ITEMS**

The following matters are informational only and no action by the Board is necessary.

**I-4 CYPRESS PARKS AND RECREATION DISTRICT – OCERS UAAL**

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

Mr. Packard arrived at 12:48 p.m.

Ms. Shott presented the Cypress Parks and Recreation District – OCERS UAAL and discussed the parameters of a funding agreement that will meet the needs and responsibilities of OCERS. Once a mutually agreeable funding agreement has been drafted it will be brought forward to the Board for approval.

**I-5 PEPRA OVERVIEW**

*Presentation by Suzanne Jenike, Assistant Chief Executive Officer of External Operations and Andy Yeung, Segal Consulting*

Ms. Jenike and Mr. Yeung presented an overview of what PEPRA does, distinguished from the Legacy plans, and current status of hires and costs.

Mr. Eley asked if under PEPRA a retiree working as a contractor would be subject to the same limitation of hours as retiree working extra help or limited term.

Mr. Leiderman stated that PEPRA addressed the contractor question and set the same limitation to the allowed number of hours worked by a retiree.

**I-6 DISCUSSION OF NEW 2017 MORTALITY PROJECTION SCALE AND IMPACT TO ACTUARIAL ASSUMPTIONS ADOPTED BY THE BOARD AT ITS OCTOBER MEETING**

*Presentation by Andy Yeung, Segal Consulting*

Mr. Yeung presented the discussion of New 2017 Mortality Projection Scale and Impact to Actuarial Assumptions Adopted by the Board at its October Meeting and discussed the MP-2017 and its potential impact on the actuarial assumptions adopted by the Board in October.

Mr. Hilton stated that he requested this item and he would like this item to come back to the Board for further discussion at a future date.

Mr. Packard asked for clarification if the Board is re-looking at all the assumptions or only the mortality impact portion.

Mr. Delaney stated that in this focused presentation; Mr. Yeung is specifically discussing the mortality assumptions.

Mr. Packard stated that if the OCERS Board will revisit this item, then all the assumptions and not just the mortality part should be re-looked at.

Mr. Dewane stated that the Board has already deliberated this item and made its decision and it should not be brought back to the Board for re-deliberation.

Mr. Hilton stated that the outcome of these discussions could lower employee and employer contribution rates and the Board has a duty to its taxpayers to discuss this item again.

Mr. Yeung stated that his observation is that Segal presents their items with the information they have at the time and he stated that the MP-2016 scales were the ones available when the item was presented last month to the Board.

Mr. Prevatt stated that even though the new MP-2017 scales table came out four days after the Board made the decision, the process started back in July of 2017 and the most up to date information then available was presented back then and was brought to the Board.

Mr. Lindholm did not agree to reopen this discussion at the next Board meeting.

Mr. Eley stated that we owe it to the employees and retirees to look at the MP-2017 scales.

Mr. Dewane stated that once you open this item again, every person will have a different opinion.

Mr. Hilton wants the minutes to state that this would be an estimated savings to the planned sponsors.

Mr. Prevatt stated that the Board took an extraordinary amount of time working through this process and we need to respect the process. He also said in conversations with Chair Ball that Mr. Ball was not in favor of placing this item on a future agenda.

Following discussion, a **motion** was made by Mr. Hilton **seconded** by Mr. Eley to have Segal report back to the Board on the new assumptions using the new MP-2017 scales.

Motion fails **6-2** with Mr. Hilton and Mr. Eley voting "Yes".

***The Board recessed for break at 1:52 p.m.***

***The Board reconvened from break at 1:57 p.m.***

***Board adjourned to closed session at 1:57 p.m.***

***Mr. Lindholm recused himself from closed session at 1:57 p.m.***

***Mr. Lindholm joined closed session at 2:03p.m.***

***Board reconvened from closed session: 2:30p.m.***

\*\*\*\*\* END OF INDIVIDUAL ITEMS AGENDA \*\*\*\*\*

**DISABILITY APPLICATIONS/MEMBER APPEALS AGENDA**

11:00 A.M.

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

\*\*\*\*\*

**DISABILITY CONSENT AGENDA**

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

Megan Cortez, Disability Coordinator, presented the Disability Consent Agenda.

**D-1: Elizabeth Ortiz**

Office Technician, Orange County Social Services Agency

Date of employer filed application for service and non-service connected disability retirement:  
05/12/2017

**Recommendation: Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate. (General Member)**

A **motion** was made by Mr. Dewane, **seconded** by Mr. Baldwin to approve the Disability Consent Agenda. The motion carried unanimously.

**DISABILITY INDIVIDUAL AGENDA**

**D-2: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA**

Megan Cortez, Disability Coordinator, presented item D-3.

**D-3: Herman Carter**

Equipment Parts Clerk, Orange County Transportation Authority  
Date of employee filed application for non-service connected disability retirement: 09/08/2015

**Recommendation: Grant service connected disability retirement with an effective date of September 8, 2015. (General Member)**

Mr. Hilton asked if Mr. Herman can later file a non-service connected disability.

Ms. Cortez said yes, he can.

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Baldwin to grant service connected disability retirement with an effective date of September 8, 2015. The motion carried **8-0** with voting as follows:

**AYES**

Mr. Baldwin  
Mr. Packard  
Mr. Prevatt  
Mr. Hilton  
Ms. Freidenrich  
Mr. Dewane  
Mr. Eley  
Mr. Lindholm

**NAYS**

**ABSTAIN**

**ABSENT**

Chair Ball

Megan Cortez, Disability Coordinator, presented item D-4.

**D-4: Matthew Cetera**

Senior Mechanic, Orange County Sanitation District

Date of employer filed application for service and non-service connected disability retirement:  
03/23/2016

Date of employee filed application for service and non-service connected disability retirement:  
05/12/2016

**Recommendation: Grant service connected disability retirement with an effective date of January 10, 2011, the day following the last day of regular compensation as a Senior Mechanic. Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65. Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective January 10, 2011, the date of the position change until the last day of compensation, November 27, 2014. (General Member)**

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Eley to grant service connected disability retirement with an effective date of January 10, 2011, the day following the last day of regular compensation as a Senior Mechanic. Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65. Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective January 10, 2011, the date of the position change until the last day of compensation, November 27, 2014. The motion carried **8-0** with voting as follows:



**AYES**

**NAYS**

**ABSTAIN**

**ABSENT**

Mr. Baldwin  
Mr. Packard  
Mr. Prevatt  
Mr. Hilton  
Ms. Freidenrich  
Mr. Dewane  
Mr. Eley  
Mr. Lindholm

Chair Ball

Megan Cortez, Disability Coordinator, presented item D-5.

**D-5: Shaleen McDonald**

Sheriff's Special Officer II, Orange County Sheriff's Department

Date of employer filed application for service and non-service connected disability retirement:

10/28/2016

Date of employee filed application for service and non-service connected disability retirement:

11/29/2016

**Recommendation: Grant service connected disability retirement with an effective date of the day after the last day of regular compensation. (General Member)**

Following discussion, a **motion** was made by Mr. Hilton, **seconded** by Mr. Dewane to grant service connected disability retirement with an effective date of the day after the last day of regular compensation. The motion carried **8-0** with voting as follows:

**AYES**

**NAYS**

**ABSTAIN**

**ABSENT**

Mr. Baldwin  
Mr. Packard  
Mr. Prevatt  
Mr. Hilton  
Ms. Freidenrich  
Mr. Dewane  
Mr. Eley  
Mr. Lindholm

Chair Ball

Megan Cortez, Disability Coordinator, presented item D-6.

**D-6: Justina Soriano**

Coach Operator, Orange County Transportation Authority

Date of employer filed application for service and non-service connected disability retirement:

08/15/2016

Date of employee filed application for service connected disability retirement: 09/28/2016

**Recommendation: Grant service connected disability with an effective date of August 22, 2016. (General Member)**

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Eley to grant service connected disability retirement with an effective date of August 22, 2016. The motion carried **8-0** with voting as follows:

**AYES**

Mr. Baldwin  
Mr. Packard  
Mr. Prevatt  
Mr. Hilton  
Ms. Freidenrich  
Mr. Dewane  
Mr. Eley  
Mr. Lindholm

**NAYS**

**ABSTAIN**

**ABSENT**

Chair Ball

Megan Cortez, Disability Coordinator, presented item D-7.

**D-7: Jacki Livingston**

Eligibility Technician, Orange County Social Services Agency

Date of employee filed application for service and non-service connected disability retirement:  
10/28/2015

**Recommendation: Deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity. (General Member)**

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Packard to deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity.

Ms. Livingston stated that the County of Orange blackballed her and she can no longer work due to exhaustion, fear, emotional trauma that has occurred.

Ms. Cortez explained the physician's statement and outcomes provided in the material presented to the Board.

Mr. Baldwin wanted to verify that there were multiple times Ms. Livingston failed to do what the OCERS staff asked her to do regarding doctor's visits. He also stated that this member requires and deserves more time and attention.

Following discussion, a substitute **motion** was made by Mr. Baldwin, **seconded** by Mr. Packard to send this item back to staff for further evaluation and to gather additional records that are not referred to in the medical evaluation.

The motion carried **7-1** with voting as follows:

**AYES**

Mr. Baldwin  
Mr. Packard  
Mr. Prevatt  
Mr. Hilton  
Ms. Freidenrich  
Mr. Eley  
Mr. Lindholm

**NAYS**

Mr. Dewane

**ABSTAIN**

**ABSENT**

Chair Ball

Megan Cortez, Disability Coordinator, presented item D-8.

**D-8: Dana Ohanesian**

**Recommendation: Affirm staff's determination to deny Mr. Ohanesian's request to have his 4.4730 years of Plan B (1.667% @ 57.5) while at the Orange County Vector Control District (OCVCD) upgraded to Plan J (2.7% @ 55).**

Item D-8 was removed from the agenda. The Board unanimously agreed for OCERS staff to communicate with the member and return this item back to the Board at a later date.

**PUBLIC COMMENTS:** At this time members of the public may address the Board of Retirement regarding any items within the subject matter jurisdiction of the Board, provided that no action may be taken on non-agendized items unless authorized by law.

N/A

**BOARD MEMBER COMMENTS**

N/A

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

Mr. Delaney updated the Board that four out of the five OCERS positions were filled.

Ms. Shott stated that OCERS has been contacted by the OC Commission on Children and Families and their Board has approved to pay off their UAAL of approximately \$1.6 million this month.

**COUNSEL COMMENTS**

N/A

\*\*\*\*\*

**CLOSED SESSION ITEMS**

**E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED  
(GOVERNMENT CODE SECTION 54956.9(d)(1)) O.C. Department of Education v. OCERS, CA  
Superior Court, Orange County, (Case No. 30-2016-00836897)  
Adjourn pursuant to Government Code Section 54956.9(d)(1).**

**Recommendation: Take appropriate action.  
No reportable action taken.**

**E-2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GOVERNMENT CODE §54957(b))**  
**Title: Chief Executive Officer**

The Board reported that they are extremely satisfied with the performance of OCERS CEO Steve Delaney.

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

**Active Members**

N/A

**Retired Members**

Amorim, Salete  
Arnold, Paul  
Baker, Margaret  
Carro, Abel  
Conwell, Douglas  
Daniel, Ruth  
Delgado, Manuel  
Fife, William  
Gaggioli, Fred  
Garcia, Joan  
Gorospe, Ignacio  
La Mond, Stephen  
Mack, Clarence  
Moore, Marian  
PAGE, EARL  
Roberts, Germaine  
Shumate, Mary  
Stenson, Reo  
Stettler, Robert  
Stone, Allen  
Tate, Nancy  
Varela, Cristella  
Vining, William

**Surviving Spouses**

Davis, Germaine  
Diedrich, Inez  
Dowrey, Irene  
Talmage, Frances  
Winchester, Eileen

There being no further business to bring before the Board, the meeting adjourned at 2:34 p.m.

Submitted by:

Approved by:

---

Steve Delaney  
Secretary to the Board

---

David Ball  
Chairman

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

**GOVERNANCE COMMITTEE MEETING  
November 29, 2017  
1:00 p.m.**

**MINUTES**

The Chair called the meeting to order at 1:20 p.m. Attendance was as follows:

Present: Roger Hilton, Chair; Shawn Dewane, Vice Chair; David Ball; Chris Prevatt

Staff: Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Lee Fink, Deputy General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operation; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician

**PUBLIC COMMENTS:**

Manohar "Mark" Sukumar, Lead Staff Attorney at the Public Law Center, presented a summary of his client's case to the Committee. Mr. Sukumar provided the Committee with hardcopies of his client's appeal to disability benefits for review at a later time.

**A. PROPOSED REVISIONS TO THE ADJUDICATION POLICY AND ADMINISTRATIVE HEARING RULES (DISABILITY AND NON-DISABILITY BENEFITS)**

*Presented by Gina M. Ratto, General Counsel and Lee K. Fink, Deputy General Counsel*

**Recommendation:** Approve, and recommend that the Board of Retirement approve, the Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits, which will superseded the existing Administrative Hearing Procedure Policy and OCERS Administrative Procedure (OAP) on Appeals.

Ms. Ratto presented the Committee with proposed revisions to the Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Retirement Benefits). At the September 5, 2017 Governance Committee Meeting, staff presented recommendations to reform the OCERS Administrative Hearing Procedures and the Adjudication Process for both Disability and Non-Disability benefits. At the October 24, 2017 Governance Committee Meeting, staff reviewed and presented changes to the previous proposal based on the Committee's direction and additional staff research. The Committee then directed that a number of components of the adjudication process be brought back for further review, including:

- Board options for disability applications recommended for approval by the Disability Committee;
- Standards for OCERS to offer applicants an Expedited Administrative Review; and
- Additional information regarding the process for staff review/appeals of the non-disability benefit applications.

Ms. Ratto addressed each of these items in staff's revised proposal:

- In the event that the Disability Committee had recommended approval, the Board would not disapprove an application, but could adopt the Committee recommendation or refer it to a Hearing Officer;
- Standards for Expedited Administrative Review were included in the revised Adjudication Policy and Hearing Rules and would be based on whether there was a factual dispute and on the timing needs of the member;
- For non-disability benefits, a member who disagreed with an OCERS staff decision could request a written review by the CEO or his/her designee. Typically, that designee would be the Director of Member Services, but consistent with current practice, if there is a broader issue or legal concern, she would confer with the Legal Department, Ms. Jenike, and Mr. Delaney as needed.

Mr. Delaney expressed that it might be useful to present these recommendations to stakeholders once there was initial Board feedback. The Committee therefore directed that this item should be brought before the full Board at the December 18<sup>th</sup> Regular Board Meeting. The Board will thoroughly review this item on a “first read” and finalize the item in 2018.

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Ball, to approve and recommend that the Board of Retirement approve the proposed revisions to the Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits).

Ms. Ratto also presented that there were changes to the Draft Disability Committee Charter that included the Committee’s ability to go into closed session, and asked that the Committee recommend the Board approve the Disability Committee Charter with these changes as part of the process reforms.

A **motion** was made by Mr. Dewane, **seconded** by Mr. Ball, to approve and recommend that the Board of Retirement approve the revised Disability Committee Charter.

**B. REGULAR REVIEW OF POLICIES – RESERVES AND INTEREST-CREDITING POLICY (FORMERLY KNOWN AS THE UNDISTRIBUTED EARNINGS POLICY)**

*Presented by Brenda Shott, Assistant CEO, Internal Operations*

**Recommendation:** Approve, and recommend that the Board of Retirement approve, the proposed revisions to the Reserves and Interest-Crediting Policy (formerly known as the Undistributed Earnings Policy).

Brenda Shott presented the proposed revisions to the Reserves and Interest-Crediting Policy which includes significant changes that include a description of the existing reserve structure created and maintained by OCERS and flow charts to illustrate both the distribution of available earnings and interest-crediting to the reserve accounts, and the allocation of undistributed earnings and available earnings.

During discussion, Ms. Shott ensured the Committee that this policy change will not have any cost impacts and was revised for the purposes of improving documentation of what is already in place. The Committee agreed to review the purpose and use of each of the reserves in detail at a future Board Meeting.

Governance Committee Meeting  
November 29, 2017

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Prevatt, to approve and recommend that the Board of Retirement approve the proposed revisions to the Reserves and Interests-Crediting Policy, including the change in the title of the policy.

The meeting adjourned at 2:00pm.

**COMMITTEE MEMBER COMMENTS**

None.

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS:**

None.

**COUNSEL COMMENTS:**

None.

**Submitted by:**

**Approved by:**

---

Steve Delaney  
Secretary to the Board

---

Roger Hilton, Chair



C-3

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT: GOVERNANCE COMMITTEE OUTCOMES FROM NOVEMBER 29, 2017 MEETING**

---

### Recommendation

The Governance Committee recommends that the Board of Retirement adopt revisions to the Reserves and Interest-Crediting Policy (formerly known as the Undistributed Earnings Policy) as approved by the Governance Committee.

### Background/Discussion

In November 2009, the Board adopted the Undistributed Earnings Policy to document how to apply available undistributed earnings (based on the actuarial value of assets) to OCERS' reserves. This policy was last reviewed on January 21, 2014.

During staff's recent review of the Undistributed Earnings Policy, staff noted that the policy did not include documentation of OCERS' reserve structure. On November 29, 2017, staff proposed, and the Governance Committee approved, significant revisions to the policy to include a description of the existing reserve structure created and maintained by OCERS and flow charts to illustrate both the distribution of available earnings and interest-crediting to the reserve accounts, and the allocation of undistributed earnings and available earnings.

The attached Reserves and Interest-Crediting Policy was approved by the Governance Committee and if approved by the Board will replace the former Undistributed Earnings Policy. The policy was not redlined due to the significant amount of changes that were added; however, a copy of the Undistributed Earnings Policy is included for your ease in reference.

### Attachments:

- (1) Reserves and Interest-Crediting Policy
- (2) Undistributed Earnings Policy
- (3) Attachment – Government Codes Referenced in Reserves and Interest-Crediting Policy

### Submitted by:



Gina M. Ratto  
General Counsel

## Purpose and Background

1. The purpose of this policy is to document the existing reserve structure created and maintained by OCERS and the distribution of available earnings and interest-crediting to the reserve accounts consistent with Government Code §§31592 and 31592.2.

## Policy Objectives

2. The objectives of this policy are to:
  - a. Identify all the reserves maintained by OCERS, and how funds are distributed to and from the relevant reserve.
  - b. In the event of excess earnings in any fiscal year, provide guidance to OCERS' staff to ensure appropriate application of excess earnings (Undistributed Earnings) to reserve accounts.

## Definitions

The System's reserves are book-keeping accounts and do not represent an actual separation of funds; the sum of all reserves equals the net position restricted for pension and other post-employment benefits and fall into these categories: Valuation, Non-Valuation and Health Care.

3. **Valuation Reserves** consist of the reserves used by the actuary in calculating the valuation value of assets, including the Employer Contribution Reserve, Employee Contribution Reserve, Pension Reserve, , Annuity Reserve, UAAL Contribution Reserve, STAR COLA Reserve, ERI Contribution Reserve, Contra Account and the Contingency Reserve. The total of the Valuation Reserves equals the market value of the system's assets used by the actuary in determining current funding levels.
  - a. **Employer Contribution Reserve**—represents the cumulative employer contributions for active and deferred members plus interest for future retirement benefits. Additions include employer contributions for active members, and interest credited semi-annually. Deductions include transfers to the Pension Reserve to fund retirement benefits, disability benefits and death benefits.
  - b. **Employee Contribution Reserve**—represents the cumulative employee contributions for active and deferred members plus interest for future retirement benefits. Additions include member contributions and interest credited semi-annually. Deductions include member refunds and transfer of funds to the Annuity Reserve for retirement benefits of newly retired members.
  - c. **Pension Reserve**—represents funding set aside from employer contributions for retirement and disability benefit payments. Additions include transfers from the Employer Contribution Reserve as current active members retire and interest credited. Deductions include benefit payments to retired and disabled members, and their beneficiaries.
  - d. **Annuity Reserve**—represents funding set aside from employee contributions for retirement and disability benefit payments. Additions include transfers from the Employee Contribution Reserve as current active members retire and interest credited. Deductions include benefit payments to retired and disabled members, and their beneficiaries.

## OCERS Board Policy Reserves and Interest-Crediting Policy

---

- e. **UAAL Contribution Reserve**—represents the cumulative additional employer contributions made for their unfunded actuarial accrued liability in excess of the required contribution. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include employer contributions to their UAAL, and interest credited semi-annually.
  - f. **STAR COLA Reserve (Supplemental Targeted Adjustment for Retirees Cost-of-living Adjustment)**—represents employer contributions for retirees whose retirement benefit has lost more than 20 percent of its purchasing power since retirement. Additions to this reserve include bi-weekly contributions from the employer. Deductions include monthly benefit payments made to eligible retired members and transfers to the Pension Reserve for any differences between amounts contributed and benefits paid.
  - g. **ERI Contribution Reserve**—represents the cumulative employer contributions for future retirement payments to active employees who were offered an incentive for early retirement by their employer. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include annual employer contributions to be paid over a 15 year period through 2017 and interest credited semi-annually. Deductions include transfers to the Pension Reserve to fund the early retirement benefits for eligible members.
  - h. **Contra Account**—represents the accumulation of the interest crediting to the valuation reserves accounts which cannot be funded from available earnings.
  - i. **Contingency Reserve**—provides a buffer against deficiencies for payment of retirement benefits due to interest and earnings fluctuations, changes in assumptions or some other unforeseen contingency. The County Employees Retirement Law provides that when the Contingency Reserve exceeds one percent of total assets, the retirement board may transfer all or any part of the surplus as specified in Government Code § 31592.2. Additions to this reserve are transfers from the Undistributed Earnings. Deductions are transfers to other reserve funds as required by this policy. If no Undistributed Earnings are available, this reserve may be unfunded.
4. **Non-Valuation Reserves** include the County Investment Reserve, Medicare/Medical Insurance Reserve, EPA Reserve, the OCSD UAAL Deferred Reserve, as well as the Actuarial Deferred Returns. These reserves are special purpose reserves for specific employers and retirees and are not used by the actuary in determining current funding levels.
- a. **County Investment Reserve**—represents the remaining proceeds from the County of Orange’s 1994 Pension Obligation Bond issuance. The remaining proceeds are utilized, in accordance with a long standing agreement between OCERS and the County of Orange, to offset a portion of the annual actuarially-determined contribution rates for the County of Orange. Additions to this reserve include interest credited as stated in the agreement. Deductions represent transfers to the Employer Contribution Reserve as provided in the aforementioned agreement.
  - b. **Medicare/Medical Insurance Reserve**—represents funds received from the County to subsidize Medicare benefits for a small group of retirees in settlement of a retiree healthcare lawsuit back in the 1970’s. There are no additions to this reserve. Deductions to this reserve represent payments to the few remaining retirees who are entitled to this benefit. Once there are no

## OCERS Board Policy Reserves and Interest-Crediting Policy

---

longer any retirees entitled to this benefit, any remaining funds will be transferred to the Pension Reserve. For financial statement reporting purposes only, this reserve is currently included with the Pension Reserve.

- c. **EPA (Employee Purchased Annuity) Reserve**—represents additional after-tax contributions made by employees pursuant to Government Code §31627 for the purpose of providing additional benefits. Under this plan, active employees were given the choice of receiving a lump sum benefit upon retirement, or a monthly distribution for 60 to 120 months, then a lifetime additional retirement benefit. The plan was closed as of December 31, 2002 and only a few retirees are receiving this additional benefit. Interest had been credited at the assumed rate of return minus 0.5%, but the balance in this reserve has been exhausted. Activity in this reserve is limited to deductions for the monthly additional benefit for the remaining retirees. For financial reporting purposes, the negative balance in this reserve is offset against the Pension Reserve.
  - d. **OCSD UAAL Deferred Reserve**—represents the payment by the Orange County Sanitation District (OCSD) of its deferred unfunded actuarial accrued liability (UAAL). This non-valuation reserve was established by a memorandum of understanding (MOU) adopted on January 17, 2017 to track the deferred losses of OCSD's UAAL. Commencing December 31, 2016 and annually thereafter until there is no remaining balance of funds in this reserve, OCERS will transfer the amount necessary to satisfy the actual UAAL attributed to OCSD into OCERS' Employer Reserve Account. Additions to this reserve include interest credited annually at the actual rate of return per the terms of the MOU.
  - e. **Actuarial Deferred Returns**—represents the amount of deferred earnings created by a five-year smoothing of actual gains and losses compared to the assumed investment rate of return. A positive balance represents accumulated earnings above the assumed investment rate of return. A negative balance represents accumulated earnings below the assumed investment rate of return. Changes to this amount are determined based on the actuarial valuation completed at the end of the year. This amount may also be referred to as "Net Unrecognized Gains/ (Losses)" or "Reserve for Market Stabilization."
5. **Health Care Reserves** include funds held for the special purpose to pay medical benefits for eligible recipients.
- a. **Health Care Reserve—County**—represents assets held to pay medical benefits for eligible retirees of the County 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical payments and administrative expenses.
  - b. **Health Care Reserve—OCFA**—represents assets held to pay medical benefits for eligible retirees of the OCFA 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical payments and administrative expenses.
6. **Other Related Terms**
- a. **Undistributed Earnings** are the most recent annual earnings of the fund.
  - b. **Available Earnings** are Undistributed Earnings, as defined above, plus any balance in the Unallocated Fund Balance and Contingency Reserves.

## OCERS Board Policy Reserves and Interest-Crediting Policy

---

- c. **Unallocated Fund Balance** is the amount remaining after all the required reserves have been funded and interest has been credited to those reserves. An Unallocated Fund Balance will only occur when earnings have more than exceeded expectations and the required Contingency Reserve has been funded.

### Policy Guidelines

7. Available Earnings of OCERS will be allocated in the following order:
  - a. Payment of administrative and investment expenses
  - b. Credit of regular interest compounded semi-annually on June 30 and December 31 to all contributions in the retirement fund which have been on deposit for six months prior to that date as specified in Government Code § 31591:
    1. Employee (EE) Contribution Reserve at an annual rate of 5%
    2. Employer (ER) Contribution Reserve at the annual assumed rate of return plus the excess between the annual assumed rate of return and 5% credited for employee interest
    3. Annuity Reserve at the annual assumed rate of return
    4. Pension Reserve at the annual assumed rate of return
    5. Early Retirement Incentive (ERI) Reserve at the annual assumed rate of return
    6. UAAL Contribution Reserve at the annual assumed rate of return
  - c. Credit of interest per terms of applicable agreement to the following non-valuation reserves:
    - a. County Investment Reserve
    - b. OCSD UAAL Deferred Reserve
  - d. Credit the balance to Undistributed Earnings
8. The Board adopts the allocation of Undistributed Earnings in the following order:
  - a. Replenish the Contra Account
  - b. Replenishing the Contingency Reserves to 1% of assets
  - c. Credit to Employer (ER) Contribution and Pension Reserves so as to reduce the unfunded accrued actuarial liability (UAAL) of the System
  - d. Credit the balance to the Unallocated Fund Balance

### Policy Review

9. This Policy is subject to change in the exercise of the Board's judgment. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate. In the event of legislative changes to the pertinent sections addressed in this policy, the Board will review the policy as appropriate.



## OCERS Board Policy Reserves and Interest-Crediting Policy

---

### Policy History

- 10. The Board adopted the Undistributed Earnings policy on November 23, 2009.
- 11. The Undistributed Earnings Policy was last reviewed on January 21, 2014.
- 12. This Reserves and Interest-Crediting Policy supersedes the prior Undistributed Earnings 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.

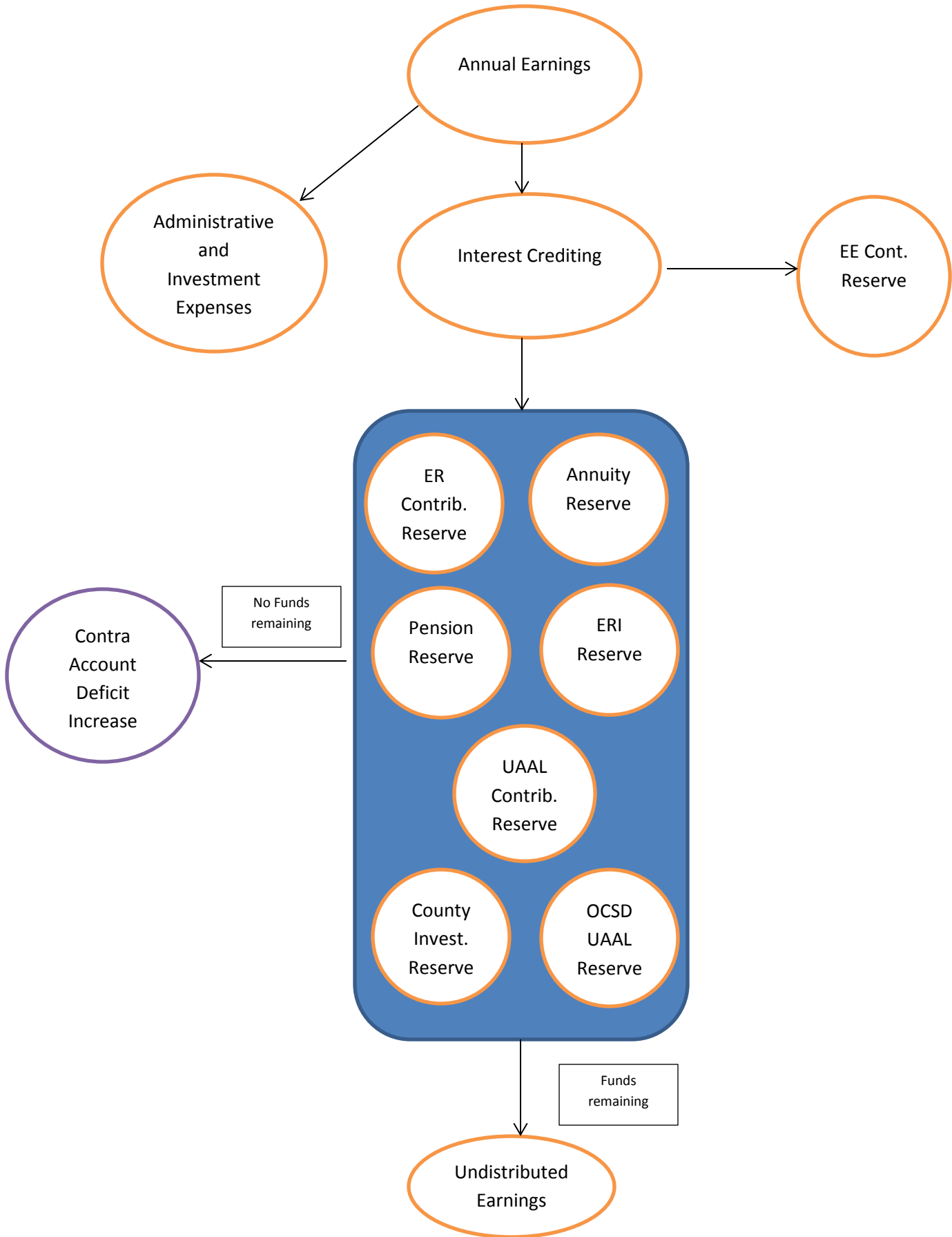
A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney  
Secretary of the Board

\_\_\_\_\_ Date

# OCERS

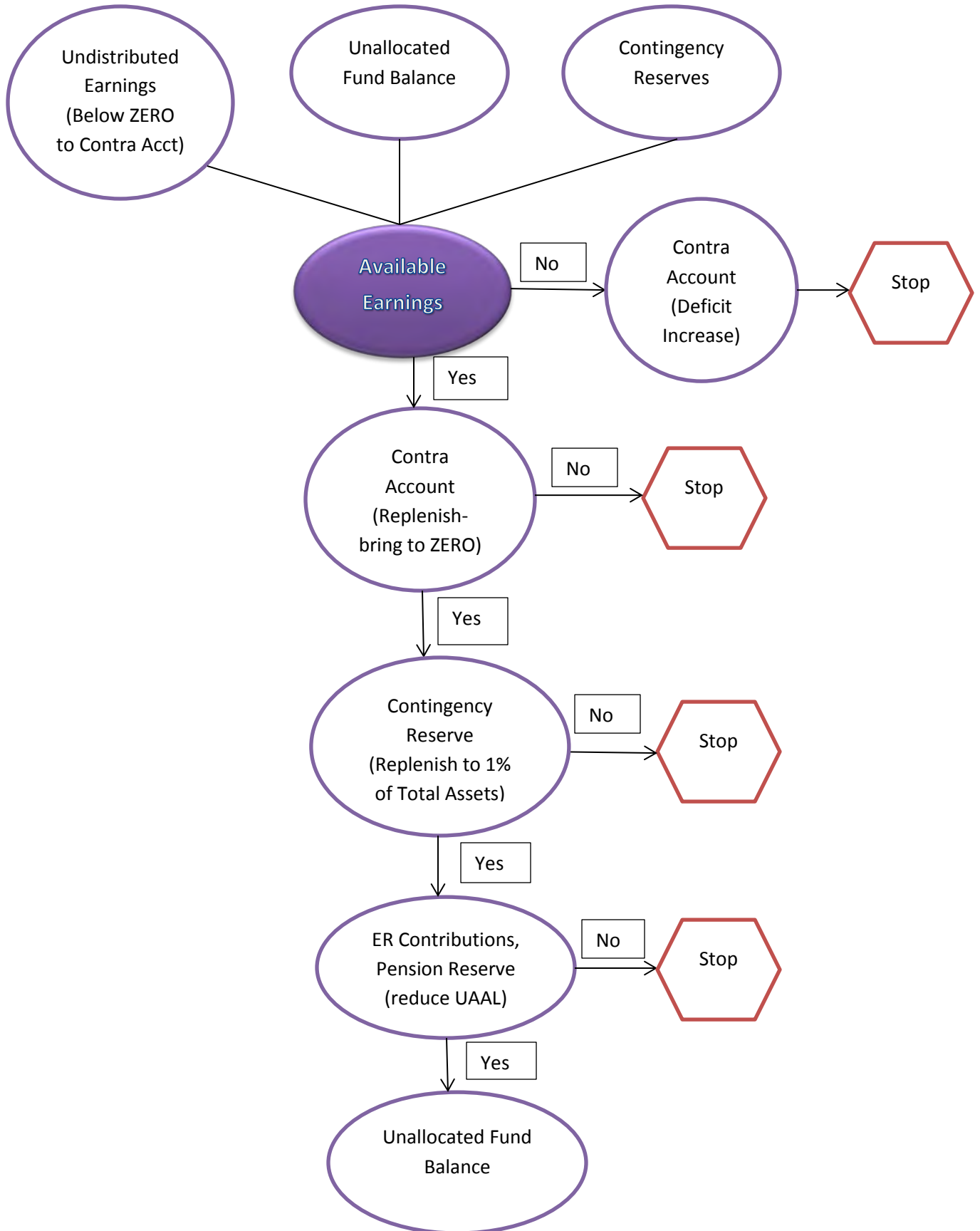
## Distribution of Annual Earnings to Expenses and Interest-Crediting





# OCERS

## Allocation of Undistributed Earnings and Available Earnings



## Purpose and Background

1. The purpose of this policy is to apply available Undistributed Earnings based on the actuarial value of assets to the reserves of the Orange County Employees' Retirement System ('OCERS'), as determined by the OCERS Board of Retirement ('Board'). The authority of the Board in such matters is governed by the provisions of Art. XVI, § 17 of the state Constitution, the County Employees' Retirement Law of 1937 ('CERL'), Government Code sections 31591 and 31592, and other provisions of state and federal law applicable to OCERS.

## Policy Objectives

2. The objectives of this policy are to:
  - a. Provide for long term, stable funding of the retirement system through the reasonable and prudent application of available Undistributed Earnings;
  - b. Provide guidance to OCERS' staff to ensure appropriate application of Undistributed Earnings to reserve accounts.

## Definitions

3. "Available Earnings" are the most recent annual earnings of the fund calculated on the Actuarial Value of Assets methodology as determined under the Board's funding policy, plus any balance in the Unallocated Fund Balance and Contingency Reserves.
4. "Undistributed Earnings" are the most recent annual earnings of the fund calculated on the Actuarial Value of Assets methodology as determined under the Board's funding policy after crediting regular interest, as determined by the Board, to the appropriate valuation reserves as identified in paragraph 5 below and payment of administrative expenses.

## Policy Guidelines

5. Available Earnings of OCERS will be allocated in the following order:
  - a. Payment of Administrative expenses, then
  - b. Credit of Regular interest to the following valuation reserves:
    1. Employee (EE) Active Reserve,
    2. Employer (ER) Active Reserve,
    3. Retired Reserve,
    4. Early Retirement Incentive (ERI) Reserve, then
  - c. Credit the balance to Undistributed Earnings.
6. The Board adopts the allocation of Undistributed Earnings in the following order:
  - a. Replenish the Contra Tracking Account, then

## **Undistributed Earnings Policy**

---

- b. Replenishing the Contingency Reserves to 1% of assets, then
- c. Credit to Employer (ER) Active and Retired Reserves so as to reduce the unfunded accrued actuarial liability ('UAAL') of the system, then
- d. Credit the balance to the Unallocated Fund Balance.

### **Policy Review**

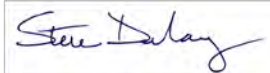
- 7. This Policy is subject to change in the exercise of the Board's judgment. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate. In the event of legislative changes to the pertinent sections addressed in this policy, the Board will review the policy as appropriate.

### **Policy History**

- 8. The Board adopted this policy on November 23, 2009.
- 9. This Policy was last reviewed on January 21, 2014.

### **Secretary's Certificate**

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



1/21/14

Steve Delaney  
Secretary of the Board

Date

## Attachment

### Government Codes Referenced in Reserves and Interest-Crediting Policy

The Reserves and Interest-Crediting Policy includes several references to County Employees Retirement Law of 1937 (CERL) Government Codes. An excerpt of these codes is provided below for your reference:

#### **§31591. Interest credits; rate; termination of interest on cessation of membership**

- (a) Regular interest shall be credited semiannually on June 30th and December 31st to all contributions in the retirement fund which have been on deposit for six months immediately prior to that date. Interest at the rate of 2 1/2 percent per annum, until otherwise determined by the board, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors.
- (b) No interest shall be credited to a member's account after the membership of the member in the retirement association has ceased, except under the following circumstances:
  - (1) The former member has left his or her accumulated contributions in the retirement fund and has either elected in writing a deferred retirement allowance, or is eligible to so elect under Section 31700 but has failed to do so.
  - (2) The surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.
  - (3) The former member, regardless of service, has left his or her accumulated contributions in the retirement fund and has not terminated employment.

(Amended by Stats. 1995, Ch. 457 (A.B. 847), Sec. 1)

(Amended by Stats. 1997, Ch. 43 (S.B. 419), Sec. 1)

#### **§31592. Excess interest as reserve against contingencies**

Earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments and other contingencies, except as provided in Sections 31529.5 and 31592.2

(Amended by Stats. 1977, Ch. 202, Sec. 2)

#### **§31592.2. Excess interest; disposition**

In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter. Where the board of supervisors has provided for the payment of all, or a portion, of the premium, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this paragraph from the county advance reserves.

(Amended by Stats. 1980, Ch. 1116, Sec. 1, Effective September 26, 1980)

**§31627. Additional contributions by member**

Subject to the regulations prescribed by the board, any member may elect to make additional contributions at rates in excess of his or her normal contributions, for the purpose of providing additional benefits. The exercise of this privilege by a member does not require the county or district to make any additional contributions. Upon application, the board shall furnish to the member information concerning the nature and amount of additional benefits to be obtained by the additional contributions.

(Amended by Stats. 1993, Ch. 25, Sec. 1)

C-4

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT:** **NAPO'S 30<sup>TH</sup> ANNUAL POLICE, FIRE, EMS, AND MUNICIPAL EMPLOYEES PENSION AND BENEFITS SEMINAR**

---

### Recommendation

Approve Steve Delaney and Roger Hilton's attendance and related expenses including overnight accommodations for the Napo's 30<sup>th</sup> Annual Police, Fire, Ems, and Municipal Employees Pension and Benefits Seminar, January 28-30, 2018, at the Caesars Palace Hotel and Casino, in Las Vegas, Nevada.

### Background/Discussion

The National Association of Police Organizations (NAPO) is a coalition of police unions and associations from across the United States and was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

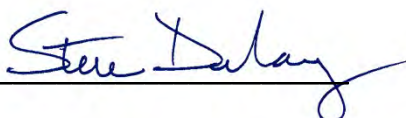
Founded in 1978, NAPO is the strongest unified voice supporting law enforcement officers in the United States. NAPO represents more than 1,000 police units and associations, and more than 241,000 sworn law enforcement officers who share a common dedication to vigorous and effective representation on behalf of our nation's law enforcement officers.

The Napo's 30<sup>th</sup> Annual Police, Fire, Ems, and Municipal Employees Pension and Benefits Seminar is not a pre-approved educational event as identified in the OCERS Board's Education & Travel policy. Approval of conference related expenses therefore requires OCERS Board action.

The cost for Mr. Delaney's attendance includes lodging (\$378) and airfare (\$148) and registration (\$625) for an approximate total of \$1,151.

The cost for Mr. Hilton's attendance includes lodging (\$378) and airfare (\$148) and registration (\$625) for an approximate total of \$1,151.

### Submitted by:



Steve Delaney  
Chief Executive Officer



## AGENDA

---

### *Sunday, January 28*

3:00 p.m. - 5:00 p.m.      Registration and Exhibitor Setup  
5:30 p.m. - 7:00 p.m.      Welcome Reception

### *Monday, January 29*

8:00 a.m. - 9:00 a.m.      Registration, Continental Breakfast & Exhibit Hall Open  
9:00 a.m. - 12:30 p.m.      General Session  
12:30 p.m. - 1:30 p.m.      Hosted Lunch  
1:30 p.m. - 5:00 p.m.      General Session  
5:30 p.m. - 7:00 p.m.      Networking Reception

### *Tuesday, January 30*

8:00 a.m. - 9:00 a.m.      Continental Breakfast – Exhibit Hall Open  
9:00 a.m. - 12:30 p.m.      General Session  
12:30 p.m. - 1:30 p.m.      Hosted Lunch  
1:30 p.m. - 5:00 p.m.      General Session

### *Wednesday, January 31*

10:00 a.m. - 12:00 p.m.      NAPO Executive Board Meeting

***Join our nationally recognized speakers on the topics that matter most...***

Pension Threats & Reforms • Plan Fund & Design • Fiduciary Responsibility  
Preventing Data Breaches • Defending Defined Benefit Plans  
Passive vs. Active Investing • Alternative Investments • Prescription Fraud  
ESG & Socially Responsible Investing • Private Market Opportunities  
Pension Crisis in Kentucky • Medicare and Your Options  
Changes in Tax Code • Death of the 401(k)



C-5

**OCERS RETIREMENT BOARD - 2018 Work Plan**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
<b>System Oversight</b>		STAR COLA Posting (I)	Approve 2018 STAR COLA (A)		Review Budget to Actuals Financial Report (I)	Mid-Year Review of 2018 Business Plan Progress (I)	Approve Early Payment Rates for Fiscal Year 2018-19 (A)	Review Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2018 Administrative Budget and Investment (Workshop) (I)	Review Budget to Actuals Financial Report (I)	CEO Compensation (A)
		Approve 2018 COLA (A)	Quarterly 2018-2020 Strategic Plan Review (A)		Receive Preliminary December 31, 2017 Actuarial Valuation & Funded Status of OCERS (A)	Approve December 31, 2017 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Experience Study (A)	Receive OCERS by the Numbers (I)		Approve 2019-2021 Strategic Plan (A)	Approve 2019 Administrative (Operating) Budget (A)	
			Review 2018 Administrative (Operating) Budget (A)			Approve 2017 CAFR (A)		Receive Evolution of the UAAL (I)		Approve 2019 Business Plan (A)	Annual CEO Performance Review (A)	
						Quarterly 2018-2020 Strategic Plan Review (A)						
						Approve Financial Statements (A)						
<b>Board Governance</b>	Board Self-Review Process 2018 (I)	Board Self-Review Delivered (A)		Brown Act Training (I)							Adopt 2019 Board Meeting Calendar (A)	Adopt Annual Work Plan for 2019 (A)
				Conflict of Interest Training (I)								Vice-Chair Election (A)
<b>Regulation / Policies</b>												
<b>Compliance</b>			State of OCERS (A)	Form 700 and OCERS Annual Disclosure Due (A)		Receive Financial Audit (I)					Status of Board Education Hours for 2018 (I)	

(A) = Action      (I) = Information

I-1

*Orange County Employees Retirement System  
Retirement Board Meeting  
December 18, 2017  
Application Notices*

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
<b>Adrian, Barbara</b>	Probation	9/29/2017
<b>Bach, Robert</b>	OCTA	10/14/2017
<b>Bartholomew, Scott</b>	Sheriff's Dept	10/16/2017
<b>Basa, Percival</b>	Social Services Agency	10/13/2017
<b>Berkheimer, Rosalinda</b>	Sheriff's Dept	10/13/2017
<b>Bigger, Daniel</b>	OC Public Works	10/1/2017
<b>Boon, Richard</b>	OC Public Works	10/1/2017
<b>Bray, Donna</b>	Health Care Agency	10/13/2017
<b>Bui, Van</b>	Social Services Agency	10/10/2017
<b>Cabrera, Maria</b>	Health Care Agency	10/13/2017
<b>Carratelli, Jackie</b>	Social Services Agency	10/13/2017
<b>Castillo, Felipe</b>	OCTA	10/7/2017
<b>Cerda, Belen</b>	Social Services Agency	10/5/2017
<b>Coney, Monica</b>	Superior Court	10/13/2017
<b>Deves-Rosecrans, Veronica</b>	County Executive Office (CEO)	10/13/2017
<b>Dierdorf, Angela</b>	Sheriff's Dept	10/7/2017
<b>Dumas, Kathleen</b>	OC Community Resources	10/13/2017
<b>Ferguson, Andrew</b>	Sheriff's Dept	9/15/2017
<b>Fluke, Daniel</b>	Sheriff's Dept	10/13/2017
<b>Frazier, Susan</b>	District Attorney	10/13/2017
<b>Guarneri, James</b>	Sheriff's Dept	10/6/2017
<b>Gordon, Lori</b>	Health Care Agency	9/26/2017
<b>Grebel, Kenneth</b>	Health Care Agency	10/13/2017
<b>Gutierrez, Cynthia</b>	Probation	10/3/2017
<b>Hambuch, John</b>	OC Community Resources	9/29/2017
<b>Hanes, Ada</b>	OCTA	10/3/2017
<b>Harbilas, Lisa</b>	Public Defender	8/9/2017
<b>Harrison, Carl</b>	OC Community Resources	9/29/2017
<b>Harvey, James</b>	County Counsel	1/20/2017
<b>Kazemzadeh, Ali</b>	District Attorney	10/13/2017
<b>Kelly, Lisa</b>	Superior Court	10/4/2017
<b>Kim, Yanghee</b>	Social Services Agency	10/13/2017
<b>Laffoon, Donna</b>	OC Community Resources	10/13/2017
<b>Lee, Tom</b>	Sheriff's Dept	10/13/2017
<b>Mansell, Selwyn</b>	Sanitation District	9/29/2017
<b>Martinez, Edward</b>	District Attorney	10/13/2017
<b>Mejorada, Maria</b>	OC Community Resources	10/9/2017
<b>Moffat, Kevin</b>	Registrar Of Voters	10/13/2017
<b>Moore, Tyrone</b>	OC Waste and Recycling	10/13/2017
<b>Munoz, Lorraine</b>	OCTA	10/7/2017
<b>Nquyen, Kim</b>	Social Services Agency	10/13/2017
<b>Nyman, Mary</b>	Social Services Agency	10/13/2017
<b>Patterer, Maria</b>	Transportation Corridor Agency (TCA)	9/13/2017
<b>Reiniq, Allyson</b>	OC Vector Control	9/1/2017
<b>Rillera, Michael</b>	Health Care Agency	10/1/2017
<b>Rudy, James</b>	Sheriff's Dept	10/13/2017
<b>Sandberg, Darren</b>	Sheriff's Dept	11/23/2015
<b>Sepeda, Christopher</b>	OC Public Works	10/3/2017
<b>Shensky, Lori</b>	OCTA	10/6/2017

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
<b>Sims-Miller, Elizabeth</b>	OCTA	10/20/2017
<b>Smoyer, Kimberly</b>	Sheriff's Dept	10/18/2017
<b>Stets-Stephano, Jeanette</b>	OC Public Works	10/13/2017
<b>Tan, Stuart</b>	Probation	5/16/2017
<b>Tortuya, Larry</b>	OCTA	10/7/2017
<b>Verqara, Raul</b>	Sheriff's Dept	10/12/2017
<b>White, Althea</b>	Superior Court	10/13/2017
<b>Williams, Joseph</b>	District Attorney	9/15/2017
<b>Yoshizumi, Elena</b>	Health Care Agency	10/13/2017
<b>Yuki, Alan</b>	OC Waste and Recycling	10/13/2017

*Orange County Employees Retirement  
Retirement Board Meeting  
December 18, 2017  
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>	<i>Date of Death</i>
<b>Olson, Ronald</b>	Health Care Agency	10/31/2017
<b>Perry, Andrew</b>	Health Care Agency	10/24/2017
<b>Sakoguchi, Richard</b>	Public Defender	10/16/2017

<i>Retired Members</i>	<i>Agency/Employer</i>	<i>Date of Death</i>
<b>Allshouse, Richard</b>	Sheriff's Dept	11/7/2017
<b>Arciga, Reyna</b>	Health Care Agency	10/23/2017
<b>Avila, Concepcion</b>	Health Care Agency	11/3/2017
<b>Bourdy, Patrick</b>	Sanitation District	11/9/2017
<b>Bouyear, George</b>	OC Public Works	11/9/2017
<b>Byrd, Sylvia</b>	OC Community Resources	11/16/2017
<b>Cantrell, Kay</b>	Health Care Agency	11/16/2017
<b>Corrao, Dawn</b>	Health Care Agency	10/12/2017
<b>Dallman, Darold</b>	Sheriff's Dept	11/21/2017
<b>Daywalt, Lester</b>	Fire Authority (OCFA)	10/24/2017
<b>De Guzman, Irma</b>	Health Care Agency	10/29/2017
<b>Dunham, Joan</b>	OC Community Resources	10/31/2017
<b>Dunlap, Ronald</b>	Sheriff's Dept	10/9/2017
<b>Eugley, Frank</b>	OCTA	11/6/2017
<b>Fiorina, Velma</b>	Probation	11/14/2017
<b>Fuentez, Vincent</b>	OC Public Works	10/28/2017
<b>Funicello, James</b>	Probation	11/1/2017
<b>Griffiths, Richard</b>	OCTA	10/26/2017
<b>Helland, Lavada</b>	UCI	11/3/2017
<b>Jones, Patricia</b>	Superior Court	10/24/2017
<b>Kimbell, Charles</b>	Sheriff's Dept	10/1/2017
<b>Mauerman, Dorcas</b>	OC Community Resources	10/14/2017
<b>Moore, Linda</b>	Social Services Agency	10/27/2017
<b>Muchow, Keith</b>	OC Public Works	10/22/2017
<b>Novella, Ronald</b>	OC Public Works	11/12/2017
<b>O'Brien, Jackie</b>	Social Services Agency	10/22/2017
<b>Satkin, Harriet</b>	Probation	10/21/2017
<b>Scales, Walter</b>	Health Care Agency	10/23/2017
<b>Shook, Brandon</b>	OC Public Works	10/30/2017
<b>Smith, Richard</b>	County of Orange	10/28/2017
<b>Sontag, Arlene</b>	Fire Authority (OCFA)	10/29/2017
<b>Sterns, Eileen</b>	County of Orange	6/12/2017
<b>Sylvester, John</b>	Sanitation District	10/16/2017
<b>Temple, Ralph</b>	Sheriff's Dept	11/4/2017
<b>Vane, Doris</b>	Superior Court	5/12/2017
<b>Weber, Susan</b>	Probation	11/8/2017

<i>Retired Members</i>	<i>Agency/Employer</i>	<i>Date of Death</i>
<b>White, Stephen</b>	OCTA	11/13/2017

<i>Surviving Spouses</i>		<i>Date of Death</i>
<b>Beddingham, Hilda</b>		11/30/2017
<b>Blosk, Stanely</b>		5/21/2017
<b>Lawton, Mary</b>		10/25/2017
<b>Person, Nettie</b>		5/8/2017
<b>Schiebeck, Carlos</b>		11/5/2017
<b>Waters, Leslie</b>		4/25/2017

I-2



## Memorandum

---

DATE: December 18, 2017  
TO: Members of the Board of Retirement  
FROM: Steve Delaney, Chief Executive Officer  
SUBJECT: **CEO FUTURE AGENDAS AND 2017 OCERS BOARD WORK PLAN**

---

### AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

#### JANUARY

2017 Year in Review: Communication Plan  
2017 OCERS Innovations  
2017 Disability Statistics  
Communication Policy Factsheet  
Board Performance Review Introduction

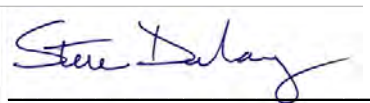
#### FEBRUARY

2018 Star COLA posting  
Annual Cost of Living Adjustment  
2018 OCERS Annual Disclosure Report

#### MARCH

SACRS Election Materials  
2018 Star COLA FINAL APPROVAL  
GFOA Awards  
Quarterly Strategic Planning Review  
The Current State of OCERS – Annual Report

#### **Submitted by:**



Steve Delaney  
Chief Executive Officer

**OCERS RETIREMENT BOARD - 2017 Work Plan**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
<b>System Oversight</b>		STAR COLA Posting (I)	Approve 2017 STAR COLA (A)		Review Budget to Actuals Financial Report (I)	Mid-Year Review of 2017 Business Plan Progress (I)	Approve Early Payment Rates for Fiscal Year 2017-18 (A)	Review Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2018 Administrative Budget and Investment (Workshop) (I)	Review Budget to Actuals Financial Report (I)	CEO Compensation (A)
		Approve 2017 COLA (A)	Quarterly 2016-2018 Strategic Plan Review (A)		Receive Preliminary December 31, 2016 Actuarial Valuation & Funded Status of OCERS (A)	Approve December 31, 2016 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Experience Study (A)	Receive OCERS by the Numbers (I)		Approve 2018-2020 Strategic Plan (A)	Approve 2018 Administrative (Operating) Budget (A)	
			Review 2017 Administrative (Operating) Budget (A)			Approve 2016 CAFR (A)		Receive Evolution of the UAAL (I)		Approve 2018 Business Plan (A)	Annual CEO Performance Review (A)	
						Quarterly 2016-2018 Strategic Plan Review (A)		Quarterly CEO Performance Review (A)				
						Approve Financial Statements (A)						
<b>Board Governance</b>	Board Self-Review Process 2017 (I)	Board Self-Review Delivered (A)		Brown Act Training (I)							Adopt 2018 Board Meeting Calendar (A)	Adopt Annual Work Plan for 2018 (A)
				Conflict of Interest Training (I)								Vice-Chair Election (A)
<b>Regulation / Policies</b>			Quarterly CEO Performance Review (I)			Quarterly CEO Performance Review (I)	Membership Policy (A)					
<b>Compliance</b>		State of OCERS (A)		Form 700 and OCERS Annual Disclosure Due (A)		Receive Financial Audit (I)					Status of Board Education Hours for 2017 (I)	

(A) = Action (I) = Information

I-3

## Memorandum

---

**DATE:** November 30, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS**

---

### *Written Report Only*

### **Background/Discussion – Options**

#### **1. Quiet Period Policy Guidelines – Named Service Providers**

The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for Named Service Providers:

*“All Board and Investment Committee Members, and staff not directly involved in the search process, shall refrain from communicating with Service Provider candidates regarding any product or service related to the search offered by the candidate throughout the quiet period...”*

#### **2. Quiet Period Guidelines – Non-Named Service Providers**

There are no policy guidelines regarding a quiet period for non-Named Service Providers. However, the following language is included in all distributed RFP's:

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

### **Distributed RFP's**

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

- Sent out an RFP in July for property management services for the building located at 2223 E. Wellington Avenue, Santa Ana, CA 92701. Proposals are being evaluated.
- Distributed an RFP October 12<sup>th</sup> for Tax Counsel Services. Received six proposals. Finalists selected. Scheduled interviews in December.
- Re-scheduled to distribute Investment Counsel Services RFP in early 2018.
- Planning to send out an RFP for Employment Counsel Services in January, 2018.



## Memorandum

---

**Submitted by:**

A handwritten signature in blue ink that reads "Steve Delaney". The signature is written in a cursive style and is positioned above a horizontal line.

Steve Delaney  
Chief Executive Officer

I-4

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Cynthia Hockless, Director of Administrative Services  
**SUBJECT:** OCERS TRUSTEE EDUCATION SUMMARY REPORT

---

### *Written Report Only*

Effective January 1, 2013, Trustees are required to complete a minimum of 24 hours of Trustee Education within the first two (2) years assuming office and for every subsequent 2-year period in which the Trustee serves on the Board.

Staff annually prepares a spreadsheet for each Trustee to track their education credits. The following is the current hourly total we have on file for each Trustee earned per two-year measuring period:

#### **Roger Hilton – elected June 2012, current term [7/1/15-6/30/18]**

Education Measuring Period 1: 6/12-12/13  
Education Measuring Period 2: 1/14-12/15  
Education Measuring Period 3: 1/16-12/17

**For Current Education Measuring Period 3: 217.85 hours**

#### **David Ball – appointed Sept. 2013, current term [1/1/17-12/31/19]**

Education Measuring Period 1: 9/13-12/14  
Education Measuring Period 2: 1/15-12/16  
Education Measuring Period 3: 1/17-12/18

**For Current Education Measuring Period 3: 64.75 hours**

#### **Shari Freidenrich – elected Nov. 2010, took office in Jan. 2011, current term [Ex-Officio Member]**

Education Measuring Period 1: 1/11-12/12  
Education Measuring Period 2: 1/13-12/14  
Education Measuring Period 3: 1/15-12/16  
Education Measuring Period 4: 1/17-12/18

**For Current Education Measuring Period 4: 37.00 hours**

**Eric Gilbert – elected July 2015, current term [7/1/15-6/30/18]**

Education Measuring Period 1: 7/15-12/16  
Education measuring Period 2: 1/17-6/18

**For Current Education Measuring Period 2: 58.50 hours**

**Wayne Lindholm – elected Jan. 2010, current term [1/1/16-12/31/18]**

Education Measuring Period 1: 1/10-12/11  
Education Measuring Period 2: 1/12-12/13  
Education Measuring Period 3: 1/14-12/15  
Education Measuring Period 4: 1/16-12/17

**For Current Education Measuring Period 4: 57 hours**

**Charles Packard – elected Dec. 2011, current term [1/1/17-12/31/19]**

Education Measuring Period 1: 1/12-12/13  
Education Measuring Period 2: 1/14-12/15  
Education Measuring Period 3: 1/16-12/17

**For Current Education Measuring Period 3: 99 hours**

**Chris Prevatt – elected Fall 2012, current term [1/1/16-12/31/18]**

For Current Education Measuring Period 1: Fall/12-12/13  
For Current Education Measuring Period 2: 1/14-12/15  
For Current Education Measuring Period 3: 1/16-12/17

**For Current Education Measuring Period 3: 193.55 hours**



**Russell Baldwin – elected Fall 2016, current term [1/1/17-12/31/19]**

For Current Education Measuring Period 1: 1/17-12/19

**For Current Education Measuring Period 1: 159.55 hours**

**Shawn Dewane – appointed 2017, current term [2/14/17-12/31/19]**

For Current Education Measuring Period 1: 2/17-12/19

**For Current Education Measuring Period 1: 41.50 hours**

**Frank Eley – elected 2016, current term [1/01/17-12/31/19]**

For Current Education Measuring Period 1: 1/17-12/19

**For Current Education Measuring Period 1: 56.25 hours**

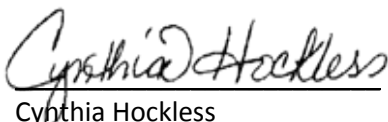
To date, all Trustees are on track to meet the education requirement. Trustees that commenced membership on the Board after the initial tracking period will reset their two-year period on anniversary date of assumed Board membership.

Note: We have separately provided the details behind each Trustee's hourly total, including those hours attained by attendance at OCERS workshops (see attached policy) to allow for correction if necessary.

**Attachments:**

1. Board Members individual annual Education Report for current two year measuring period.
2. Trustee Education Policy.

**Submitted by:**



Cynthia Hockless

Cynthia Hockless  
Director of Administrative Services

## **Purpose**

1. It is the policy of the Board of Retirement to ensure that individual Trustees have sufficient knowledge of the issues and challenges facing OCERS so as to craft policies to guide the administration of the plan and effectively monitor their implementation based on ongoing exposure to up-to-date benefit, financial, investment and policy information and together with staff are properly trained to perform their respective duties.
2. Effective January 1, 2013, Trustees are required to complete a minimum of 24 hours of Trustee education within the first two (2) years of assuming office and for every subsequent 2-year period in which the Trustee serves on the Board (Gov. Code § 31522.8).
3. Trustees are also required to complete two hours of ethics training every two years. (Gov. Code § 53235) Ethics training received as part of the 24 hours of Trustee education will satisfy this requirement.
4. Trustees are also required to complete two hours of harassment prevention training every two years. (Gov. Code § 12950.1) Harassment prevention training is in addition to the 24 hour education requirement set forth in Gov. Code § 31522.8.
5. To that end, each Trustee is encouraged to regularly participate in those educational opportunities that will enable competent discharge of the obligations of that position and meet the statutory requirements for continuing education.

## **Policy Objectives**

6. The objective of this policy is to ensure that all Trustees have adequate opportunity to acquire the knowledge they need to carry out their fiduciary duties.

## **Policy Guidelines**

7. Trustees agree to develop and maintain knowledge of relevant issues pertaining to the administration of OCERS throughout their terms.
8. Trustees agree to pursue appropriate education across a range of pension-related areas, rather than limiting their education to specific areas. General pension-related areas to be pursued include:
  - a. Pension funding;
  - b. Institutional investments and investment program management;
  - c. Investment performance measurement;
  - d. Actuarial science;
  - e. Benefits structure and administration;
  - f. Disability retirements;
  - g. Due process in benefit determinations;

## OCERS Board Policy

# Trustee Education Policy

---

- h. Pension law;
  - i. Organizational structure, methods, and practices;
  - j. Budgeting;
  - k. Governance and fiduciary duty; and
  - l. Ethics.
9. Trustees agree that at least two hours of education they receive will qualify as ethics training relevant to the Trustees' public service. Subject matter that qualifies for ethics training includes, but is not limited to:
- a. Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
  - b. Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
  - c. Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
  - d. Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.
10. Educational tools for trustees include, but are not limited to:
- a. External conferences, seminars, workshops, roundtables, courses or similar sessions (henceforth referred to collectively as "conferences");
  - b. Industry association meetings or events;
  - c. In-house educational seminars or briefings;
  - d. Periodicals, journals, textbooks and similar materials; and
  - e. Electronic media including CD ROM-based education, Internet-based education and video-based education.
11. On an ongoing basis, the Chief Executive Officer and the Chief Investment Officer will identify appropriate educational opportunities, based on the needs of individual Trustees or the Board as a whole, and include details of such in Board meeting information packages for Trustee consideration. Trustees are encouraged to suggest educational opportunities that may provide value to the Board of Retirement.
12. Standards for determining the appropriateness of a potential educational opportunity shall include:
- a. The extent to which the opportunity is expected to provide Trustees with the knowledge they need to carry out their roles and responsibilities;

## OCERS Board Policy

# Trustee Education Policy

---

- b. The extent to which the opportunity meets the requirements of this policy; and
  - c. The cost-effectiveness of the program in light of travel, lodging and related expenses.
13. Beginning January 1, 2013, Trustees will acquire a minimum of 24 hours of Trustee education within the first two (2) years of assuming office and for every subsequent 2-year period for which the Trustee serves on the Board.
- a. Trustees will endeavor to complete 24 hours of education in the remainder of the first and second calendar year after appointment. For trustees who are appointed later in November or December, the first education year will commence on January 1 of the subsequent calendar year.
  - b. After the initial two years after assuming office, education hours will be tracked on a calendar year basis with each trustee required to complete 24 hours of education within each two year period.
  - c. OCERS staff will track hours on an odd and even year basis with trustees grouped according to the year of term commencement.
  - d. For example, if a trustee assumes office on April 1, 2016, he or she will be expected to complete 24 hours of education by December 31, 2017. Subsequent to January 1, 2018, his or her education will be tracked on a rolling basis with completion of the 24 hour requirement on December 31, 2019, 2021, 2023, etc.
14. Trustees will attempt to meet the following minimum goals:
- a. To secure, over time, a useful level of understanding in each of the topic areas listed in paragraph 8 above;
  - b. To attend at least one conference annually. In accordance with a. above, Trustees are encouraged to attend conferences, on occasion, that address pension topics other than investments; and
  - c. Participate in any in-house educational seminars or briefings that are organized by the Chief Executive Officer and Chief Investment Officer including:
    - i. The educational component of the annual Strategic Planning Session;
    - ii. The Education Forum;
    - iii. Individual sessions at regular Board meetings; and
    - iv. Workshops available to Board and staff members.
15. The Board shall maintain a record of Trustee compliance with this policy, and the Chief Executive Officer or his designee will ensure that the policy and annual compliance report are placed on the OCERS website.

### **Attendance at Conferences & Industry Association Meetings**

16. Approval for attendance and reimbursement of travel expenses in connection with educational conferences and industry association meetings will be in accordance with the Travel Policy.

## OCERS Board Policy

# Trustee Education Policy

---

17. In furtherance of this policy, the Chief Executive Officer shall have discretionary authority to approve staff travel as necessary to carry out the administrative responsibilities of the OCERS, such as attendance at legislative meetings or hearings, conducting on-site visits as part of due diligence evaluation of existing and proposed service providers, participating in continuing education programs, and other duties as directed.
18. The Board will periodically review the programs, training or educational sessions that qualify for Trustee education.

### Harassment Prevention Training

19. As an employer of over 50 employees, OCERS is required to provide harassment and abusive conduct prevention training to all “supervisory employees” every two years.
20. Trustees are considered “supervisory employees” for the purposes of the statute since Trustees may influence the terms and conditions of employment for OCERS employees.
21. The Chief Executive Officer working with the Legal Department and outside vendors will schedule appropriate training for Trustees every two years.

### Orientation Program

22. Working with the Chief Investment Officer and OCERS’ professional advisors, the Chief Executive Officer will hold an orientation program, covering the general topic areas outlined in paragraph 8 above, and designed to introduce new Trustees to all pertinent operations of the System and highlight the knowledge bases required of a Trustee. The aim of the orientation program will be to ensure that new Trustees are in a position to contribute fully to Board of Retirement and committee deliberations, and effectively carry out their fiduciary duties as soon as possible after joining the Board.
23. Prior to a Trustee’s first official meeting with the Board of Retirement, he or she will endeavor to attend a Board meeting or a standing committee meeting in the role of an observer.
24. Within 30 days of a trustee’s election or appointment to the Board, the Chair will designate an incumbent member of the Board to provide the new Trustee an orientation to current Board governance practices.
25. As part of the orientation process, new Trustees will, within 30 days of their election or appointment to the Board of Retirement:
  - a. Be briefed by the Chief Executive Officer on the history and background of OCERS;
  - b. Be oriented by the Chair on current issues before the Board;
  - c. Be introduced to members of senior management;
  - d. Be provided a tour of OCERS offices by the Chief Executive Officer;
  - e. Be briefed by the Board’s fiduciary counsel on their fiduciary duties, conflict of interest guidelines, the County Employees Retirement Law of 1937, Proposition 162, The Brown Act, and other pertinent legislation; and

## OCERS Board Policy

# Trustee Education Policy

- f. Be provided with an iPad (or other electronic device) with access to a document repository containing the following:
  - i. A Trustee Reference Manual (the contents of which are listed in the Appendix);
  - ii. A listing of upcoming recommended educational opportunities; and
  - iii. Other relevant information and documentation deemed appropriate by the Chief Executive Officer.
- 26. During the course of their first 12 months on the Board of Retirement, new Trustees will endeavor to attend a seminar on the principles of pension management or a comparable program.
- 27. The Chief Executive Officer will review, and if necessary, update all orientation material. It is the responsibility of Trustees to maintain their Trustee Reference Manuals, by ensuring that they contain the most up to date materials. A master copy of the Trustee Reference Manual will be available for use by Trustees at the OCERS office.

## Policy Review

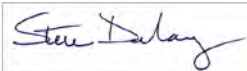
- 28. The Board of Retirement will review this policy at least every three years to ensure that it remains relevant and appropriate.

## Policy History

- 29. This policy was adopted by the Board of Retirement on February 19, 2002.
- 30. The policy was revised on May 16, 2005, March 24, 2008, June 18, 2012, November 19, 2012, July 20, 2015, and December 19, 2016.

## Secretary's Certificate

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



12/19/16

Steve Delaney  
Secretary of the Board

Date

## **Trustee Reference Manual**

A Trustee Reference Manual will include the following materials:

- a. OCERS Board Handbook;
- b. Relevant sections of the *County Employees Retirement Law of 1937*;
- c. The Brown Act and Proposition 162;
- d. Most recent plan description and member handbook;
- e. Copies of Board policies;
- f. Most recent Annual Report;
- g. Most recent actuarial valuation and financial statements;
- h. Most recent actuarial experience study;
- i. Most recent asset/liability study;
- j. Most recent investment performance report;
- k. Most recent Business Plan and budget;
- l. Organizational chart;
- m. Names and phone numbers of the trustees and the Chief Executive Officer;
- n. Listing of current committee assignments;
- o. Listing of current service providers; and
- p. Glossary of key pension administration terms and definitions.

*Roger Hilton (July 1, 2015- June 30, 2018)*

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	OCERS Training	Hours of Education
NEPC 2016 Public Funds Workshop	1/10/2016 -1/12/2016	Tempe, AZ		7.00
OCERS Invetsment Education Forum	February 11, 2016	Costat Mesa, CA	x	7.00
OCERS 2016 Energy Education Forum	March 16, 2016	Santa Ana, CA	x	6.50
SACRS 2016 Spring Conference(Ethics Training)	May 10 - 13, 2016	Costa Mesa, CA		2.00
Ethical decision Making for Pension Plan Trustees	June 7, 2016	Webinar		1.30
IFEBP Conference	June 6-11, 2016	Boston, MA	x	32.00
NASRA	August 6-9, 2016	Spokane, WA	x	12.00
NCPERS	October 23-26, 2016	Las Vegas, NV	x	12.00
SACRS Fall Conference	November 8-11, 2016	Indian Wells, CA	x	14.00
			<b>total =</b>	<b>93.80</b>
NCPERS Leg. Conference	Jan. 29-31, 2017	Washtington D.C.	x	7.00
CALAPRS Conference	March 4-7, 2017	Monterey, CA	x	9.50
SACRS Spring Conference	May 16-19, 2017	Napa Valley, CA	x	14.00
Pension + Investment Conference	June 25-27, 2017	New York, NY	x	15.75
NASRA Annual Conference	August 5-9, 2017	Baltimore, MD	x	10.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
NCPERS	October 1-4, 2017	San Antonio, TX	x	15.50
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
CALAPRS TRUSTEES Roundtable	October 27, 2017	San Jose, CA	X	6.30
SACRS Fall Conference	November 14-17, 2017	San Francisco, CA	X	23.00
			<b>total =</b>	<b>124.05</b>



<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	OCERS Training	Hours of Education
<i>David Ball (JAN 1, 2017- DEC 31, 2019)</i>				
Advanced Principles of Pension Management	March 29-31, 2017	Los Angeles, CA	x	13.00
Wharton Advance Investment Strategies Management	September 25-28, 2017	Philadelphia, PA	x	28.75
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
			<b>total =</b>	<b>64.75</b>

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	OCERS Training	Hours of Education
<i>Shari Freidenrich (JAN 1, 2017- DEC 31, 2018)</i>				
Institutional Real Estate Inc.'s 2017 Visions Insights & Perspectives (VIP) Americas	January 25-27, 2017	Carlsbad, CA	X	3.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
SACRS Fall Conference	November 14-17, 2017	San Francisco, CA	X	11.00
			<b>total =</b>	<b>37.00</b>

*Eric Gilbert (JUL 1, 2015 - JUN 30, 2018)*

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	<i>OCERS Training</i>	<i>Hours of Education</i>
OCERS Investment Education Forum	February 11, 2016	Costa Mesa, CA	X	7.00
OCERS 2016 Energy Education Forum	March 16, 2016	Santa Ana, CA	X	6.50
SACRS 2016 Spring Conference (Ethics Training)	May 10 - 13, 2016	Costa Mesa, CA		8.00
			<b>total =</b>	<b>21.50</b>
Public Pension Funding Forum	Sept 10-12, 2017	San Francisco, CA	X	12.50
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
SACRS Fall Conference	November 14-17, 2017	San Francisco, CA	X	23.00
			<b>total =</b>	<b>58.50</b>
	75/396			

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	OCERS Training	Hours of Education
<b>Wayne Lindholm (JAN 1, 2015- DEC 31, 2016)</b>				
OCERS Investment Education Forum	February 11, 2016	Costa Mesa, CA	x	5.50
OCERS 2016 Energy Education Forum	March 16, 2016	Santa Ana, CA	x	5.50
SACRS 2016 Spring Conference	May 10 - 13, 2016	Costa Mesa, CA	x	2.00
OPAL Conference	December 4-6, 2016	Dana Point, CA	x	11.00
			<b>total:</b>	<b>24.00</b>
<b>Wayne Lindholm (JAN 1, 2017- DEC 31, 2018)</b>				
Institutional Real Estate Inc.'s 2017 Visions Insights & Perspectives (VIP) Americas	January 25-27, 2017	Carlsbad, CA	x	3.00
OCERS Strategic Planning Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	x	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
OPAL Conference	December 3-5, 2017	Dana Point, CA	X	7.00
			<b>total:</b>	<b>33.00</b>

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	OCERS Training	Hours of Education
<b><i>Chuck Packard (JAN 1, 2015 - DEC 31, 2016)</i></b>				
OCERS Investment Education Forum	February 11, 2016	Costa Mesa, CA	X	7.00
OCERS 2016 Energy Education Forum	March 16, 2016	Santa Ana, CA	X	6.50
SACRS 2016 Spring Conference	May 10 - 13, 2016	Costa Mesa, CA	X	14.00
			<b>total:</b>	<b>27.50</b>
<b><i>Chuck Packard (JAN 1, 2017 - DEC 31, 2018)</i></b>				
CALAPRS Trustee's Roundtable	February 3, 2017	San Jose, CA	x	5.25
CALAPRS Conference	March 4-7, 2017	Monterey, CA	x	9.50
NASRA Annual Conference	August 5-9, 2017	Baltimore, MD	x	10.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Wharton Advance Investment Strategies Management	September 25-28, 2017	Philadelphia, PA	x	28.75
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	x	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
			<b>total =</b>	<b>71.50</b>

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	<i>OCERS Training</i>	<i>Hours of Education</i>
<b><i>Christopher L. Prevatt (JAN 1, 2015- DEC 31, 2016)</i></b>				
OCERS Investment Education Forum	February 11, 2016	Costa Mesa, CA	x	7.00
NASRA/NIRS Conference	February 27-March 1	Washington, D.C.	x	8.00
CALAPRS 2016 General Assembly	March 5-8, 2016	Indian Wells, CA	x	14.00
OCERS 2016 Energy Education Forum	March 16, 2016	Santa Ana, CA	x	6.50
SACRS 2016 Spring Conference	May 10 - 13, 2016	Costa Mesa, CA	x	14.00
NASRA	August 6-9, 2016	Spokane, WA	x	12.00
SACRS Fall Conference	November 8-11, 2016	Indian Wells, CA	x	14.00
			<b>total:</b>	<b>61.50</b>
<b><i>Christopher L. Prevatt (JAN 1, 2017 - DEC 31, 2018)</i></b>				
NASRA Conference	February 25-27, 2017	Washington, D.C.	x	13.00
CALAPRS Conference	March 4-7, 2017	Monterey, CA	x	14.00
SACRS Spring Conference	May 16-19, 2017	Napa Valley, CA	x	14.00
NASRA Annual Conference	August 5-9, 2017	Baltimore, MD	x	10.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Wharton Advance Investment Strategies Management	September 25-28, 2017	Philadelphia, PA	x	28.75
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
CALAPRS TRUSTEES Roundtable	October 27, 2017	San Jose, CA	X	6.30
SACRS Fall Conference	November 14-17, 2017	San Francisco, CA	X	23.00
			<b>total:</b>	<b>132.05</b>

*Russell Baldwin (Mar 1, 2017- Dec 31, 2019)*

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	<i>OCERS Training</i>	<i>Hours of Education</i>
Institutional Real Estate Inc.'s 2017 Visions Insights & Perspectives (VIP) Americas	January 25-27, 2017	Carlsbad, CA	x	3.00
SACRS Spring Conference	May 16-19, 2017	Napa Valley, CA	x	14.00
CALAPRS Roundtable	June 2, 2017	Burbank, CA	x	6.00
SACRS at UC Berkeley Program 2015	July 24-26, 2017	Berkeley, CA	x	17.50
NASRA Annual Conference	August 5-9, 2017	Baltimore, MD	x	10.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Wharton Advance Investment Strategies Management	September 25-28, 2017	Philadelphia, PA	x	28.75
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	x	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
CALAPRS TRUSTEES Roundtable	October 27, 2017	San Jose, CA	x	6.30
SRI Conference	November 1-3, 2017	San Diego, CA	x	28.00
SACRS Fall Conference	November 14-17, 2018	San Francisco, CA	x	23.00
			total =	159.55

*Shawn Dewane (Mar 1, 2017- Dec 31, 2018)*

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	<i>OCERS Training</i>	<i>Hours of Education</i>
CALAPRS- Principles of Pension Mgmt	August 28-31, 2017	Pepperdine Univ.	x	18.50
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	X	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
			<b>total =</b>	<b>41.50</b>



*Frank Eley (JAN 1, 2017- DEC 31, 2018)*

<i>Conference Name</i>	<i>Date</i>	<i>Location</i>	<i>OCERS Training</i>	<i>Hours of Education</i>
NCPERS 2017 Annual Conference	May 21-24, 2017	Hollywood, FL	x	19.25
SACRS Spring Conference	May 16-19, 2017	Napa Valley, CA	x	14.00
OCERS Strategic Planninc Workshop	September 13-14, 2017	Santa Ana, CA	x	16.00
Harassment and Abusive Conduct Prevention Training	October 16, 2017	Santa Ana, CA	x	2.00
OCERS 2018 Budget Workshop	October 19, 2017	Santa Ana, CA	x	5.00
			<b>total =</b>	<b>56.25</b>

I-5

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** EXPLANATION OF THE CALIFORNIA GIFT REPORTING RULES

---

### *Written Report Only*

The California Political Reform Act (Act) limits the amount of gifts that a public official can receive, and requires officials to disclose gifts over a certain amount and to identify the donors of those gifts. The Fair Political Practices Commission (FPPC) is the enforcement agency for the Act; and every year the FPPC issues an updated fact sheet entitled, "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans." The fact sheet is very comprehensive and includes detailed information about gifts, including the definition of a gift for purposes of the Act and various exceptions to gifts. A copy of the fact sheet issued for 2017 is attached. **This brief summary of the gift rules is not intended to be a substitute for the fact sheet; the gift rules are not necessarily intuitive, and Board members are encouraged to read the fact sheet for more detailed information about the receipt and reporting of gifts under the Act.**

#### **Limitations on Acceptance of Gifts**

Under the Act, OCERS Board members (and OCERS staff who are designated in OCERS' conflict of interest code) are **prohibited from accepting** gifts that total more than \$470 from any single source in calendar year 2017.

#### **Disclosure Requirements**

In addition, OCERS Board members (and OCERS staff who are designated in OCERS' conflict of interest code) **must report** on their Statement of Economic Interests (Form 700) gifts from a single source that total more than \$50 during the calendar year. For example, if an OCERS Board member accepts a meal valued at \$30 in January, this alone would not need to be reported. However, if later in the same calendar year, the OCERS Board member receives another meal valued at \$25 from the same source, both meals (totalling \$55) must be reported on the Board member's Form 700 for that calendar year.

#### **Definition of Gift**

Under the Act, a "gift" is any payment or other benefit that confers a personal benefit for which the public official does not provide payment or services of equal or greater value. Gifts include a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Gifts also include anything accepted or received by the public official even if those items are discarded by the public official or turned over to another person. In addition, a gift to a member of the official's family is considered a gift to the official if (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift, or (2) the donor is involved in an action before the official's agency in which the official will foreseeably participate.

For example, if an investment manager invites an OCERS Board member and his or her spouse to dinner, and the Board member's spouse doesn't have an established relationship with the investment manager (i.e., the investment manager would not have invited the spouse but for the invitation to the OCERS Board member), then the value of the meals of both the Board member and the spouse must be reported on the Board member's Form 700 if the two meals total \$50 or more.

### Source of Gifts

Gifts from **any source** (not just entities who do business with or that are the type that may do business with OCERS) must be reported by OCERS Board members. In addition, under some circumstances separate gifts from the owner of a company and the company itself must be treated as received from the same source and reported if the gifts total \$50 or more.

### General Gift Exceptions

There are numerous items or payments that are not considered gifts under the Act. They do not need to be reported and are not subject to the \$470 limit. The most common gift exceptions are:

1. **Gifts that are returned** to the donor or which the public official reimburses the donor within 30 days of receipt.
2. **Gifts that are donated** to (a) a non-profit, tax-exempt organization in which the official or immediate family member does not hold a position or (b) a governmental agency, within 30 days of receipt and without claiming a tax deduction.
3. **Informational material** (e.g., books, reports, pamphlets, calendars, periodicals, videotapes, free admission or discounts to informational conferences or seminars) that is provided to assist the public official in the performance of his or her official duties.
4. **Gifts from family members.**
5. **Inheritances.**
6. **Acts of neighborliness** such as the loan of an item, an occasional ride, or help with a repair.
7. Two tickets for admission, for use by only the official and one guest, to attend a **fundraiser for a campaign committee or a candidate, or to attend a fundraiser for a tax-exempt organization**, provided the tickets are received from the organization or committee holding the fundraiser.
8. **Passes or tickets** that the official **does not use** and does not give to another person.

### Limited Gift Exceptions

Some gifts are excluded from the definition of gift, do not need to be reported (with the exception of wedding gift, see below) and are excluded from the \$470 gift limit, **but with conditions or limitations**. The most common limited gift exceptions are:

1. **Gifts of hospitality** including food, drink or occasional lodging received in the donor's home when the donor or a member of his or her family is present. The official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official's position, and the hospitality must be provided as part of that relationship.
2. Gifts that are commonly exchanged between the official and another individual on **holidays, birthdays or similar occasions** provided that the gifts are not substantially disproportionate in value.
3. **Reciprocal exchanges** between an official and another individual that occur on an ongoing basis (for example, regular lunches where the individuals rotate picking up the tab) so long as the total value of

payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is \$470 or more.

4. **Gifts from long-time friends** where the gift is unrelated to the official's duties, provided the donor is not involved in business before the official.
5. **Wedding gifts** are not subject to the \$470 gift limit, but are reportable, with one-half of the value of each gift attributable to each spouse.

### **Enforcement**

The FPPC is charged with enforcement of the Act. Failure to comply with the laws relating to gifts may result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties up to \$5,000 per violation or three times the amount illegally obtained, and exposes OCERS to reputational risk.

### **FPPC Advice Line**

The rules regarding the limitations on the acceptance and reporting of gifts are intricate and not always intuitive. Board members are encouraged to read the attached Fact Sheet and to contact the OCERS Legal Department or the FPPC at its advice line: 1-866-ASK-FPPC or by email: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) with any questions.

Attachments:

- (1) FPPC: "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans"

### **Submitted by:**



Gina M. Ratto  
General Counsel



# Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

## *A Fact Sheet For*

- ♦ Local Elected Officers and Candidates for Local Elective Offices
- ♦ Local Officials Specified in Government Code Section 87200
- ♦ Judicial Candidates
- ♦ Designated Employees of Local Government Agencies

## California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC

Email advice: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

Web site: [www.fppc.ca.gov](http://www.fppc.ca.gov)

April 2017

# Introduction

---

The Political Reform Act<sup>1</sup> (the “Act”) imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,<sup>2</sup> excluding judges;<sup>3</sup>
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency’s conflict of interest code); and
- Candidates<sup>4</sup> for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) or visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Commission advice letters are available on our website. Public officials may also be subject to local restrictions on gifts, honoraria, or travel.

## Enforcement

**Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)**

---

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

<sup>3</sup> The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

<sup>4</sup> For purposes of the gift limit and honoraria prohibition, an individual becomes a “candidate” when he or she files a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If an individual is an unsuccessful candidate, he or she will no longer be subject to the gift limit and honoraria prohibition when he or she has terminated his or her campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

# Gifts

---

## Limitations

Local elected officers, candidates for local elective office, local officials specified in Government Code Section 87200, and judicial candidates, may not accept gifts from any single source totaling more than \$470 in a calendar year. (Section 89503.)<sup>5</sup>

Employees of a local government agency who are designated in the agency's conflict of interest code may not accept gifts from any single source totaling more than \$470 in a calendar year if the employee is required to report receiving income or gifts from that source on his or her statement of economic interests (Form 700). (Section 89503(c).)

## What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when he or she has actual possession of the gift or when he or she takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

## Gifts to Family Members

Under certain circumstances, a gift to an official's family member\* is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

\*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

---

<sup>5</sup> The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2017-2018, the gift limit is \$470. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to \$50 or more must be disclosed, and gifts aggregating to \$470 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the \$470 gift limit but still may subject the public official to disqualification.



## Source of Gift

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

## Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes \$50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

## Valuing Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

## General Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

- 1. Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
- 2. Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
- 3. Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.
- 4. Informational Material.** Informational material provided to assist the public official in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items. However, if the item’s fair market value is more than \$470, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. **Inheritance.** A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. **Campaign Contributions.** Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Plaques.** Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. **Ceremonial Role.** Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under “Gifts Exceptions Requiring Alternate Reporting.”)

9. **Event Where Official Makes a Speech.** Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. **Attending Wedding Reception.** Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. **Bereavement Offerings.** Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. **Acts of Neighborliness.** Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. **Campaign or Nonprofit Fundraiser.** Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. **Unused Passes or Tickets.** Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use and do not give to another person. (Regulation 18946.1.)

15. **Items Provided to Government Agency.** Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include

passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under “Gift Exceptions Requiring Alternate Reporting.”) Contact the FPPC for detailed information.

**16. Emergency Leave Credits.** Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official’s employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

**17. Disaster Relief.** Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

**18. Agency Raffle.** Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

**19. Employee Gift Exchange.** Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

**Limited Gift Exceptions**

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
No	No	No	No

**1. Home Hospitality.** Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual’s home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official’s position and the hospitality must be provided as part of that relationship. Generally, this means functions like children’s birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

**2. Reciprocal Holiday Gifts.** Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

**3. Reciprocal Exchanges.** Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is \$470 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

**4. Dating Relationship.** Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

**5. Acts of Human Compassion.** Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

**6. Long-Time Friend.** Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

**7. Existing Personal Relationship.** Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

**Very Limited Gift Exception**

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes - ½ value as gift	Yes	No	No

**Wedding Gifts.** Wedding gifts are not subject to the \$470 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

**Gift Exceptions Requiring Alternate Reporting**

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes - As Income	Yes	No	No

**Prize or Award.** A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at \$500 or more.** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

**Agency Reports**

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes - On 801 or 802	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

**Form 801 – Payment to Agency Report:** This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual’s statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

**Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions:** This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual’s statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

**Behested Payments Reports**

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes - Form 803 Behested Payment	No	No	No

**Behested Payments.** Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered “behested payments” under Section 82015(b)(2)(B)(iii) and (b)(3) and require disclosure by that elected officer.

**Form 803 – Behested Payment Report**

- Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair.
- Generally, a donation will be “made at the behest” if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by his or her agent or employee.
- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official’s agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)



# Honoraria

---

## What is an “Honorarium”?

An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.).

## The Prohibition

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency’s conflict of interest code (“designated employees”) may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the conflict of interest code. (Section 89502.)

## Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
2. **Donated to General Fund.** An honorarium that is delivered to the official’s local agency within 30 days for donation to the agency’s general fund and for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
  - The official may not make the donation a condition for his or her speech, article, or attendance;
  - The official may not claim the donation as a deduction for income tax purposes;
  - The official may not be identified to the non-profit organization in connection with the donation; and
  - The donation may have no reasonably foreseeable financial effect on the public official or on any member of his or her immediate family. (Regulation 18932.5.)

**4. Payment from Family Member.** A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

**5. Payment for Performance or Book.** Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

**6. Reimbursement for Travel Where Official Provides Consideration.** Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

**Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)**

**1. Admission to Event Where Official Gives Speech.** Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which he or she gives a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

**2. Earned Income from a Business.** Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that he or she is conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

**3. Travel from a Government Agency.** Travel payments provided to the public official by his or her government agency or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.

# Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for his or her travel, that payment is a reportable gift or income under the Act. The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act’s \$470 gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify him or herself from any decision that will have a foreseeable materially financial effect on the source.

## Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act’s gift limits or the honorarium ban.

- 1. Travel from a Non-Reportable Source.** A payment for travel from a source that is not reportable on the official’s statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official’s agency.
- 2. Travel from Government Agency for Training.** A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)
- 3. Sharing a Ride with Another Official.** A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)
- 4. Certain Travel from a Government Agency or 501(c)(3).** Travel payments provided to the official by any state, local, or federal government agency as part of the official’s employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.
- 5. Travel for Official Agency Business.** Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a “personal benefit” to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.
- 6. Campaign Contribution.** A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.



**7. Travel Payments Fulfilling Terms of Contract.** Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

**Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the \$470 Gift Limit or Honoraria Ban of the Act.**

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes	Yes	No	No

**Travel for a Public Purpose Under Section 89506(a).** Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

**Payments for Travel in Connection with a Business**

Reporting	C/I § 87100	Honoraria Ban	\$470 Gift Limit
Yes - as Income	Yes	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

# Loans

---

Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

## Limitations on Loans from Agency Officials, Consultants, and Contractors

**Officials Must Not Receive Loans from Agency Staff.** If the public official is a local elected officer or an official specified in Section 87200 (see page 2), he or she may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of his or her government agency or an agency over which his or her agency exercises direction and control. (Section 87460(a) and (b).)

**Officials Must Not Receive Loans from Agency Contractors.** In addition, the public official may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with his or her government agency or an agency over which his or her agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to his or her official status. (Section 87460(c) and (d).)

## Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, he or she may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

## The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.
2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.

## Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
  - The date the loan was made;
  - The date the last payment of \$100 or more was made on the loan; or
  - The date upon which the public official have made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

**The following loans will not become gifts:**

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

I-6

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Investment Committee  
**FROM:** Molly Murphy, CFA Chief Investment Officer  
**SUBJECT:** RVK PUBLIC FUND UNIVERSE ANALYSIS REPORT

---

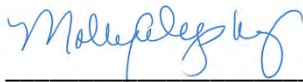
### *Written report only*

### Background

The RVK Public Fund Universe Analysis Report (period ending June 30, 2016) was released on November 15 at the fall SACRS conference. The report is attached.

Because OCERS is not a June 30 fiscal year reporter, the value of the date comparisons can be suspect. This is provided to you as an informational item only. When the report for the period ending December 31, 2017 is released at the spring 2018 SACRS conference, we will arrange for Meketa Investment Group to review the results with the Investment Committee.

### Submitted by:



---

Molly Murphy, CFA  
Chief Investment Officer

### Approved by:



---

Steve Delaney  
Chief Executive Officer



# Public Fund Universe Analysis

SACRS

Period Ending June 30, 2017



# Report and Firm Summary

The following report is a compilation of data provided to RVK, Inc. by 79 public funds throughout the United States. We are a registered investment advisor with the Securities Exchange Commission under the Investment Advisors Act of 1940. Our firm provides investment consulting services to nearly 200 clients across more than 460 plans with total assets under advisement in excess of \$2.1 trillion. The confidentiality of participants is maintained by revealing the fund number only to each individual fund, with the exception of SACRS funds which have provided permission to share their respective fund numbers. For more information about services provided by RVK, please visit our website at [www.RVKInc.com](http://www.RVKInc.com).

## Participants

**Alameda County Employees' Retirement Association (17)**

Arlington County Employees' Retirement System  
 City of Austin Employees' Retirement System  
 City of Milwaukee Employees' Retirement System  
 City of Plano Retirement Security Plan

Colorado Public Employees' Retirement Association

**Contra Costa County Employees' Retirement Association (118)**

District of Columbia Retirement Board  
 Employees Retirement System of Texas  
 Fire and Police Pension Association of Colorado  
 Fort Worth Employees' Retirement Fund  
 Georgia Division of Investment Services  
 Illinois Municipal Retirement Fund  
 Iowa Public Employees' Retirement System  
 Kansas Public Employees' Retirement System  
 Kentucky Teachers' Retirement System  
 Los Angeles City Employees' Retirement System  
 Los Angeles Fire and Police Pension System

**Marin County Employees' Retirement Association (69)****Mendocino County Employees' Retirement Association (49)**

Montana Public Employees' Retirement System  
 Municipal Employees' Annuity and Benefit Fund of Chicago  
 Nebraska Investment Council  
 New York State Common Retirement Fund  
 North Carolina Retirement System

**Orange County Employees' Retirement System (71)**

Pennsylvania State Employees' Retirement System  
 Public Employees Retirement Association of New Mexico

**Sacramento County Employees' Retirement System (75)**

Anchorage Police & Fire Retirement System  
 California State Teachers' Retirement System  
 City of Fresno Retirement Systems  
 City of Plano Other Post-Employment Benefits Trust  
 Civilian Employees' Retirement System of the Police Department of Kansas City, Missouri

Confederated Tribes of the Warm Springs Tribal Council Pension Fund

County Employees' Annuity & Benefit Fund of Cook County  
 Educational Employees' Supplementary Retirement System of Fairfax County  
 Fire & Police Employees' Retirement System of Baltimore  
 Florida State Board of Administration

**Fresno County Employees' Retirement Association (80)**

Gila River Indian Community Retirement Plan

**Imperial County Employees' Retirement System (55)**

Kansas City, Missouri Employees' Retirement System  
 Kentucky Retirement Systems

**Kern County Employees' Retirement Association (119)****Los Angeles County Employees Retirement Association (86)**

Los Angeles Water & Power Employees Retirement Plan  
 Maryland State Retirement and Pension System

**Merced County Employees' Retirement Association (15)**

Montana Teachers' Retirement System  
 Municipality of Anchorage Pre-Funding Program  
 Nevada Public Employees' Retirement System  
 Newport News Employees' Retirement Fund  
 Ohio Public Employees' Retirement System  
 Pennsylvania Public School Employees' Retirement System  
 Police Retirement System of Kansas City, Missouri  
 Public School and Education ERS of Missouri





**Participants**

---

San Diego City Employees' Retirement System

San Diego Transit Corporation Employees Retirement

**San Mateo County Employees' Retirement Association (73)**

**Sonoma County Employees' Retirement Association (64)**

**Stanislaus County Employees' Retirement Association (57)**

State Teachers Retirement System of Ohio

Teachers' Retirement System of Louisiana

Texas Municipal Retirement System

**Tulare County Employees' Retirement Association (94)**

Virginia Retirement System

Wyoming Retirement System

**San Bernardino County Employees' Retirement Association (101)**

**San Diego County Employees Retirement Association (129)**

**San Joaquin County Employees' Retirement Association (61)**

**Santa Barbara County Employees' Retirement System (99)**

South Dakota Retirement System

State of Michigan Retirement Systems

State Universities Retirement System of Illinois

Teachers' Retirement System of the State of Illinois

The Navajo Nation Retirement Plan

**Ventura County Employees' Retirement Association (52)**

West Virginia Investment Management Board

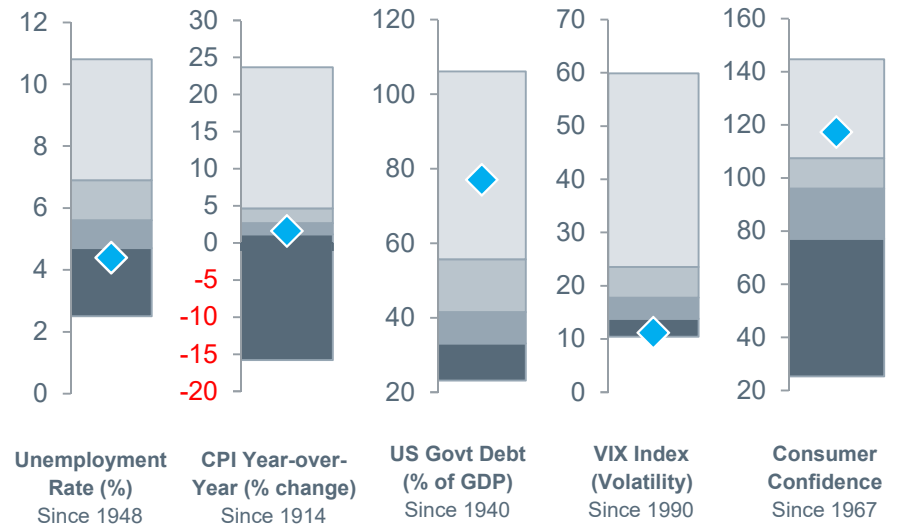
**Second Quarter Economic Environment**

**Key Economic Indicators**

Global risk assets continued to perform well during the second quarter of 2017, with gains broadly supported by strengthening economic data related to global inflation, job growth, and corporate fundamentals. In contrast to prior run-ups in risk assets, the past quarter was marked by high levels of sector and market factor dispersion. This created significant opportunities for skilled active managers and generated tailwinds for strategies with heavy growth and cyclical biases. Geographically, emerging markets outperformed developed, while international markets generally outperformed US markets.

Gains across most risk assets occurred despite persistent political divisiveness in the US, heightened geopolitical risks (most notably in North Korea), and a range of other international issues. Although positive economic fundamentals have thus far supported 2017 market gains, it is possible that unanticipated global central bank policy and US political events could have a larger influence on markets through the remainder of the year.

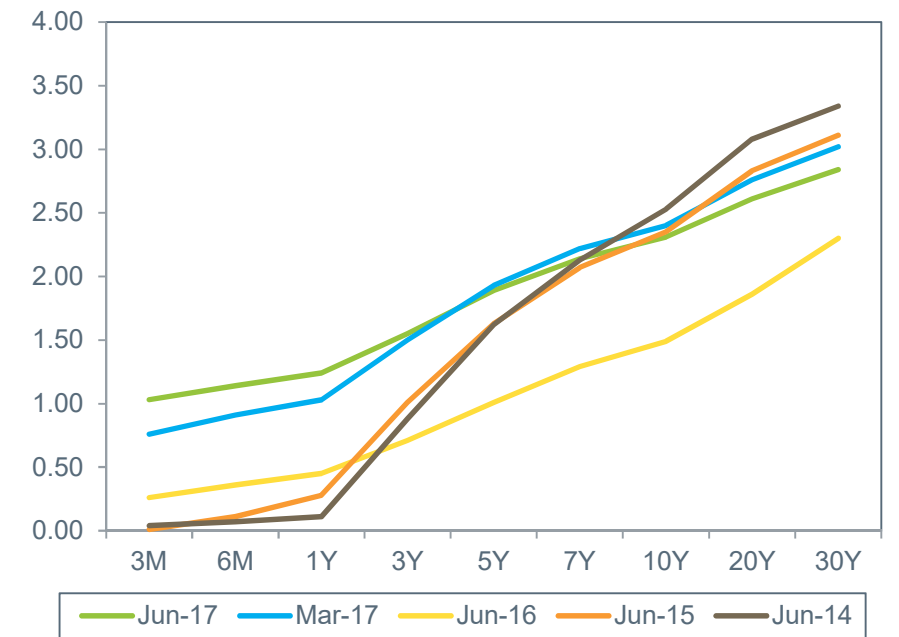
**Key Economic Indicators**



**Economic Indicators**

	Jun-17	Mar-17	Jun-16	Jun-14	20 Yr
Federal Funds Rate (%)	1.06 ▲	0.82	0.30	0.09	2.23
Breakeven Infl. - 1 Yr (%)	0.72 ▼	2.06	1.17	1.46	N/A
Breakeven Infl. - 10 Yr (%)	1.74 ▼	1.98	1.44	2.24	N/A
CPI YoY (Headline) (%)	1.6 ▼	2.4	1.0	2.1	2.1
Unemployment Rate (%)	4.4 ▼	4.5	4.9	6.1	5.9
Real GDP YoY (%)	2.1 ▲	2.0	1.2	2.7	2.3
PMI - Manufacturing	57.80 ▲	57.20	52.80	55.40	52.25
USD Total Wtd Idx	90.54 ▼	94.01	90.65	75.72	86.89
WTI Crude Oil per Barrel (\$)	46.0 ▼	50.6	48.3	105.4	56.7
Gold Spot per Oz (\$)	1,241.6 ▼	1,249.4	1,322.2	1,327.3	806.4

**Treasury Yield Curve (%)**



**Market Performance (%)**

	QTD	CYTD	1 Yr	5 Yr	10 Yr
S&P 500 (Cap Wtd)	3.09	9.34	17.90	14.63	7.18
Russell 2000	2.46	4.99	24.60	13.70	6.92
MSCI EAFE (Net)	6.12	13.81	20.27	8.69	1.03
MSCI EAFE SC (Net)	8.10	16.72	23.18	12.94	3.41
MSCI Emg Mkts (Net)	6.27	18.43	23.75	3.96	1.92
Bloomberg US Agg Bond	1.45	2.27	-0.31	2.21	4.48
BofA ML 3 Mo US T-Bill	0.20	0.30	0.49	0.17	0.58
NCREIF ODCE (Gross)	1.70	3.50	7.87	11.79	5.25
Wilshire US REIT	1.78	1.82	-1.71	9.35	5.63
HFRI FOF Comp	0.70	3.10	6.37	3.85	0.86
Bloomberg Cmdty (TR)	-3.00	-5.26	-6.50	-9.25	-6.49

Treasury data courtesy of the US Department of the Treasury. Economic data courtesy of Bloomberg Professional Service. Breakeven Inflation does not have 20 years of history; therefore, its 20-year average is shown as N/A.

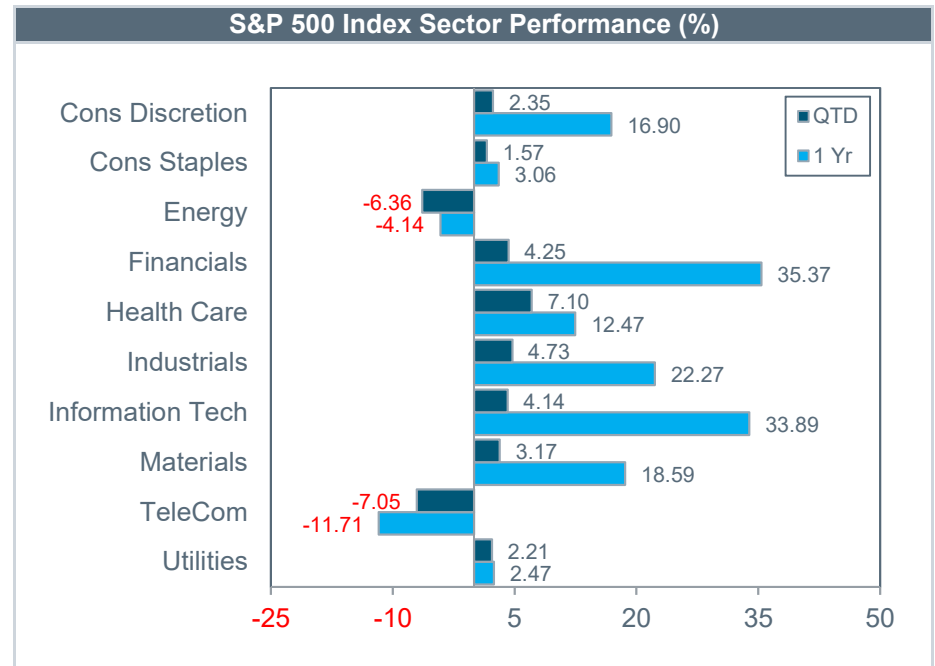
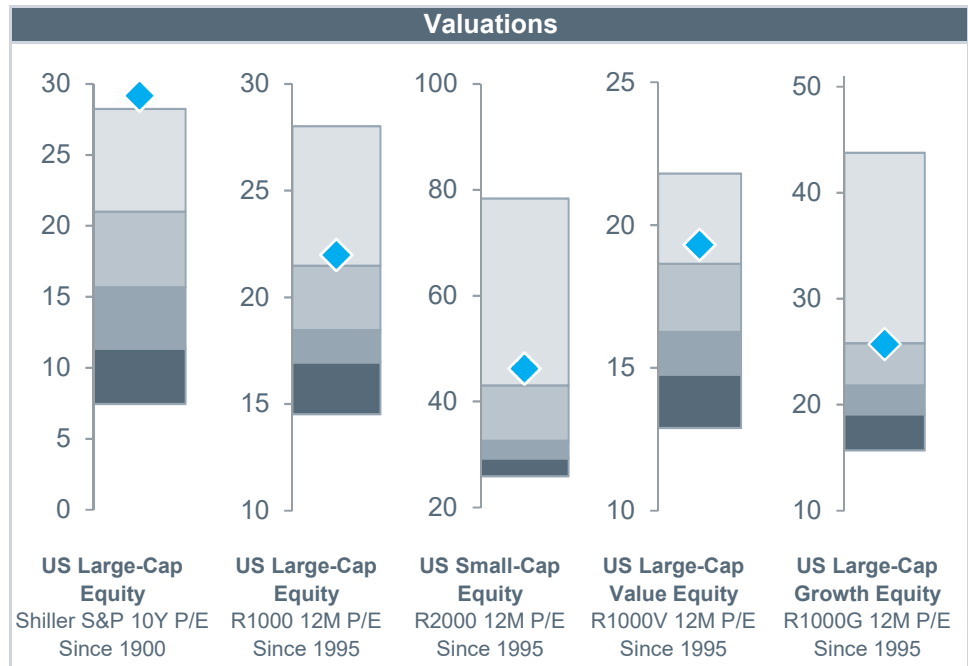
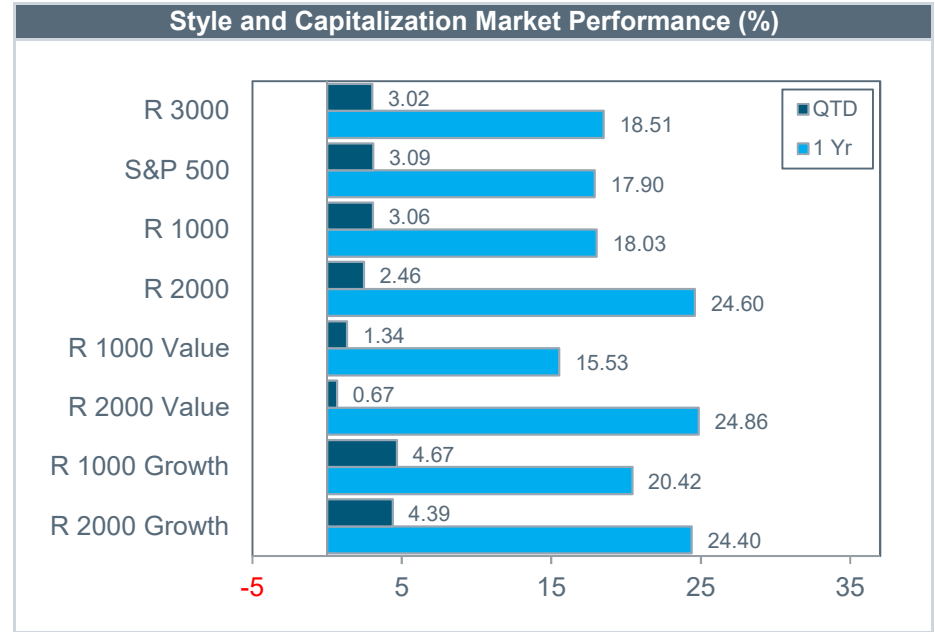


### Second Quarter Review

**Broad Market**  
 Domestic equity markets continued to rally during the second quarter, albeit at a slower rate and with less volatility. Expectations for fiscal stimulus were again supportive of markets during the quarter, as was the positive tone from the Federal Open Market Committee (“FOMC”) regarding near-term economic growth and inflation expectations. Equities provided positive returns across all market caps and styles, but with significant dispersion across sectors and market factors.

**Market Cap**  
 Large cap stocks continued to outpace small cap stocks, with the exception of micro cap.

**Style and Sector**  
 Growth continued its strong run in the second quarter of 2017, with the Russell 3000 Growth Index posting returns of 4.7% for the quarter and 13.7% year-to-date, versus 1.3% and 4.3%, respectively, for its value counterpart.



Valuation data courtesy of Bloomberg Professional Service and Robert J. Shiller, Irrational Exuberance, Second Edition. P/E metrics shown represent the 5th through 95th percentiles to minimize the effect of outliers.



**Second Quarter Review**

**Broad Market**

International equity markets continued to react positively to signs of strengthening economic growth across both developed and emerging markets, driving equity and sovereign debt yields higher.

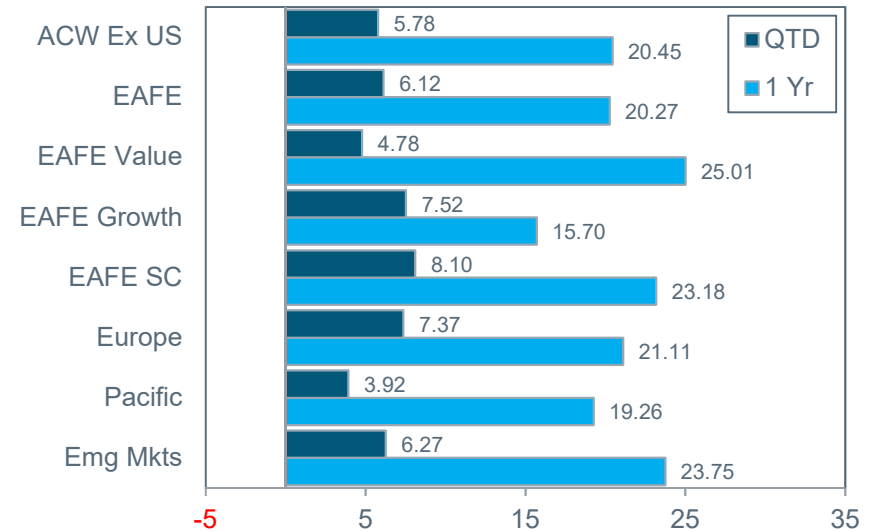
**Region**

From a country perspective, political developments drove a generally risk-on repricing of assets. France and the Netherlands withstood the anti-globalization political forces, which reduced political uncertainty and supported higher asset prices.

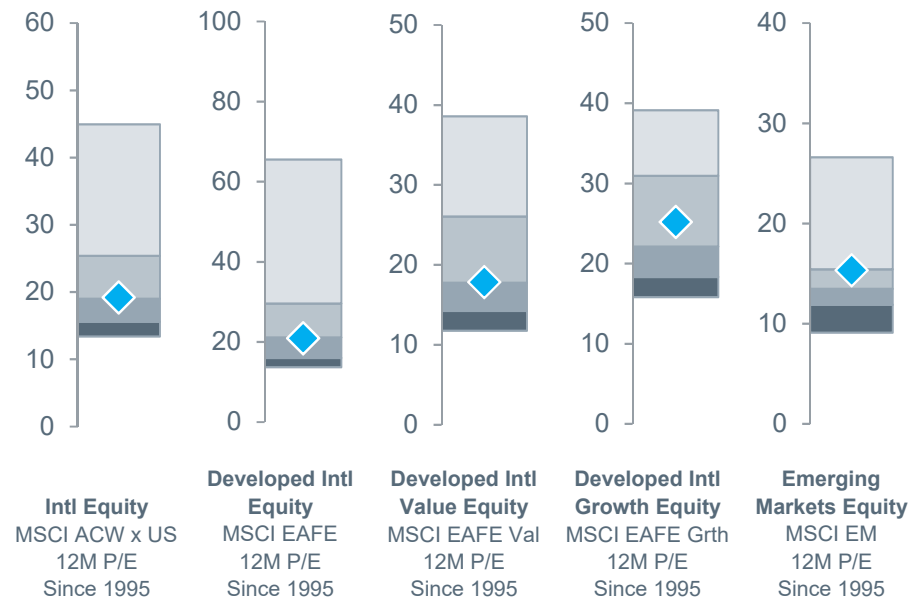
**Market Cap & Style**

Developed small-cap equities outperformed large-cap equities, while emerging markets equities narrowly edged out developed markets equities. As would be expected during periods of growth leadership, healthcare and technology led performance from a sector standpoint, with materials, energy, and telecom lagging.

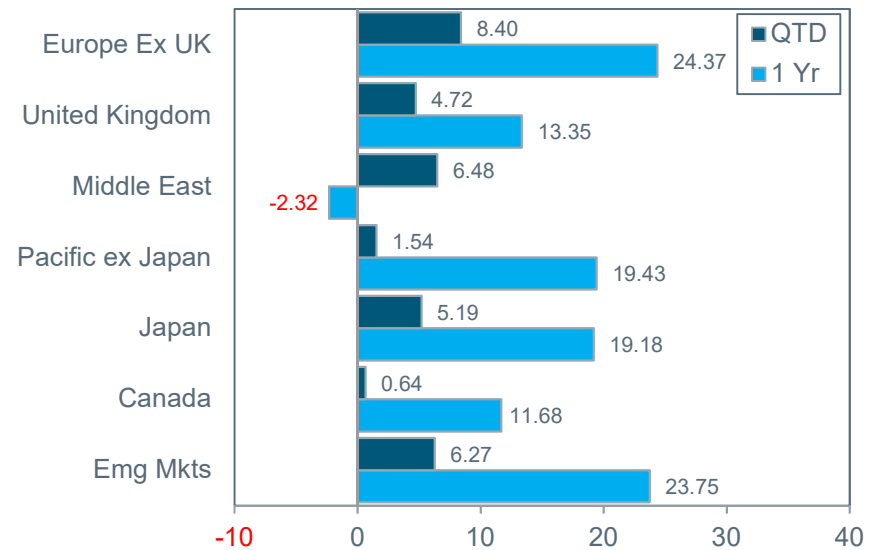
**MSCI Style and Capitalization Market Performance (%)**



**Valuations**



**MSCI Region Performance (%)**



Valuation data courtesy of Bloomberg Professional Service.

P/E metrics shown represent the 5th through 95th percentiles to minimize the effect of outliers. All returns are shown net of foreign taxes on dividends.



**Second Quarter Review**

**Broad Market**

The FOMC raised the Federal Funds rate by 0.25% during its June meeting, citing developments in labor markets and expectations for higher inflation over the near-term. As expected, given recent inflation data and the June increase in the targeted Federal Funds rate, the yield curve flattened considerably during the second quarter.

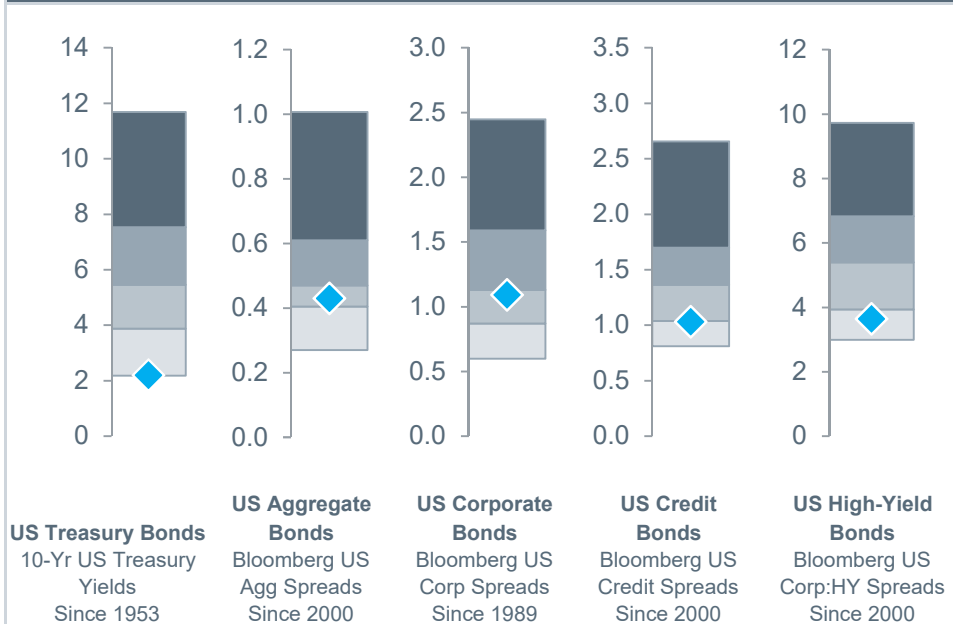
**Credit Market**

Unsurprisingly, given the general risk-on sentiment of the second quarter, credit spreads tightened for both the BofAML US Corporate Index and the BofAML US High Yield Index.

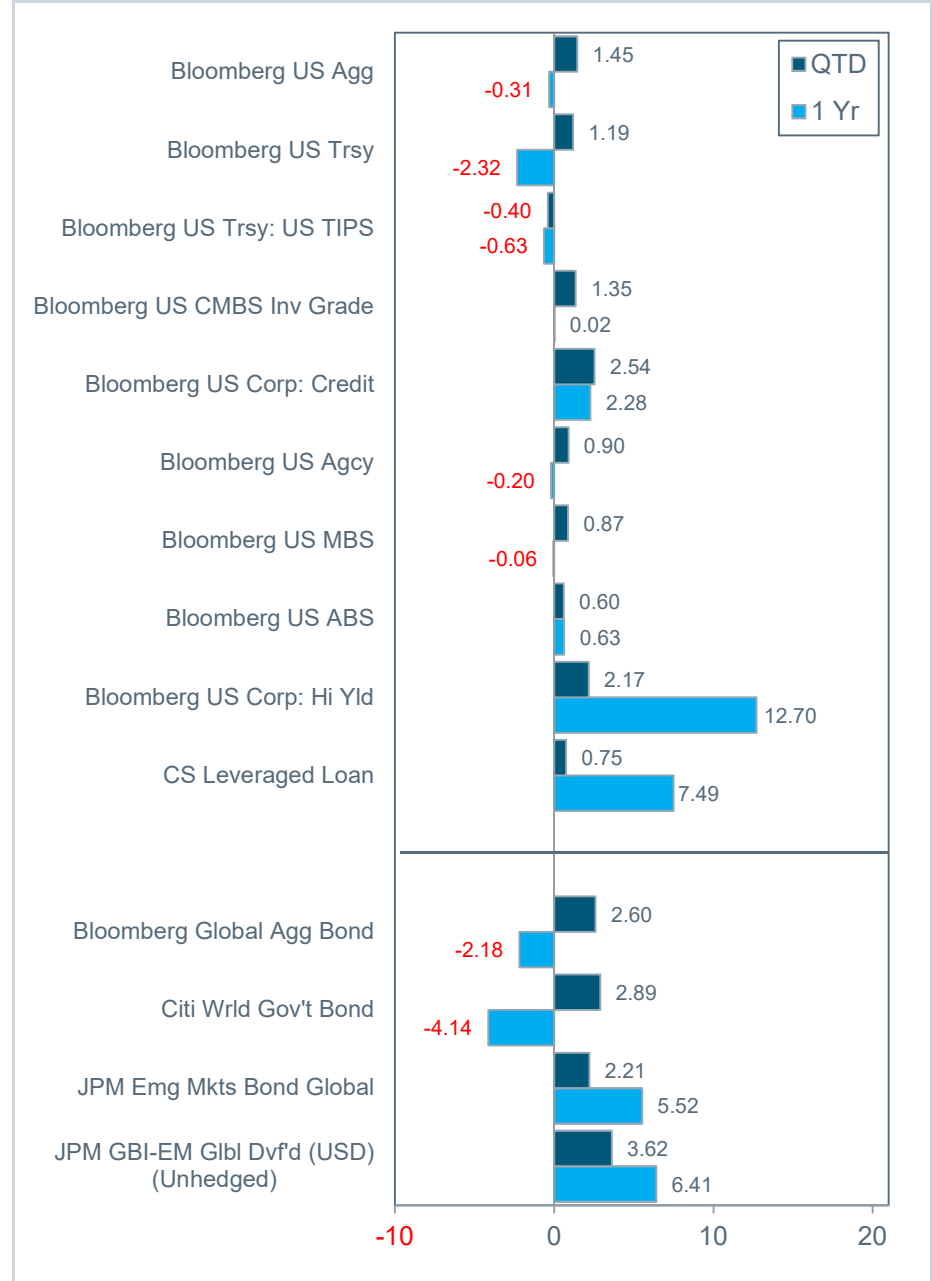
**International**

Emerging markets debt continued to be a top performer in 2017. Hard currency EMD returned 2.2% for the quarter and 6.2% for the year-to-date, as measured by the JPM EMBI Global Diversified Index.

**Valuations**



**Fixed Income Performance (%)**



Valuation data courtesy of Bloomberg Professional Service. Valuations shown represent the 5th through 95th percentiles to minimize the effect of outliers.



**Second Quarter Review - Absolute Return**

**General Market - Hedge Funds**

The hedge fund industry continued to produce positive returns for the quarter, though they cooled slightly from the pace set in the first quarter. As measured by the HFRI Fund Weighted Composite, the industry has now generated positive returns in 15 out of 16 months dating back to March 2016. Macro strategies continued to lag other sectors, however, as systematic strategies were whipsawed by interest rate movements in 2017.

**General Market - Global Tactical Asset Allocation (GTAA)**

Relative to an undiversified and static portfolio comprised of 60% US equity and 40% fixed income, performance across the GTAA manager universe was mixed in the second quarter. The stronger-performing tactical managers either avoided or de-emphasized US large cap equity exposure in favor of foreign developed equity, emerging market equity, and credit-sensitive fixed income. Managers with overweight positions in European and Japanese equity exposures fared particularly well.

**Second Quarter Review - Real Assets**

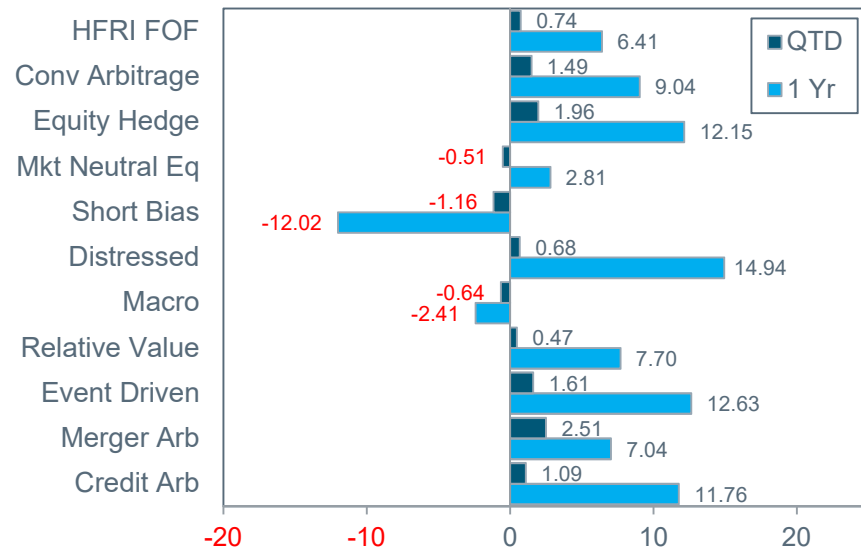
**General Market - Diversified Inflation Strategies (DIS)**

Performance for Diversified Inflation Strategies in the second quarter varied widely, as commodities exposure (or lack thereof) served as the defining characteristic that separated strong manager returns from disappointing ones.

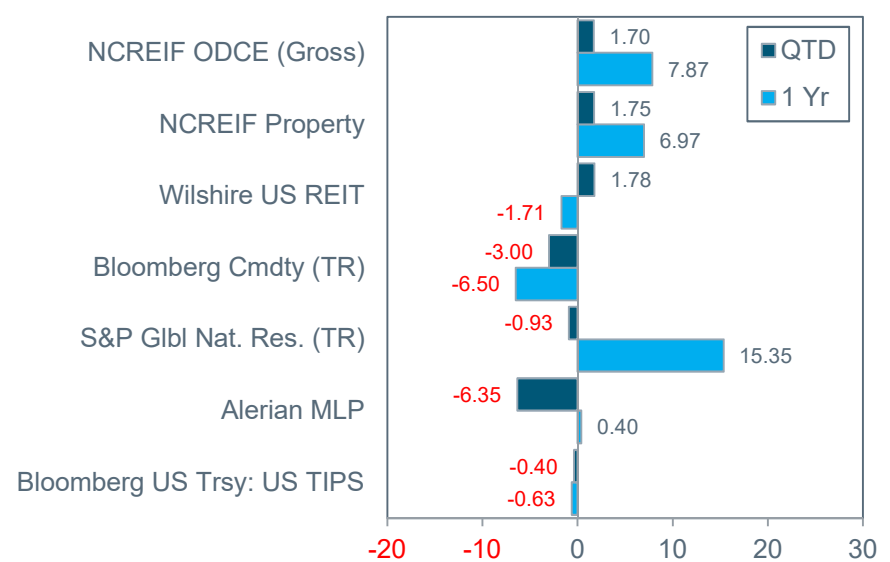
**General Market - Real Estate**

Core real estate returns mirrored those experienced in the first quarter. Gains were moderate with income comprising more than half of the quarter's total return. The core index, NCREIF-ODCE, returned 1.7% (on a preliminary basis) during the quarter, reinforcing investor expectations of lower returns going forward as we enter the later stages of the recovery. Real estate valuations remain at elevated levels. However, with the exception of a small cohort of high-end luxury properties in a few gateway cities, fundamentals remain intact.

**HFRI Hedge Fund Performance (%)**



**Real Asset Performance (%)**



Annual Asset Class Performance

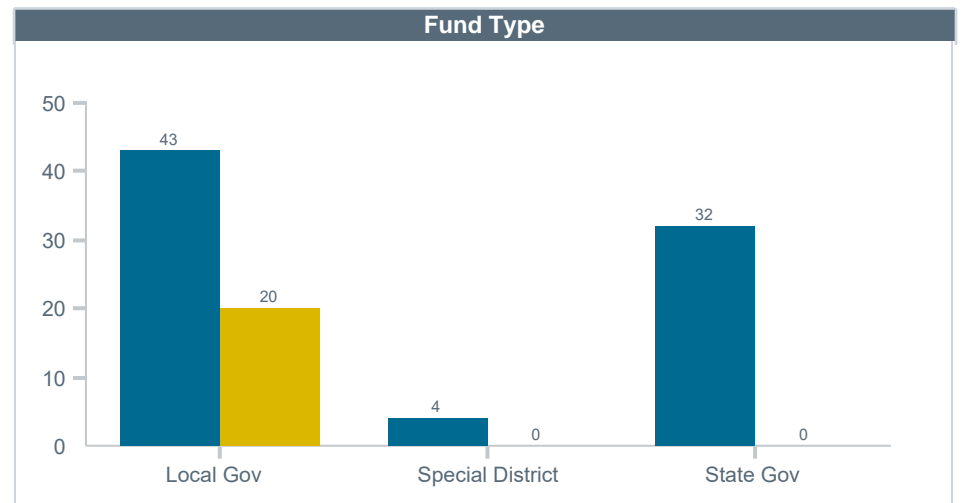
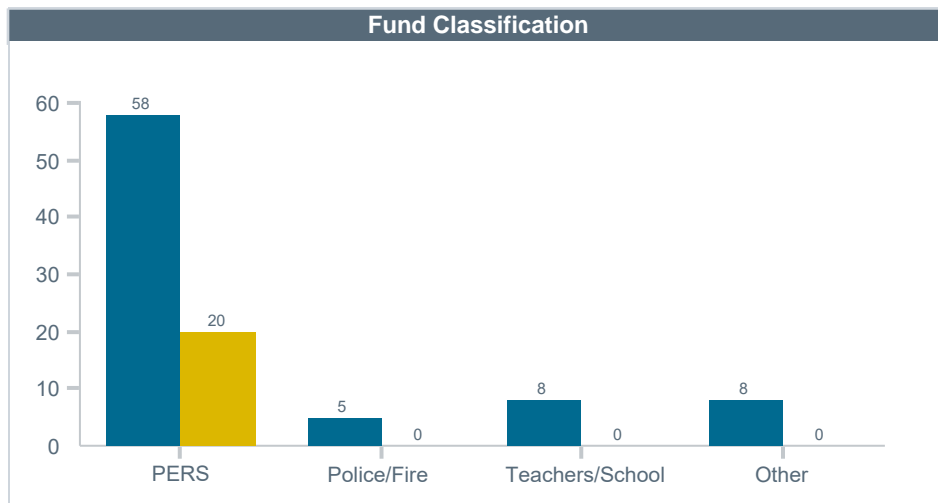
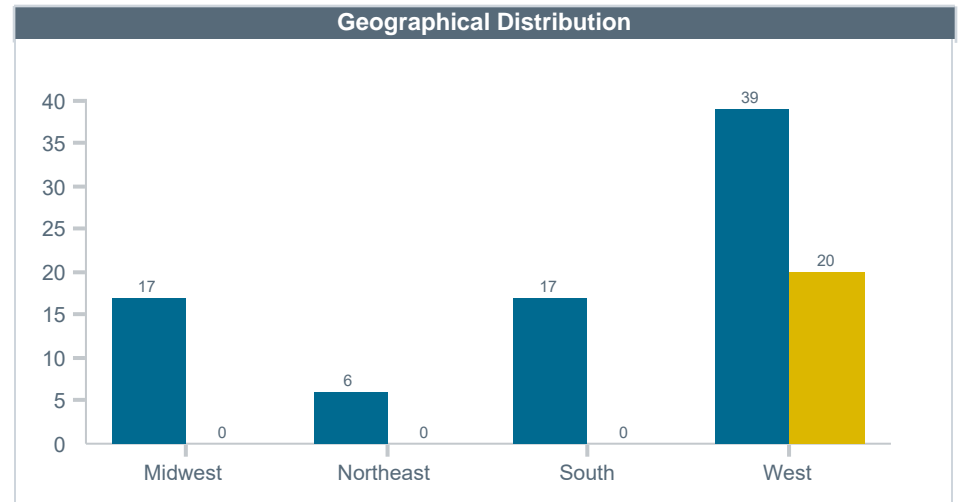
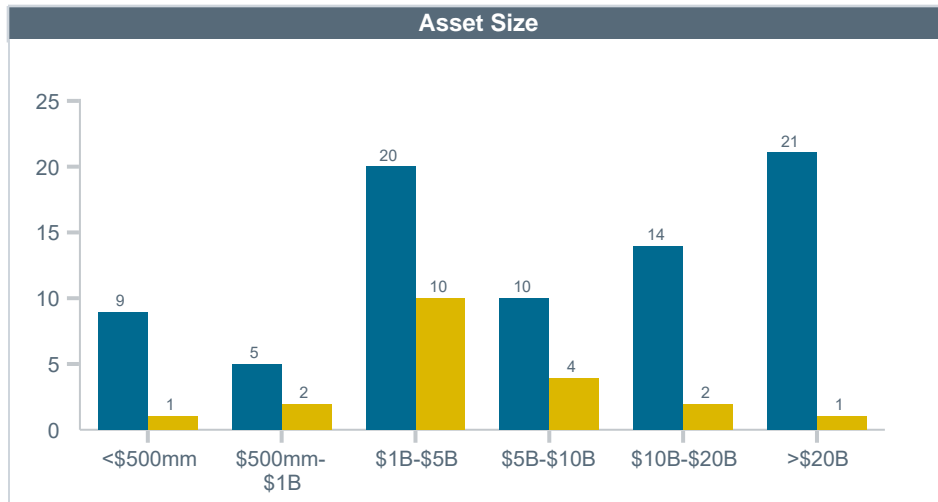
As of June 30, 2017

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	YTD
Best	61.34	33.16	34.00	35.97	39.38	8.44	78.51	28.60	22.49	20.00	38.82	31.78	15.02	21.31	18.43
	55.81	31.45	26.19	32.18	16.23	5.24	58.21	26.85	15.99	18.23	32.39	19.31	9.59	17.13	16.72
	47.25	25.55	21.39	26.34	15.97	2.06	46.78	22.04	13.56	17.59	29.30	13.69	4.23	11.96	13.81
	38.59	20.25	21.36	19.31	11.63	-2.35	31.78	18.88	9.24	17.32	22.78	12.50	1.38	11.74	9.34
	36.18	18.33	13.82	18.37	11.17	-10.01	28.60	16.83	7.84	16.35	13.94	5.97	0.55	11.19	6.03
	28.96	13.06	13.54	16.32	10.25	-21.37	27.17	16.36	4.98	16.00	8.96	4.89	0.05	8.77	4.99
	28.68	11.14	7.49	15.79	6.97	-26.16	26.46	15.12	2.11	15.81	7.44	3.64	-0.27	7.24	4.93
	23.93	10.88	5.34	11.86	6.60	-33.79	18.91	15.06	0.10	10.94	1.86	3.37	-0.31	6.67	3.50
	11.61	9.15	4.91	10.39	5.49	-35.65	11.47	10.16	-4.18	8.78	0.07	2.45	-1.44	4.68	3.10
	9.28	8.56	4.55	4.85	5.00	-37.00	11.41	7.75	-5.72	6.98	-2.02	0.04	-3.30	2.65	2.27
	8.39	8.46	3.07	4.34	1.87	-39.20	5.93	6.54	-12.14	4.79	-2.60	-2.19	-4.41	2.18	1.82
	5.88	6.86	2.84	2.72	1.45	-43.38	1.92	6.31	-13.32	4.21	-8.61	-4.90	-4.47	1.00	0.85
	4.11	4.34	2.74	2.07	-1.57	-47.01	0.21	5.70	-15.94	0.11	-8.83	-4.95	-14.92	0.51	0.30
Worst	1.15	1.33	2.43	0.49	-17.55	-53.33	-29.76	0.13	-18.42	-1.06	-9.52	-17.01	-24.66	0.33	-5.26
	S&P 500 - US Large Cap	R 2000 - US Small Cap	MSCI EAFE (Net) - Int'l Dev.	MSCI EAFE SC (Net) - Int'l SC	MSCI EM (Net) - Int'l Emg Mkts	Bloomberg US Agg Bond - FI	Bloomberg US Corp: Hi Yield - FI	Bloomberg US Trsy: US TIPS - FI	Bloomberg US Gov/Credit: Lng - FI	NCREIF ODCE (Gross) - Real Estate	Wilshire US REIT - REITs	HFRI FOF Comp Index - ARS	Bloomberg Cmdty (TR) - Commod.	BofA ML 3 Mo T-Bill - Cash Equiv	

NCREIF ODCE (Gross) performance is reported quarterly; performance is shown N/A in interim-quarter months.



Universe Characteristics

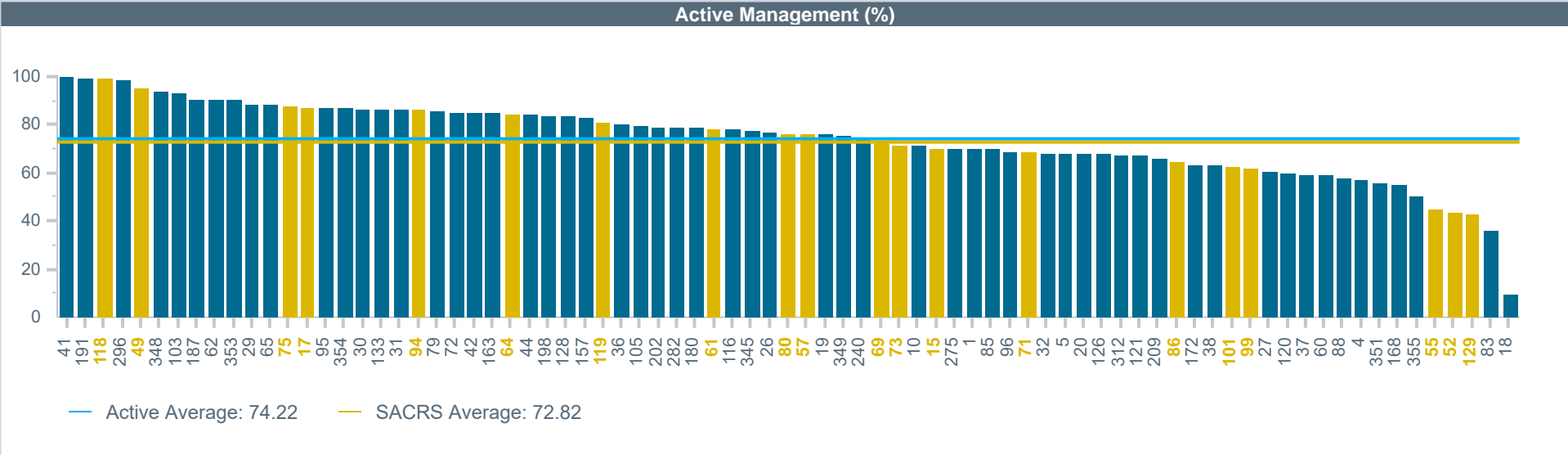
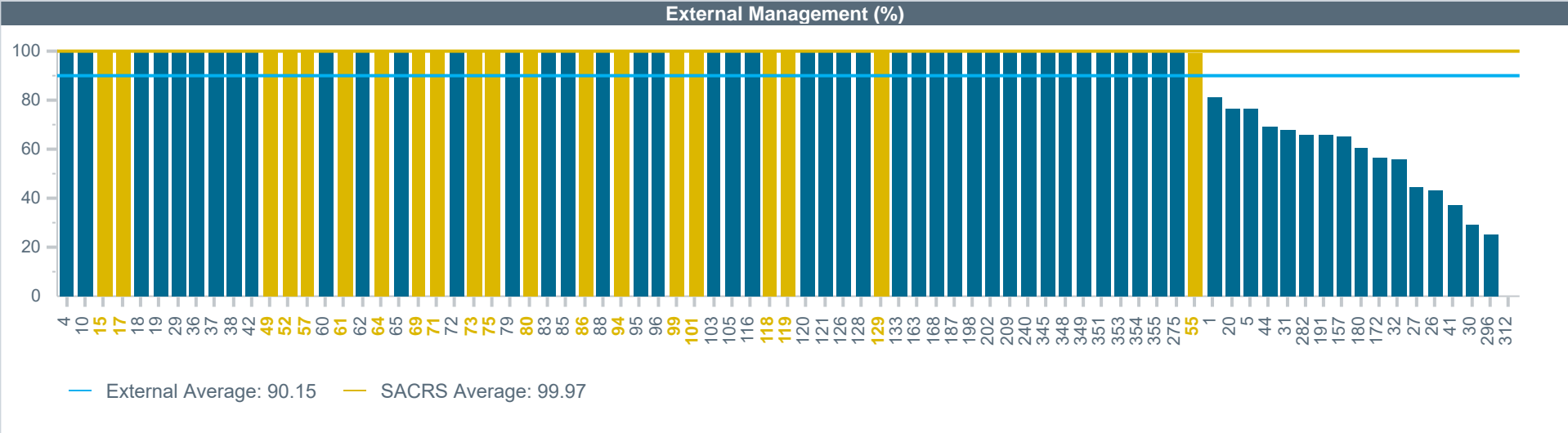


■ Universe: 79 funds   ■ SACRS: 20 funds





Portfolio Management  
 Percentage Externally Managed & Percentage Actively Managed



SACRS



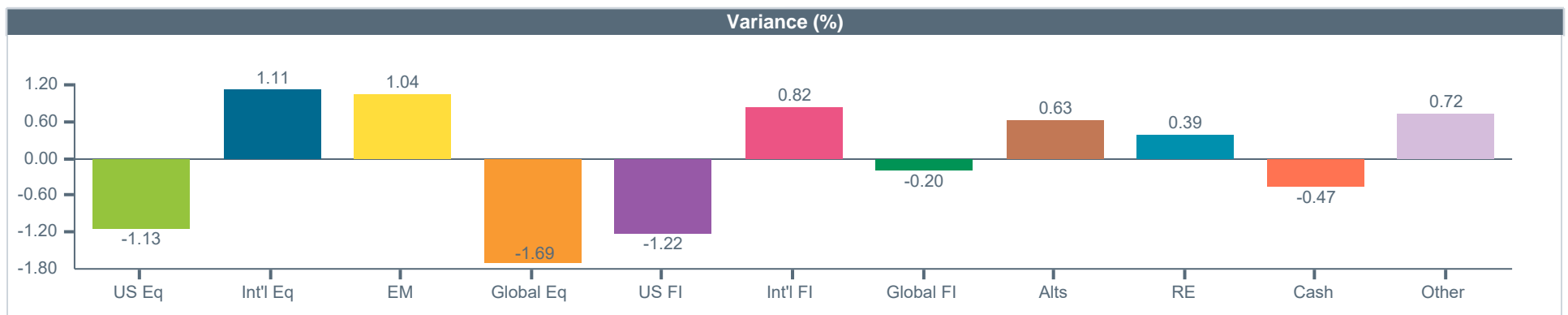
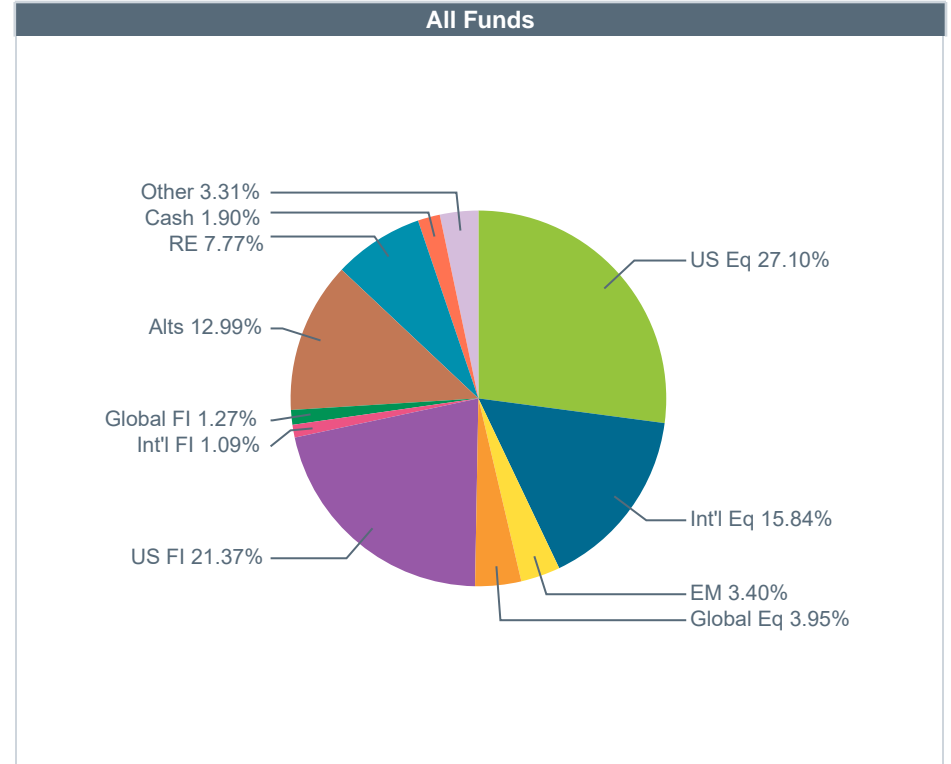
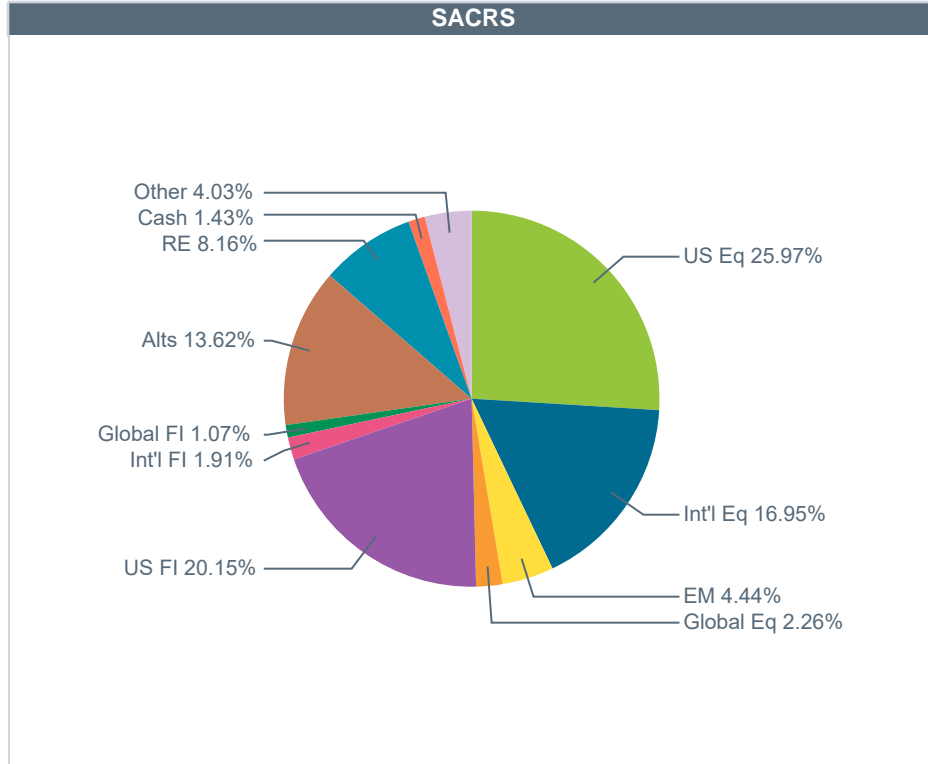
## Portfolio Management Statistics

Asset Range	Actively Managed (%)	Passively Managed (%)	Externally Managed (%)	Internally Managed (%)
Over \$20B	74.88	25.12	75.88	24.12
\$10B-\$20B	70.66	29.34	84.00	16.00
\$5B-\$10B	71.13	28.87	97.67	2.33
\$1B-\$5B	74.13	25.87	98.83	1.17
\$500mm-\$1B	72.74	27.26	99.88	0.12
Under \$500mm	82.63	17.37	100.00	0.00
<b>SACRS</b>	<b>72.82</b>	<b>27.18</b>	<b>99.97</b>	<b>0.03</b>

Portfolio (%)	Active Management		External Management	
	Public Fund Universe	SACRS	Public Fund Universe	SACRS
90 to 100	10	2	62	20
50 to 89	64	15	11	0
10 to 49	4	3	5	0
Less than 10	1	0	1	0
<b>Total Funds Reporting</b>	<b>79</b>	<b>20</b>	<b>79</b>	<b>20</b>



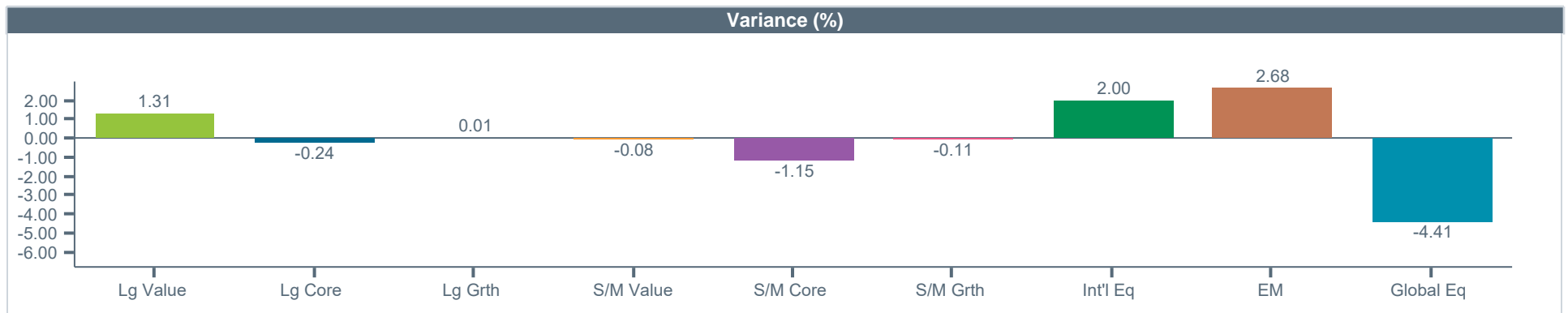
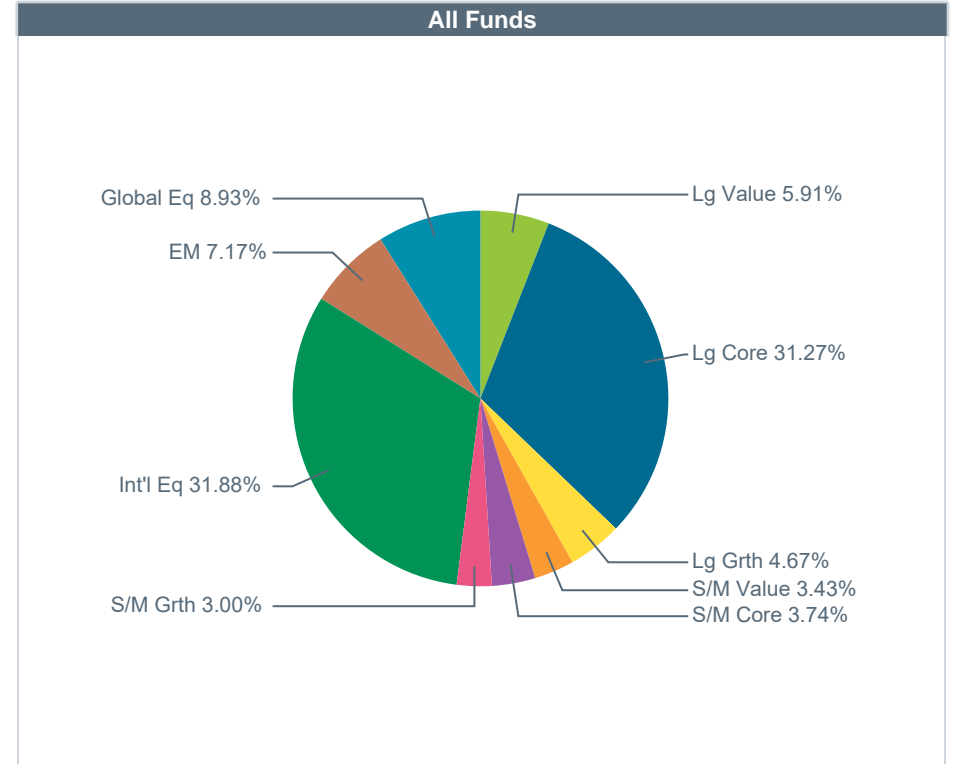
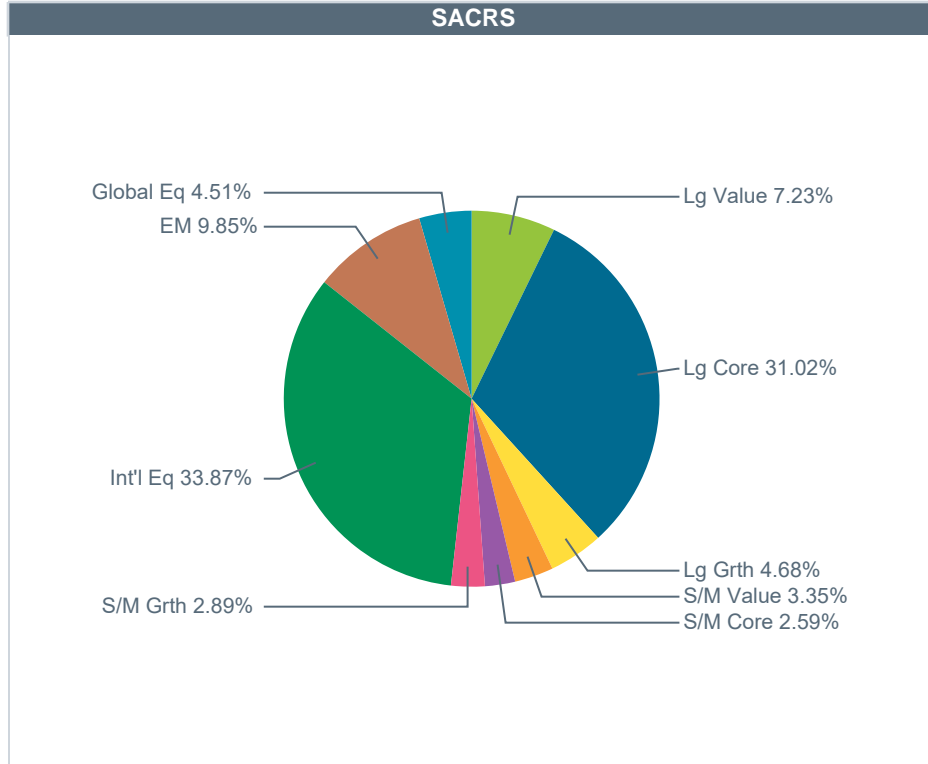
**Asset Allocation**  
**SACRS vs. Average of All Funds**



Allocations shown may not sum up to 100% exactly due to rounding.



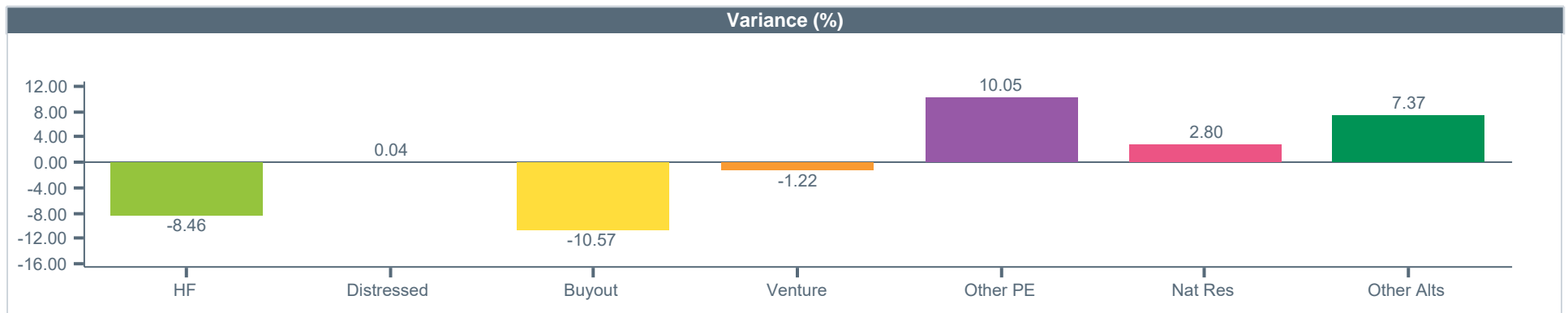
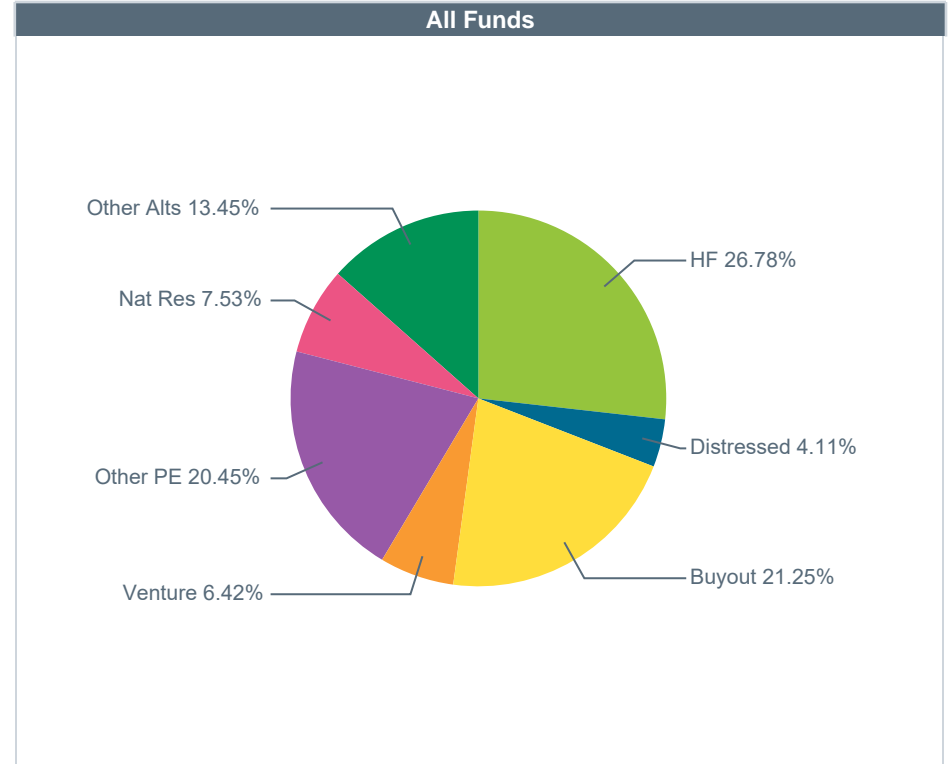
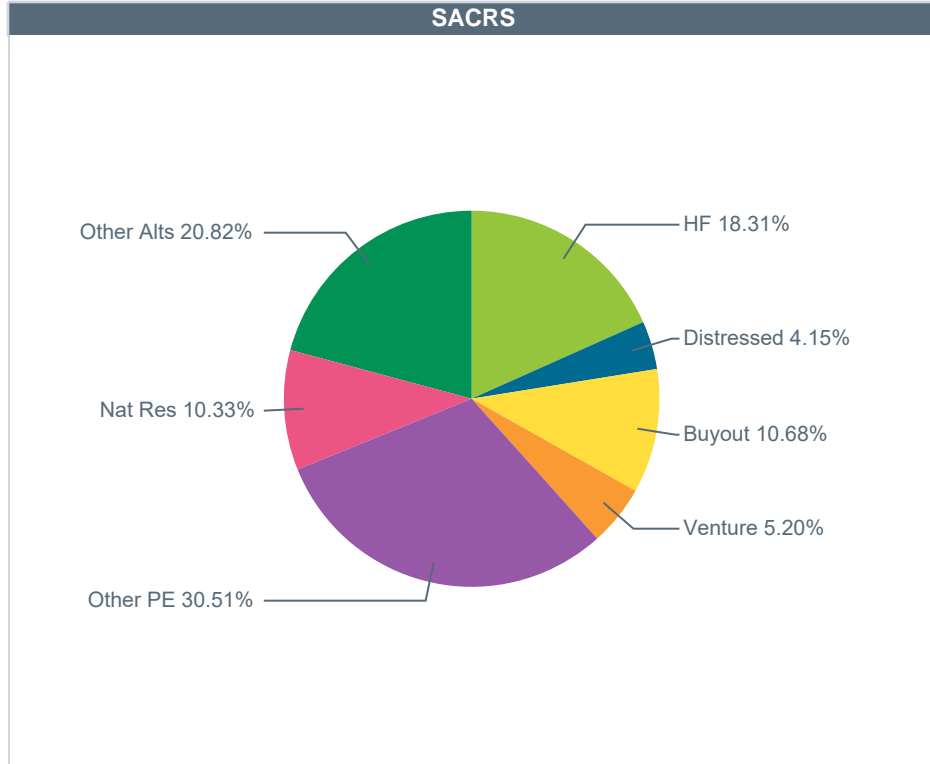
Equity Style Allocation  
SACRS vs. Average of All Funds



Allocations shown may not sum up to 100% exactly due to rounding.



Alternatives Style Allocation  
SACRS vs. Average of All Funds



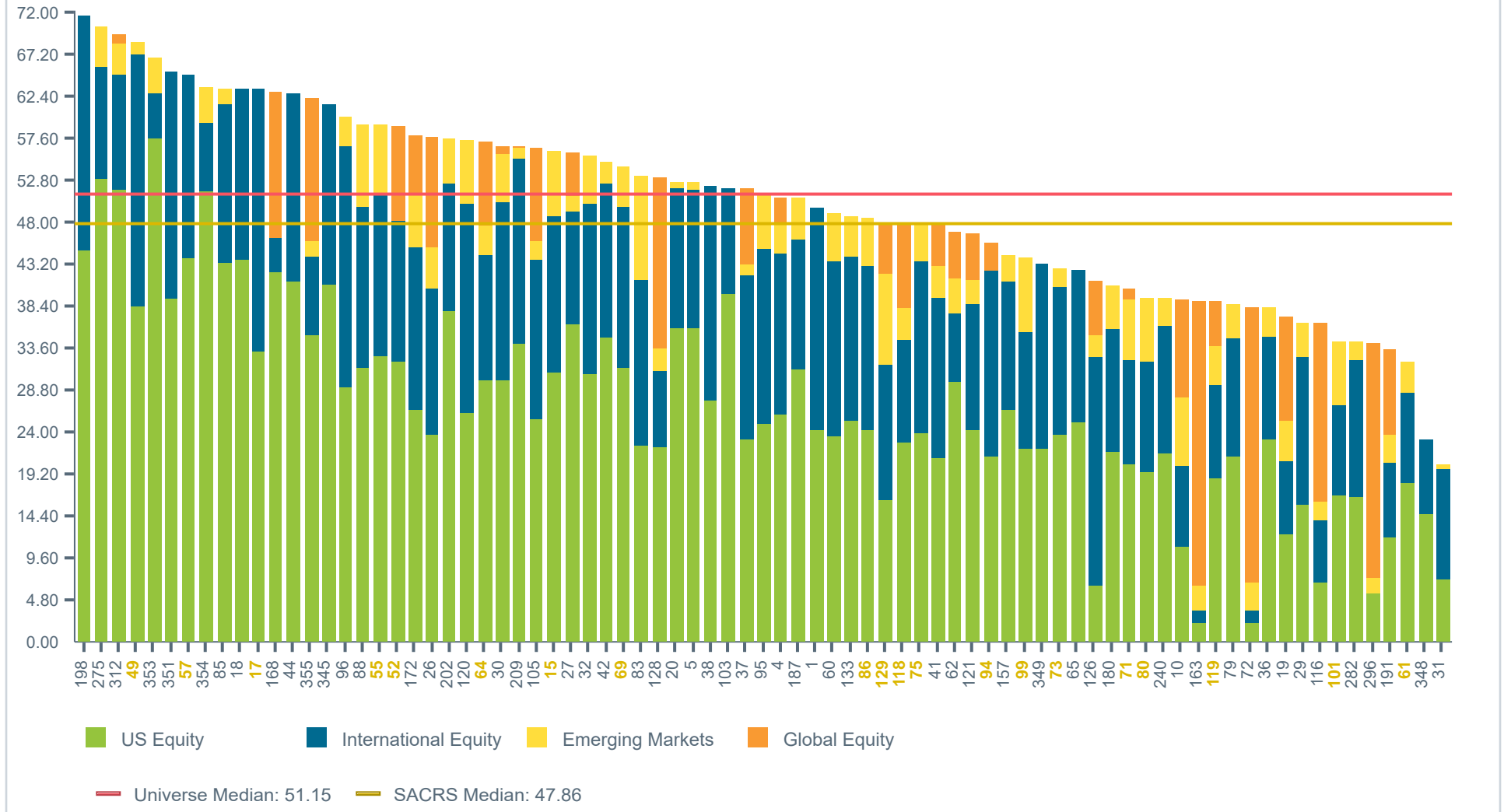
Allocations shown may not sum up to 100% exactly due to rounding.



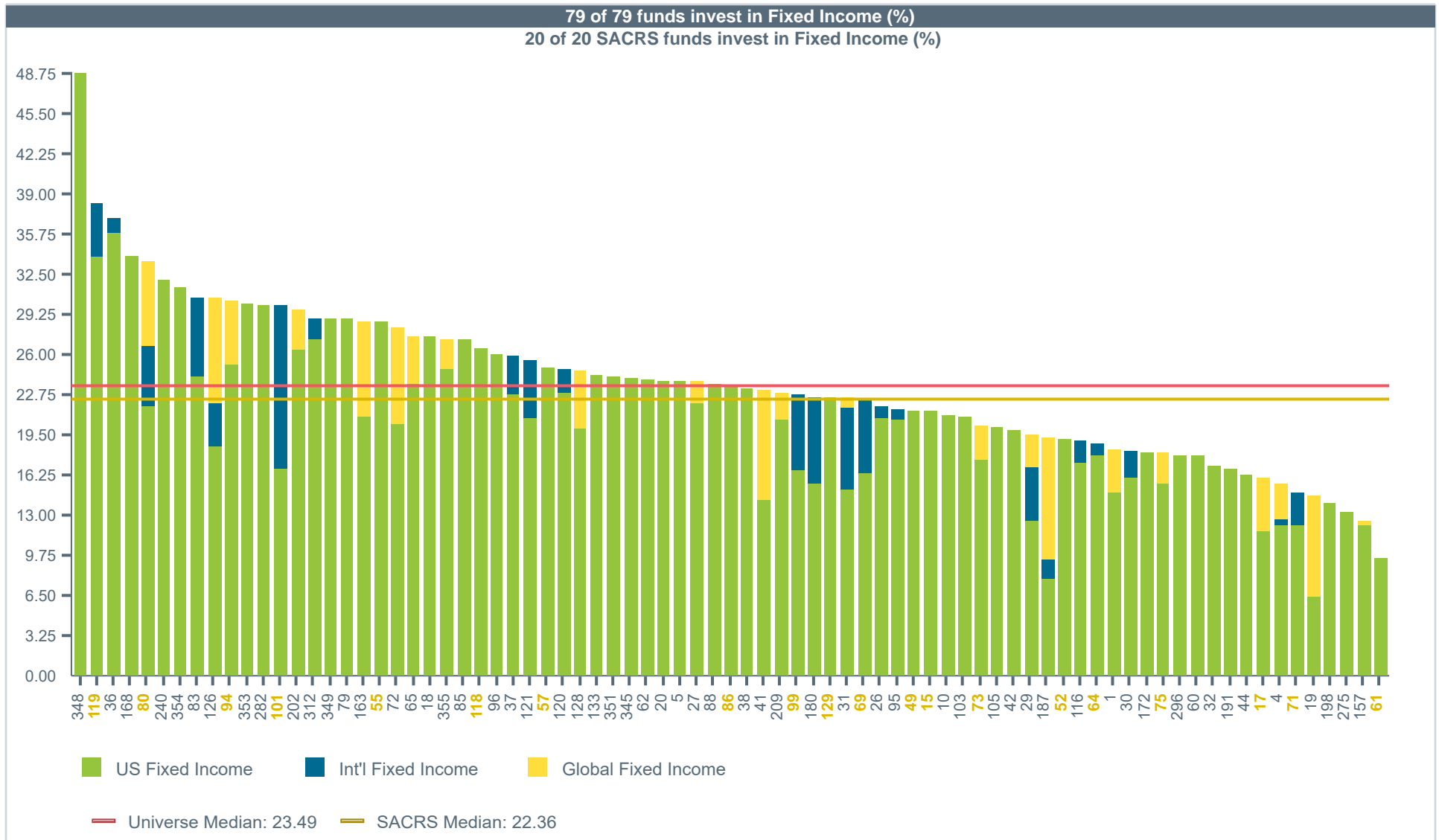
Equity Style Allocation

79 of 79 funds invest in Equity (%)

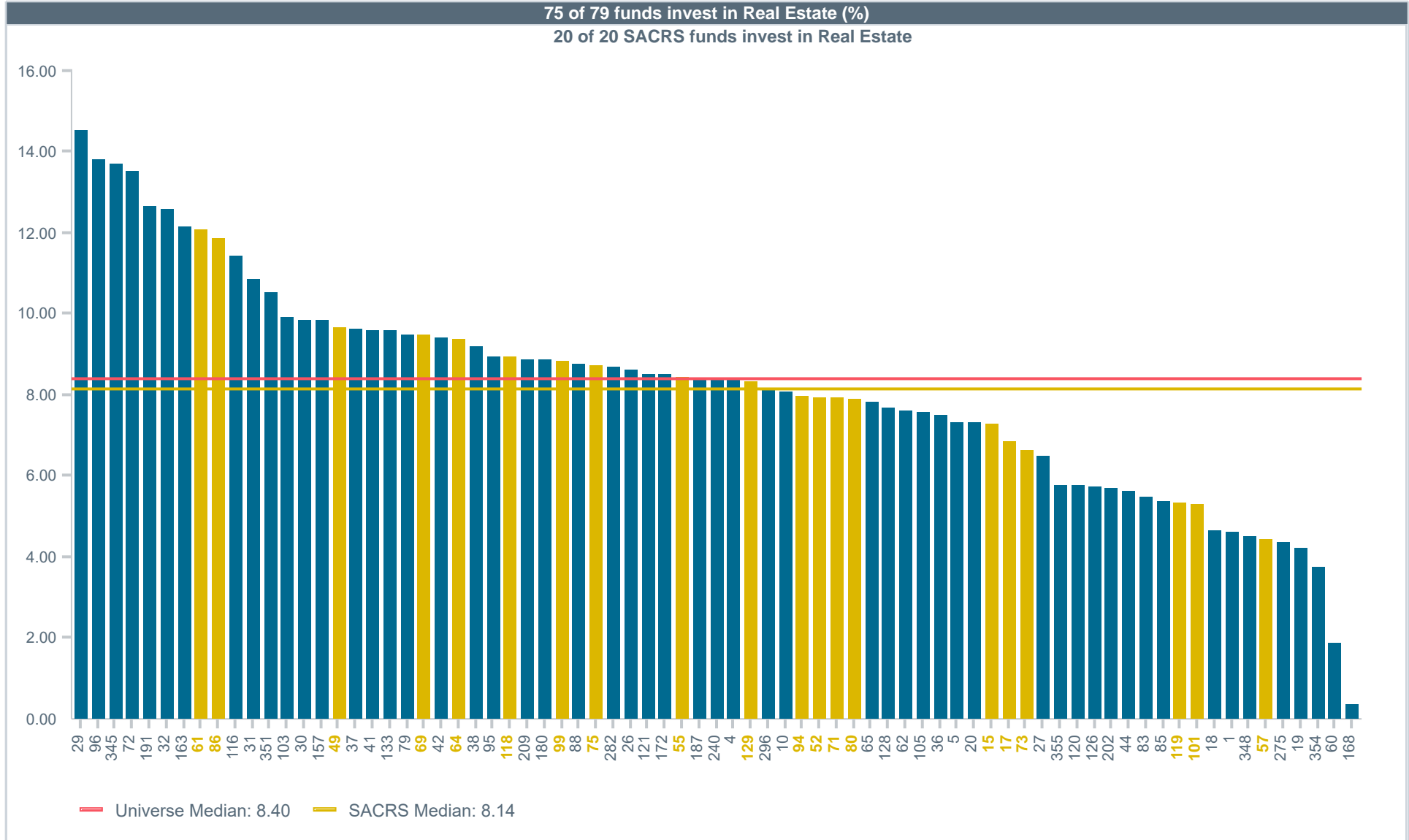
20 of 20 SACRS funds invest in Equity (%)



Fixed Income Style Allocation

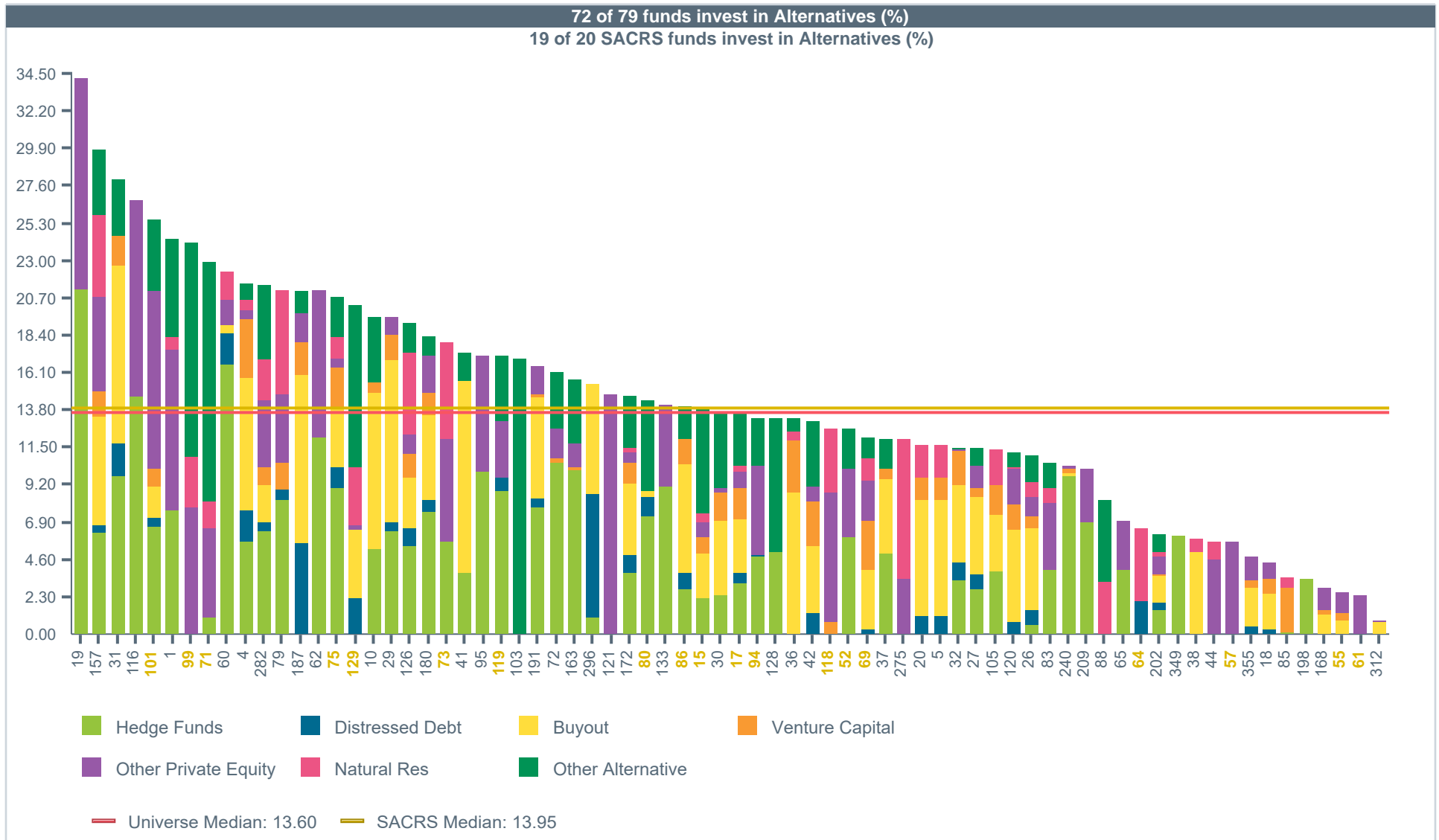


Real Estate Allocation

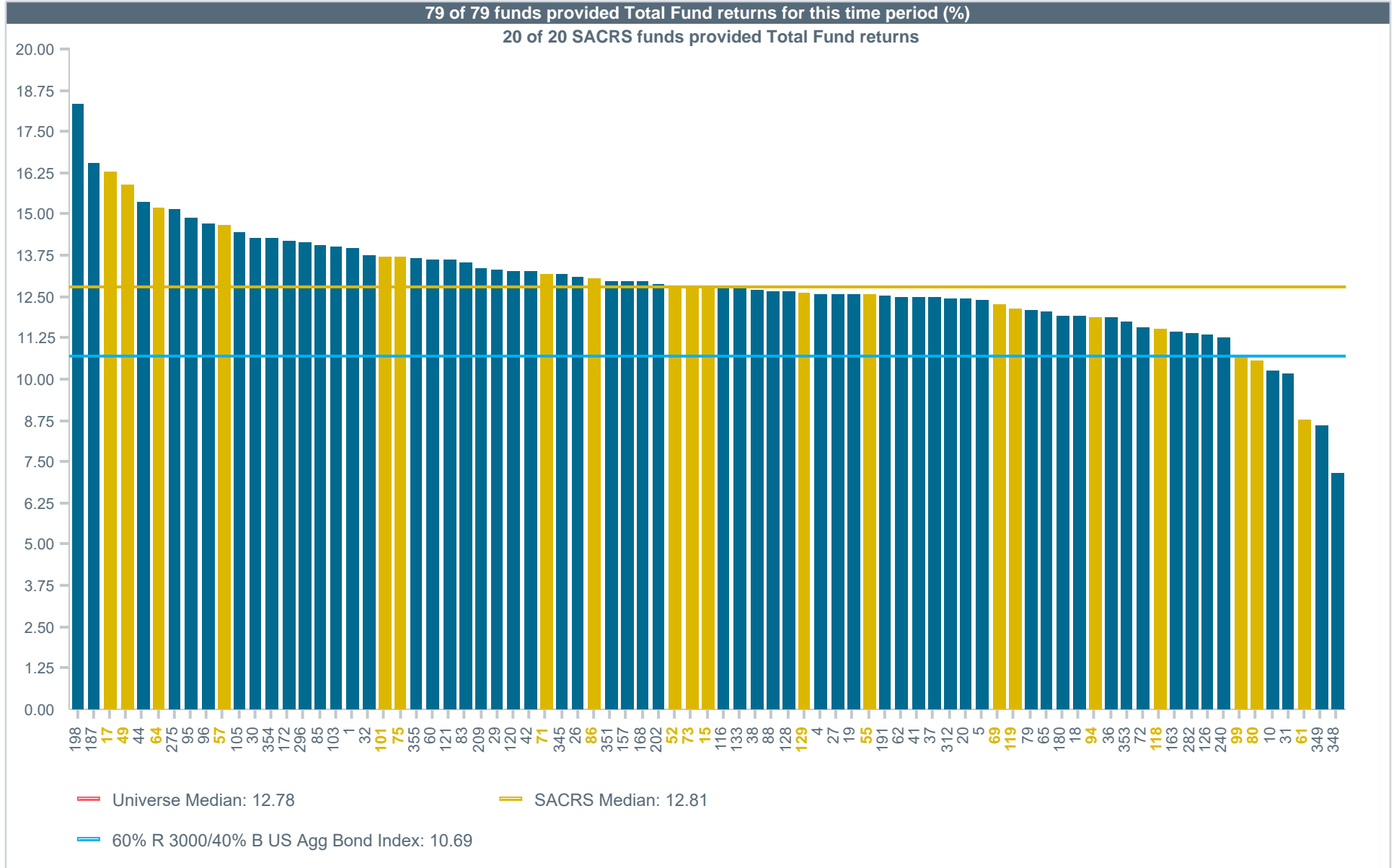




Alternatives Style Allocation



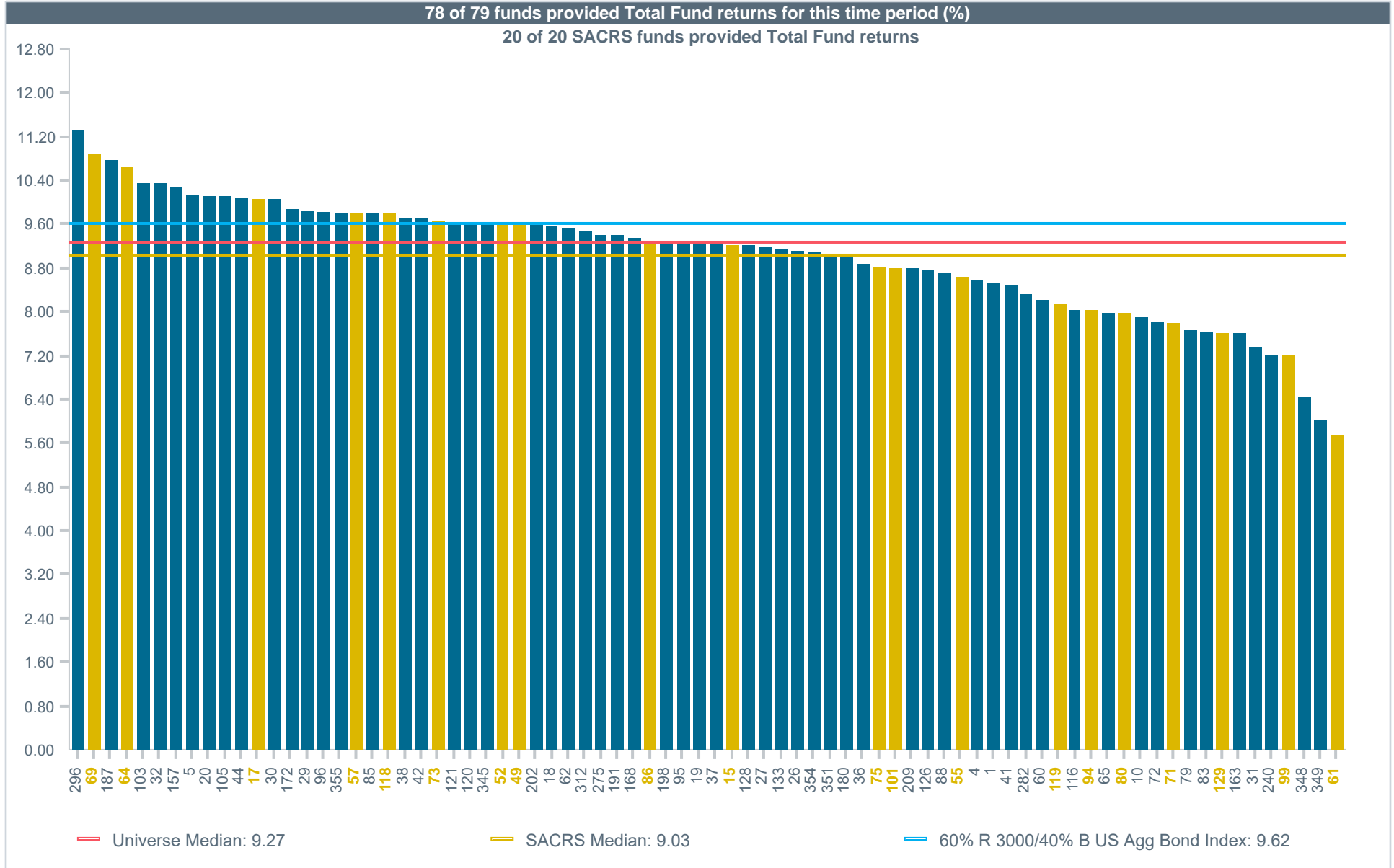
1 Year Annualized Total Fund Returns



Funds with less history than the specified time period will not appear in the chart.



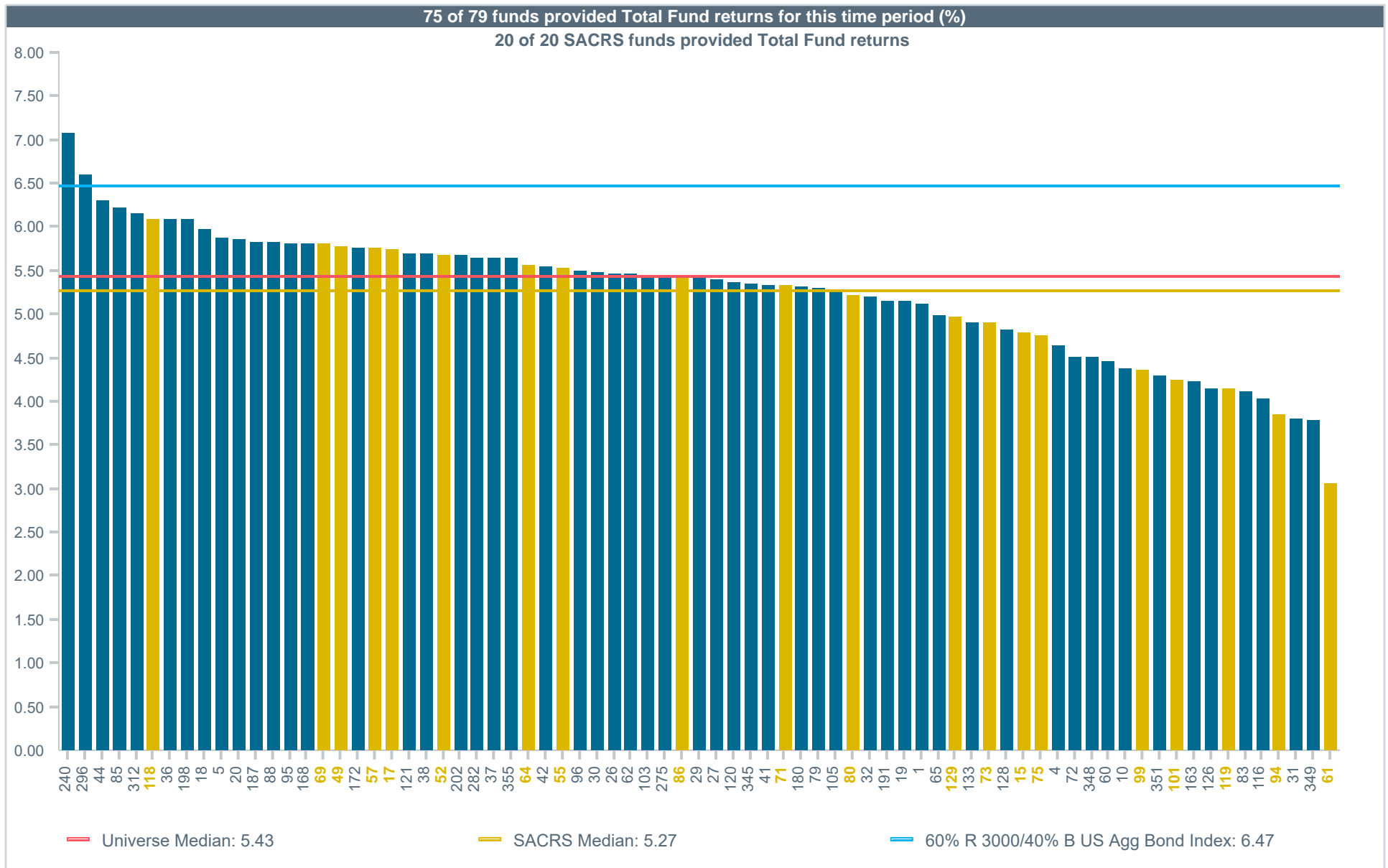
5 Year Annualized Total Fund Returns



Funds with less history than the specified time period will not appear in the chart.



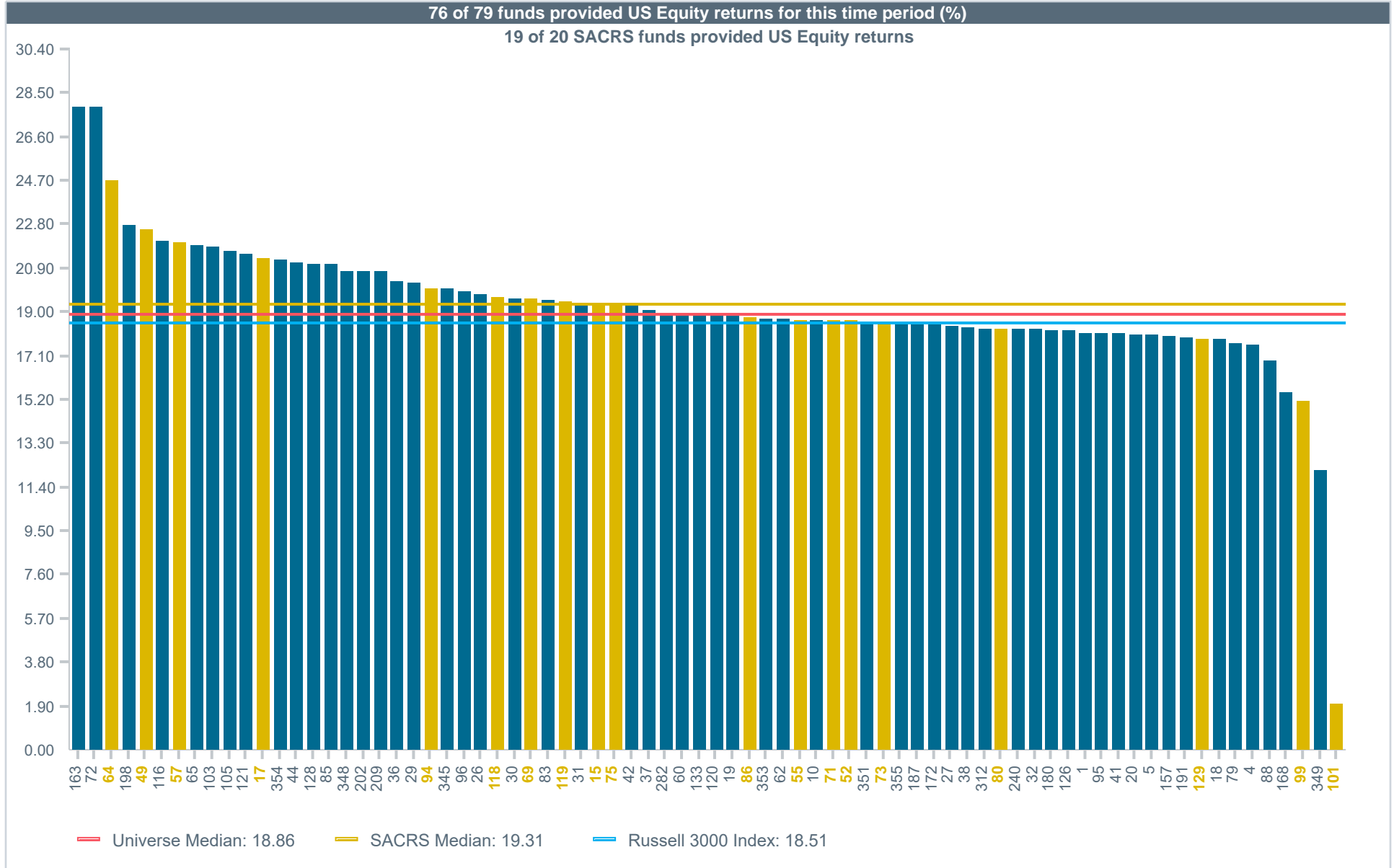
10 Year Annualized Total Fund Returns



Funds with less history than the specified time period will not appear in the chart.



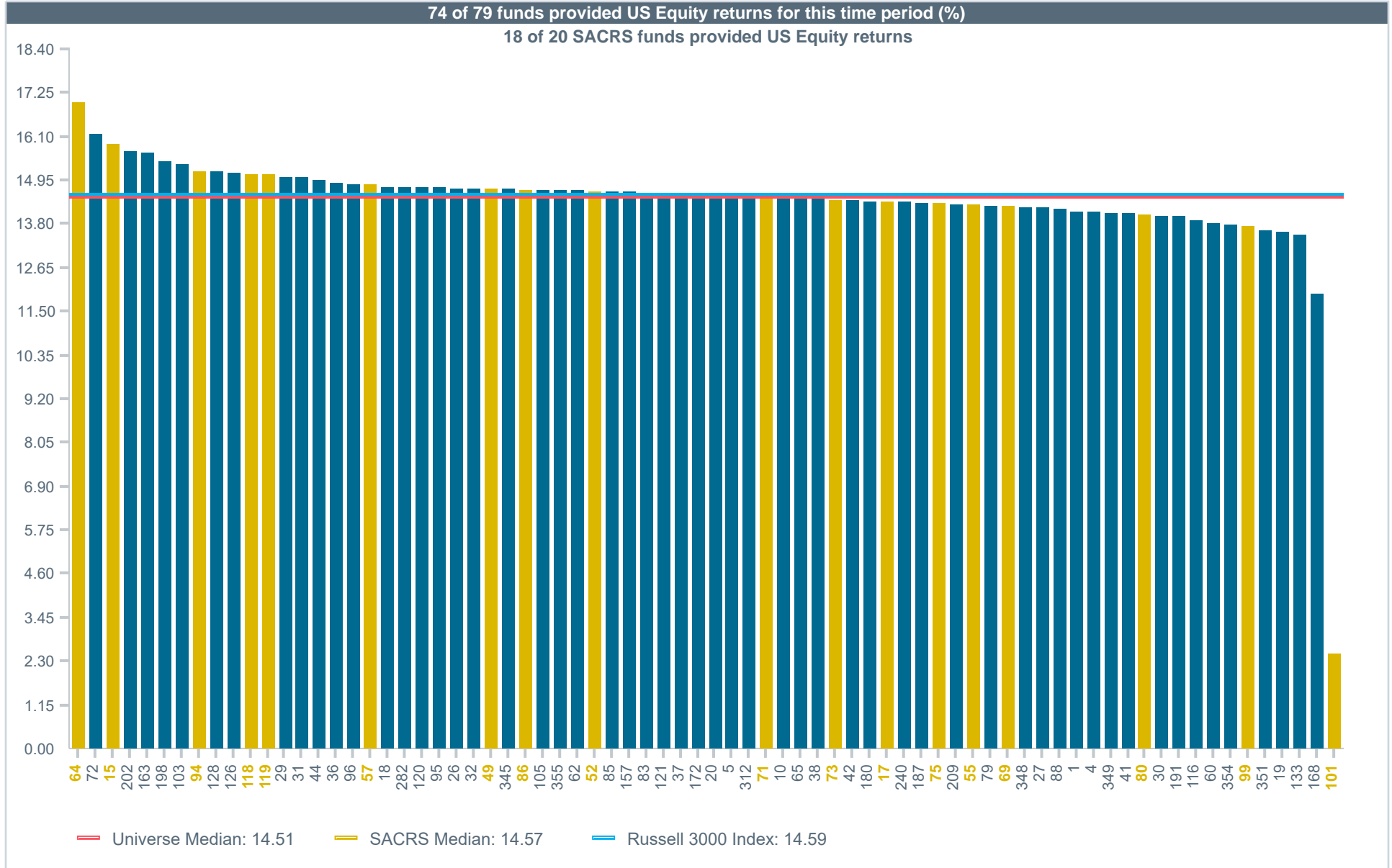
1 Year Annualized US Equity Returns



Funds with less history than the specified time period will not appear in the chart.



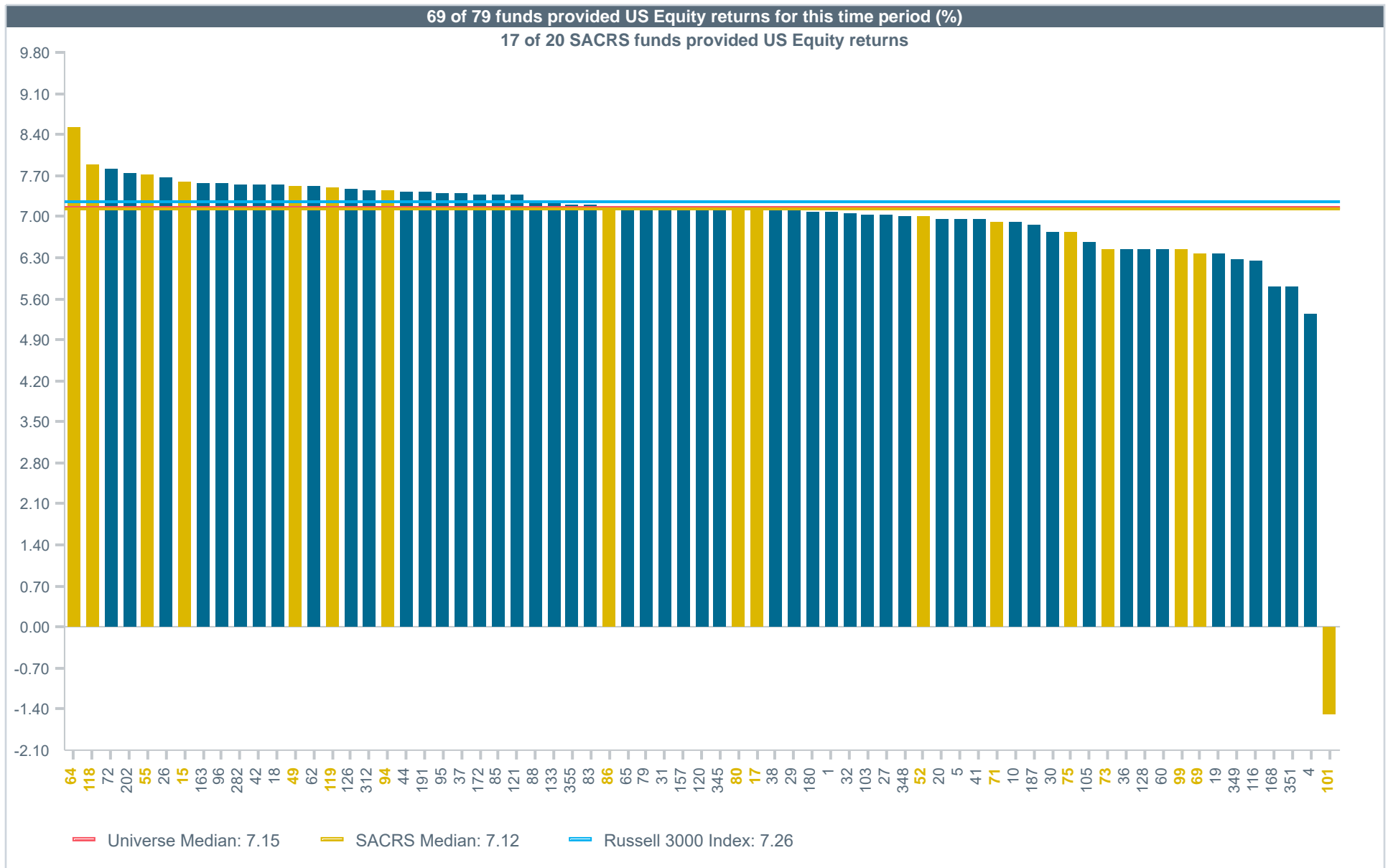
5 Year Annualized US Equity Returns



Funds with less history than the specified time period will not appear in the chart.



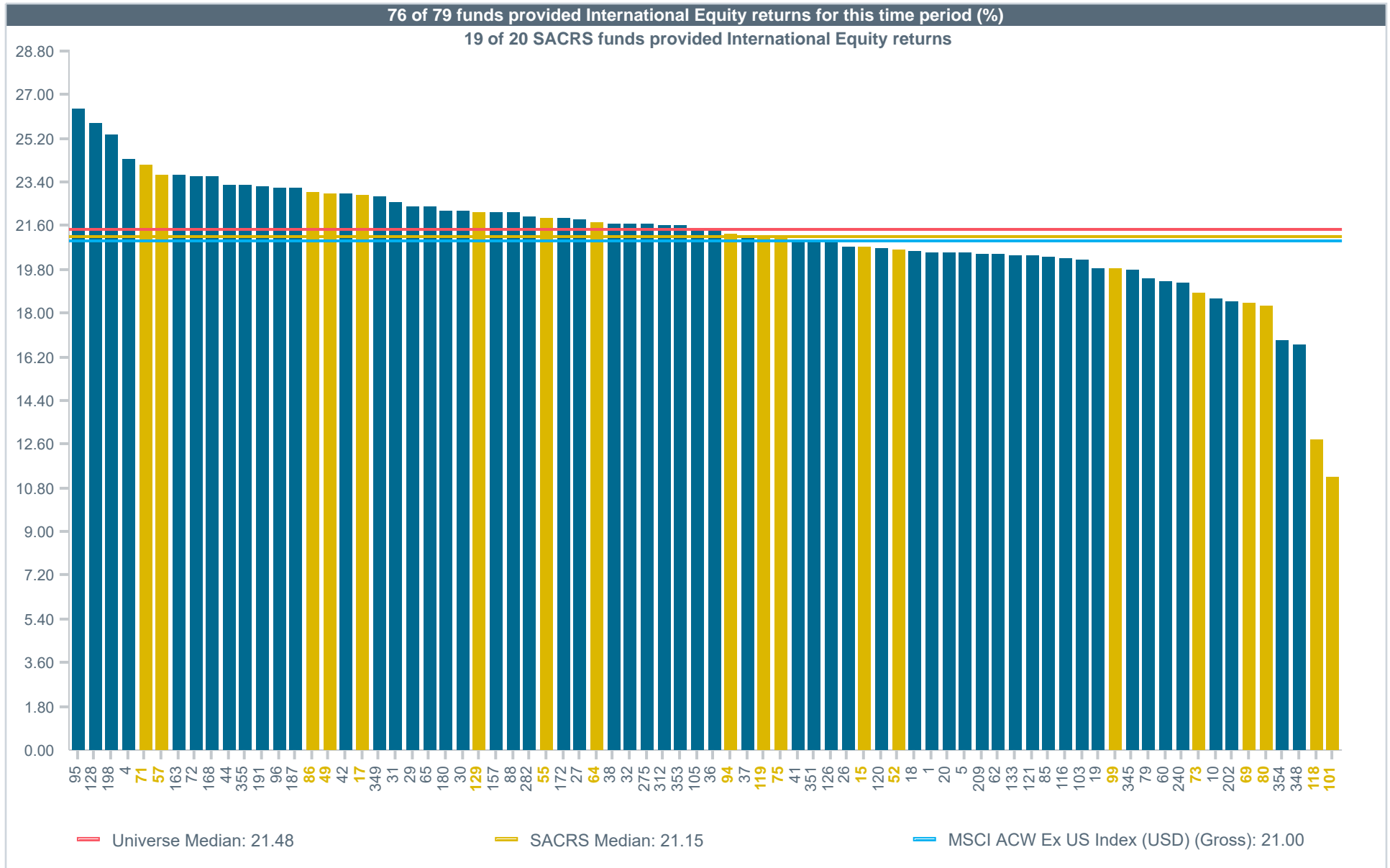
10 Year Annualized US Equity Returns



Funds with less history than the specified time period will not appear in the chart.



1 Year Annualized International Equity Returns

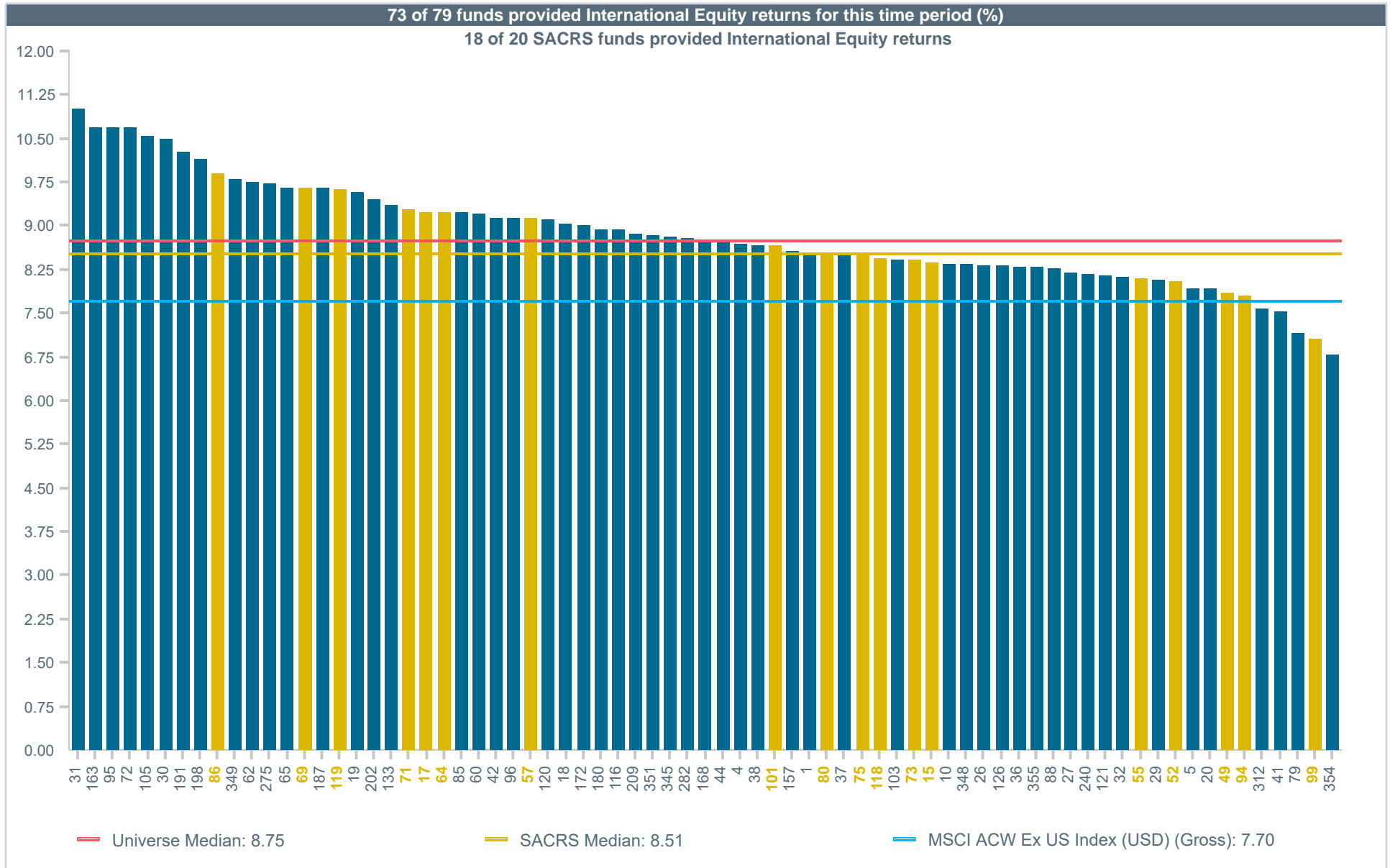


Funds with less history than the specified time period will not appear in the chart.





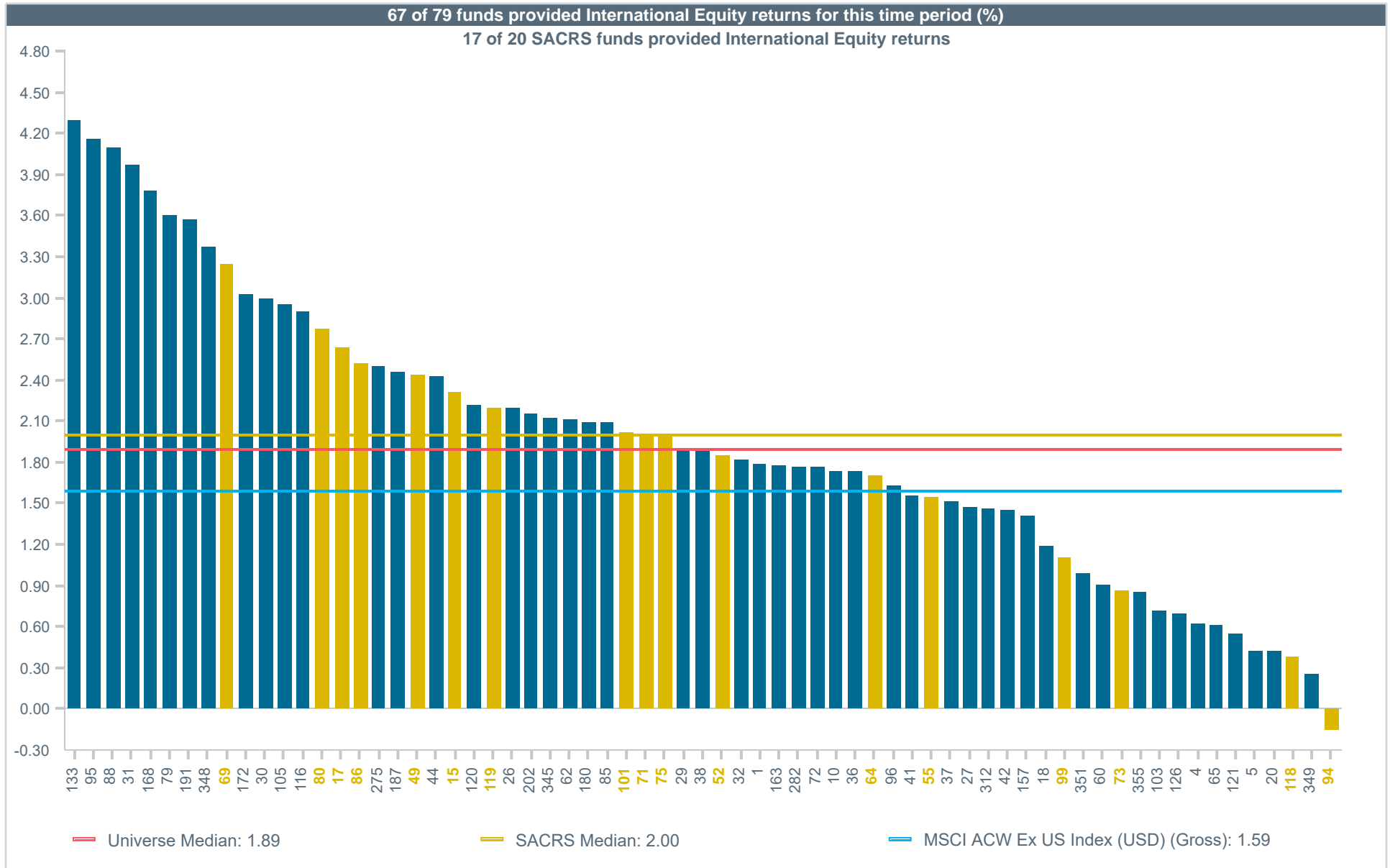
5 Year Annualized International Equity Returns



Funds with less history than the specified time period will not appear in the chart.



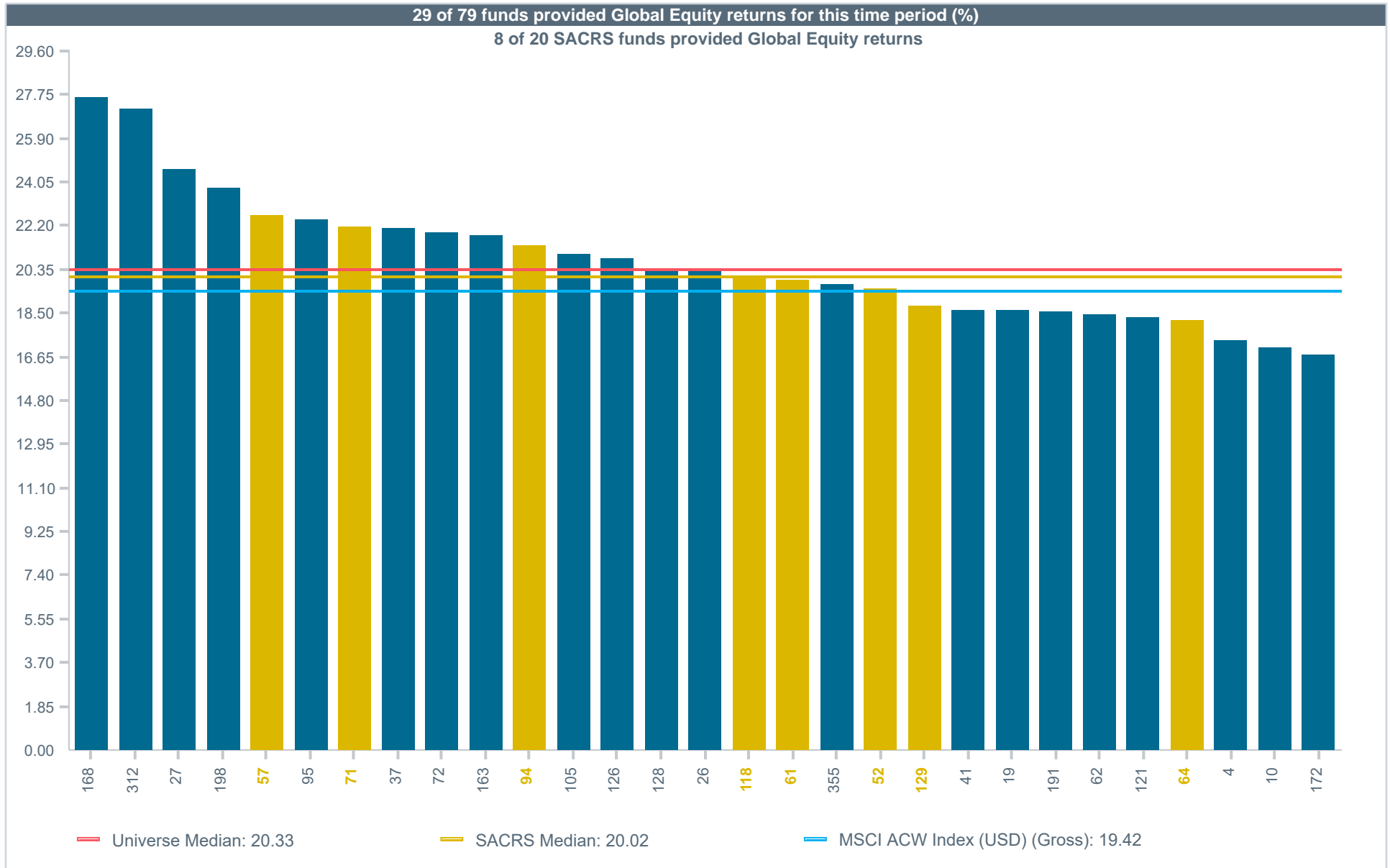
10 Year Annualized International Equity Returns



Funds with less history than the specified time period will not appear in the chart.



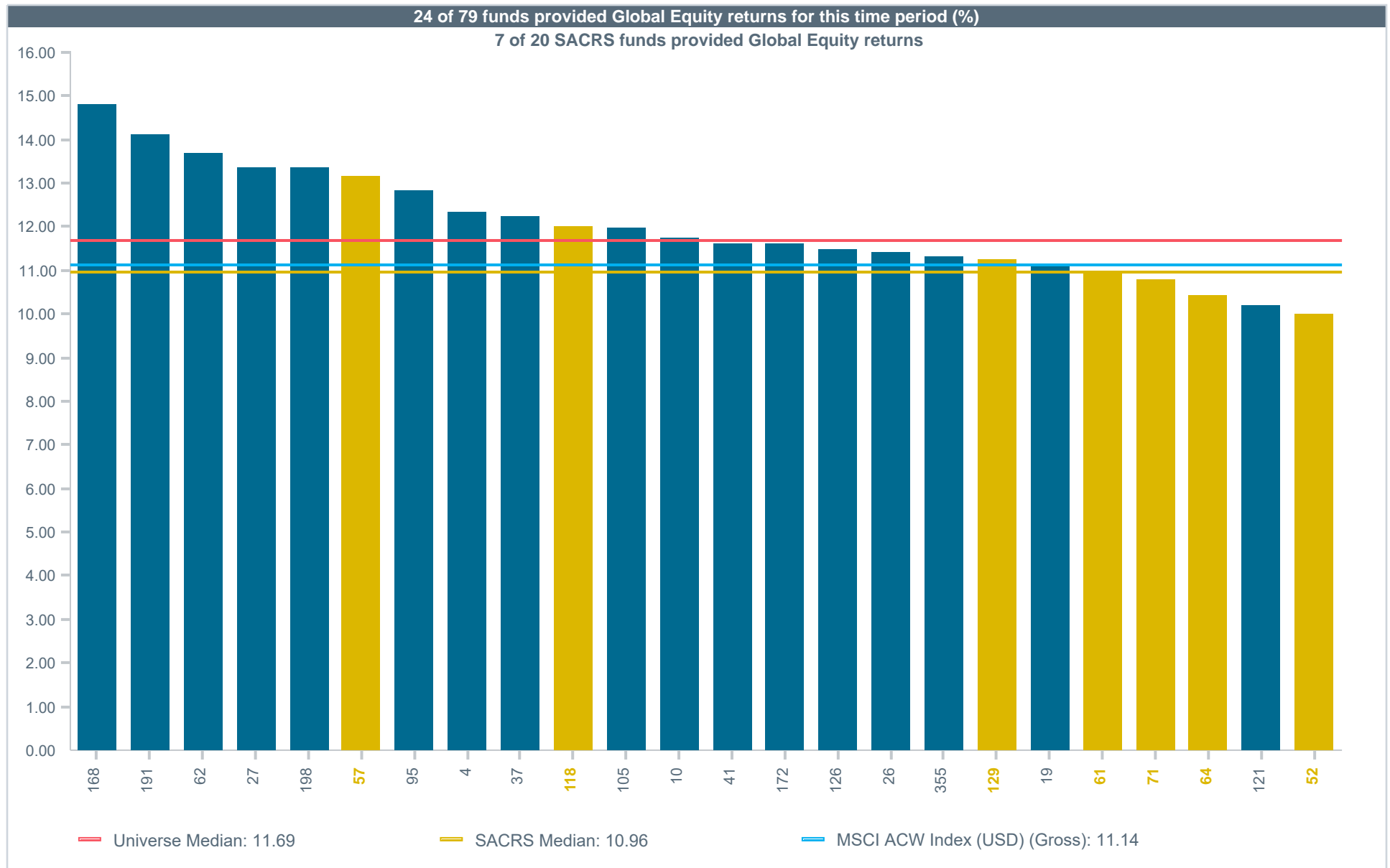
1 Year Annualized Global Equity Returns



Funds with less history than the specified time period will not appear in the chart.



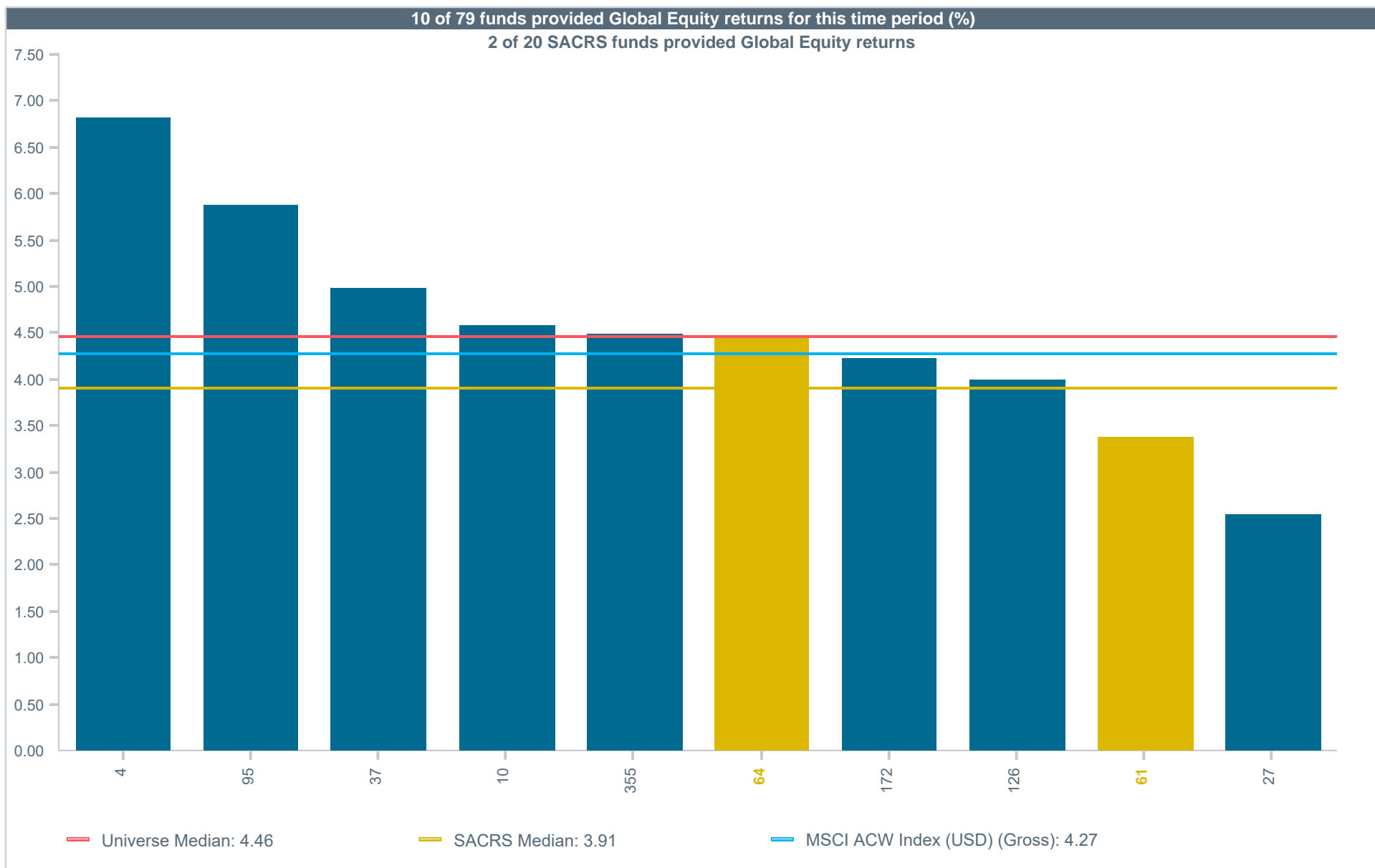
5 Year Annualized Global Equity Returns



Funds with less history than the specified time period will not appear in the chart.



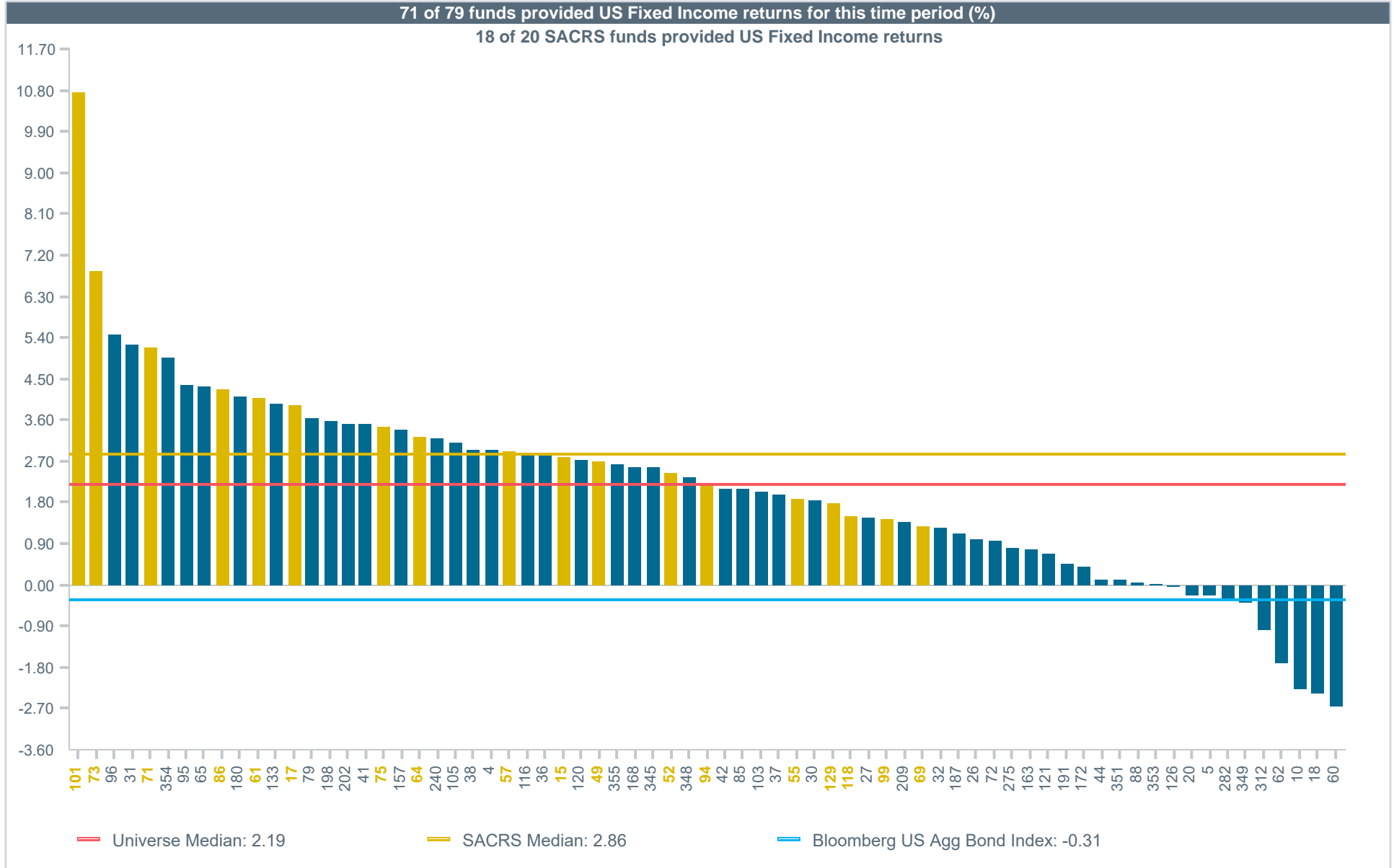
10 Year Annualized Global Equity Returns



Funds with less history than the specified time period will not appear in the chart.



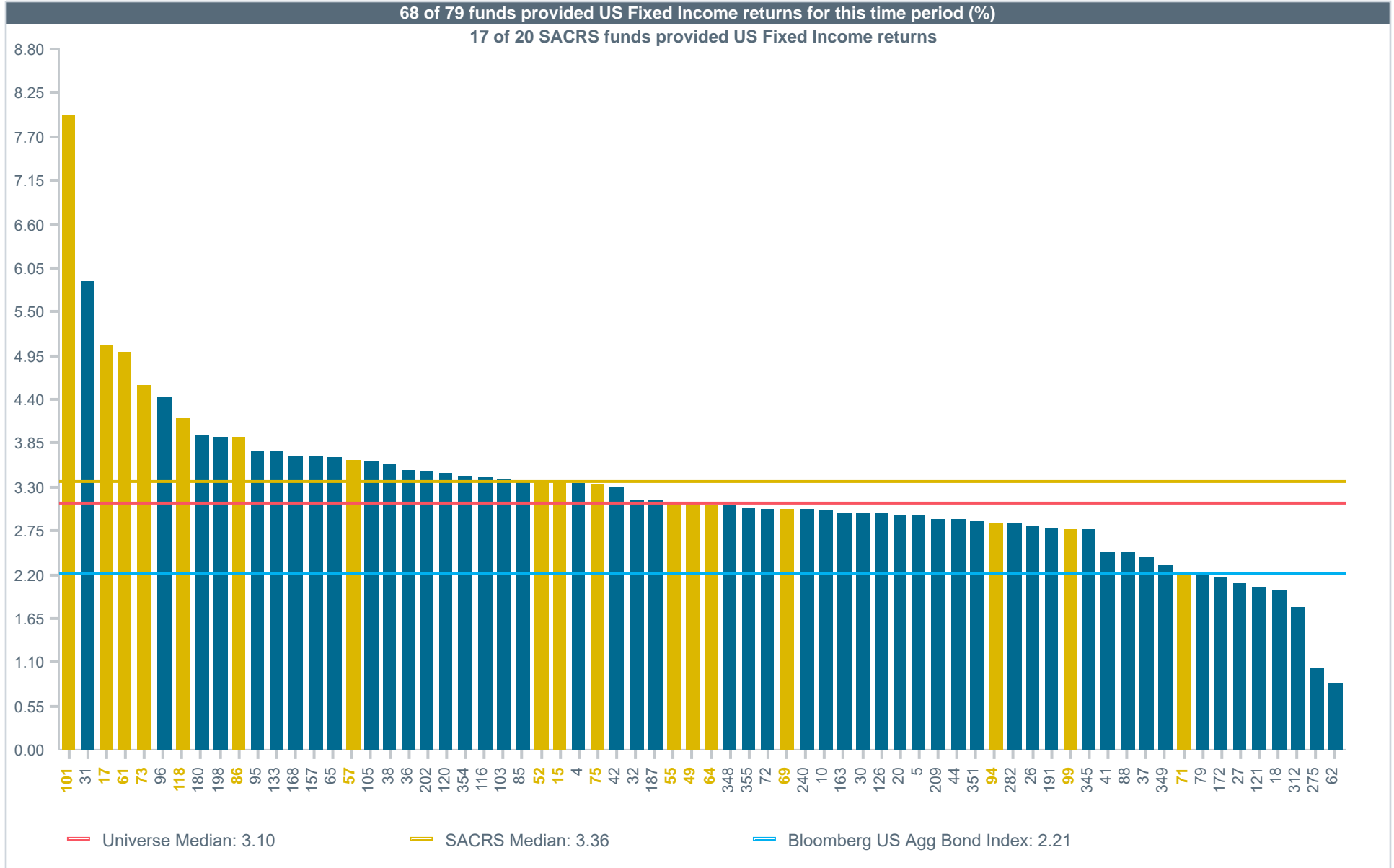
1 Year Annualized US Fixed Income Returns



Funds with less history than the specified time period will not appear in the chart.



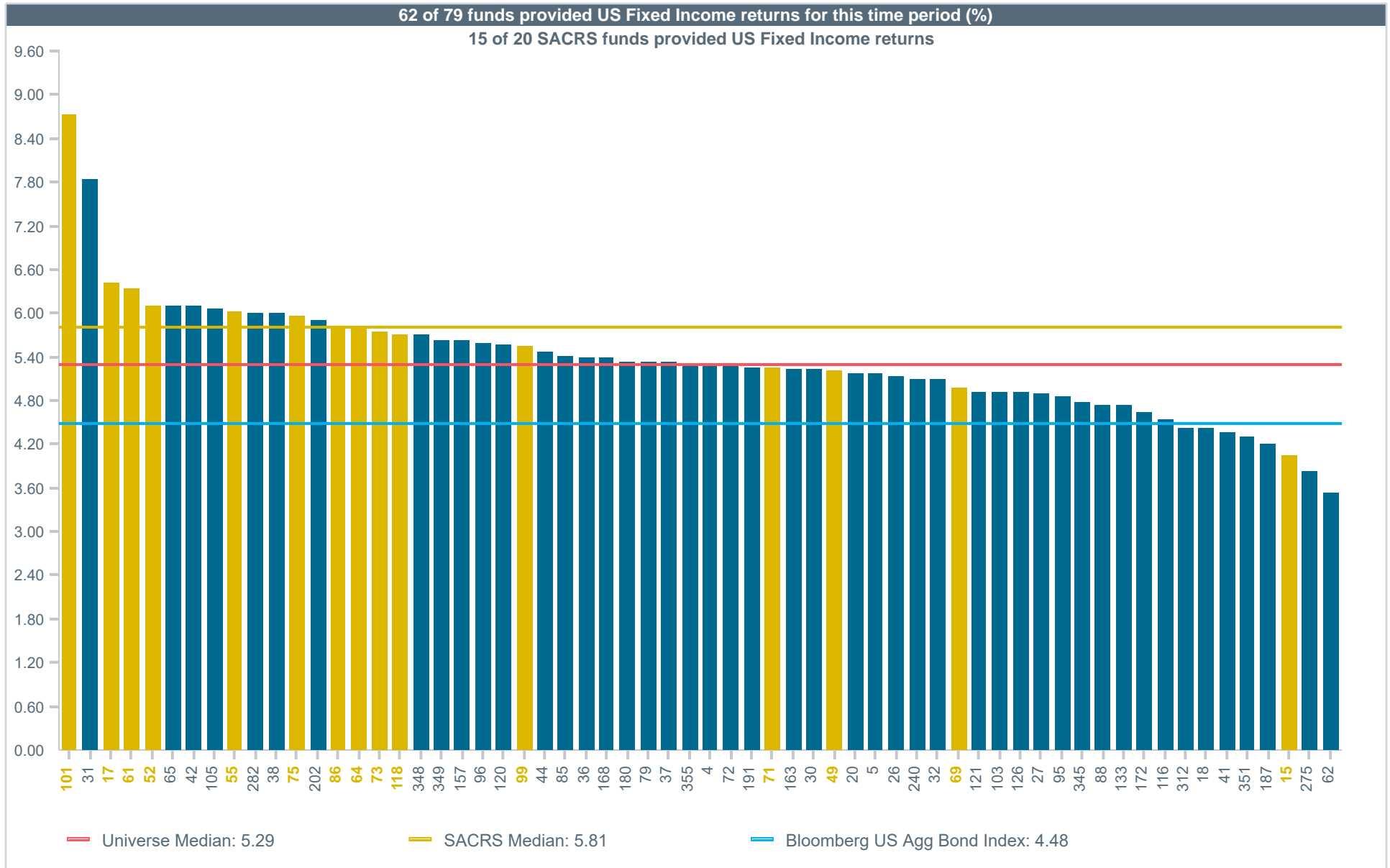
5 Year Annualized US Fixed Income Returns



Funds with less history than the specified time period will not appear in the chart.



10 Year Annualized US Fixed Income Returns

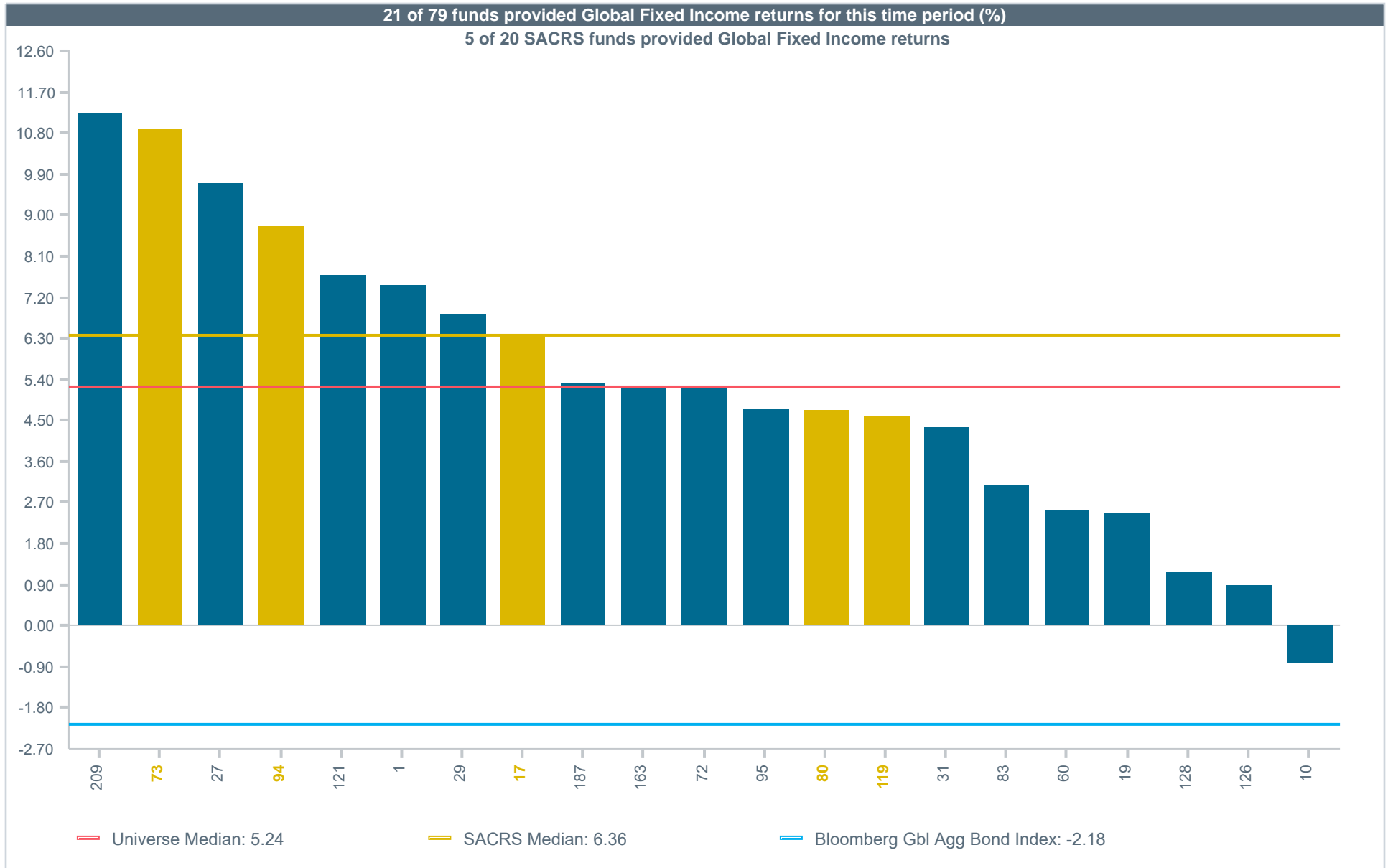


Funds with less history than the specified time period will not appear in the chart.





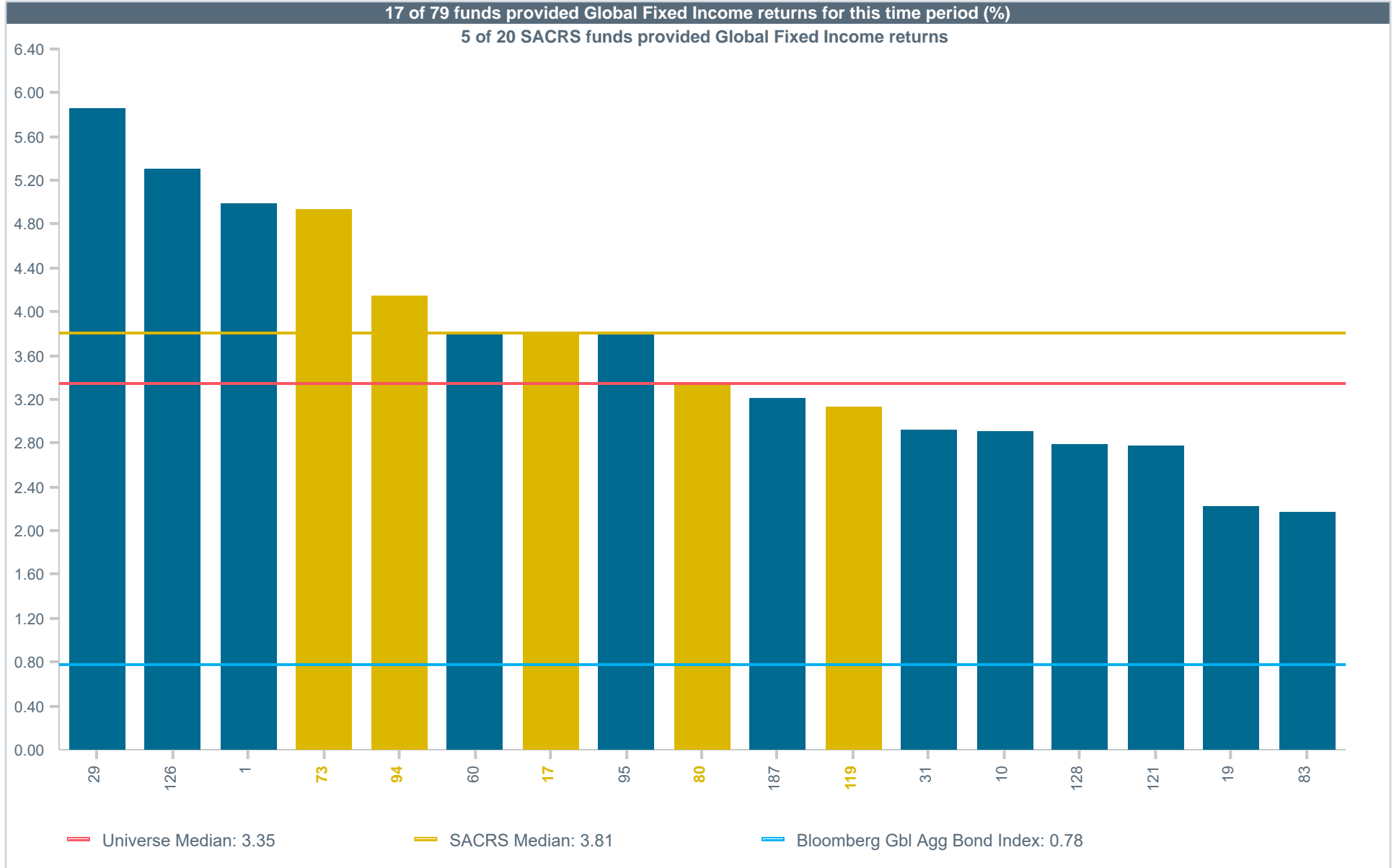
1 Year Annualized Global Fixed Income Returns



Funds with less history than the specified time period will not appear in the chart.



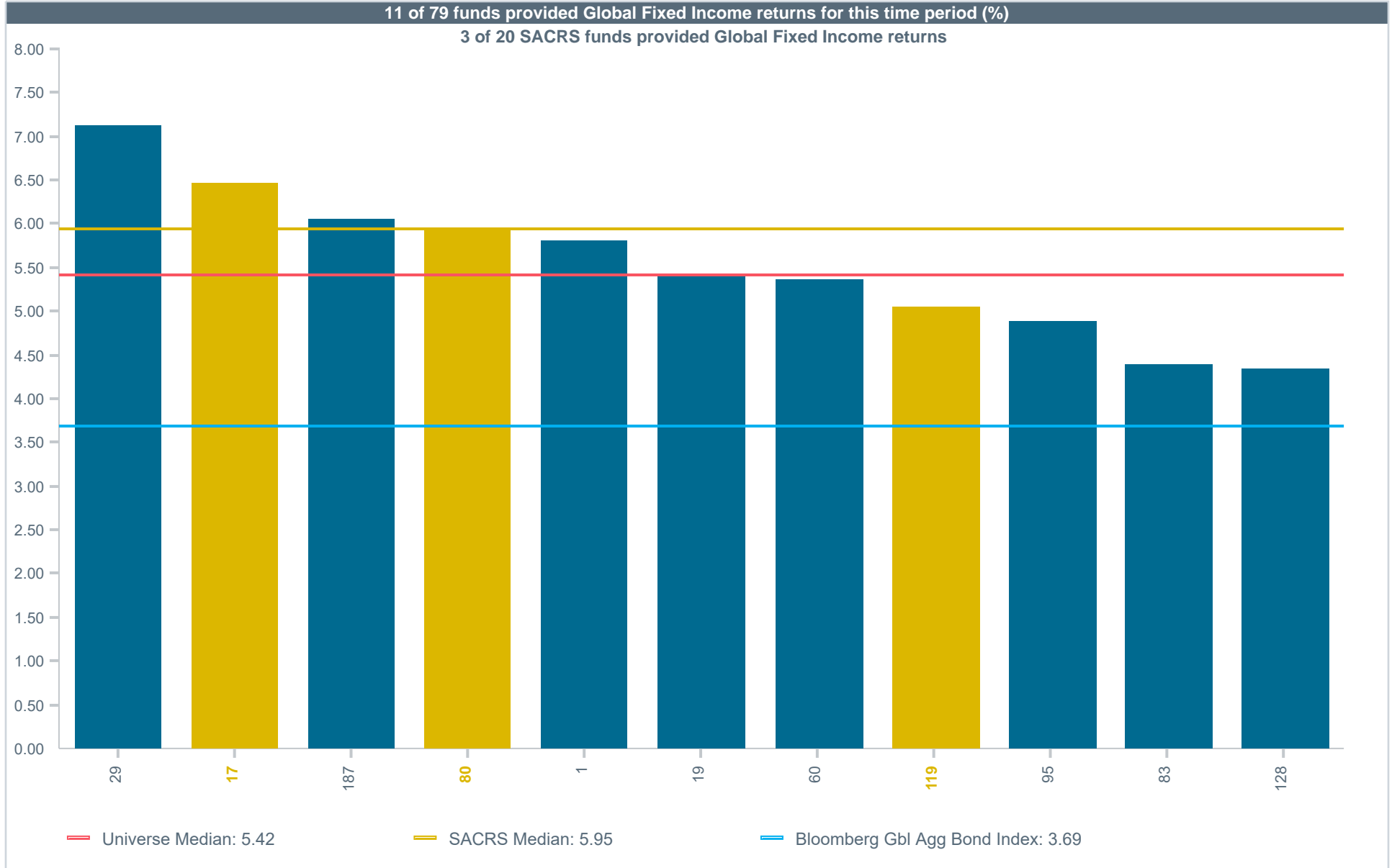
5 Year Annualized Global Fixed Income Returns



Funds with less history than the specified time period will not appear in the chart.



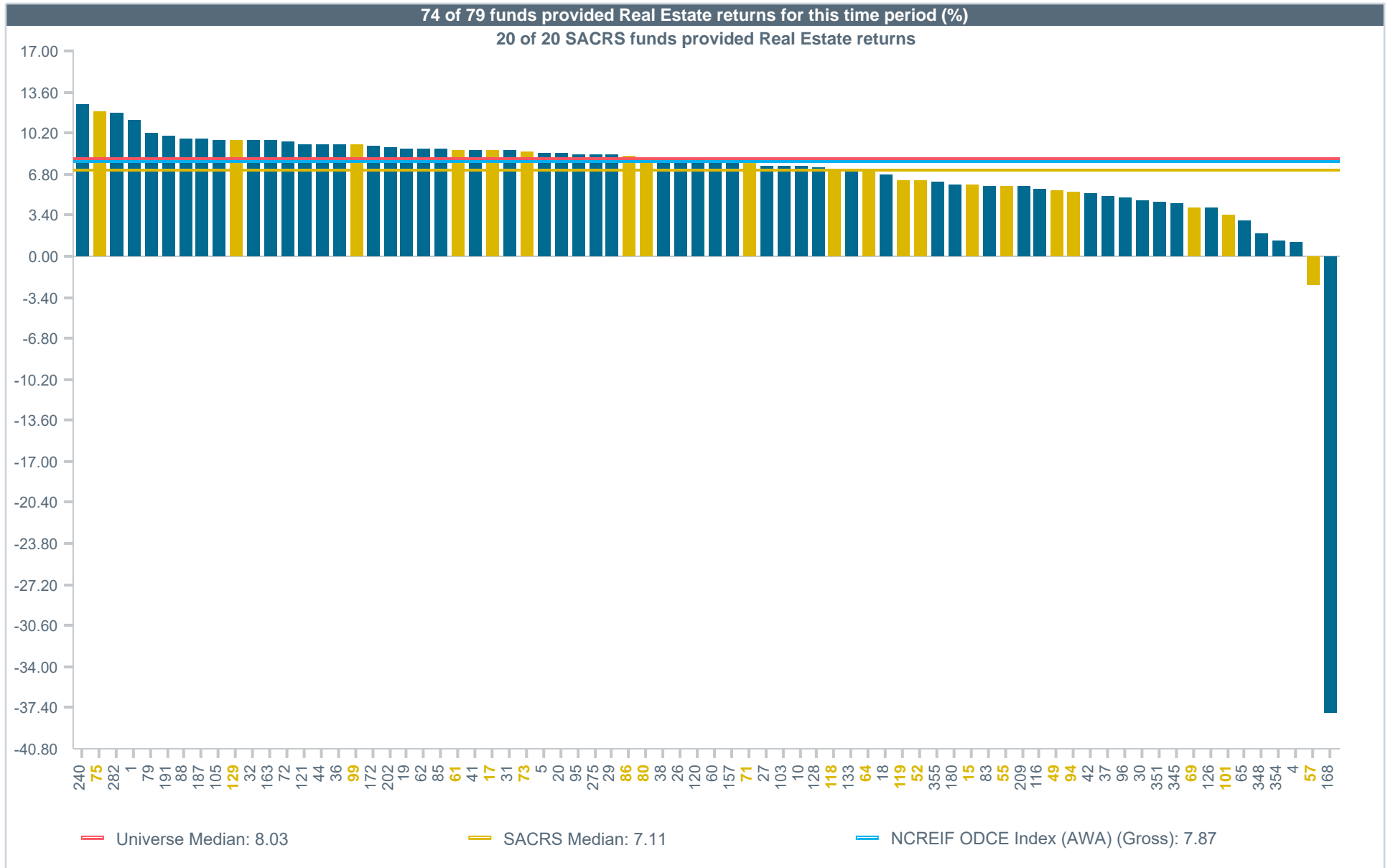
10 Year Annualized Global Fixed Income Returns



Funds with less history than the specified time period will not appear in the chart.



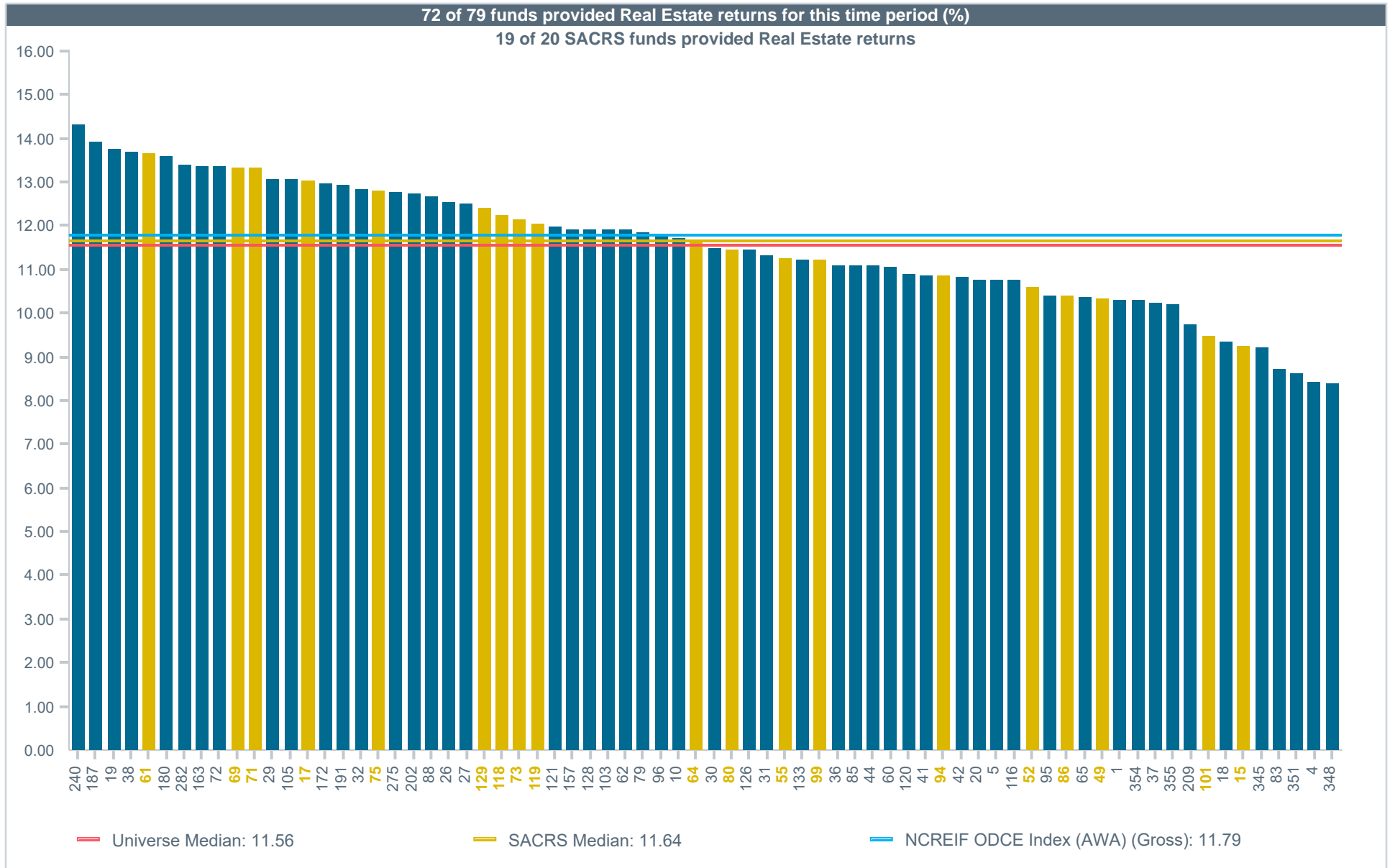
1 Year Annualized Real Estate Returns



Funds with less history than the specified time period will not appear in the chart.



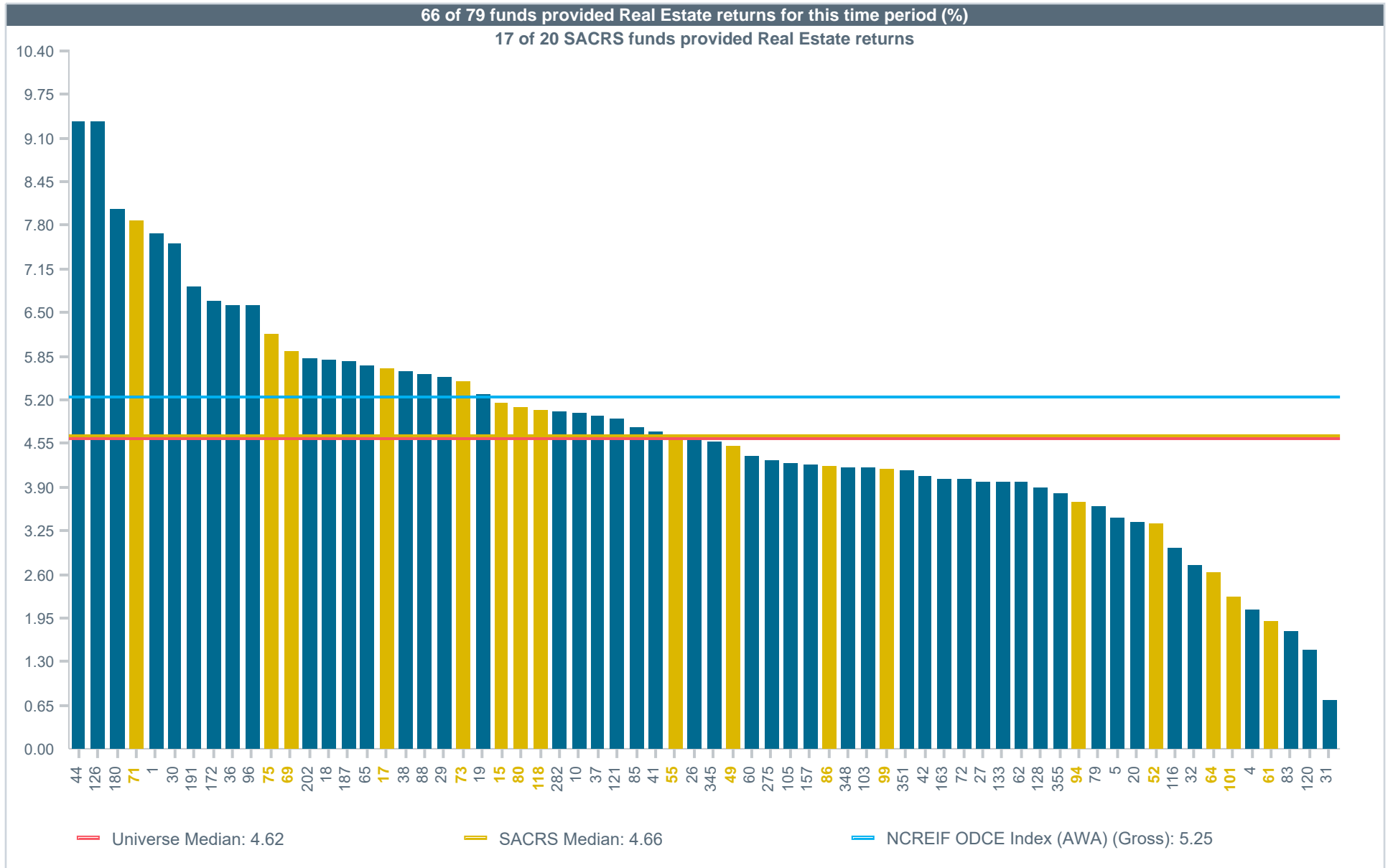
5 Year Annualized Real Estate Returns



Funds with less history than the specified time period will not appear in the chart.



10 Year Annualized Real Estate Returns



Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

5 Year Annualized Total Fund Returns vs. Standard Deviation



ID	Risk (%)	Return (%)	Sharpe
69	4.98	10.88	2.10
64	5.10	10.64	2.01
17	6.03	10.07	1.62
57	5.67	9.80	1.67
118	4.48	9.79	2.10
73	5.30	9.67	1.76
52	5.39	9.60	1.72
49	5.79	9.59	1.60
86	4.31	9.31	2.08
15	4.99	9.23	1.79
75	5.09	8.84	1.68
101	3.79	8.80	2.23
55	5.19	8.64	1.61
119	4.69	8.14	1.68
94	5.17	8.03	1.51
80	5.28	7.98	1.47
71	4.48	7.80	1.69
129	4.48	7.61	1.64
99	4.60	7.21	1.52
61	4.79	5.74	1.16

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

10 Year Annualized Total Fund Returns vs. Standard Deviation



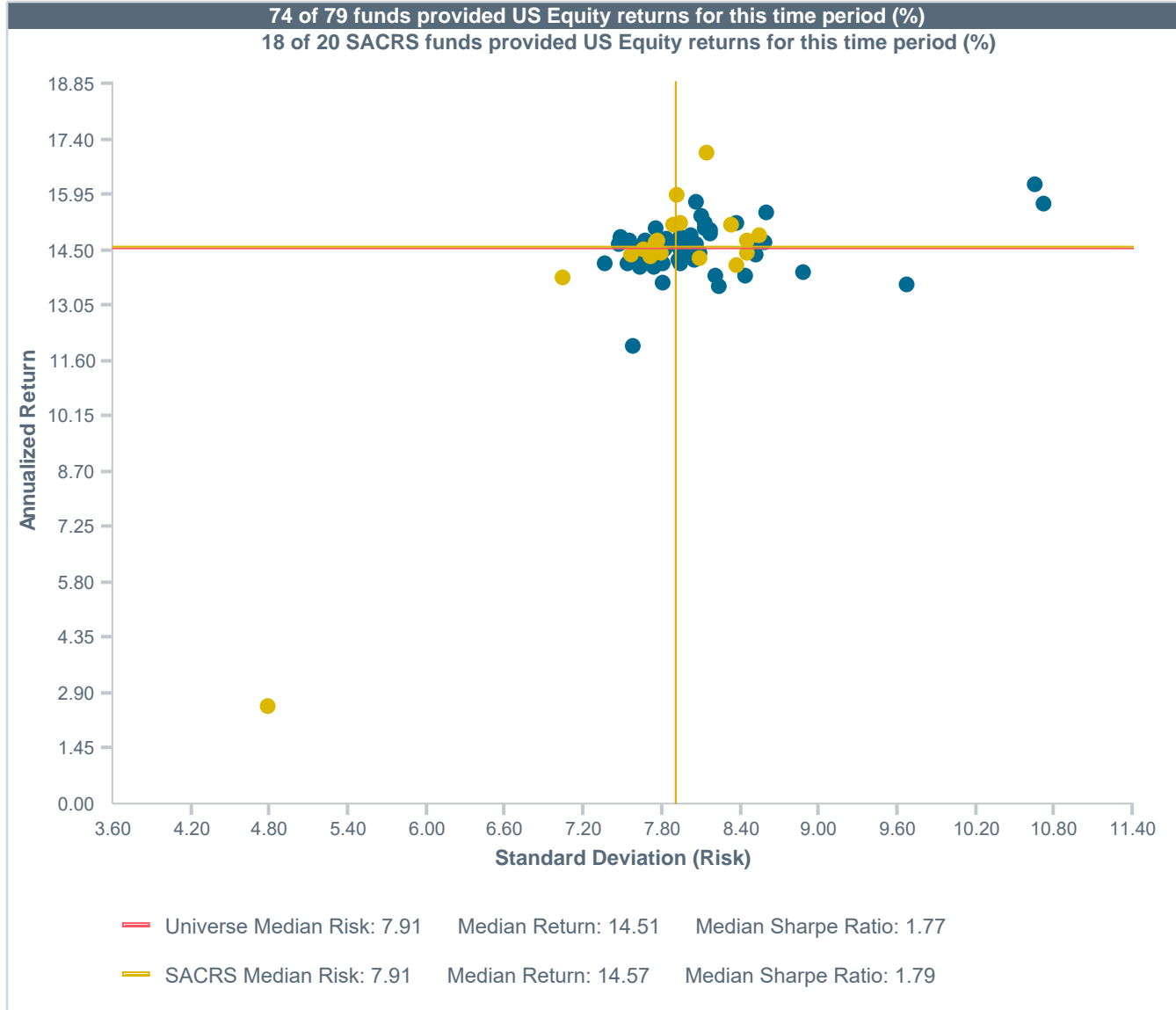
ID	Risk (%)	Return (%)	Sharpe
118	10.78	6.09	0.55
69	11.22	5.81	0.50
49	11.74	5.77	0.49
57	12.27	5.76	0.47
17	12.91	5.74	0.45
52	12.33	5.68	0.46
64	12.23	5.57	0.46
55	11.36	5.52	0.48
86	9.63	5.44	0.53
71	8.67	5.34	0.57
80	10.69	5.21	0.47
129	11.12	4.97	0.44
73	11.58	4.90	0.42
15	11.50	4.78	0.41
75	11.25	4.76	0.42
99	11.50	4.36	0.38
101	8.88	4.25	0.45
119	11.39	4.14	0.36
94	11.15	3.85	0.34
61	10.55	3.07	0.28

Funds with less history than the specified time period will not appear in the chart.





**Risk/Return Analysis**  
**5 Year Annualized US Equity Returns vs. Standard Deviation**



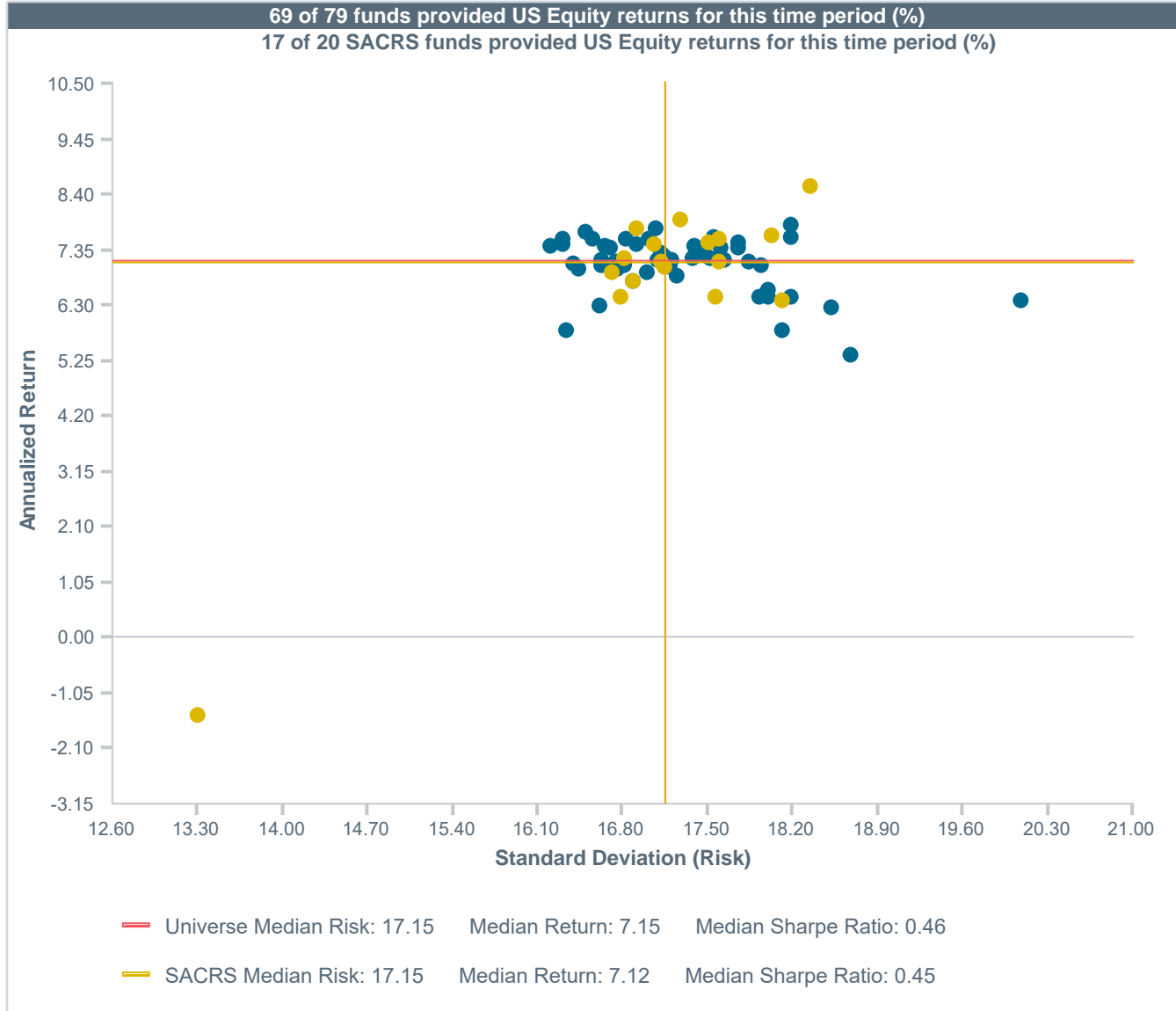
ID	Risk (%)	Return (%)	Sharpe
64	8.15	17.01	1.98
15	7.92	15.91	1.92
94	7.94	15.18	1.83
118	8.34	15.13	1.74
119	7.90	15.12	1.83
57	8.55	14.84	1.67
49	8.46	14.71	1.67
86	7.78	14.71	1.81
52	7.76	14.65	1.81
71	7.66	14.48	1.81
73	7.80	14.41	1.77
17	8.46	14.38	1.64
75	7.57	14.34	1.81
55	7.73	14.29	1.77
69	8.10	14.27	1.69
80	8.38	14.06	1.62
99	7.06	13.76	1.87
101	4.79	2.51	0.51

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

10 Year Annualized US Equity Returns vs. Standard Deviation



ID	Risk (%)	Return (%)	Sharpe
64	18.36	8.53	0.51
118	17.28	7.90	0.49
55	16.92	7.72	0.49
15	18.03	7.59	0.47
49	17.61	7.53	0.47
119	17.51	7.49	0.47
94	17.07	7.45	0.47
86	16.83	7.19	0.46
80	17.12	7.12	0.45
17	17.60	7.11	0.45
52	17.15	7.02	0.45
71	16.72	6.91	0.45
75	16.89	6.74	0.44
73	17.58	6.45	0.41
99	16.79	6.44	0.42
69	18.12	6.38	0.40
101	13.31	-1.48	-0.08

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

5 Year Annualized International Equity Returns vs. Standard Deviation

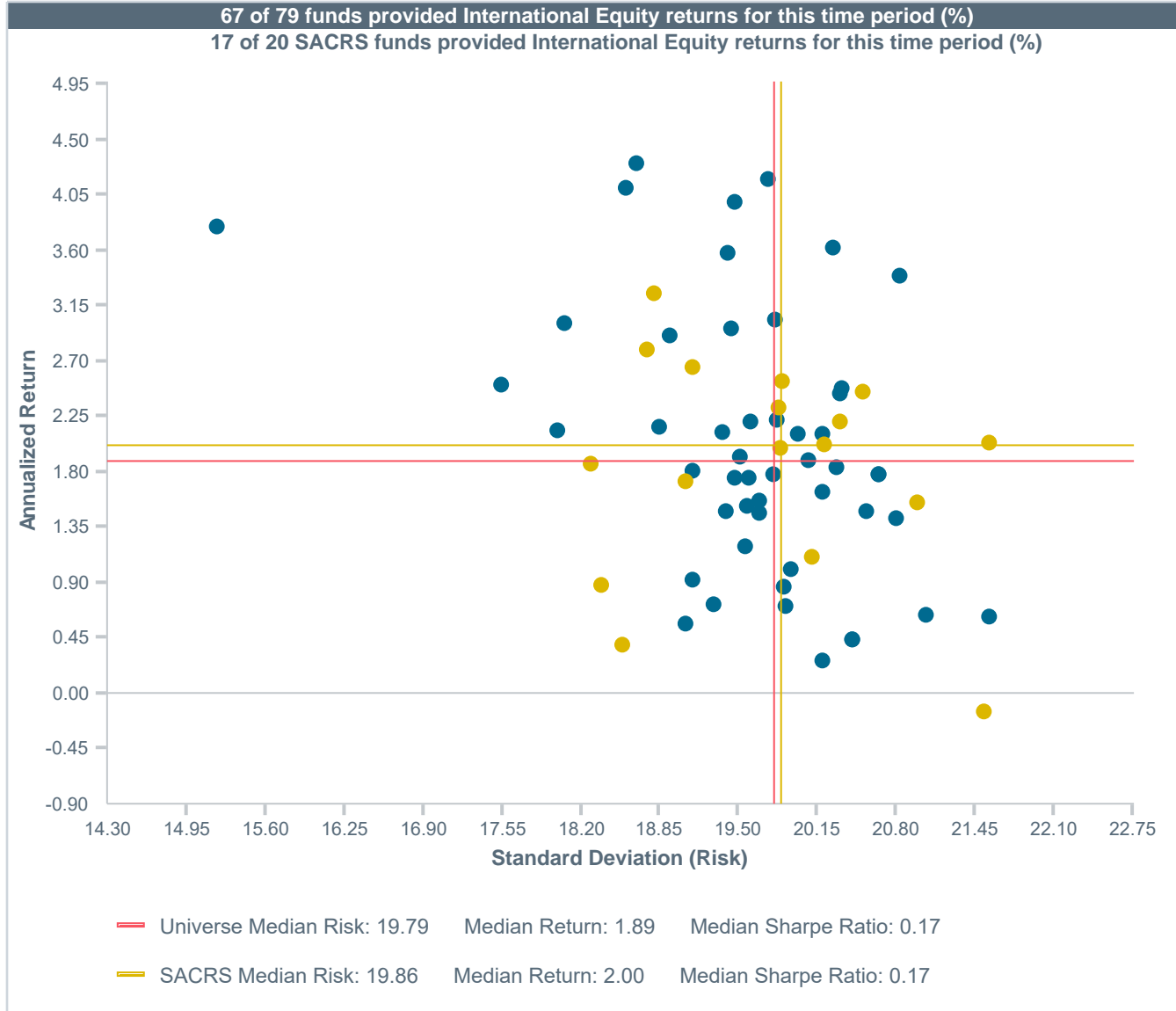


ID	Risk (%)	Return (%)	Sharpe
86	9.35	9.90	1.05
69	10.34	9.65	0.94
119	10.41	9.62	0.93
71	10.89	9.28	0.87
17	10.73	9.24	0.87
64	10.73	9.23	0.87
57	10.43	9.13	0.89
101	14.46	8.66	0.65
80	10.80	8.53	0.81
75	10.70	8.49	0.81
118	9.35	8.45	0.91
73	10.09	8.41	0.85
15	11.10	8.36	0.77
55	10.65	8.10	0.78
52	9.81	8.05	0.83
49	11.02	7.86	0.74
94	10.16	7.80	0.78
99	10.17	7.05	0.71

Funds with less history than the specified time period will not appear in the chart.



**Risk/Return Analysis**  
**10 Year Annualized International Equity Returns vs. Standard Deviation**



ID	Risk (%)	Return (%)	Sharpe
69	18.81	3.24	0.23
80	18.76	2.78	0.21
17	19.14	2.64	0.20
86	19.86	2.52	0.20
49	20.54	2.44	0.19
15	19.84	2.31	0.19
119	20.35	2.20	0.18
101	21.57	2.02	0.18
71	20.22	2.00	0.17
75	19.86	1.99	0.17
52	18.30	1.85	0.16
64	19.08	1.71	0.16
55	20.99	1.54	0.15
99	20.11	1.10	0.13
73	18.38	0.87	0.11
118	18.55	0.38	0.09
94	21.54	-0.16	0.08

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

5 Year Annualized Global Equity Returns vs. Standard Deviation



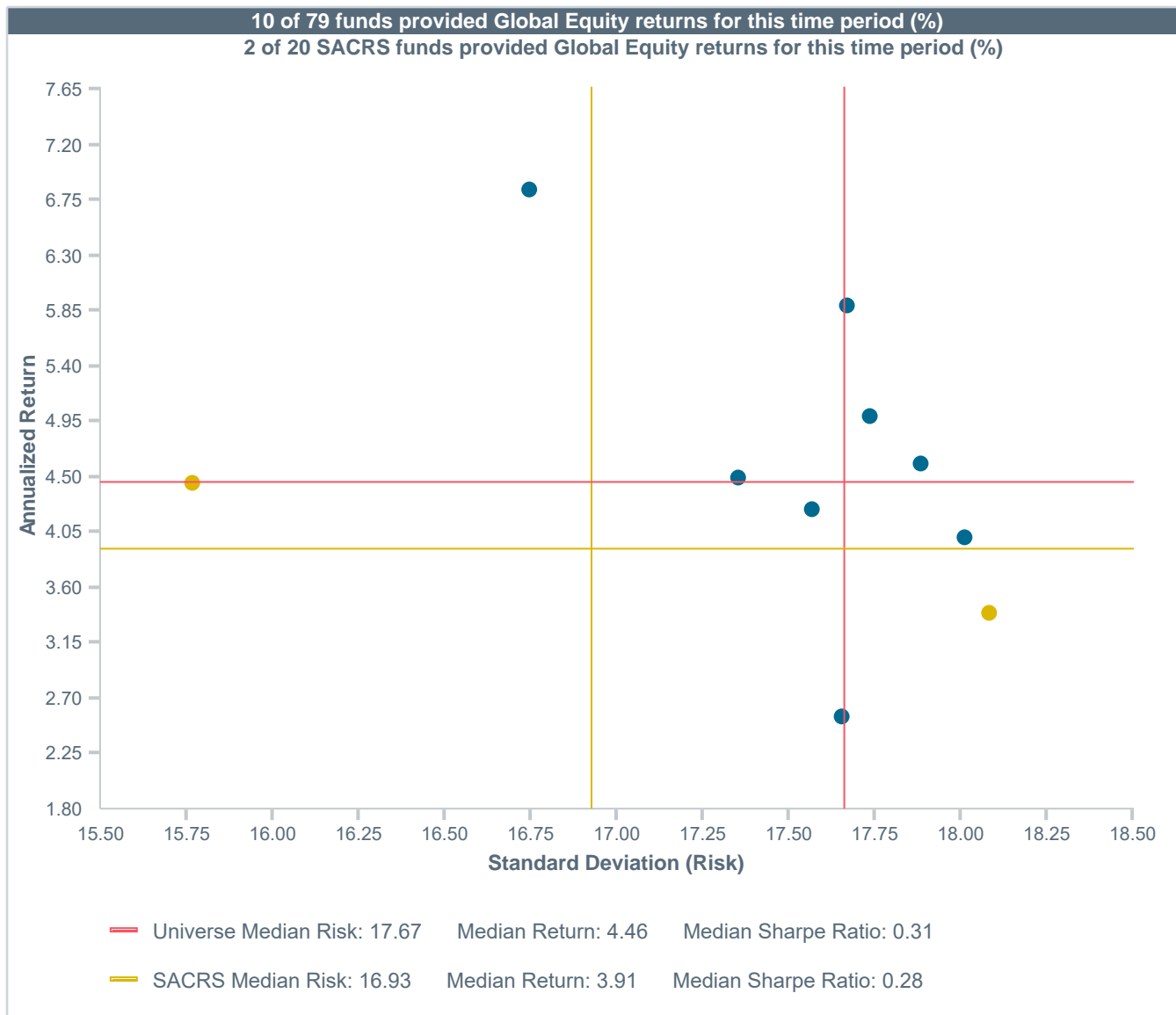
ID	Risk (%)	Return (%)	Sharpe
57	8.48	13.17	1.51
118	7.93	12.02	1.47
129	7.87	11.27	1.39
61	8.66	10.96	1.24
71	9.00	10.81	1.18
64	7.48	10.45	1.36
52	8.31	10.02	1.19

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

10 Year Annualized Global Equity Returns vs. Standard Deviation



ID	Risk (%)	Return (%)	Sharpe
64	15.77	4.44	0.32
61	18.09	3.39	0.24

Funds with less history than the specified time period will not appear in the chart.



**Risk/Return Analysis**  
**5 Year Annualized US Fixed Income Returns vs. Standard Deviation**



ID	Risk (%)	Return (%)	Sharpe
101	3.98	7.97	1.92
17	3.60	5.09	1.36
61	1.72	4.99	2.76
73	3.25	4.58	1.36
118	2.58	4.17	1.53
86	2.92	3.92	1.29
57	2.57	3.64	1.35
52	2.65	3.37	1.21
15	2.73	3.36	1.17
75	3.71	3.33	0.87
55	3.46	3.12	0.86
49	2.89	3.10	1.02
64	2.37	3.09	1.24
69	3.70	3.02	0.78
94	3.20	2.85	0.85
99	3.25	2.77	0.81
71	4.12	2.22	0.52

Funds with less history than the specified time period will not appear in the chart.



**Risk/Return Analysis**  
**10 Year Annualized US Fixed Income Returns vs. Standard Deviation**



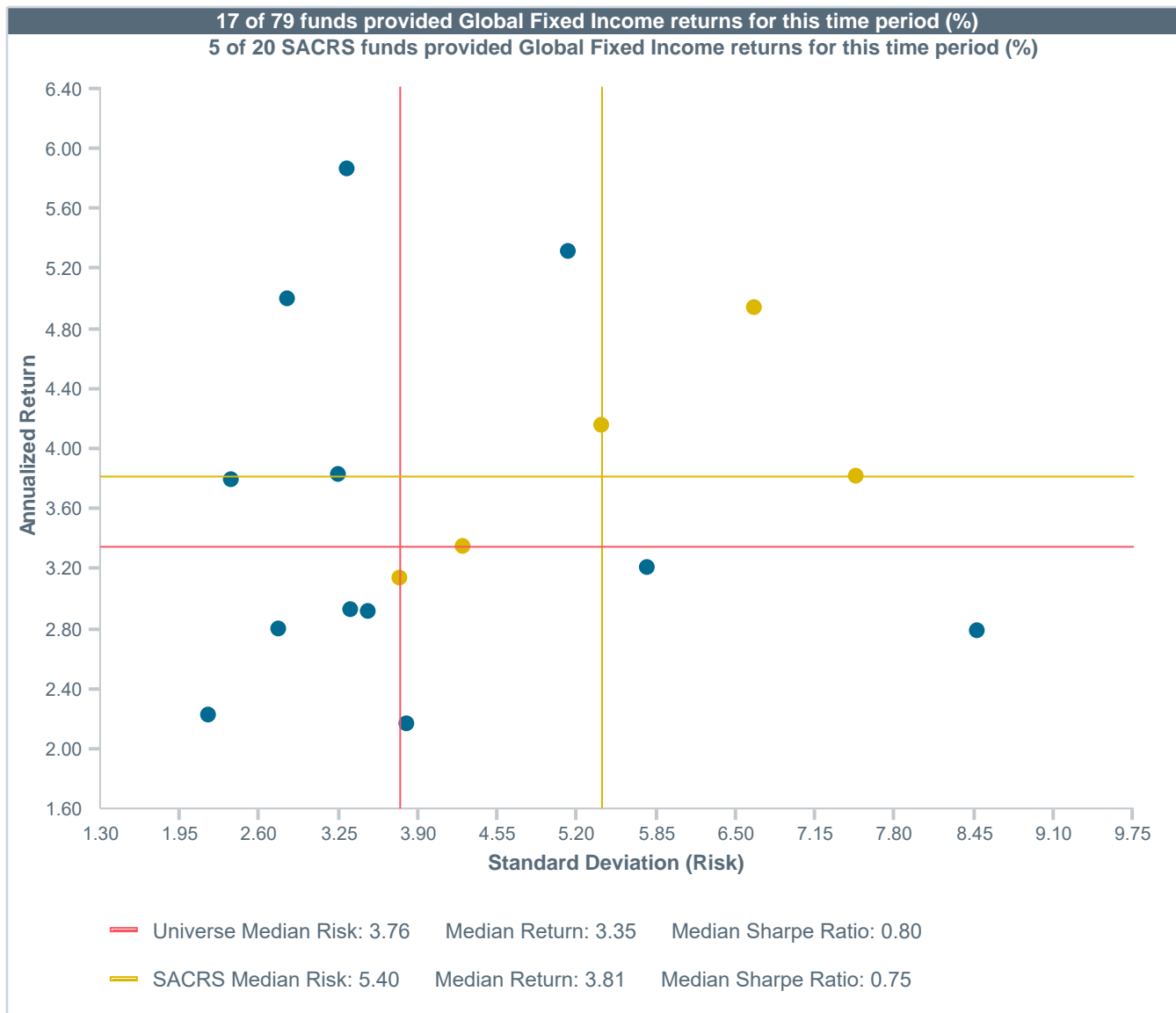
ID	Risk (%)	Return (%)	Sharpe
101	5.33	8.73	1.46
17	5.72	6.43	1.00
61	3.74	6.34	1.46
52	6.22	6.11	0.89
55	3.51	6.03	1.55
75	4.05	5.97	1.31
86	3.92	5.83	1.30
64	7.24	5.81	0.73
73	4.56	5.75	1.10
118	4.14	5.71	1.19
99	7.32	5.55	0.69
71	4.46	5.25	1.06
49	3.57	5.21	1.28
69	3.98	4.98	1.08
15	3.62	4.05	0.93

Funds with less history than the specified time period will not appear in the chart.





**Risk/Return Analysis**  
**5 Year Annualized Global Fixed Income Returns vs. Standard Deviation**



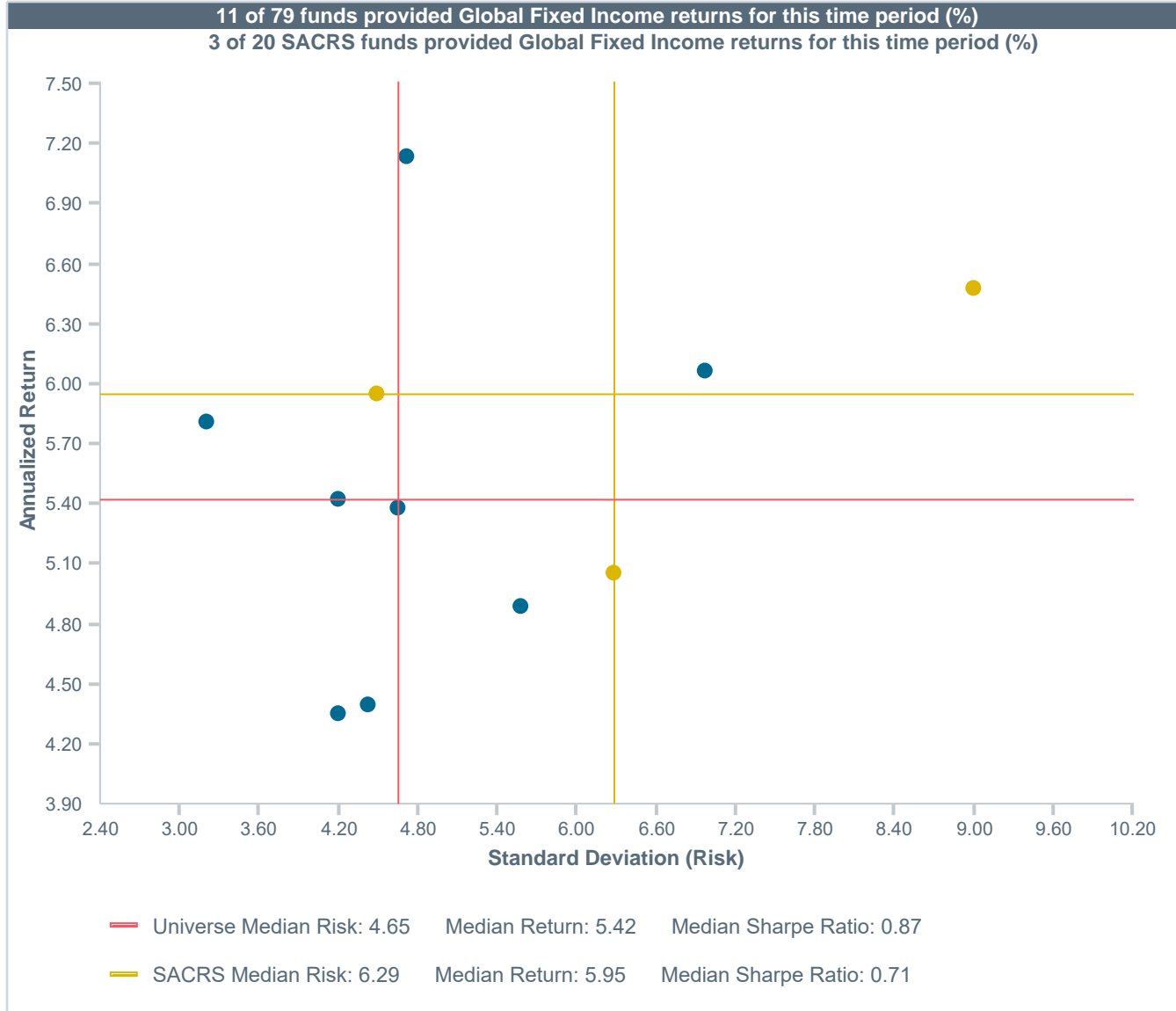
ID	Risk (%)	Return (%)	Sharpe
73	6.67	4.94	0.74
94	5.40	4.15	0.75
17	7.50	3.81	0.52
80	4.27	3.35	0.76
119	3.76	3.14	0.80

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

10 Year Annualized Global Fixed Income Returns vs. Standard Deviation



ID	Risk (%)	Return (%)	Sharpe
17	9.01	6.47	0.68
80	4.49	5.95	1.17
119	6.29	5.05	0.71

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

5 Year Annualized Real Estate Returns vs. Standard Deviation



ID	Risk (%)	Return (%)	Sharpe
61	2.32	13.68	5.43
69	3.49	13.34	3.56
71	3.89	13.33	3.21
17	1.98	13.04	6.06
75	1.65	12.79	7.25
129	3.78	12.42	3.10
118	4.08	12.26	2.83
73	1.92	12.14	5.82
119	3.86	12.06	2.93
64	1.48	11.64	7.11
80	1.87	11.47	5.65
55	2.04	11.25	5.05
99	1.94	11.22	5.44
94	2.22	10.85	4.50
52	1.45	10.60	6.59
86	2.42	10.40	4.02
49	2.27	10.34	4.25
101	2.51	9.47	3.51
15	1.77	9.26	4.87

Funds with less history than the specified time period will not appear in the chart.



Risk/Return Analysis

10 Year Annualized Real Estate Returns vs. Standard Deviation

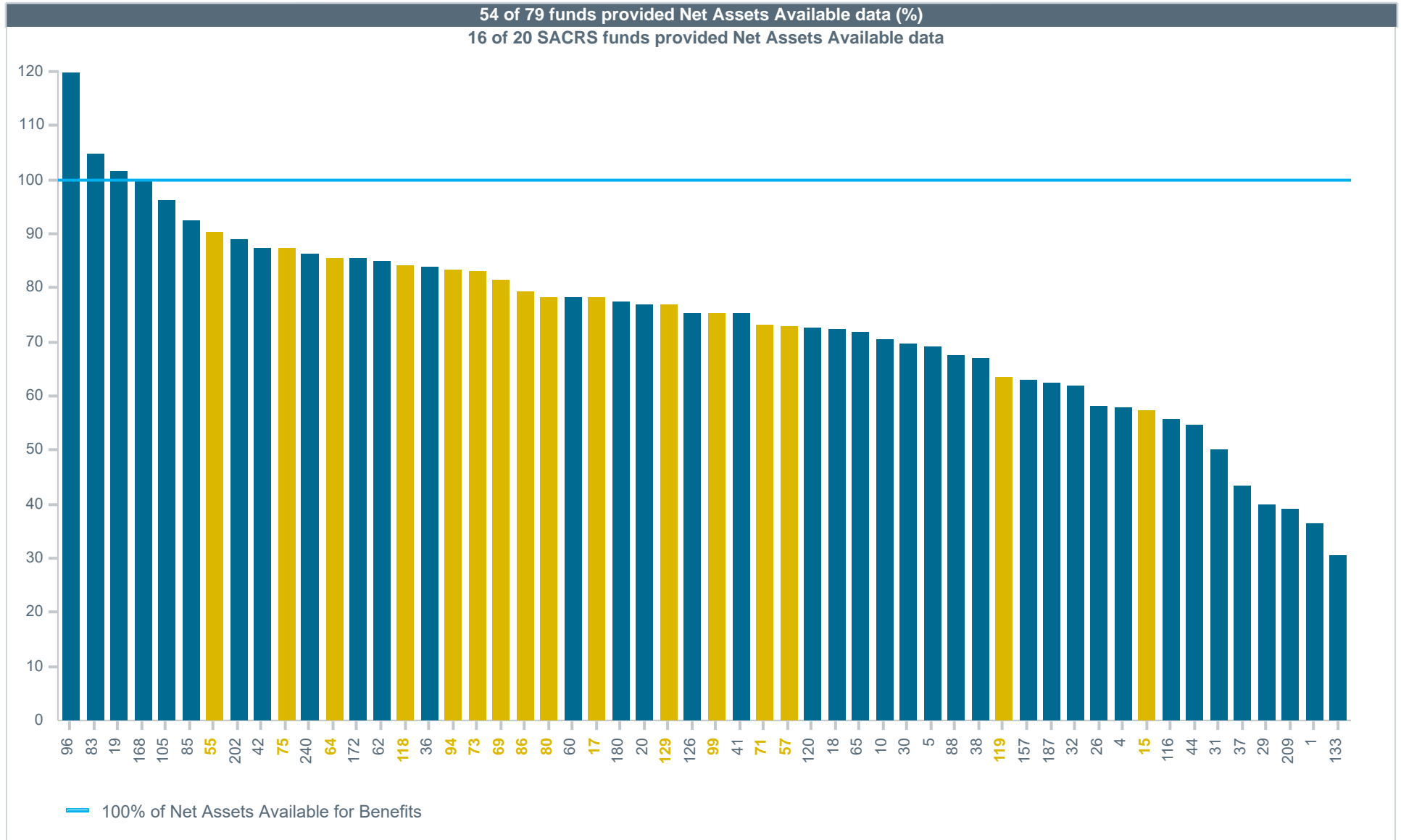


ID	Risk (%)	Return (%)	Sharpe
71	7.16	7.88	1.03
75	9.14	6.19	0.64
69	7.02	5.92	0.77
17	8.43	5.67	0.63
73	8.81	5.48	0.59
15	6.93	5.15	0.67
80	7.89	5.09	0.60
118	15.35	5.06	0.37
55	9.39	4.66	0.48
49	12.28	4.52	0.38
86	7.44	4.22	0.52
99	10.26	4.17	0.40
94	8.11	3.67	0.42
52	9.96	3.36	0.33
64	11.36	2.64	0.24
101	10.90	2.27	0.21
61	17.31	1.90	0.18

Funds with less history than the specified time period will not appear in the chart.



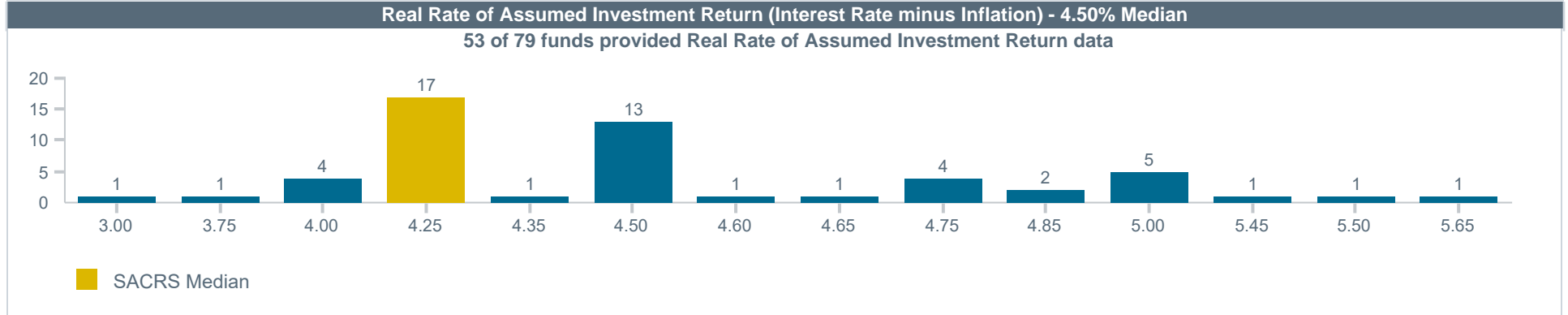
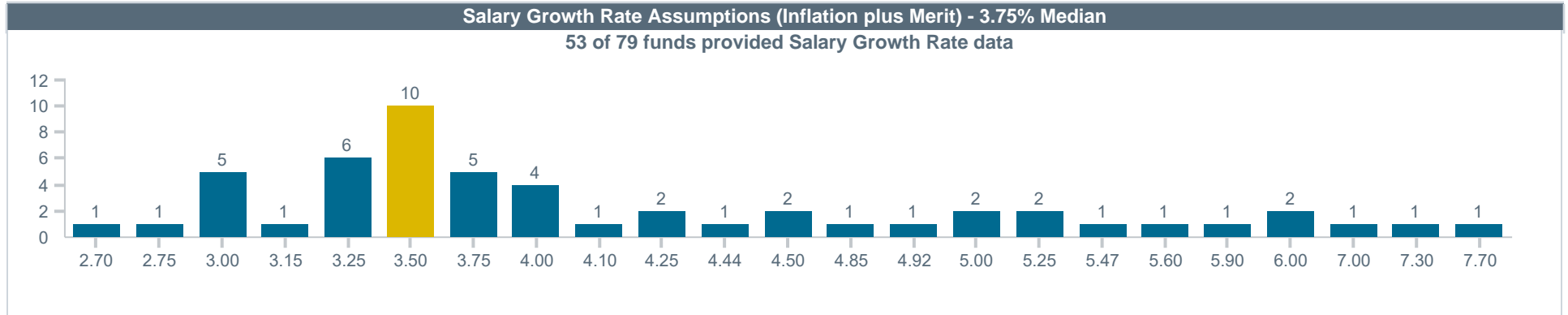
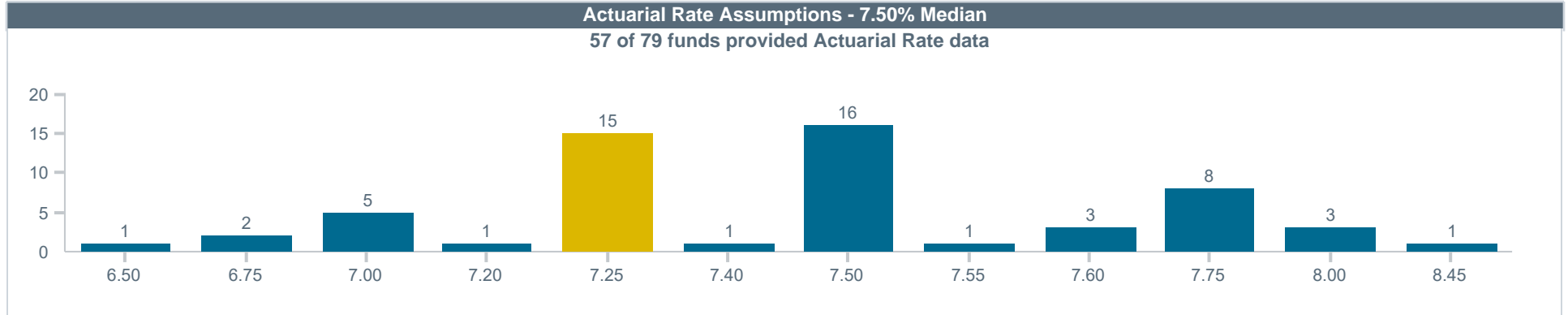
**Net Assets Available For Benefits**  
Expressed as a Percentage of the Pension Benefit Obligation



Funds that did not provide data will not appear in the chart.



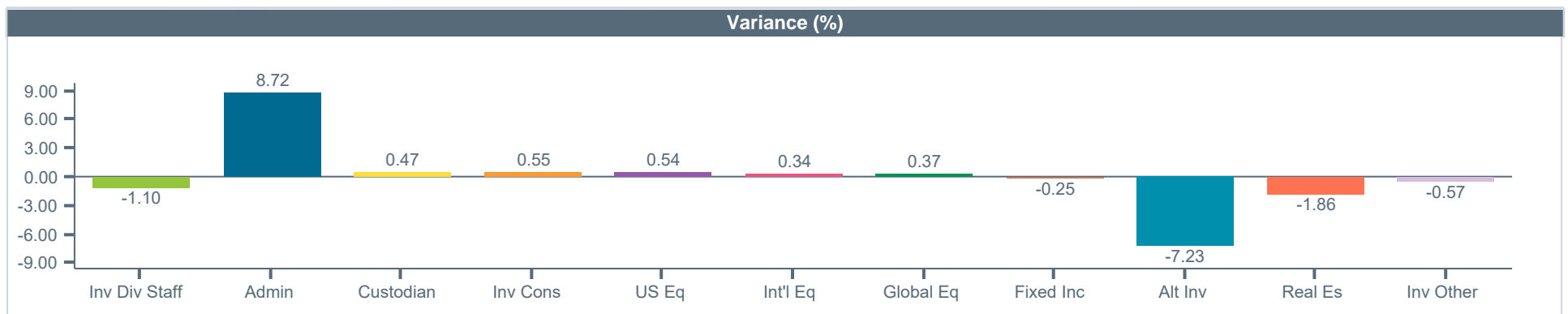
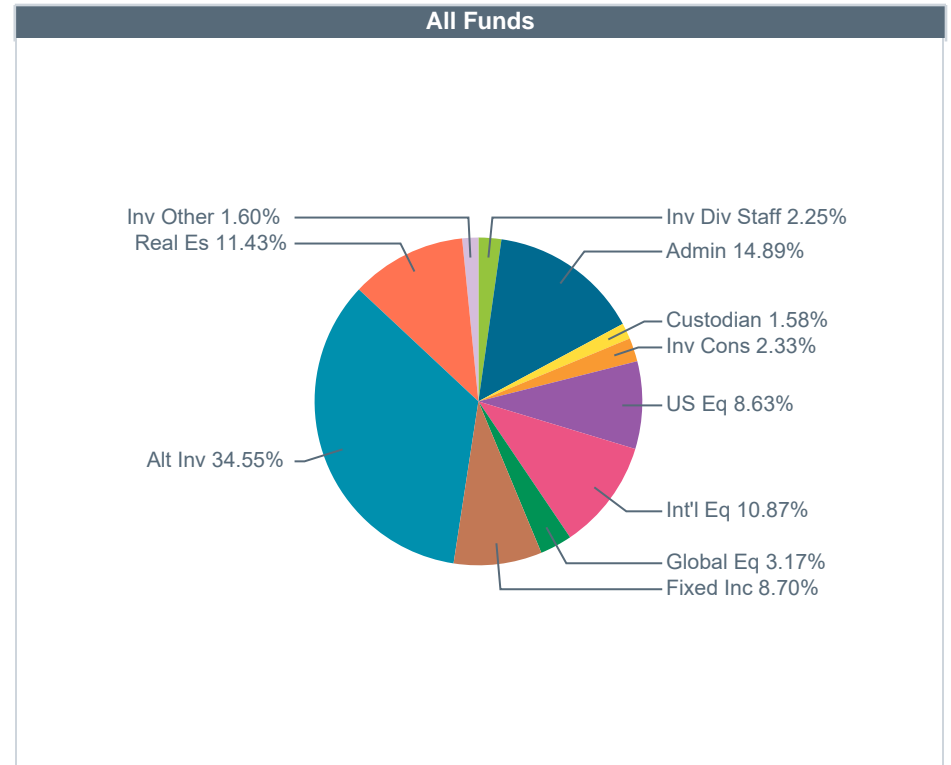
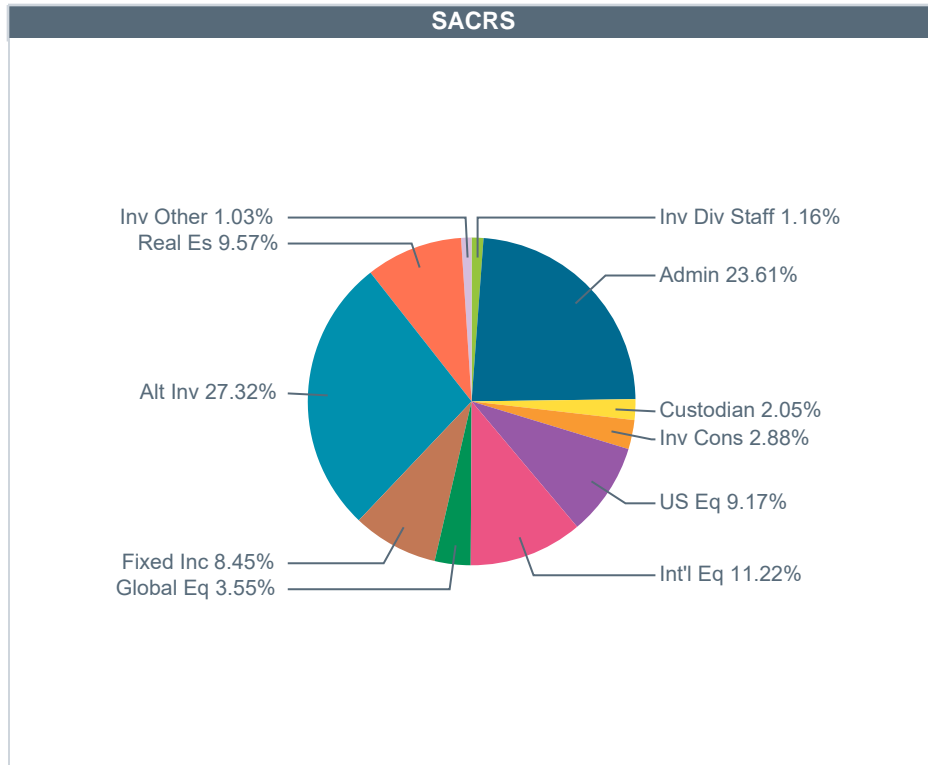
Actuarial Assumption Rates



Funds that did not provide data will not appear in the chart.



**Total Administrative and Investment Fees  
SACRS vs. All Funds**



Allocations shown may not sum up to 100% exactly due to rounding.



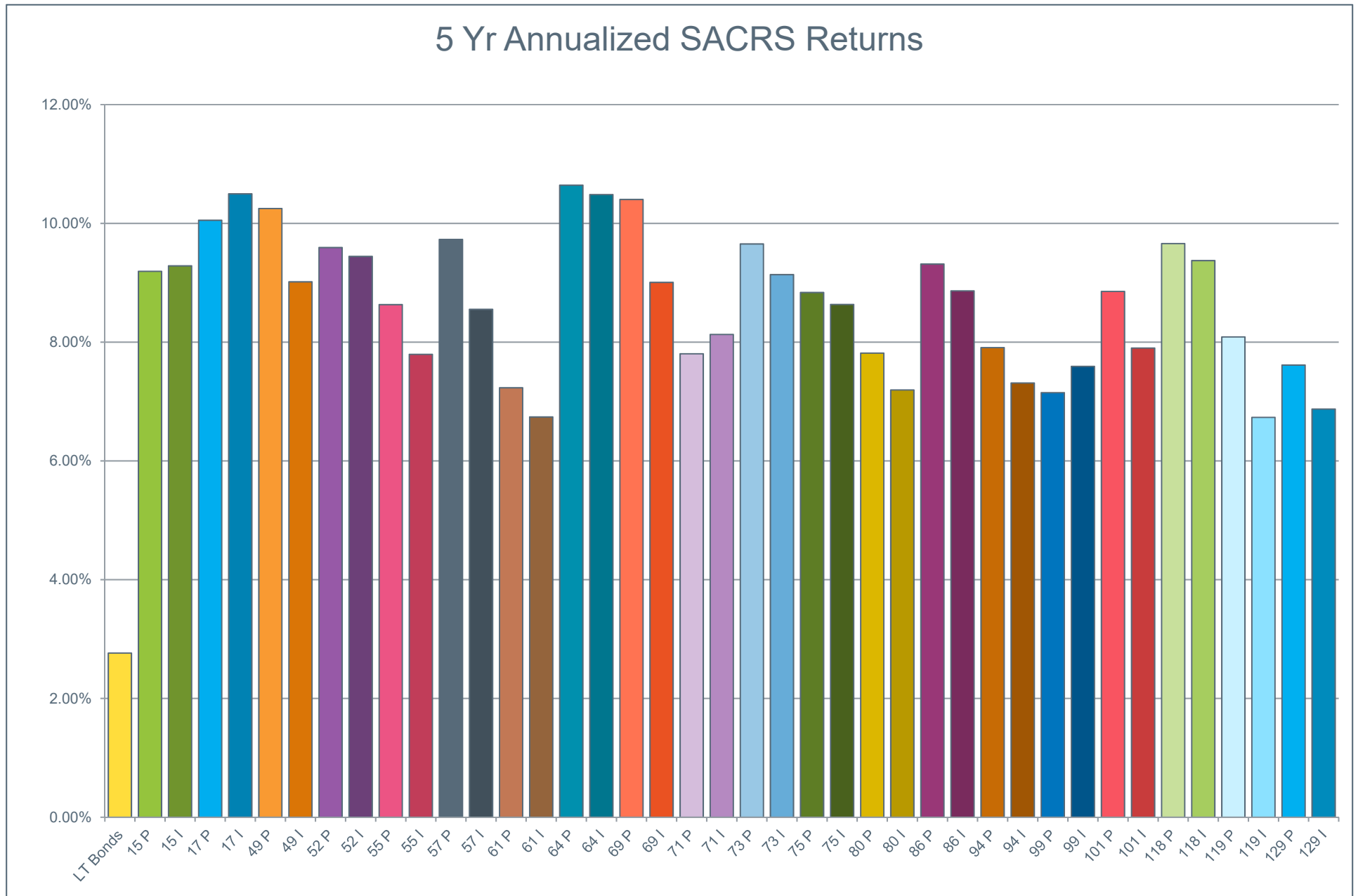
**Total Fund Fee Summary in Basis Points**  
**SACRS vs. Average by Asset Range**  
**56 of 79 funds provided fee data for this time period**

<b>Administrative Expenses</b>	<b>SACRS</b>	<b>Under \$500 Million</b>	<b>\$500mm - \$1 Billion</b>	<b>\$1 - \$5 Billion</b>	<b>\$5 - \$10 Billion</b>	<b>\$10 - \$20 Billion</b>	<b>Over \$20 Billion</b>
Internal Inv. Div. Staff	0.71	1.96	0.00	0.91	0.63	0.85	2.04
Actuary	0.85	3.25	1.80	0.54	0.24	0.13	0.11
Legal	0.92	1.45	1.18	0.68	0.20	0.31	0.15
Consultant	0.16	0.00	0.25	0.26	0.07	0.12	0.13
Audit	0.30	0.92	0.64	0.21	0.11	0.06	0.07
Other Professional	0.58	0.00	1.73	0.27	0.60	0.43	0.77
General Administrative	11.65	21.89	13.74	7.42	6.46	4.47	3.30
<b>Total Administrative Expenses</b>	<b>15.17</b>	<b>29.48</b>	<b>19.34</b>	<b>10.28</b>	<b>8.32</b>	<b>6.37</b>	<b>6.57</b>
<b>Investment Expenses</b>	<b>SACRS</b>	<b>Under \$500 Million</b>	<b>\$500mm - \$1 Billion</b>	<b>\$1 - \$5 Billion</b>	<b>\$5 - \$10 Billion</b>	<b>\$10 - \$20 Billion</b>	<b>Over \$20 Billion</b>
Custodial	1.25	1.29	3.03	1.16	0.71	0.55	0.30
Investment Consulting	1.76	3.05	2.40	2.22	0.69	0.70	0.45
US Equity	5.61	0.00	7.38	6.66	6.35	3.26	2.19
International Equity	6.87	0.00	6.71	7.62	5.29	5.68	4.20
Global Equity	2.17	4.32	1.00	2.43	2.29	1.11	0.95
Fixed Income	5.17	0.00	5.32	6.07	3.24	4.42	3.80
Real Estate	5.86	0.00	5.98	5.73	7.86	4.49	6.77
Other Investment Management	0.63	0.00	0.00	0.38	0.07	0.88	1.78
<b>Total Investment Expenses (ex. Alt Inv)</b>	<b>29.33</b>	<b>8.66</b>	<b>31.81</b>	<b>32.28</b>	<b>26.49</b>	<b>21.10</b>	<b>20.42</b>
Alternative Investments	16.72	0.00	3.98	18.11	23.98	14.10	21.73
<b>Total Investment Expenses</b>	<b>46.06</b>	<b>8.66</b>	<b>35.79</b>	<b>50.39</b>	<b>50.46</b>	<b>35.20</b>	<b>42.15</b>
<b>Total Expenses</b>	<b>61.22</b>	<b>38.14</b>	<b>55.13</b>	<b>60.67</b>	<b>58.78</b>	<b>41.57</b>	<b>48.73</b>

Expressed in basis points on total fund assets. Funds that did not provide fee data will not appear in the table.





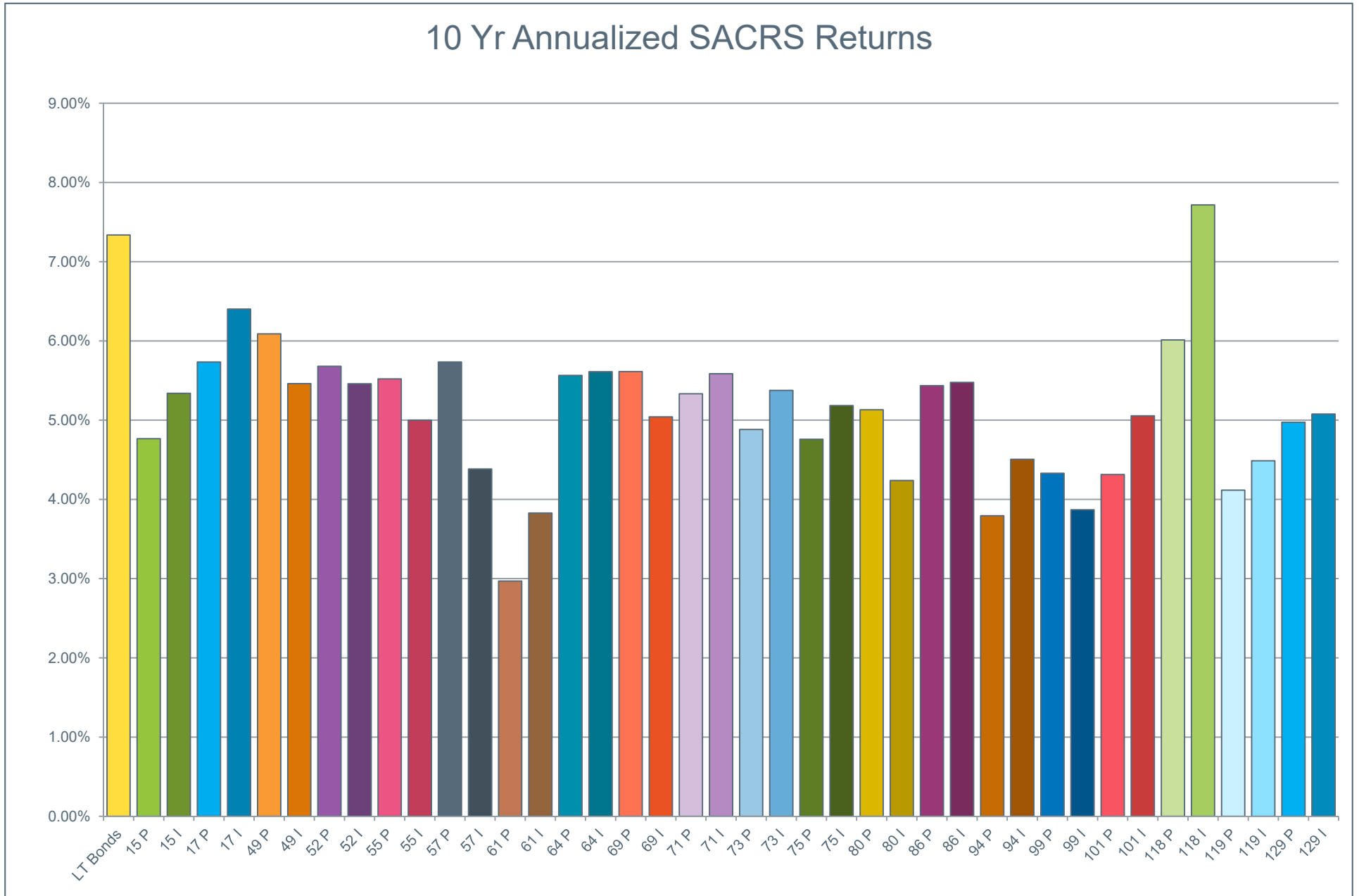


P - Total Fund Portfolio

I - Policy Index

LT Bonds - Bloomberg US Trsny:Long Term Bond Index



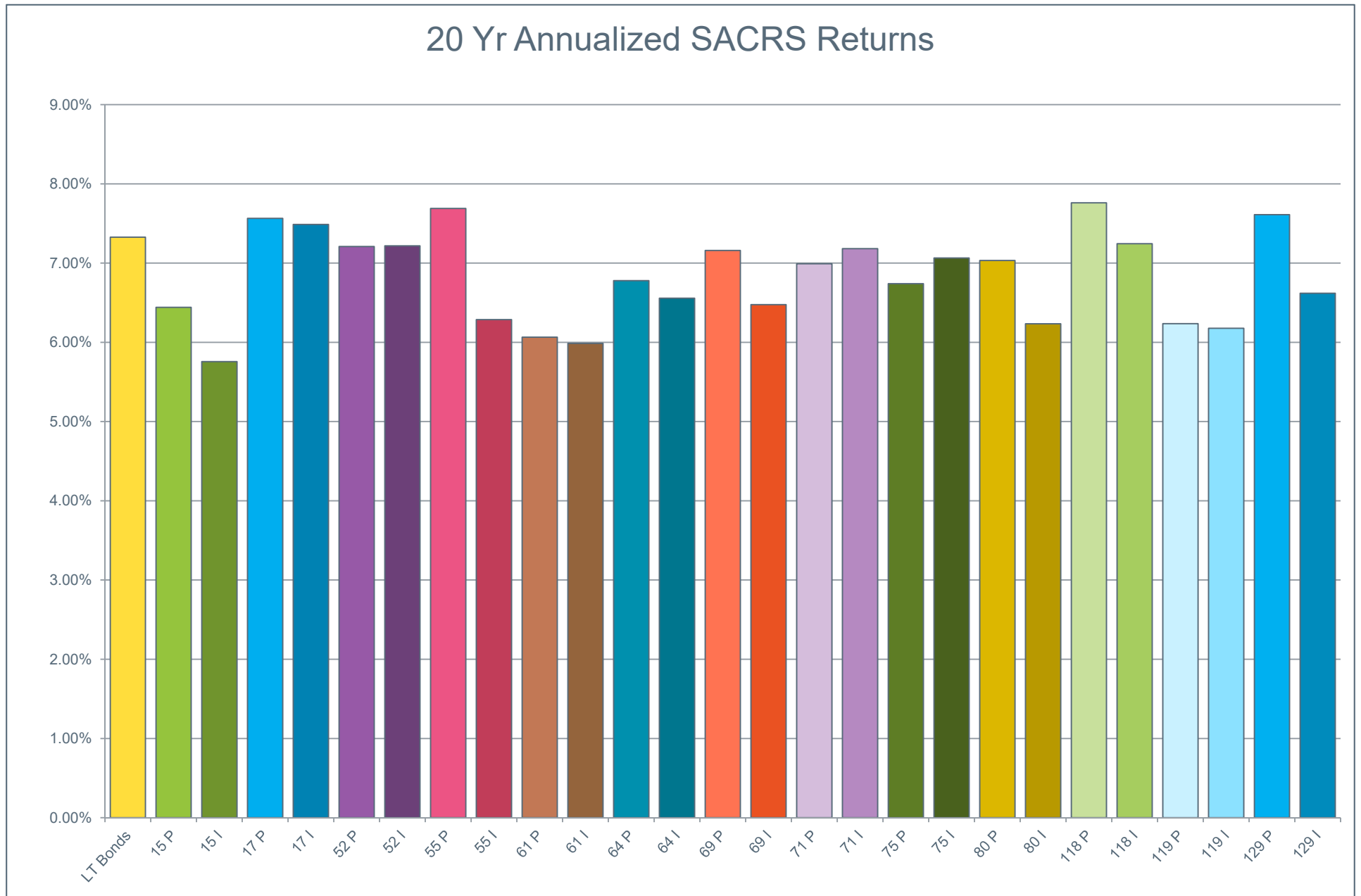


P - Total Fund Portfolio

I - Policy Index

LT Bonds - Bloomberg US Trsry:Long Term Bond Index



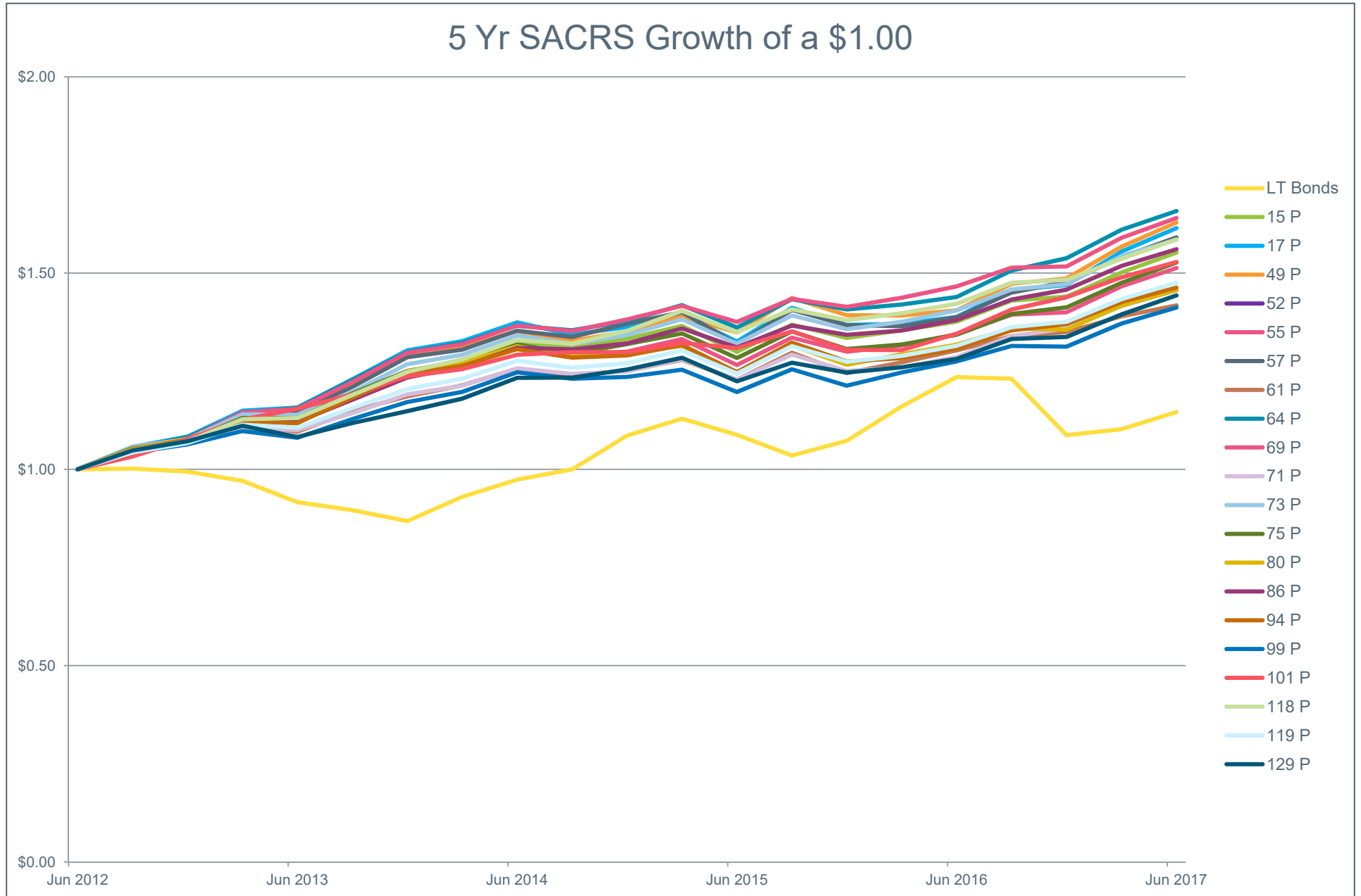


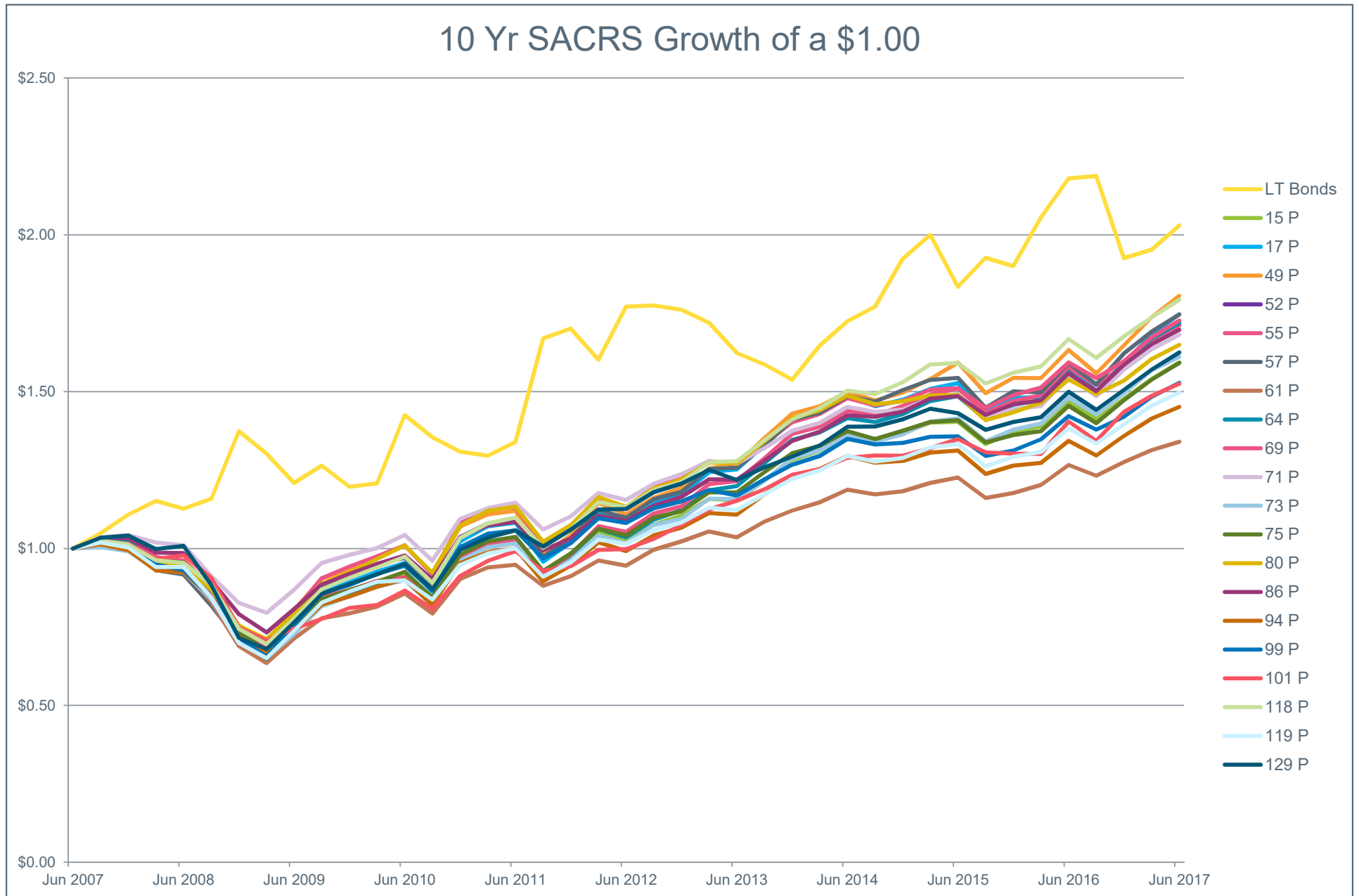
P - Total Fund Portfolio

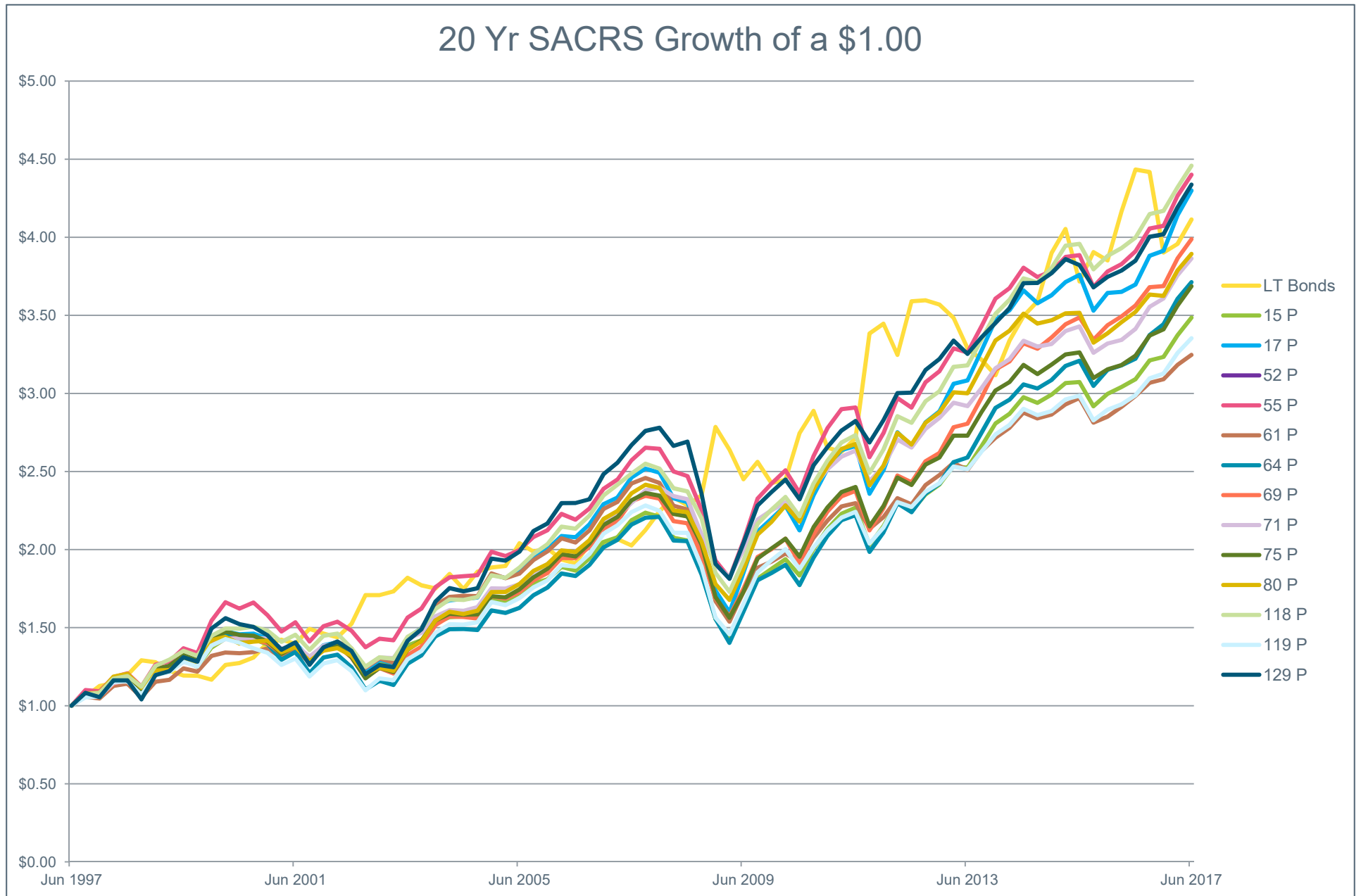
I - Policy Index

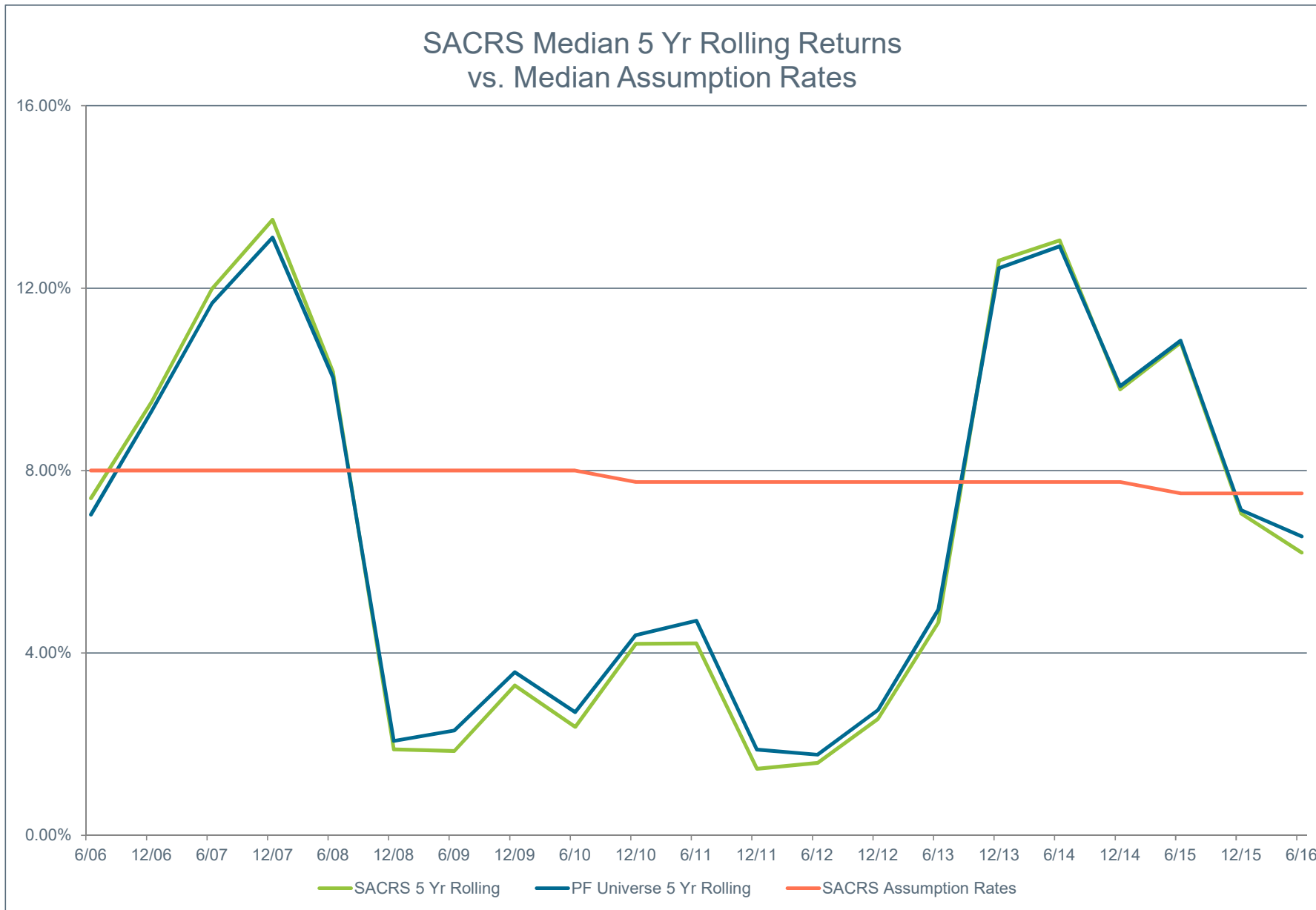
LT Bonds - Bloomberg US Trsry:Long Term Bond Index

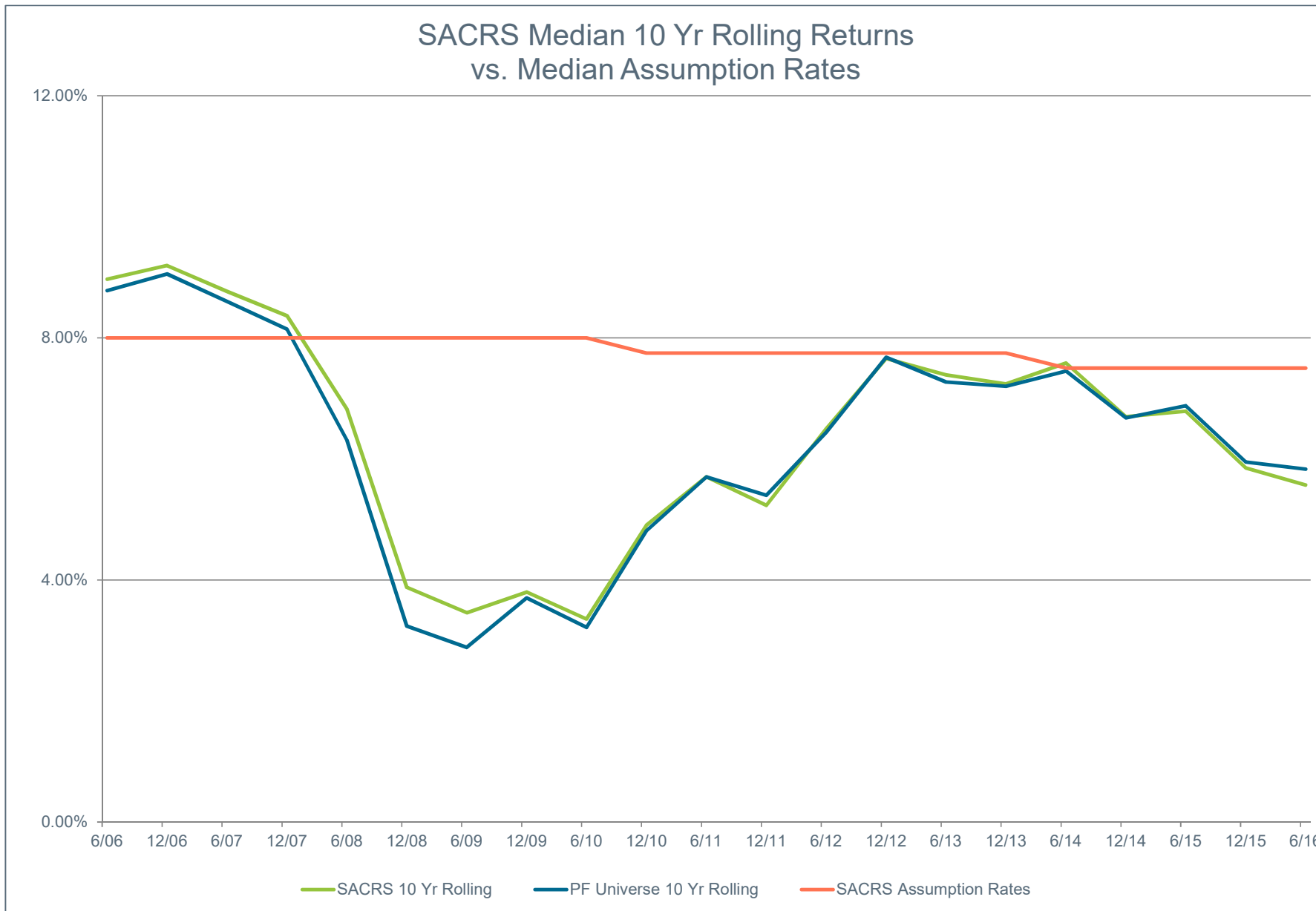




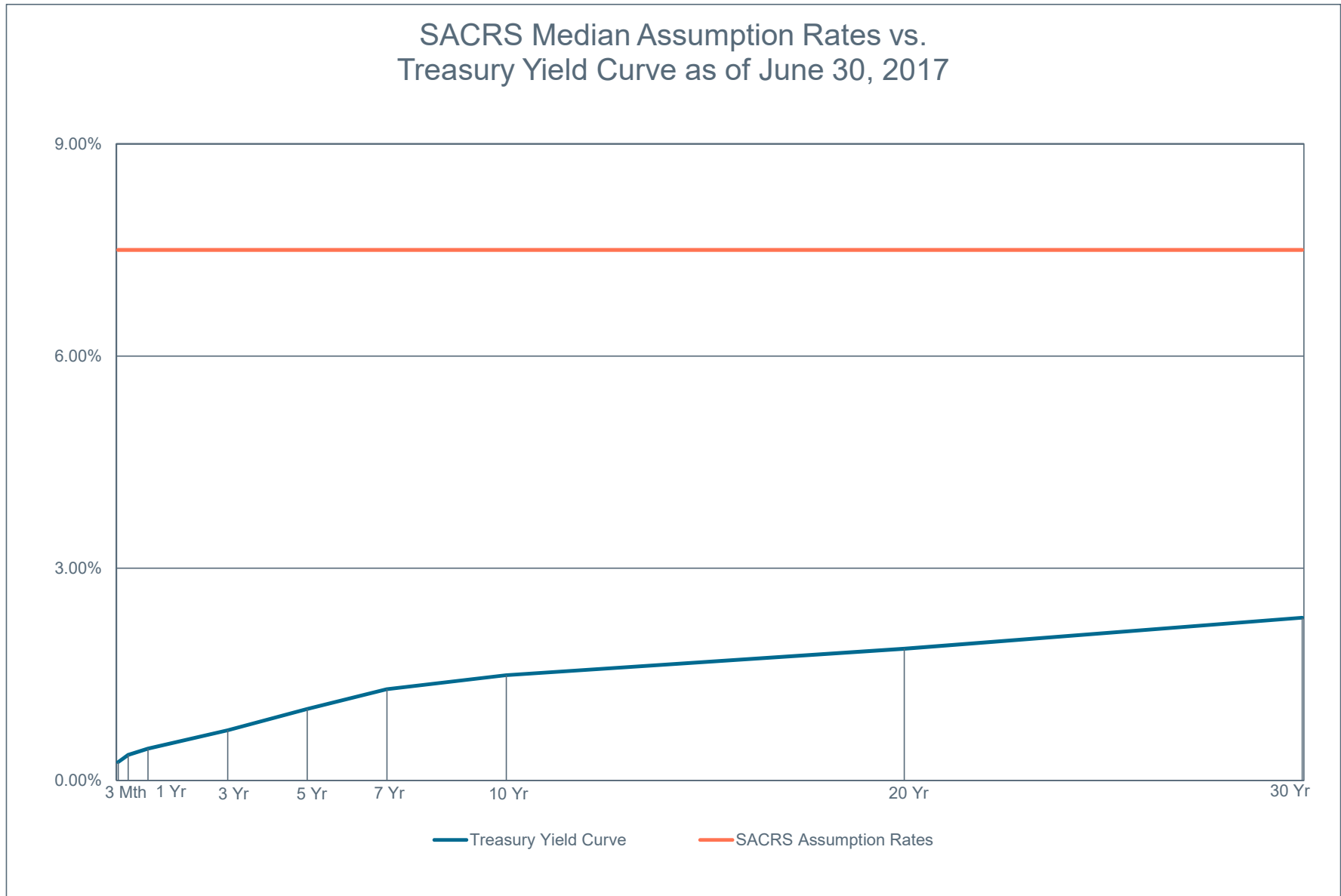












## GIPS Compliance Survey Summary

**Q1. Are you currently claiming compliance or considering compliance with the CFA Institute's Guidance Statement on the Application of the Global Investment Performance Standards (GIPS) to Asset Owners, effective January 1, 2015?**

Of the 79 participants in the 2017Q2 Public Fund Report, 51 participants provided a reply to the GIPS Compliance Survey. Of those participants, 6 answered "Yes, Currently Comply", 4 answered "Yes, Considering", and 41 answered "Not Considering".

**Q2. According to the GIPS standards, asset owner net of fees performance must reflect internal as well as external investment costs, and such net of all fee performance is required to be calculated and presented to fund oversight committees/Boards. Please identify which, if any, of the following costs you are currently including or will consider including in net performance that is in compliance with the GIPS standards.**

	<u>Currently Include</u>	<u>Considering</u>	<u>Not Considering</u>	<u>Unsure at this Time</u>
• Internal investment department compensation/benefits	7	1	3	2
• Allocation of non-investment department expenses (human resources, communications, technology, performance measurement, and compliance to support internal management team)	7	1	3	2
• Investment research services (100% or pro-rata determination)	6	0	3	4
• Investment consulting fees (general investment consulting and project fees; 100% or pro-rata determination)	8	0	3	2
• Pro-rata data valuation fees	4	1	3	5
• Pro-rata overhead indirectly related to asset management (building and utilities fees to support internal management team)	5	0	4	3

**Miscellaneous Comments**

- Performance shown is gross of fees, with the exception of the following:
  - **Funds 31, 49, 350, 351, and 355:** Performance shown is net of fees.
  - **Funds 5 and 20:** Performance shown is net of fees, except for Total Fund performance.
  - **Fund 85:** Performance shown for Real Estate is net of fees.
- Performance shown is calculated using quarterly performance provided by participating public funds.
- Performance shown may differ from a fund's actual performance due to rounding.
- Net Assets Available for Benefit includes funding percentage valuation as of dates between June 2016 and June 2017.
- Allocations shown reflect dedicated managers/mandates rather than actual exposure, with the exception of the following:
  - **Fund 61:** Performance shown for Global Equity includes US and Non-US exposure.
  - **Funds 1, 29, and 119:** Performance shown for Global Fixed Income includes US and Non-US exposure.
  - **Funds 4, 42, and 64:** Performance shown for US Fixed Income includes US and Non-US exposure.

**Glossary of Terms**

**Beta** - A measure of the sensitivity of a portfolio to the movements in the market. It is a measure of a portfolio's non-diversifiable or systematic risk.

**Return** - Compounded rate of return for the period.

**% Return** - The time-weighted rate of return of a portfolio for a given period.

**Sharpe Ratio** - Represents the excess rate of return over the risk-free return (i.e., BofA ML 3 Mo US T-Bill Index unless specified otherwise), divided by the standard deviation of the excess return to the risk free asset. The result is the absolute rate of return per unit of risk. The higher the value, the better the product's historical risk-adjusted performance.

**Standard Deviation** - A statistical measure of the range of a portfolio's performance. The variability of a return around its average return over a specified time period. Calculation is based on quarterly periodicity.

PORTLAND

CHICAGO

NEW YORK

**Disclaimer of Warranties and Limitation of Liability** - This document was prepared by RVK, Inc. (RVK) and may include information and data from some or all of the following sources: client staff; custodian banks; investment managers; specialty investment consultants; actuaries; plan administrators/record-keepers; index providers; as well as other third-party sources as directed by the client or as we believe necessary or appropriate. RVK has taken reasonable care to ensure the accuracy of the information or data, but makes no warranties and disclaims responsibility for the accuracy or completeness of information or data provided or methodologies employed by any external source. This document is provided for the client's internal use only and does not constitute a recommendation by RVK or an offer of, or a solicitation for, any particular security and it is not intended to convey any guarantees as to the future performance of the investment products, asset classes, or capital markets.

172/396



I-7

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT: BOARD COMMUNICATIONS**

---

### *Written report only*

#### **Background/Discussion**

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

#### **News Links**

The various news and informational articles that have been shared with the full Board are being provided to you here by web link address. By providing the links in this publicly available report, we comply with both the Brown Act public meeting requirements, as well as avoid any copyright issues.

The following news and informational links were received by OCERS staff for distribution to the entire Board:

#### From David Ball

- **America's 'Retail Apocalypse' Is Really Just Beginning**  
<https://www.bloomberg.com/graphics/2017-retail-debt/>

#### From Russell Baldwin

- **Highlights of the Findings of the U.S. Global Change Research Program Climate Science Special Report**  
<https://science2017.globalchange.gov/chapter/executive-summary/>
- **Generational Investing: Divesting Away From Fossil Fuels**  
<https://seekingalpha.com/article/4119173-generational-investing-divesting-away-fossil-fuels>

#### From Steve Delaney

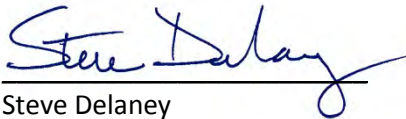
- **Cloud Cybersecurity**  
<https://www.institutionalinvestor.com/article/b15nl3vy5485nn/companies-are-on-the-hook-for-cloud-safety>

- **Canadian Pension Plan**  
<http://pensionpulse.blogspot.ca/2017/11/cppibs-ceo-exposes-cpp-myth.html>
- **Bitcoin Is a Delusion That Could Conquer the World**  
<https://www.theatlantic.com/business/archive/2017/11/bitcoin-delusion-conquer-world/547187/>

**Other Items: (See Attached)**

1. Monthly summary of OCERS staff activity, starting with an overview of key customer service as well as highlights and updates for the month of October.

**Submitted by:**

A handwritten signature in blue ink that reads "Steve Delaney". The signature is written in a cursive style and is positioned above a horizontal line.

Steve Delaney  
Chief Executive Officer

## Memorandum

---

**DATE:** November 9, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT: OCERS ACTIVITIES AND UPDATES – OCTOBER 2017**

The following is my regular monthly summary of OCERS staff activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of OCTOBER 2017.

### **CUSTOMER SERVICE**

The top three questions in the month of October as received by OCERS' counseling staff:

**How do I report a death, and do I need to provide a death certificate?**

OCERS is informed of member and survivor deaths in many ways; the most common is from the spouse or next of kin. We also receive this information from our electronic obituary notification service which compares our membership data with the Social Security death index other ways would be former employer, REAOC, friends. Notification is done primarily via telephone or email. Once notification is received, OCERS sends a letter to the beneficiary on file requesting documents, one being an original certified copy of the death certificate. Member benefits for deceased payees are suspended and determination of benefit survivorship is then determined.

**What is my security pin?**

As part of the security upgrade to the Member Self Service portal, OCERS is now issuing unique personal identification numbers (PIN's) that are required to register for an online account. PIN's were issued and communicated to all existing members last August who haven't yet registered. PIN's are also issued to all new members as part of new member enrollment process. Once a PIN has been used to register for an online account, the user creates his or her own

**MEMBER SERVICE STATS FOR  
 OCTOBER 2017**

**Member Approval 96%**

**Unplanned Recalcs 0**

**Retirement Apps Received**

*Oct 2017 47*

*Sept 2017 42*

*Aug 2017 69*

*July 2017 48*

*June 2017 65*

*May 2017 60*

*April 2017 47*

*Mar 2017 79*

*Feb 2017 107*

*Jan 2017 151*

*Dec 2016 62*

*Nov 2016 64*

*Oct 2016 53*

*Sept 2016 45*



user name and password. Member Services staff are able to assist members with PIN's and troubleshoot log on problems or reset account passwords after confirming member identification validating identity.

**How do I start the retirement process? Do I need an appointment to discuss my retirement options?**

Most members start with a phone call to the retirement specialist that handles their agency. The OCERS website has a list of agencies and the associated retirement specialist assigned to assist them in the retirement process. Comprehensive retirement counseling is conducted over the phone and continues with an appointment where we provide final average salary (FAS) information. Members are encouraged to submit their retirement applications online. During the retirement appointment, members provide original birth and marriage certificates, and the application and additional forms of tax withholding and direct deposit are reviewed. The benefit options are explained thoroughly to ensure complete understanding.

**TELEPHONE STATS (showing trending) FOR OCTOBER**

<b>DATE/S</b>	<b>QUEUE</b>	<b>DIRECT TO EXTENSION</b>	<b>TOTAL CALLS TO MS (Queue + Direct)</b>
October 2017	860	3169	4029
October 2016	752	2894	3646
October 2015	1021	1849	2870

**ACTIVITIES**

**OCERS PROCUREMENT – LEARNING FROM THE COUNTY**

The October 2017 County Connection newsletter noted: “The Orange County Procurement Office (OC Procurement) recently received the 2017 Achievement of Excellence in Procurement (AEP) Award from the National Procurement Institute, Inc.”

I was impressed; winning a national award four times in a row is no easy undertaking. Always looking for ways that OCERS can improve our own processes, I forwarded the article to our own procurement expert, Jim Dozie, and asked that he check in with the County to see what we could learn from their winning ways.

It should have come as no surprise to me that Jim immediately responded that he and other members of the OCERS team have already been over visit the County Procurement office, and in fact has already initiated several processes that they had learned from those visits.

Kudos to Jim and team for being proactive, and at my request, he provides here a short summary for the Board of the actions being taken:

The October County Connection magazine has an article congratulating the OC Procurement department for winning the AEP award (Excellence in Procurement) for the fourth year in a row. This is a most impressive feat! In the recent past, OCERS has had several discussions with the OC Procurement department personnel in order to leverage some of their award-winning practices. To that end, OCERS is in the process of leveraging some of their processes in order to raise our level of performance in this area. Some of the items include the following:

- A more in-depth due-diligence review for new contract vendors
- Use of their contract template as a basis for an OCERS contract template. (Still in work with the Legal department.)
- Updating our Procurement Policy to add more clarity and direction. (An update to our policy is in process.)
- We created a contract tracking and vendor management system to track all our active contracts and vendor insurance requirements.

OCERS is always open to recommendations and willing to leverage best-in-class practices to make improvements to our processes.

### **HALLOWEEN DAY AT OCERS**

The OCERS team does love to put on a good party, and last week's Halloween was just such an opportunity. With an all staff pot luck to fill us up, some of our more creative team members put on quite the show!



## **CONTRACT CITY PRESENTATION**

Also on Halloween Day (October 31) OCERS staff also presented our fourth annual informational session specifically for Contract City representatives. 10 cities sent delegates, as did AOCDS, the Orange County Fire Authority, and the Orange County Sheriff's Department. While in past years the presentations have been more generic in discussing OCERS' pension liabilities, we have a number of returning reps who have heard similar information, so this year we delved a bit deeper into the complicated world of actuarial rate setting. We spent more time than in the past covering topics such as generational mortality, as well as portfolio earnings assumptions. I want to especially thank Mr. Hilton who attended the entire session, it is always has positive impact when stakeholders, even those as removed legally from OCERS as are Contract Cities, to see a representative of the OCERS Board being directly involved and hearing their comments and concerns.

## **INVESTMENTS IN OCTOBER**

Mr. Beeson provides this report on the Investment Team's October activities:

At the October 25th Investment Committee meeting, staff presented the portfolio activity for the month of September. The portfolio year-to-date is up 10.9% net of fees, while the one-year return is up 12.5%. The fund value now stands at \$14.9 billion. The Committee approved the use of the BlackRock 20+ Treasury Bond Index for the 2.5% U.S. Long Treasury Bond allocation within the risk mitigation asset class. Meketa, OCERS' general consultant, presented a real assets asset class review. The Committee approved a new target structure for the real assets category consisting of 10% of the total portfolio to real estate, 6% to energy, 3% to public markets strategies, 2% to infrastructure, and 1% to agriculture. The Committee also voted to approve a \$100 million commitment to EnCap Energy Fund XI and a \$50 million commitment to EnCap FlatRock Midstream Fund IV as part of the energy allocation within real assets.

## **OCERS CIO SPEAKING ENGAGEMENT**

The Fink Center for Finance & Investments at UCLA and the Women's Institutional Investor Network (WIIN) co-hosted an event at the UCLA Anderson School of Management, bringing together professional women and students for their annual event on November 7, 2017. Molly Murphy, Chief Investment Officer at OCERS, was joined by KC Krieger, CIO of The Broad Foundation, and Carina Coleman, Director, Pension & Trust Investments at Sempra Energy on the keynote panel, for the event themed "Breaking Through to the C-Suite, Part 2."

A link to the event is found here: <http://www.anderson.ucla.edu/centers/fink-center-for-finance-and-investments/events/fink-co-sponsored-events/women-in-finance>

## **UPDATES**

### **SECOVA BEGINS OPEN ENROLLMENT**

After the challenges that the County's third party health plan administrator, Secova, encountered during their initial plan roll out at the start of 2017, OCERS staff is being proactive in working with the County in order to foresee how we can be of assistance in making the 2018 round far more successful. Ms. Catherine Fairley provides this report:

OCERS reached out to the County to initiate discussion regarding the annual open enrollment process. The 2018 process will be the first open enrollment processed by the County's third party vendor, Secova. Since 2003 when the County outsourced healthcare administration, OCERS has partnered in the process that typically begins late September. As a result of our contact with the County, a conference call was conducted with all parties and a time line established for file testing and reports reflecting premium and health grant changes. OCERS informed REAOC of ongoing activities. Both REAOC and OCERS posted links to the County website on their websites to promote member communication.

### **OCTOBER STAFFING UPDATE**

Ms. Hockless provides a report on October staffing activities:

The Investment team completed interviews for the Investment Officer position. After careful review and consideration, three (3) of the top candidates will be invited back for a second interview in late November.

The IT department finalized interviews for the Sr. IT Retirement Programmer/ Business Analyst position. The selected candidate is a current in-house contractor and will start in December.

The Member Services department completed recruitment for two (2) Sr. Retirement Program Specialist positions. The two selected candidates are current employees. The newly promoted employees are scheduled to start in early November. In mid-November, the department will start to recruit for the backfill of the positions vacated by the promotions.

Year-to-date, a total of eight employees left OCERS employment (five voluntary resignations, one automatic resignation, one transfer to the County and one probationary release). The year-to-date annual turnover rate is rounded to 11%. This is calculated by dividing the number of employees that left the agency by the number of employees on payroll. OCERS turnover rate is slightly higher because we are not fully staffed. OCERS has a total of seven vacant positions with 3 pending job offers. Of the 80 budgeted positions (28 OCERS Direct and 52 County positions), 73 positions are presently filled.

Please find the details of our most recent recruitment activity below:

Position Type	Position Title	Department	Comments
OCERS	Member Services Business Analyst	Member Services	Open date TBD
OCERS	Investment Officer	Investments	2 <sup>nd</sup> Interview for top candidates, late November
County	Executive Secretary I	Legal	Open date TBD
County	(2) Sr. Retirement Program Specialist (QA)	Member Services	Promotion of two internal candidates. Start date: November 10
County	Sr. IT Retirement Programmer/Business Analyst	Information Technology	Start date: December 22, 2017
County	Retirement Investigator	Disability	Open date TBD



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the consent agenda for the December 18 meeting of the OCERS Board of Retirement.

I-8

## Memorandum

---

**DATE:** December 8, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT:** RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY – ISSUES UPDATE

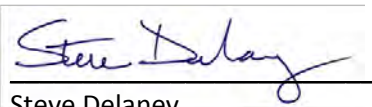
---

### Background/Discussion

At the OCERS Board's continued invitation, Ms. Linda Robinson and Doug Storm, Co-Presidents of the Retired Employees Association of Orange County (REAOC) will be at the December 18<sup>th</sup> meeting.

As another year comes to a close, they will share thoughts and comments on the challenges faced by our retired members as well as comments regarding the services OCERS as an organization provides to those members.

### Submitted by:



Steve Delaney  
Chief Executive Officer

I-9



## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Brenda Shott, Assistant CEO, Internal Operations  
**SUBJECT: OPERATIONAL RISK MANAGEMENT PRESENTATION**

---

### **Background/Discussion**

To ensure that OCERS is managing risk within the organization on an enterprise-wide basis, an enhanced Operational Risk Management Program (“ORM”) is being initiated. The purpose of the presentation is to provide a summary of the ORM Program that will be going into effect in 2018.

### **Submitted by:**



---

Brenda Shott  
Assistant CEO, Internal Operations

# Operational Risk Management



December 18, 2017

# Program Goal

1. Develop a common understanding of risks across multiple functions/departments so OCERS can manage risks cost-effectively and on an organizational-wide basis
  2. Implement an operational risk management program that proactively supports OCERS mission, vision, and strategic plan
- 

## Today

Share summary information about Operational Risk Management (“ORM”) and provide overview of the current project plan.

# Operational Risk

What is Operational Risk? This is the risk of loss resulting from inadequate or failed internal processes, people, systems or external events. An Operational Risk Management process should help prevent or detect in advance an operational risk event, and help OCERS effectively meet regulatory and on-going operational obligations.

The **Vision** of an Operational Risk Management program is to proactively manage risks through our day-to-day processes allowing us to provide secure retirement and disability benefits with the highest standard of excellence.

The **Challenge** is to effectively manage and control the inter-related risks.

The **Solution** is to implement an effective risk management process that results in acceptance, mitigation, or avoidance of operational risks. **Risk management is everybody's responsibility!**



188/396 Note: Not investment risk

# Benefits of an ORM Program

Risk Management programs help mitigate the impact that unplanned events will have on OCERS ability to achieve strategic goals and business initiatives. An effective ORM program will result in the following:

- Reduction of operational loss (dollars)
- Reduced exposure to future risks
- Reduced exposure to reputation loss
- Early detection of unlawful activities
- Improved response and recovery from unplanned or adverse events
- Increased awareness of compliance and regulatory requirements
- The creation of a more risk-focused culture



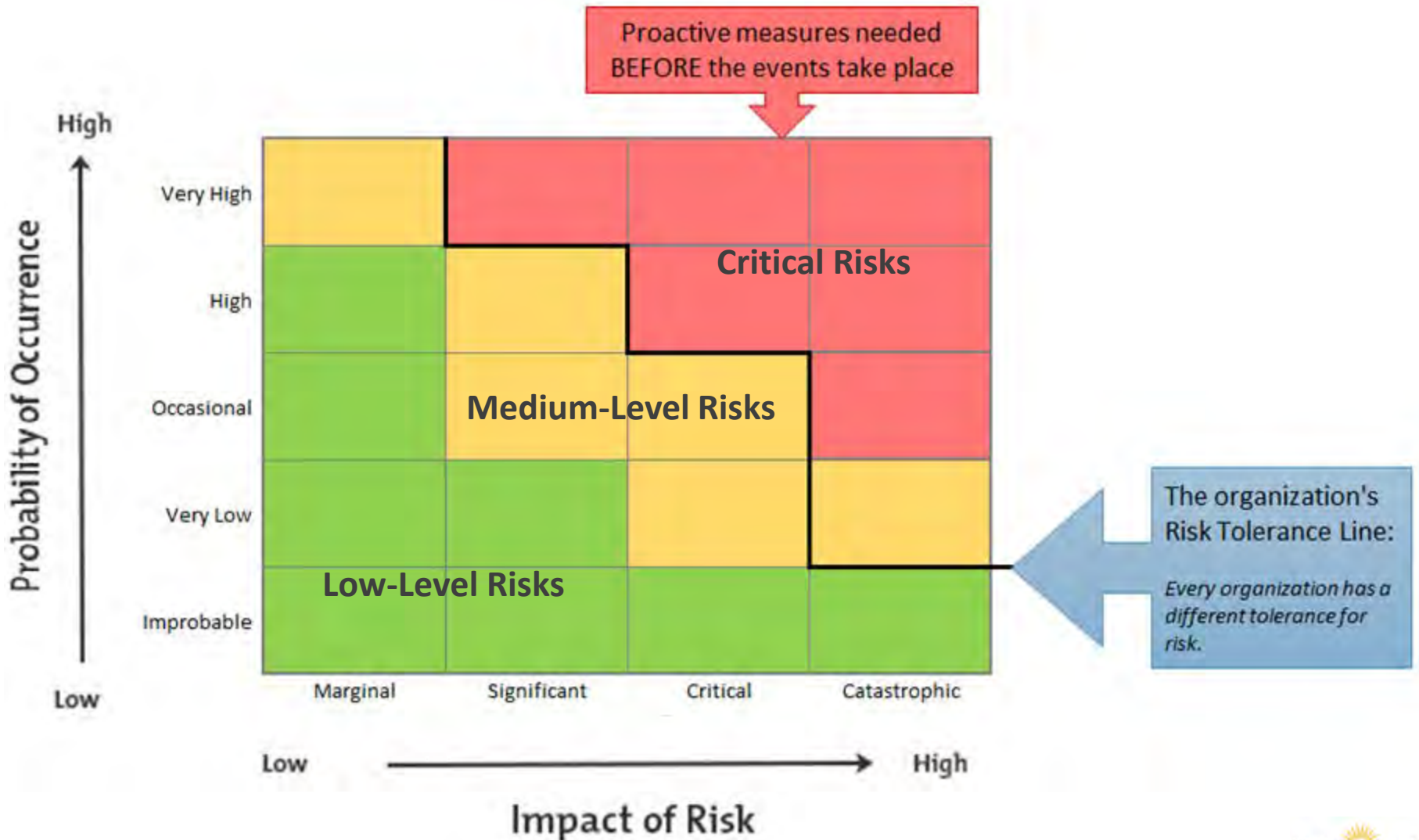
# Risk Lines of Defense



# Risk Management Process

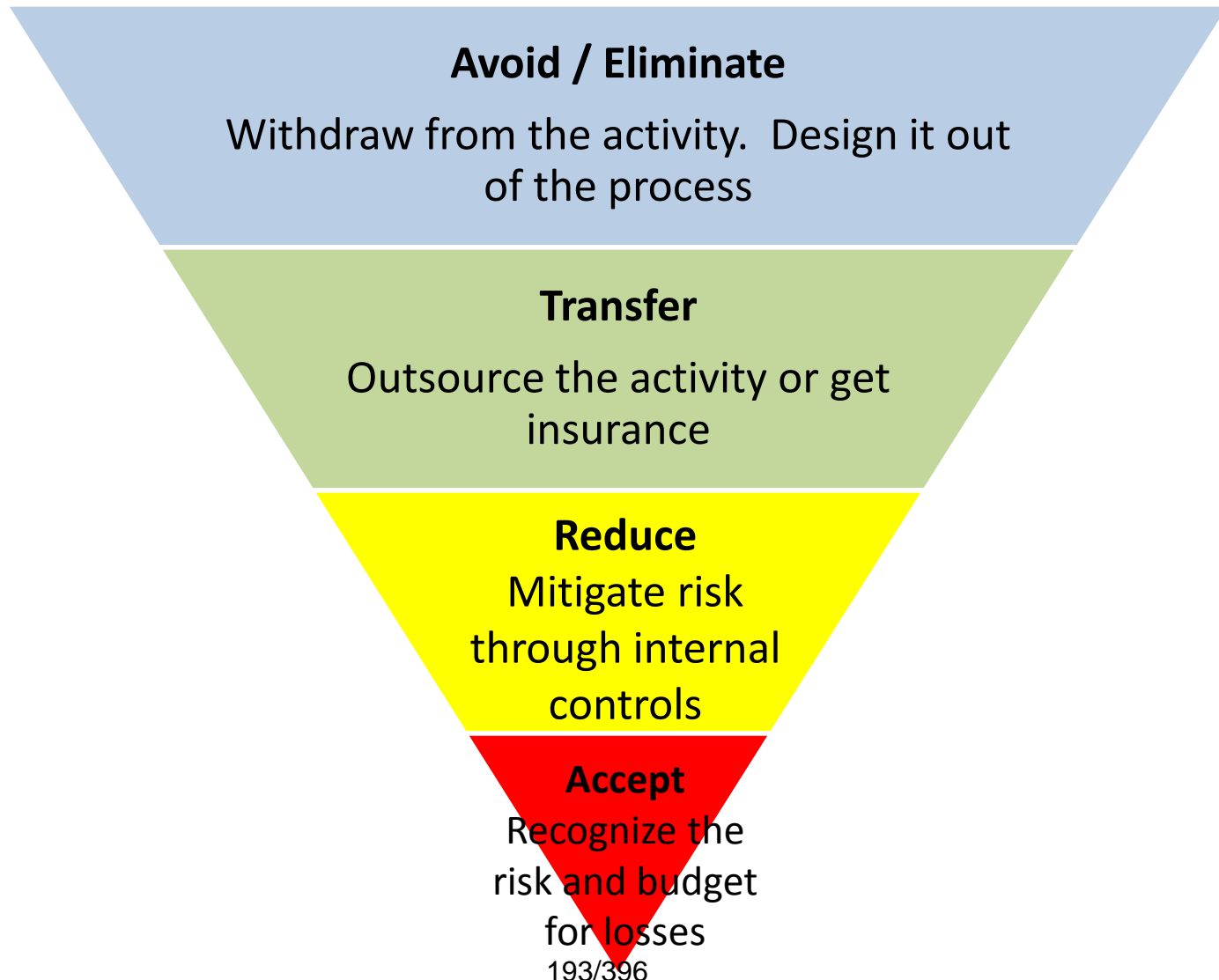


# Risk Evaluation





# Hierarchy of Risk Treatments



# Process in Place at OCERS today

Risk Stage	Process	Optimal Process Gap
1. Risk Identification	<ul style="list-style-type: none"> <li>Completed by the Internal Audit department with assistance of each department</li> </ul>	<ul style="list-style-type: none"> <li>Entity-wide approach to be included in identification process vs just a department by department review.</li> </ul>
2. Risk Evaluation	<ul style="list-style-type: none"> <li>Annual Internal Audit report</li> </ul>	<ul style="list-style-type: none"> <li>Formalize review process with committee approach</li> <li>Documentation of reviews needed</li> <li>Increase frequency of reviews</li> </ul>
3. Risk Treatment Identified	<ul style="list-style-type: none"> <li>Determine how the risk is going to be handled: <u>avoid/eliminate</u>, <u>accept</u>, <u>reduce</u>, or <u>transfer</u> the risk</li> <li>Develop plan to mitigate the risk exposure</li> </ul>	<ul style="list-style-type: none"> <li>Focused/intentional decisions on risk treatment using committee approach</li> <li>Periodic operational risk reviews and decisions for treatment need to be documented</li> </ul>
4. Risk Treatment Implementation	<ul style="list-style-type: none"> <li>Department heads implement identified plan</li> </ul>	<ul style="list-style-type: none"> <li>Periodic committee review and evaluation of mitigation/treatment plans.</li> <li>Accountability to the Committee</li> </ul>
5. Report & Risk Program Review	<ul style="list-style-type: none"> <li>On-going annual review by the Internal Audit department for effectiveness of the risk mitigation program(s)</li> </ul>	<ul style="list-style-type: none"> <li>Systemize the reviews and document mitigation processes on a periodic basis. It needs to be a continuous process.</li> </ul>

# Governance Structure

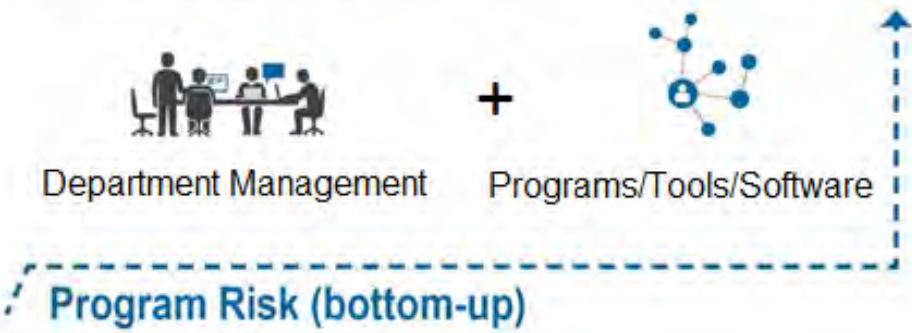
- Resources
- Risk appetite
- Enterprise risks



- Operating event trends
- Program risks & internal controls



- Internal controls
- Operating events



# Closing Comments

- OCERS has risk mitigation in place today
- The Operational Risk Management Program will create a more entity wide approach to risk management
- Risk Committee (Executives and Management) will be formed and work through the process discussed and address gaps identified
- Reporting package will be developed and provided to the Board

A-2

## Memorandum

---

**DATE:** December 8, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT:** ELECTION OF BOARD VICE-CHAIR

---

### Recommendation

Elect a new OCERS Board Vice-Chair for Calendar Year 2018.

### Background/Discussion

In accordance with OCERS' By-Laws, excerpted below, the election of the Vice-Chair is to take place at the "last regular Board meeting in December," which is our meeting of December 18 this year. The election of the Vice-Chair in December of each year allows the incoming Chair sufficient time to make committee assignments for the following calendar year.

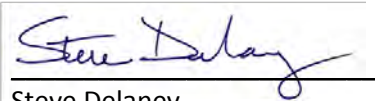
With Mr. Prevatt, an elected member, serving as 2017 Vice-Chair, the Board's charter directs that he "shall automatically succeed to the office of Chair".

Then the by-laws provide further guidance to the election of Vice-Chair by directing that the Vice-Chair shall be of a different "group" than the Chair; for 2018 that would be one of the appointed members. The election will take place in December, the new Chair, Mr. Prevatt, and the newly elected Vice-Chair will not take office until January 1, 2018.

### By-Laws Excerpt:

3. Election of Officers: The Board shall have a Chairperson and a Vice-Chairperson, each of whom will serve a one-year term of office, which corresponds with the calendar year. The person who holds the office of Vice-Chairman on the last day of the Calendar year shall automatically succeed to the office of Chairperson effective the first day of the following calendar year. At its last regular Board meeting in December, the Board shall elect a new Vice-Chairperson, who shall serve in that capacity beginning in January of the following year until the end of that calendar year, at which time he or she shall succeed to the office of Chairperson. The Chairperson and Vice-Chairperson shall both be members of the Board, and shall be from different "groups" as hereinafter defined.

**Submitted by:**

  
Steve Delaney  
Chief Executive Officer

A-3



## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel; Lee K. Fink, Deputy General Counsel  
**SUBJECT: GOVERNANCE COMMITTEE OUTCOMES REGARDING REFORM OF THE ADMINISTRATIVE APPEALS PROCESS**

---

### Recommendation

The Governance Committee approved, and recommends that the Board of Retirement consider on a first reading, the following:

- (1) Creation of a Disability Committee;
- (2) The Disability Committee Charter;
- (3) The Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits to supersede and replace the existing Administrative Hearing Procedure Policy and OCERS Administrative Procedure on Appeals; and
- (4) Revisions to Hearing Officer Selection Policy

### Background/Discussion

The current OCERS Benefits and Disability Adjudication process is governed by a Board policy on Administrative Hearing Procedures, most recently amended in December 2015, and an OCERS Administrative Procedure on the Administrative Appeal Process, adopted in January 2016.

At the September, October and November meetings of the Governance Committee (Committee), staff discussed with the Committee several proposed improvements to the current OCERS processes for the adjudication of disability and non-disability benefit applications. At the September meeting, staff presented the broad contours of new administrative appeals process. This was based on staff's legal research, internal discussions, review of best practices, and a survey of how 13 other CERL systems handle their disability adjudication processes. After substantial discussion and direction from the Committee, staff drafted large-scale revisions to the governing OCERS policies, which were presented at the October meeting. Again, the Committee engaged in substantial discussions, asked staff for additional research, and made changes to the proposal. At the November meeting, staff returned with additional research and refinements, and the Committee approved final recommendations for presentation to the Board. The Committee now recommends the revisions to the Board on a "first reading" basis to obtain the Board's initial feedback, allow staff time to answer questions and conduct any additional research requested by the Board, and engage with stakeholders for their feedback. Staff will then present the proposals to the Board for final approval in early 2018.

This memorandum summarizes the revisions to the process approved by the Committee.

## **A. Guiding Principles for Staff's Recommendations**

Staff engaged in a several months' long analysis of OCERS' processes and procedures relating to the adjudication and administrative appeal of disability retirement and other benefit determinations and identified several opportunities for improvement. In developing the recommendations, staff was guided by OCERS' Values:

- Open and Transparent
- Commitment to Superior Service
- Engaged and Dedicated Workforce
- Reliable and Accurate
- Secure and Sustainable

Staff believes the recommended revisions to OCERS' processes and procedures for administrative appeals reflect these values by improving service to OCERS members, reducing inefficiencies, and improving the use of OCERS resources.

## **B. Improvements to the Disability Retirement Appeals Process**

### **1. Timeliness and Efficiency of the Pre-Administrative Hearing Process for Disability Retirement**

Staff believes the current process for the Board's decision on disability retirements can be improved to reduce unnecessary delays. Currently, members whose applications for disability retirement the OCERS staff recommends the Board deny must wait for Board action before the members have the right to a hearing before a Hearing Officer. Meanwhile, members may attend the Board meeting at which their case is presented—including traveling and arranging for medical care—even though the Board takes action contrary to staff's recommendation in fewer than 4% of cases. Moreover, in seeking to accommodate a member, by re-scheduling his or her matter before the Board or sending the case back for further staff review, the member's opportunity for a hearing is oftentimes further delayed.

The current process also makes an inefficient use of Board members' time. Through August of 2017, the Board's meeting materials in 2017 contained 8572 pages of material for Board members to review. 6005 of those pages—or 70%—were related to disability retirement applications. And yet, there are fewer than 100 disability applications filed each year, or just one-quarter of one percent of the 43,485 OCERS members. Given the substantial investment of Board member time in connection with disability applications, the Board should invest its time in a fashion that is most effective. Yet the current process creates significant inefficiencies.

In most cases, the Board approves staff's recommendations; yet the Board generally does not use a consent agenda for these items. From 2012-2017,<sup>1</sup> 360 disability applications were presented to the Board, yet in only 13 cases (3.6%) did the Board take action different than the staff's recommendation. In another 6% of the cases, the Board delayed the final adjudication by seeking more staff work or a second medical opinion, but in most instances the Board ultimately adopted the staff recommendation. Meanwhile, the disputed matters, which consume the most Board time, are ultimately presented to the Board at least twice—for the Board's initial decision and then for a final decision after the Hearing Officer issues his/her proposed findings and recommended decision. These matters receive a third (and sometimes fourth and more) Board review if the

---

<sup>1</sup> As of August 2017.

member adds a new condition, about which the Board must make a determination before a hearing is held. Worse yet, the time the Board spends on cases prior to an Administrative Hearing is the least effective because it occurs before a complete record has been developed for the Board to review. Several matters in the last few months demonstrate the shortcomings of having the Board act on a matter where there is not a complete factual record. In a recent non-disability benefit case, the member contended he was entitled to an upgraded pension benefit. There, he raised before the Board for the first time his contention that he was not an employee of the plan sponsor (who had not upgraded employees' benefits) but rather an employee of the county (who had upgraded the benefits) and was simply "on assignment" to the plan sponsor. This resulted in the Board referring the matter to staff to investigate further, delaying the resolution for at least an additional two months before the member could seek a hearing before a hearing officer. In a disability appeal scheduled for a hearing in the coming months, the member's attorney has alleged that not all the relevant information was submitted to the Board for its consideration when the initial determination was made many months ago. The Board meetings where these matters are presented for an initial determination are a poor forum for teasing out factual disputes such as these. Indeed, the very purpose of the CERL provision allowing matters to be referred to a hearing officer is so that factual disputes can be resolved and a fully-developed record can be presented to the Board.

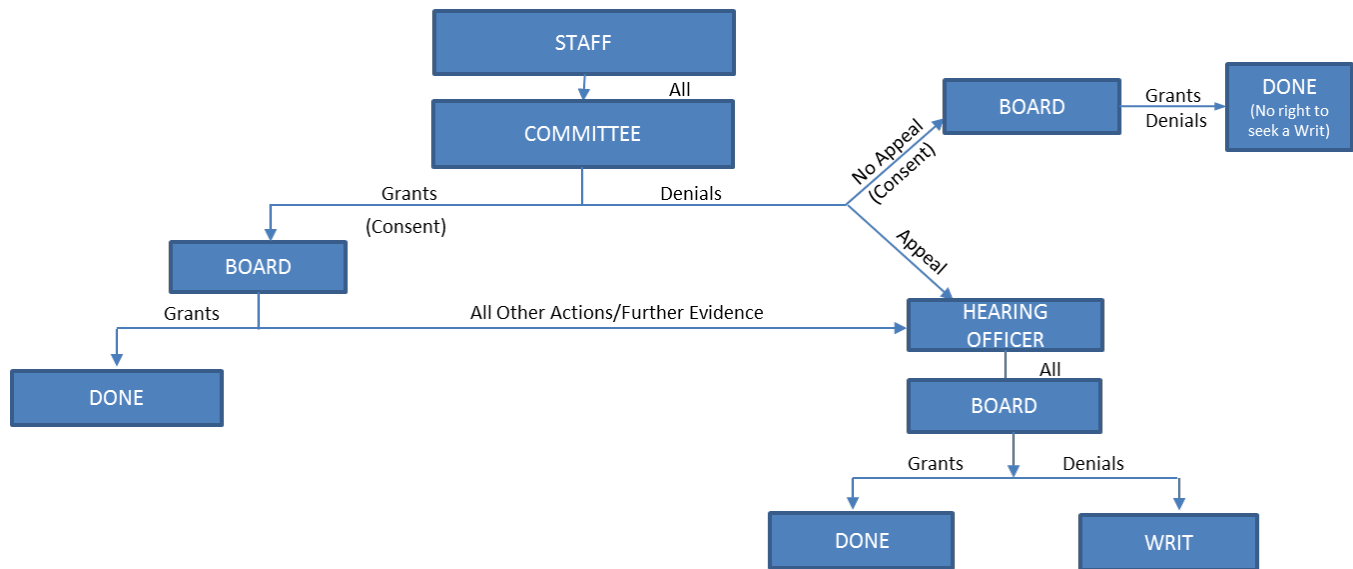
In addition, the time the Board spends on disability matters is likely to increase if the process is not changed. Since 2009, the number of disability applications has increased by 50%, from 56 disability applications in 2009 to 84 in 2016. As OCERS grows, the number of disability applications will likely continue to grow, and the Board's other duties will also grow as OCERS' membership increases and its investment fund, which has tripled from \$4.7 billion in 2003, grows to an expected \$30 billion by 2030. The increase in disability applications will also tax the staff's time preparing and participating in Board meetings for contested matters and undertaking Administrative Hearings in contested matters. This will become more challenging as the number of applications (and the number of related hearings and petitions for Writs of Mandate) increase.

The Governance Committee approved and recommends the Board approve several interrelated reforms intended to improve the timeliness and efficiency of the OCERS' disability appeals process. Principally, the Committee recommends the establishment of a Disability to Committee to review applications for Disability Retirement, with the following process for disability retirement applications:

- (a) All disability retirement applications will be presented to the Disability Committee with staff's recommendation. The Disability Committee will take action to recommend that the Board grant or deny the application.
- (b) If the Disability Committee's action is to recommend that the Board **grant** the application, the Disability Committee's recommendation will be presented to the Board on its Consent Agenda. The Board could then grant the application on consent, or in the rare case that the Board determines it has insufficient basis to grant the application, it can refer the case to an Administrative Hearing.
- (c) If the Disability Committee's action is to recommend that the Board **deny** the application, the member will have the right to a direct appeal to an Administrative Hearing prior to presentation of the Disability Committee's recommendation to the Board. If the member does not appeal the Disability Committee's recommendation to deny the application, the Disability Committee's recommendation will be presented to the Board on its Consent Agenda.

(d) If the member<sup>2</sup> appeals the Disability Committee’s recommendation, the matter will be referred to an Administrative Hearing, and subsequent to the hearing, the Hearing Officer’s recommendation will be presented to the Board.

The flow of this new process is set forth in the chart below.



*The Disability Committee*

The Disability Committee would review all applications for disability retirement after OCERS staff has completed its investigation and made a recommendation. This would eliminate the need for the entire Board to review all disability applications even while the Board currently adopts the vast majority of the staff’s recommendations. In addition, the Disability Committee would provide a forum for members who disagree with the staff recommendation to air their concerns with members of the Board without having to “litigate” the case in administrative hearing setting. The Disability Committee would also be responsible for the oversight of the disability process and dedicated to looking closely at the systemic issues within the disability application and hearing process, much like the Audit and Governance Committees. Given the critical nature of these functions, the Disability Committee will enable the Board to better undertake its oversight role in the process, from the initial handling of matters through administrative hearing.

The Governance Committee recommends the Disability Committee be comprised of three members, two of whom would be elected members (which may include the alternate seventh member) and one of whom is either the ex-officio member or an appointed member. Additionally, the Disability Committee would have an alternate member who would attend committee meetings only when one of the three regular committee members is absent. The proposed membership of the Disability Committee is based on the following:

- A membership of three people ensures there is never a tie vote;

<sup>2</sup> Or plan sponsor or other party with standing.

- The membership of the Disability Committee should be as small as possible so that when the matter is later presented to the full Board, the fewest possible number of Board members have previously considered the case, thereby reducing concerns that Board members have already formed an opinion;
- Elected Board members should predominate because they work or have worked for an OCERS plan sponsor, and therefore have more familiarity with the types of jobs and disabilities that OCERS members face;
- There should be an appointed or ex-officio Board member on the Disability Committee to ensure that the membership of the committee is fully representative of the Board. This ensures the Disability Committee is approaching its decisions in a well-rounded fashion with the outlook and approach to disability matters of all of the Board members represented on the committee. With sufficient “buy-in” to the process, the Board would be expected to adopt the majority of the committee’s recommendations on consent.
- It is important to include both elected and appointed Board members on the Disability Committee so that as membership on committees rotates annually, the burden of the workload is not shifted disproportionately on to any one group of Board members.
- There should be an alternate member so that the Disability Committee’s determination of member applications is not delayed in the event that a regular member of the Disability Committee cannot attend a meeting.

Staff surveyed other CERL systems regarding use of a disability committee and found that both the Los Angeles County (LACERA) and the Sonoma County (SCERA) systems employ a disability committee. Although each system uses its committee differently than this proposal, they served to inform the recommendation for OCERS.<sup>3</sup> The Governance Committee recommendations combines the best of these processes, focusing the agenda of a disability committee, allowing it to take most of the action on the more routine matters, while preserving the Board’s final authority.

#### *Use of Consent Agenda*

Unless a member exercises his/her right to appeal the Disability Committee’s recommendation to an Administrative Hearing, all recommendations of the Disability Committee would be presented to the Board on its Consent Agenda for final action. Board members would retain the right to pull any case from the Consent Agenda and to reject the Disability Committee’s recommendation. However, where the Disability Committee’s recommendation is to grant the application, the Board’s options will be either to grant the application or refer it to an Administrative Hearing. While staff anticipates this would be a very rare occurrence, it would protect the member’s rights, since the member would not at that point have had reason to appeal the committee’s recommendation to grant the application. Furthermore, this continues to ensure that the Board itself does not

---

<sup>3</sup> LACERA’s disability committee is a committee of the whole, much like the OCERS Investment Committee, and thus it serves to focus the Board agenda for that meeting on disability issues. SCERA’s disability committee is a smaller committee that exercises oversight of the disability process and reviews disability applications prior to the Board of Retirement review. But SCERA does not use a consent agenda so the board has to review the applications in full before a determination is made, creating potential for more delay and more use of Board member time.

make a determination on applications until it has a fully developed record. It would also militate against any argument that a hearing officer has been biased by the Board's initial action.

### *Right to Administrative Hearing Prior to Board Action*

The proposed new process provides the member with the right to an administrative hearing *prior to* the Board taking action on the member's application. This process has several advantages. It enables the member to have his or her appeal heard more expeditiously than waiting for Board action (which is then followed by an administrative hearing). It relieves the Board of the need to hear the same matter twice<sup>4</sup> and ensures that contested matters come to the Board only after a record has been fully developed. The process would also serve to reassure members that the hearing officer is not influenced by the Board's initial decision against them; and for a member who "loses" before the hearing officer, reassures the member that the Board is hearing the issue anew rather than relying on opinions developed during the Board's initial determination.

## **2. Use of Closed Sessions**

The Governance Committee recommends the Board approve the practice of using closed sessions/closed hearings for the discussion of disability retirement applications.

Under OCERS' current process, applications for disability retirement are presented to the Board in open session. Although OCERS takes great pains to protect members' privacy and none of the supporting documents for the disability calendar is publicly available, Board members and staff periodically discuss a member's medical condition in open session and on recorded video that can be obtained by the public. OCERS' form disability application includes a statement that a member's documents may become part of the public record and the Board meeting agenda and notice sent to members state that their cases will be discussed in open session unless the Board decides to adjourn into closed session to discuss member performance issues. But as a practical matter, members may not read or understand this warning and may not be aware of their rights to have their cases discussed in closed session. Indeed, in many cases the member is not present at the Board meeting to assert his or her rights. Board members and staff are cautious in discussing a member's condition during the open session, but that caution can create an incomplete or cryptic record, and may not lead to a full and complete discussion of the issues.

While the CERL does not require that disability hearings be held in closed session, the Attorney General opined in 2005 that the board is permitted to meet in closed session to consider a member's application for a disability retirement consistent with the personnel exemption under the Brown Act, Cal. Gov't Code § 54957(b). Ops. Cal. Atty. Gen. No. 04-408, 88 Ops. Cal. Atty. Gen. 16 (Cal.A.G.), 2005 WL 429690. In that opinion, the Attorney General re-affirmed its 1982 conclusion that "[t]he open meeting requirements of the Ralph M. Brown Act do not apply to that portion of a retirement board meeting held pursuant to the County Employees Retirement Law of 1937 which involves the discussion of medical records which are submitted in connection with an application for disability retirement." Ops. Cal. Atty. Gen. No. 82-505, 65 Ops. Cal. Atty. Gen. 412 (Cal.A.G.), 1982 WL 155976. The Attorney General also opined that the board include the member, the member's counsel, and

---

<sup>4</sup> Or oftentimes, the Board makes the initial denial and the final decision after the Hearing Officer's recommendation, and then has the matter come back after directing the Disability Staff to undertake more investigation, or to make determinations on new conditions that are raised during the course of the hearing process.

witnesses in such a closed session because they would be attending in the role of an “advocate,” “interested party,” or someone with an “essential role to play in the closed session.” In addition, 12 of the 13 CERL systems surveyed regularly use closed sessions to hear member applications and appeals and the 13<sup>th</sup> will close the hearing on the member’s request.

In order to better protect member privacy interests and to better ensure a fulsome discussion of disability retirement applications, staff recommended and the Governance Committee agreed that the Disability Committee should conduct its discussions of disability retirement applications in closed session. All the parties and their counsel will be permitted to attend the closed session and have the opportunity to be heard. In addition, when a Hearing Officer’s Proposed Findings of Fact and Recommended Decision are presented to the Board after an Administrative Hearing, the Board will adjourn to closed session/closed hearing to discuss the case. Again, all the parties and their counsel will be permitted to attend and have the opportunity to be heard.

### **3. Timeliness and Efficiency of the Administrative Hearing Process**

The current process for conducting Administrative Hearings creates significant potential delays, and there are no firm deadlines or timelines by which members, OCERS, or the Hearing Officers must abide and be accountable for. This permits the hearing process to drag on and has resulted in some matters pending in the administrative hearing process for as long as five years. The current system leaves it to the members and the OCERS attorneys to set the timelines in individual cases, which are often delayed needlessly. Final determinations can also be delayed by a series of procedural steps which delay the conclusion, including but not limited to ongoing exchanges of medical witness reports, rebuttals, and sur-rebuttals that come about during the course of the hearing process, rather than during an “initial disclosure” as would occur in civil litigation or that could be resolved by in-person questioning of the medical witnesses; disagreements on hearing and briefing dates, none of which are set until the parties meet and confer at each stage of the litigation, rather than setting the dates at the outset of the case; claims of new medical conditions that require referral back to the Disability Unit staff and the entire Board; and numerous delays post-hearing, including a process for objecting and seeking reconsideration by the Hearing Officer which can add months to the adjudication process. In a judicial proceeding, the court would be responsible for moving the case along towards conclusion, but the OCERS rules are silent on who bears this responsibility.

The lack of firm timelines also results in limited metrics by which the Board and management can ensure members’ applications are being dealt with in a timely fashion. There are few clear standards for OCERS to hold its panel physicians and Hearing Officers accountable for timely performing their contractual duties. Additionally, there is a lack of transparency for members into how long the process will take for OCERS to complete. The Governance Committee therefore recommends the following changes to improve the Administrative Hearing Process.

#### *Time Lines for Staff Review and Determination*

The first step in the process is staff’s review of disability retirement applications. To make the process more transparent, the Governance Committee endorsed Staff’s proposal to develop a new OCERS Administrative Procedure (OAP) that sets forth the timelines and metrics that Disability Staff will use in processing applications, as well as including those timelines in OCERS’ contracts with panel physicians that OCERS uses as independent



medical examiners. Specifically, the OAP and OCERS' contracts with panel physicians will include the following metrics:

- Notice of Accepted Application. OCERS will issue either a Notice of Accepted Application or Notice of Incomplete Application within 30 days of the filing of the first application.
- Referral to a Panel Physician. The Disability Staff will refer the member to an OCERS Panel Physician within 180 days of the Notice of Acceptance of Application.
- Examination with an OCERS Panel Physician. The Panel Physician will examine the member within 90 days of the referral.
- Physician Report. The Panel Physician will issue his or her report within 45 days of the examination.
- Notification of Preliminary Determination. The member will be notified of the staff determination within 60 days of Panel Physician report (or referred for a second opinion).

#### *Time Lines for Administrative Hearings*

If a member appeals a determination by staff, management of the hearing process will be transferred to the Legal Department, who will serve as the clerk to the hearing officers (Clerk) and be responsible for accepting and serving all filings from members, OCERS, and hearing officers. The Hearing Officer will be responsible for setting and enforcing due dates, resolving disputes, conducting the hearing, and completing his/her recommendation to the Board, all within one year of the appeal being docketed.

Time lines will be instituted for Administrative Hearings as follows:

- Upon docketing the case, the Clerk will randomly assign a Hearing Officer to the case.
- OCERS will prepare and serve the Administrative Record within 45 days of the matter being docketed.
- The Clerk will schedule a scheduling conference (which may be telephonic) for the parties and the Hearing Officer within 30 days of the Administrative Record being served. This process is currently used only when the applicant or member is not represented by counsel, but is useful in all matters so that the parties can agree on all dates, alert each other to the need for any experts or depositions that might need to be taken, or the need for any translators. At the scheduling conference, the Hearing Officer will set a date for the Administrative Hearing that is within six months of the scheduling conference.
- The member will be required to file a pre-hearing statement sixty (60) days before the hearing, and OCERS will respond 30 days before the hearing. If the member fails to file a timely statement, his/her case will be dismissed unless there is good cause, whereas currently the case goes into a type of limbo.
- A transcript of the hearing must be prepared and filed within 30 days of the last day of the hearing.
- The member's closing brief must be served within 30 days after the transcript is filed. OCERS' closing brief must be filed within 30 days after the member's closing brief is filed, and the member will have 15 days to respond.
- The Hearing Officer will issue a Proposed Findings of Fact and Recommended Decision within 60 days of OCERS' closing brief.
- The Hearing Officer may continue the dates set forth in the original scheduling order only for good cause shown, and the hearing shall not generally be delayed beyond one year from the date that the matter was docketed without the member's consent.



### *Time Lines for Action by the Board*

Following receipt of the Hearing Officer's Proposed Findings of Fact and Recommended Decision, both the member and OCERS staff will have twenty (20) days to submit objections to the Recommended Decision. The matter will then be placed on the Board's agenda, with notice given to the member.

#### **4. Transparency and Fairness in the Selection of Hearing Officers**

The Governance Committee wanted to ensure that there is transparency and fairness in the process of the selecting hearing officers and assurances that hearing officers are fair, impartial, and not biased in favor of OCERS. While the current Hearing Officer Selection and Retention Policy is strong in ensuring fairness, the Governance Committee recommends a number of changes to the policy, as well as the hearing rules, to strengthen those procedures. The current Hearing Officer Selection and Retention Policy requires the solicitation of hearing officers through a Request for Proposal process; review and interviews of candidates by a selection committee consisting of the CEO, an Assistant CEO, and the General Counsel; an opportunity for input from OCERS member organizations (such as the OCEA, REAOC, AOCDS and OCPFA); and ultimate selection of hearing officers by the Board. To expand the Board's visibility into the process, the Governance Committee recommends that the Disability Committee chair or vice chair also sit on the hearing officer selection panel.

In individual cases, the current Administrative Hearing Rules allow any party one peremptory challenge to a hearing officer, similar to the right of litigants in Superior Court. If the member exercises this right, the case is automatically reassigned to a different hearing officer. The proposed revised hearing rules allow for only the member, and not OCERS or the employer, has this right. Because OCERS already hires the hearing officers, it prevents it from appearing that OCERS would have two chances to choose the hearing officer and reassure participating in the process that OCERS is acting impartially.

#### **5. Use of a Medical Advisor**

The Governance Committee considered but ultimately rejected the addition of a medical advisor to assist OCERS in evaluating disability applications. OCERS currently retains a panel of physicians to whom all disability applicants are referred for professional evaluation. The assigned panel physician does both a review of the records submitted with the disability application and a physical examination of the member. The panel physician then submits a written report to OCERS Disability Staff that is used to make a recommendation to grant or deny the application. Included in the physician's report are recommended findings on the questions of incapacity and service-connection.

Staff surveyed the other CERL agencies to determine what other methods are utilized to make the medical determinations on a disability application. Among the 17 other CERL agencies responding, there are two "schools of practice." One practice is to retain one or more physicians who serve as medical advisors and whose duty is to conduct a review of the medical records and reports submitted by the member in support of the application. The medical advisor makes no independent diagnosis of the member, but rather evaluates the adequacy of the medical evidence submitted. In most of these cases, the medical advisor has the discretion to send the member for an independent medical examination if the records are ambiguous or conflicting. The

report of the medical advisor is then utilized by the system's disability staff to develop a recommendation on the adequacy of the disability application. Some of the systems employ disability staff that is trained to do the initial review of the applicant's medical records and only refer the more complex or questionable cases to the medical advisor.

The other practice, followed by OCERS, is to send all applicants to a retained physician to conduct an independent medical examination (IME). The IME physician reviews the applicant's records/reports and also develops an independent diagnosis of disability. As with the medical advisor, the IME physician submits a written report that is utilized by disability staff. Of the 18 CERL systems surveyed, the systems are almost evenly divided between use of a medical advisor and IME. In addition, Fresno County is currently conducting an RFP to switch from the IME model to the medical advisor model for the express purpose of reducing the time it takes to process disability applications.

The Governance Committee does not recommend changing OCERS' current practice of using panel physicians and IMEs. There is value in the current system because it allows OCERS to rely on specialists in the appropriate fields (psychiatry, orthopedics, etc.) rather than a general practitioner who then often refers the matter to a specialist for an IME. However, there are several aspects of the other school of practice that can inform how OCERS approaches reviewing applications. Currently, OCERS typically sends every applicant to a panel physician for a IME, regardless of the fact that, in most cases, the applicant has presented medical evidence from his/her treating physician.<sup>5</sup> In many cases, the treating physician's report clearly demonstrates whether the member is permanently incapacitated and whether or the disability (if present) is service connected. Staff should therefore feel empowered to forego an IME and make a recommendation based on staff's own review of the medical records. Additionally, there are instances where staff might determine that there is a need for expert medical advice but that an examination of the member is not necessary. In these instances, staff should be empowered to forego an IME and seek a review of the medical records by an OCERS panel physician. If the Board were to empower the staff to make these decisions, there could be considerable savings of staff and Board time and resources and lower costs for medical examinations. In addition the time members wait for examinations would be reduced.

### **C. Improvements to the Non-Disability Benefit Appeal Process**

The Governance Committee also recommends improvements to OCERS' process for members to appeal benefit determinations unrelated to disability retirement. Under the current process, a member must first appeal the staff's initial determination to the Director of Member Services and then to the CEO.<sup>6</sup> Only after those two appeals may the member appeal the matter to the Board. And it is not until the Board makes its initial determination—usually affirming the decision of its own Administrator—that the member can then seek a hearing. After a hearing, the matter is again reviewed by the Board. The Governance Committee was

---

<sup>5</sup> If a member has not presented medical evidence from the treating physician, staff should of course be empowered to recommend a denial because the member has simply not at all met his/her burden to demonstrate that s/he is entitled to the benefit.

<sup>6</sup> Staff estimates that OCERS receives between 20 and 25 benefit appeals to the Member Services Director each year. Approximately two or three of those appeals are further appealed to the CEO.

persuaded that the extra steps in the process of appealing non-disability benefit determinations add little value and delay the member's ability to have their matters heard before a hearing officer.

Under the current process, the Member Services Director and the Assistant CEO for External Operations typically consult with the Legal Department if an appeal presents legal issues for which there is no clear controlling authority. In addition, the Member Services Director and the Assistant CEO for External Operations will confer with the CEO where the appeal involves an issue of high importance or that has potential implications to OCERS' established policy.

In light of the existing collaborative approach to resolving member benefit issues, the second level of review is not necessary, nor is it actually independent, since the Member Services Director and Assistant CEO report to the CEO and already frequently consult him on benefit determinations. The Governance Committee therefore recommends removing this step. Under the recommended process changes, the member will be entitled to a written review/explanation of OCERS' benefit determination from the CEO or his or her designee. As is currently the case, there will typically be informal interaction between the member and the staff that resolves many issues before a written review is requested. If the member does request a written review, the Member Services Director will rely on her experience to ensure that the correct policies were followed. She will continue to consult with the Legal Department and the Assistant CEO for External Operations where the case presents a close question, unusual or new issues, or complex legal matters. As is the case now, the Member Services Director and the Assistant CEO will always consult with the CEO where the case presents a systematic concern, the Legal Department finds that there is a legal risk to the system.

Additionally, the Governance Committee recommends that if the member is dissatisfied with the CEO's determination, the member will be given the right to seek a direct appeal to a Hearing Officer before the matter is presented to the Board. This ensures that the Board makes its determination only when it has a fully developed record, and preserves Board time by having the matter come before it only once, rather than as an initial determination and then again after a Hearing Officer has heard the case.

#### **D. Implementation of an Expedited Administrative Review Process**

Finally, the Governance Committee recommends the implementation of an Expedited Administrative Review process on a pilot basis. This would be an expedited six months process where the appeal would be decided by a hearing officer "on the papers" without a formal hearing that includes witness testimony and oral arguments. This type of review would be most appropriate for matters where no facts are in dispute, such as benefit appeals or disputes regarding the effective date of a disability retirement. This process is modeled on the process employed by the San Bernardino County Employees' Retirement Association (SBCERA). The Expedited Administrative Review would allow for speedier resolution of the issues by having the Hearing Officer issue his or her decision after a thorough review of the administrative record and short briefing, with no administrative hearing.

To ensure that members are not using the Expedited Administrative Review as a "free" appeal that would drag on their case, the Expedited Administrative Review would only be available after a member seeks and Administrative Hearing, and OCERS determines that the process is appropriate. In making that decision, OCERS

staff will consider: “whether there are any material facts in dispute, and whether the introduction of testamentary evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant’s condition is such that time is of the essence in seeking review of the staff recommendation or ultimately judicial review.” Staff expects that this will happen most often in non-disability benefit appeals, in appeals where only the effective date is at issue, or other circumstances that do not present significant factual issues. Because it is part of a pilot program, OCERS staff will monitor the process and make recommendations as to whether to continue it when the regular review of the Adjudication Policy comes up after three years.

**ADVANTAGES OF THE PROPOSED PROCESS**

In conclusion, the new processes outlined above present several advantages to OCERS, resolve many of the disadvantages in the current system, and live up to OCERS’ values. Using a Disability Committee and a consent agenda for most applications will reduce the time the Board spends on its most routine applications. The committee will help the Board exercise its oversight function of a critical component of OCERS’ administration. Affording a member the opportunity for a hearing before his or her application is heard by the Board will protect the member’s due process rights, preserve Board time, and guarantee the Board makes determinations based on a fully developed record. Conducting disability application determinations in closed session will result in more robust discussion of the member medical conditions while affording greater protection of member privacy. Including metrics and timelines in the hearing rules and OAPs will significantly reduce potential delays and add accountability and transparency in OCERS’ processes.

All of the foregoing recommendations are reflected in the following attachments:

- (1) The proposed Charter for the Disability Committee;
- (2) Marked and clean copies of the Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits; and
- (3) Marked and clean copies of the Hearing Officer Selection Policy

**Submitted by:**



\_\_\_\_\_  
Gina M. Ratto  
General Counsel

**Submitted by:**



\_\_\_\_\_  
Lee K. Fink  
Deputy General Counsel

## Introduction

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

## Purpose

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

## Duties and Responsibilities

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

## Membership

4. The Disability Committee shall be composed of three members. One member shall be chosen from amongst the first, fourth, fifth, sixth and ninth members of the Board, and two shall be chosen from amongst the second, third, seventh, alternate seventh, and eighth members of the Board. The Board Chair shall appoint members of the Disability Committee as provided in the OCERS By-Laws and designate one member to serve as the Committee Chair.

## Disability Committee Charter

---

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

### Meetings

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

### Monitoring and Reporting

12. The Disability Committee shall:
  - a. Make its minutes available to all Members of the Board;

## **Disability Committee Charter**

---

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

### **Charter Review**

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

### **Charter History**

- 14. This charter was adopted by the Board of Retirement on MONTH, DATE, YEAR.

### **Secretary's Certificate**

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

---

Steve Delaney, Secretary of the Board

Date



**OCERS Board Charter**

# **Disability Committee Charter**

---

<b>CHANGE LOG EDITOR</b>	<b>CHANGES FROM PREVIOUS VERSION</b>	<b>DATE</b>

<b>REVIEWED BY</b>	<b>SIGNATURE</b>	<b>DATE</b>



## OCERS Board Policy Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

### 1. Intent

The Board of Retirement (“Board”) of the Orange County Employees Retirement System (“OCERS”) intends that this Adjudication Policy and Administrative Hearing Rules (“Policy”) shall apply to and govern the process by which the Board:

- a. Makes determinations on disability retirement applications (including, but not limited to determinations of permanent incapacity, whether the incapacity arose out of and in the course of employment, and the effective date);
- b. Resolves disputes over retirement benefits (including but not limited to disputes regarding final compensation); and
- c. Makes any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given. *See* Cal. Civ Proc. Code § 1094.5. Any person who is entitled to an administrative hearing who does not request one under this policy shall be deemed to have waived his/her right to a hearing. *See* Cal. Civ Proc. Code § 1094.5.

### 2. Definitions

The following terms shall have the meanings set out in this section.

**Administrative Hearing:** The process described in this Policy (including an Expedited Administrative Review), which is the exclusive means by which a Party may seek an administrative review of a determination on a disability retirement application, a resolution of a dispute over retirement benefits, or any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given. An Administrative Hearing shall be a hearing de novo, conducted as if the original recommendation or determination had not taken place. This means the Hearing Officer or other fact finding body will consider anew all of the evidence submitted without relying on the past findings of a court, the Committee, the Board or other fact finding body. A Party is entitled to request an Administrative Hearing within the time periods set forth in this Policy, and failure to make a timely request shall result in a waiver of the Party’s rights to contest the final determination by OCERS. *See* Cal. Civ. Proc. Code § 1094.5.

**Administrative Record:** The documents and other records relied upon by OCERS staff or a fact-finding body in an Administrative Hearing conducted pursuant to this Policy and includes any documents submitted by an Applicant or on behalf of an Applicant, documents prepared by OCERS or by independent sources that are received by OCERS, or any other documents that are relevant to deciding the issue of an Applicant’s request to receive or modify a benefit. A Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer or other fact-finding body shall decide the admissibility of all evidence.

For purposes of any proceeding following an Administrative Hearing, the Administrative Record also includes written correspondence, Party Pre-Hearing Statements, the Hearing Officer’s Proposed Findings of Fact and Recommended Decision, Party objections, hearing transcripts, and other documents that are relevant to deciding the issue of an Applicant’s request to receive or modify a benefit.

## OCERS Board Policy

# Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

**Applicant:** Any member of OCERS, or a person or other entity on behalf of a member of OCERS (including but not limited to the member's surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member, who files an application with OCERS to request or modify a benefit that OCERS may grant pursuant to the CERL.

**Application:** The paper(s) initially filed with OCERS by or on behalf of an Applicant, and/or any amended paper(s) filed with OCERS by or on behalf of an Applicant after the initial filing, to request or modify a benefit provided by OCERS.

**Board:** The Board of Retirement of OCERS.

**Clerk, Clerk to the Hearing Officers.** A person or persons designated by the OCERS General Counsel or his/her designee to fulfill the duties of providing administrative assistance to the Hearing Officers appointed by OCERS under this Policy.

**Days:** All days are calendar days.

**Disability Committee, Committee:** A committee of the Board, chartered by the Board to review Applications for disability retirement.

**Expedited Administrative Review:** An alternative administrative review process, set forth in Rule 6 of the Hearing Rules, under which an Applicant may obtain a more speedy resolution of his/her Administrative Hearing.

**Hearing:** Presentation of sworn testimony, other evidence, and legal argument before a Hearing Officer or other fact-finding body on the merits of an Application or benefit determination.

**Hearing Officer:** A referee appointed pursuant to Government Code §31533, that is either (i) a current member of the California State Bar on the approved OCERS' Hearing Officer panel, as selected under the OCERS Hearing Officer Selection and Retention Policy, or (ii) a member of the Board.

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

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

**Party or Parties:** OCERS, any Applicant who seeks an Administrative Hearing under this Policy, the member's employer/plan sponsor, and any other person who may be affected by the Board's decision and participates in the Administrative Hearing.

**Petitioner:** The Party filing a Request for Administrative Hearing. (In most instances, the Applicant is also the Petitioner.)

**Plan Sponsor:** The employer who employed the member whose benefits are at issue in any given matter. The Plan Sponsor is a Party to an Administrative Hearing but does not need to participate in an Administrative Hearing.

**Pre-Hearing Statements:** Statements filed by the Parties pursuant to Rule 8 of the Hearing Rules.

## OCERS Board Policy

# Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

**Proposed Findings of Fact and Recommended Decision:** The recommendation of the Hearing Officer to the Board, as set forth in Rule 13 of the Hearing Rules.

**Request for Administrative Hearing:** The document filed by the Petitioner to appeal a decision of the Committee or OCERS Staff and initiate the Administrative Hearing.

**Respondent:** OCERS, provided that the Plan Sponsor or the Applicant may join as the Respondent, as appropriate.

**Rule:** A hearing rule included in the Hearing Rules.

### 3. Disability Determination Process

For determinations on Applications for disability retirement:

- A. OCERS staff will investigate all disability retirement Applications to determine whether the Applicant is permanently incapacitated from the performance of his or her usual duties, whether the incapacity arose out of and in the course of employment, and the appropriate effective date of any disability retirement allowance. In undertaking this investigation, staff will have discretion, based on staff's review of the Application including the Applicant's treating physicians' medical reports, to determine whether or not to seek further medical examination of the Applicant, expert medical advice or expert review of Applicant's medical records. Upon completion of the investigation, OCERS staff will make a recommendation to the Committee regarding permanent incapacity, service connection, and effective date.
- B. The Committee will review the disability Application at a duly-noticed meeting of the Committee. OCERS staff will give Applicant (or his or her attorney) notice of the date of the Committee meeting, and the Applicant (or his or her attorney) will have the opportunity to be heard by the Committee.
- C. After the Committee makes a recommendation, OCERS staff will notify the Applicant (and his or her attorney) of the Committee's recommendation and provide the Applicant with instructions regarding how the Applicant can appeal the determination by filing a Request for Administrative Hearing.
- D. In the event that the Committee recommends that any part of the Application be denied, the Applicant will have 90 days from the date of the notice required by 3.C., above, to file a Request for Administrative Hearing with the Clerk, as set forth in the Hearing Rules. In the event that the Committee recommends the Application be granted in full, any person aggrieved by the recommendation, including the Plan Sponsor, will have 10 days from the date of the notice required by 3.C., above, to make a written Request for Administrative Hearing as set forth in the Hearing Rules.
- E. If no Request for Administrative Hearing is filed within the time limits set forth in 3.D., above, the matter shall be placed on the consent agenda at the next regularly scheduled meeting of the Board.

### 4. Non-Disability Benefit Determination Process

For all other benefit determinations:

## OCERS Board Policy Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

- A. An Applicant may request a written review of any OCERS staff level benefit determination (e.g., non-disability determinations regarding amount of the benefit, effective date, reciprocity determinations) within 90 days of the benefit determination by OCERS. The CEO or his/her designee will provide a written review, which may include a synopsis of the member's request and shall include citation of any authority relied upon by OCERS in making its determination. In addition, the written review will include instructions regarding how the Applicant can appeal the determination by filing a Request for Administrative Hearing.
  
- B. The Applicant will have 90 days from the date of the notice provided in 4.A., above, to file a Request for Administrative Hearing. If no Request for Administrative Hearing is filed within 90 days, the determination made after the review in 4.A, above, shall be final.

### 5. Appeals of Disability and Non-Disability Benefit Determinations

A Party has a right to an Administrative Hearing only if the Party files a request for Administrative Hearing within the time frames set forth in Sections 3 or 4, above. An Administrative Hearing shall proceed according to the Hearing Rules.

### 6. Closed Sessions for Board Determination of Disability and Non-Disability Benefits

Except for matters on the Board's consent agenda, the Board shall adjourn to a closed session, pursuant to Cal. Gov't Code § 54957(b), to discuss the Application of any member for disability or other benefit.

- A. **Closed Session With the Parties Present.** The Board shall conduct any discussion of an Application, including instances where the Board convenes an Administrative Hearing before itself, as a closed session. Attendance at the closed session will be limited to 1) the Parties; 2) counsel for the Parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination or Committee recommendation; 4) any witnesses called to present testimony before the Board; 5) OCERS staff necessary to facilitate the hearing (including the Clerk of the Board and IT Staff); 6) the CEO; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Board.
  
- B. **Closed Session Without Parties.** Following the Board's hearing of a matter in a closed session with the Parties present, the Board may adjourn to a closed session including only the CEO and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.

### 7. Board Determination of Disability and Non-Disability Benefits

- A. **Consent Agenda.** When no appeal has been timely filed on an Application for a disability retirement, the Board shall consider the Committee's recommendation on a consent agenda. Any member of the Board may object to an Application on the consent agenda except that the alternate seventh member (and not the seventh member) of the Board may object to any item relating to a



## OCERS Board Policy Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

member of the same service as the alternate seventh member. In addition, if the alternate seventh member is present, s/he shall be considered to have voted to approve any item adopted on the consent agenda relating to a member of the same service.

**B. Absence of Unanimous Consent for Disability Applications Recommended for Approval By the Committee; Administrative Hearing Before the Board.** If any Board member objects to the approval of an Application for disability retirement that has been placed on the consent agenda, and the matter has not been the subject of an Administrative Hearing, the Board shall either (i) adopt the recommendation of the Committee; or (ii) refer the matter to a Hearing Officer for an Administrative Hearing.

**C. Matters Referred to the Board After an Administrative Hearing.** Following an Administrative Hearing and the Board’s receipt of the Hearing Officer’s Proposed Findings of Fact and Recommended Decision, the Board shall hear the matter at a duly-noticed meeting of the Board as set forth in the Hearing Rules.

### 8. Policy Review

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

### 9. Policy History

This Policy was adopted by the Board of Retirement on February 19, 2002. It was amended most recently on \_\_\_\_\_.

### 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 \_\_\_\_\_ Date  
Secretary of the Board

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

---

## **Appendix - Administrative Hearing Rules**

### ***Rule 1. Definitions***

All capitalized terms contained within these Hearing Rules shall have the meaning set forth in Section 2 of the OCERS Disability and Non-Disability Benefits Adjudication Policy and Administrative Hearing Rules.

### ***Rule 2. Filing of Documents***

#### **A. Administrative Hearing Filing Procedures**

1. OCERS staff shall promulgate, and may from time to time amend, the “Administrative Hearing Filing Procedures” to set forth the procedures by which the Clerk to the Hearing Officers shall accept filing of documents in Administrative Hearings and service of documents on Parties.
2. The Administrative Hearing Filing Procedures may include forms that parties may be permitted or required to use during the course of an Administrative Hearing.
3. The Clerk shall provide the Petitioner with a copy of the Administrative Hearing Filing Procedures upon Petitioner’s filing of a Request for Administrative Hearing.

#### **B. Filing of Documents**

1. All documents required or permitted to be filed by any Party during the course of the Administrative Hearing shall be filed with the Clerk.
2. An Applicant may file documents in person, by US Mail, or electronically, in conformance the Administrative Hearing Filing Procedures. Any other Party and the Hearing Officer, shall file all documents electronically, in conformance with the Administrative Hearing Filing Procedures.
3. Documents filed by US Mail shall be considered filed on the following dates:
  - i. If mailed from within Orange County, on the date post-marked on the envelope containing the documents;
  - ii. If mailed within the State of California, five (5) days following the date post-marked on the envelope containing the documents;
  - iii. If mailed outside of the State of California, ten (10) days following the date post-marked on the envelope containing the documents.
4. Documents filed in person shall be considered filed on the day received by OCERS.
5. Documents filed electronically shall be considered filed on the date electronically sent.

#### **C. Service of Documents**



**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

1. Within one (1) business day of any document being filed, the Clerk shall serve all documents that have been filed in any Administrative Hearing on all Parties and the Hearing Officer.
2. The Clerk shall serve an Applicant by US Mail, unless the Applicant consents to be served electronically, in conformance with the Administrative Filing Procedures. The Clerk shall serve any other Party and the Hearing Officer electronically, in conformance with the Administrative Hearing Filing Procedures.

***Rule 3. Administrative Hearing Request, Scope, and Settlement***

- A. **Request for Hearing.** A written Request for Administrative Hearing must be filed with the Clerk within the time frame set forth in Sections 3 and 4 of the OCERS Adjudication Policy and Administrative Hearing Rules (the “Policy”). The Request for Administrative Hearing shall include a short and plain statement of the grounds for the appeal of the recommendation of the Committee or the OCERS staff.
- B. **Referral from the Board.** In the event that the Board refers a matter to a Hearing Officer for an Administrative Hearing, the Applicant shall be considered the Petitioner and the referral from the Board shall be considered the Request for Administrative Hearing.
- C. **Burden of Proof.** The Applicant will have the burden of proof to establish his/her right to the benefit sought by a preponderance of the evidence.
- D. **Scope of Hearing.**
  1. A disability retirement Administrative Hearing will address the issues of disability, service connection, and effective date.
  2. Except as set forth in these Rules, the Hearing Officer shall not make a finding or recommendation on any issue that was not raised in the Applicant’s original application to OCERS (either for disability or non-disability benefits).
  3. If the Applicant seeks to raise new issues or add conditions, s/he will be required to file a new Application, provided however, that OCERS shall retain the discretion to stipulate that the Applicant may dismiss the original Application and file an amended Application, the date of which shall relate back to date of the original Application.
- E. **Settlement.** If at any time during the Administrative Hearing it becomes apparent to OCERS staff that a different result is appropriate, OCERS staff and the Applicant may settle and dismiss the Administrative Hearing. For settlements related to non-disability benefits, the Administrative Hearing shall be the settlement deemed final. For settlements related to disability benefits, the settlement shall be referred to the Board to be heard on a consent agenda.

***Rule 4. Assignment of Hearing Officers***

- A. **Assignment of Hearing Officer.** Hearing Officers are selected and placed on the panel pursuant to OCERS’ Hearing Officer Selection and Retention Policy. As Administrative Hearings are requested,

## OCERS Board Policy

# Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

the Clerk shall randomly assign the Hearing Officer, subject to the procedures for challenge under Rule 4.C, below.

- B. Notice to Parties of Hearing Officer Assignment.** Within fourteen (14) days after the Petitioner files a Request for Administrative Hearing, the Clerk will file a notice indicating the name and address of the Hearing Officer to whom the matter has been assigned.
- C. Removal of Hearing Officer.** A Party shall be entitled to have a Hearing Officer replaced by another Hearing Officer in accordance with the following procedures.
1. An Applicant is entitled to one automatic challenge to the assignment of the Hearing Officer in accordance with the provisions of this section. The challenge must be filed with the Clerk within fourteen (14) days after the date of the notice assigning the Hearing Officer. The Clerk shall then re-assign the case to another Hearing Officer in the same fashion as selection of the first hearing officer.
  2. **Removal for Cause:** Any Party may challenge a Hearing Officer for cause by filing a request, with supporting declarations made under penalty of perjury under the laws of the State of California and any other evidence the Party is relying on. Any opposing Party will have fourteen (14) days to file a response. The Clerk shall then randomly assign the request to another Hearing Officer, who must decide the issue within thirty (30) days. If the Hearing Officer grants the request, the Clerk shall re-assign the case to a Hearing Officer other than the Hearing Officer who heard the request for re-assignment. Cause for removal shall be limited to bias against a Party or counsel based on a personal or financial relationship (other than the Hearing Officer's contract with OCERS) that would make a reasonable person doubt the Hearing Officer's ability to render an impartial decision.
  3. **Removal Due to Unforeseen Circumstances:** If the service of a Hearing Officer is discontinued due to unforeseen circumstances, including but not limited to death or illness, or termination with or without cause, the Applicant is entitled to a peremptory challenge to the new Hearing Officer in accordance with subsection (1) of this Rule.
- D. Notice of Assignment to Hearing Officer.** After the expiration of the time period in Rule 4.C, above, the Clerk shall file a Notice to the Hearing Officer of his/her assignment, providing the name, address and phone number of the Applicant, Applicant's counsel if any, and counsel representing OCERS.
- E. Recusal of Hearing Officer.** If at any time the Hearing Officer determines that there is cause to remove him/her, s/he shall immediately file with the Clerk a statement of recusal, and the Clerk shall reassign the case pursuant to Rule 4.A.

### ***Rule 5. Preparation of Administrative Record***

Within 45 days of the filing of a Request for Administrative Hearing, OCERS shall assemble and file the initial Administrative Record. A Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer shall decide the admissibility of all evidence.



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

---

***Rule 6. Alternative Expedited Administrative Review***

- A. **Provisions for Alternative Expedited Administrative Review.** Expedited Administrative Review is an irrevocable waiver of the Applicant’s right to the process described in Rules 7 through 12. The goal of the Alternative Expedited Administrative Review process is to complete the Administrative Hearing in less than six months and based only on the Administrative Record and written arguments, without in-person testimony or argument.
- B. **Availability of Expedited Administrative Review.**
1. An Expedited Administrative Review shall only be available in those cases that OCERS determines are appropriate for an Expedited Administrative Review.
  2. OCERS will make the determination as to whether Expedited Administrative Review is appropriate in its sole discretion, on a case-by-case basis. In determining whether Expedited Administrative Review is appropriate, OCERS shall consider: whether there are any material facts in dispute, and whether the introduction of testamentary evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant’s condition is such that time is of the essence in seeking review of the staff recommendation or ultimately judicial review.
  3. If OCERS determines that the matter is appropriate for Expedited Administrative Review, the Applicant will have the choice of whether or not to opt for the Expedited Administrative Review.
- C. **Waiver and Election.** In the event that OCERS determines that a matter is appropriate for Administrative Review, OCERS shall file a Notice of Right to Expedited Administrative Review which provides the Applicant notice of his or her rights and provides a Waiver of Rights and Election for Expedited Administrative Review (the “Waiver and Election”). The Applicant may file its Waiver and Election any time prior to or at the Pre-Hearing Scheduling Conference.
- D. **Timeline.** The Expedited Administrative Review shall be conducted according to the following timeline.
1. Within 30 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), each party shall file any written evidence that it seeks to rely on in addition to the Administrative Record.
  2. Within 30 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), each Party shall file a Statement of Issues of not more than five (5) pages which shall set forth the Party’s contentions.
  3. Within 90 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), the Hearing Officer shall file its Proposed Findings of Fact and Recommended Decision, which shall conform to Rule 13.

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

---

***Rule 7. Pre-Hearing Scheduling Conference***

- A. The Clerk shall schedule a Pre-Hearing Scheduling Conference to be held within 30 days of the filing of the Administrative Record. The Clerk shall undertake its best efforts to schedule the Pre-Hearing Scheduling Conference at a time convenient to all Parties.
- B. The Pre-Hearing Scheduling Conference may be held telephonically or electronically (e.g. Skype, Facetime). The Pre-Hearing Scheduling Conference will not be transcribed unless a Party files a request for a court reporter at least seven (7) days before the Pre-Hearing Scheduling Conference, but any party may make an audio recording of the conference. If any Party requests a transcription, the Clerk shall arrange for a court reporter, but the requesting Party shall be liable for reimbursing OCERS for the costs.
- C. At the Pre-Hearing Scheduling Conference, the Hearing Officer shall advise the Applicant (whether or not the Applicant is the Petitioner) of the following:
  - 1. The Applicant has the right to be represented by counsel;
  - 2. Any financial or personal interest that the Hearing Officer has in the case, other than the Hearing Officer's contract with OCERS;
  - 3. The Hearing will be a hearing *de novo*, conducted as if the original recommendation or determination had not taken place. This means the Hearing Officer or other fact finding body will consider anew all of the evidence submitted, without relying on the past findings of a court, the Committee, the Board, OCERS staff, or other fact finding body;
  - 4. The Hearing Officer's purpose in the process is to find the facts relevant to the Applicant's request and provide an impartial recommendation to the Board;
  - 5. The Applicant has the burden of proof in establishing by a preponderance of the evidence his or her right to the benefit s/he seeks;
  - 6. The Applicant must identify witnesses and other evidence when filing his/her Pre-Hearing Statement, and that failure to include in the Pre-Hearing Statement the witnesses and other evidence s/he intends to rely on could mean that evidence will be excluded unless the Applicant shows that s/he could not have discovered the information earlier through the exercise of reasonable diligence;
  - 7. The timelines required under these rules for filing documents and for the Administrative Hearing, and the result of a failure to meet those deadlines, including that the Applicant's case can be dismissed.
  - 8. That upon the completion of the Administrative Hearing, the matter will be referred to the Board pursuant to these Rules. Upon action by the Board, the decision will be final for all purposes. There shall be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review shall be governed by the California Code of Civil Procedure Section 1094.6

**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

- D. At the Pre-Hearing Scheduling Conference, each Party shall:
1. Make a good faith effort to identify the witnesses, both expert and non-expert, that it intends to call;
  2. Ensure that that the witnesses it intends to call either speak and understand English or that the Party calling the witness is responsible for requesting a translator for the witnesses in accordance with Rule 10. J.;
  3. Indicate whether it will require an opposing party's Medical Witness to appear in person to be cross-examined at the Hearing;
  4. If possible, set mutually convenient dates for any depositions.
- E. At the Pre-Hearing Scheduling Conference, the Hearing Officer shall set the date for the Hearing.
1. The Hearing Officer shall confer with the Parties to determine a mutually agreeable date for the hearing ("Hearing Date"), but in all cases the Hearing Date shall be set as soon as reasonably practicable, but for no later than six (6) months after the date of the Pre-Hearing Scheduling Conference. The hearing will be held within the time frame provided by Rule 16. OCERS, at its expense, shall arrange for a court reporter and a room for the Hearing.
  2. Each Party shall provide a good faith estimate of the amount of time it anticipates the Hearing will last. As much as practicable, the Hearing shall continue from day-to-day until complete, and the Hearing Officer shall schedule all dates to which s/he anticipates the Hearing will be continued until complete.
- F. Within five (5) days of the Pre-Hearing Scheduling Conference, the Clerk shall file a Notice of Administrative Hearing Dates, which shall include the Date(s) of the Hearing and the dates that each Party's Pre-Hearing Statements are due.
- G. After the Pre-Hearing Scheduling Conference, the Hearing Officer may continue the Hearing Date only upon a showing of good cause as set forth in Rule 15, below.

***Rule 8. Pre-Hearing Statements***

- A. The Petitioner shall file a Pre-Hearing Statement no later than sixty (60) days prior to the Hearing Date.
- B. Respondent shall file a Pre-Hearing Statement no later than thirty (30) days prior to the Hearing Date.
- C. Any Party may file supplemental Pre-Hearing Statements no later than fourteen (14) days prior to the Hearing Date.
- D. The Pre-hearing Statements shall include the following:
  1. A statement of the issues and contentions of the Party, and a brief summary of the evidence to be presented;

**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

2. A list and copies of any expert's reports, depositions of any witnesses, and any other documentary evidence on which the Party will rely, if not already in the Administrative Record;
  3. The names, addresses and telephone numbers of any non-expert witnesses whose testimony the Party intends to present at the Hearing and a brief description of the content of that testimony.
  4. The names, addresses and phone numbers of any expert witnesses whom the Party intends to call for oral testimony at the Hearing and a synopsis of the expected testimony.
- E. If a Petitioner disputes the effective date of the disability retirement, the Petitioner shall raise the effective date as an issue and shall state Petitioner's contention in his/her Pre-Hearing Statement.
- F. If a Petitioner fails to timely file a Pre-Hearing Statement, the Clerk shall file an Order to Show Cause why the case should not be dismissed, and give the Petitioner five (5) days to respond. Unless the Petitioner shows good cause for the failure to timely file its Pre-Hearing Statement, the Hearing Officer shall dismiss the Administrative Hearing and the initial determination or Committee recommendation shall proceed as if no Request for Administrative Hearing had been filed. If the Petitioner shows good cause, the Hearing Officer may allow the Respondent additional time to file its Pre-Hearing Statement or may re-schedule the Hearing within the time requirements of Rule 16 and the Petitioner shall be liable to OCERS for any actual costs incurred as a result of the delay.

### **Rule 9. Depositions and Subpoenas**

- A. **Depositions:** Witness depositions may be taken by either Party before a certified Court Reporter and shall be taken under oath or affirmation. The Party taking the deposition shall pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party shall provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
- B. **Subpoenas and Related Fees/Costs:**
1. OCERS shall issue a subpoena for the personal appearance of a witness at the Hearing or at a deposition, or for the production of documents (subpoena *duces tecum*), in conformance with California Government Code Section 31535, upon the request of any Party filed at least seven (7) days before the date the subpoena is to be issued. The requesting Party shall be obligated to serve the subpoena and pay all associated witness fees and costs of service and production. The Party requesting oral testimony of an expert witness shall in all cases be responsible for any expert witness fees.
  2. Any fee disputes between a witness and the requesting Party is independent from any proceeding between the Petitioner and OCERS. Those fee disputes shall be resolved by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority or jurisdiction to hear evidence about, or decide any such dispute.

### **Rule 10. Conduct of Hearings**

- A. All Hearings shall be held at the OCERS office, 2223 East Wellington Avenue, Santa Ana, California.

**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

- B. The Clerk shall arrange for a court reporter to be paid at OCERS's expense. Oral evidence shall be taken only on oath or affirmation administered by the Hearing Officer or the court reporter.
- C. A written medical report bearing the signature of the Medical Witness shall be admissible in evidence as the author's direct testimony, provided that the adverse Party has had the opportunity to cross-examine the witness, or to depose the witness and have the deposition transcript admitted into evidence.
- D. Each Party shall have the rights to call and examine witnesses; to introduce exhibits, including reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, OCERS may call and examine the Applicant under cross-examination.
- E. The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the Hearing. Irrelevant and unduly repetitious evidence shall be excluded.
- F. Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but shall not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions. This section shall not be applicable to written medical reports received into evidence pursuant to Rule 10.C. Every Hearing shall proceed as though each Party had made a standing objection to all inadmissible hearsay at the commencement of the Hearing.
- G. The record shall be closed to new evidence at the conclusion of the final day of Hearing. However, if subsequent to the close of the Hearing, a Party discovers or obtains new evidence that is relevant and not repetitive, that Party may file that evidence and request that the Hearing Officer include it in the Administrative Record. The Hearing Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of good cause as defined under Rule 10.I, the Hearing Officer allows inclusion of the new evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule 10.I.
- H. The court reporter shall file the transcript of the Hearing within 30 days of the final day of the Hearing.
- I. **Late Submission of Evidence.** No party may submit a medical report or other documentary evidence, nor shall any Party call a witness not listed in its Pre-Hearing Statement except for purposes of impeachment, unless it demonstrates good cause. For purposes of this Rule, "good cause" means relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced. The Party requesting submission of such evidence shall file a written request prior to the Hearing, or if unable to do so in the exercise of reasonable diligence, shall make an oral request at the Haring. The request shall state the reason the evidence was not timely produced.

## OCERS Board Policy

# Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

---

After providing a reasonable opportunity for each adverse Party to be heard, the Hearing Officer shall rule on such a request. If the evidence is allowed to be admitted into evidence, the Parties shall have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine the Medical Witness.

### J. Use of Interpreter Services.

1. If an Applicant or witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings shall be provided to that Applicant or witness at OCERS's expense. Notice that an Applicant or witness requires interpreting services shall be given to OCERS at the Pre-Hearing Scheduling Conference or be included in the Party's Pre-Hearing Statement. If a Party fails to provide such notice, then the witness may not be called unless good cause is shown, as set forth Rule 10.I.
2. All interpreters must be certified to provide interpreting services in administrative hearings pursuant to Government Code Section 11435.30. The interpreter may not have had any involvement in the issues of the case prior to the Administrative Hearing.
3. If an Applicant objects to the interpreter provided by OCERS, the Applicant may supply her/his own interpreter, provided that the interpreter is certified under Government Code Section 11435.30. However, time for an Applicant to find and hire an interpreter shall not be considered good cause to continue the Hearing. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. The Applicant shall be responsible for any amounts charged by the interpreter that are over the amount OCERS would have paid to an interpreter hired directly by OCERS. Fee disputes between the interpreter and the Applicant shall not be resolved in this forum, and the Hearing Officer shall not have authority to resolve any fee disputes between interpreters and the Parties.

### ***Rule 11. Resolution of Disputes about Depositions and Conduct of Hearings***

The Hearing Officer shall resolve disputes about depositions and conduct of the Hearing. A request for resolution of a dispute shall be made in person at a Pre-Hearing Scheduling Conference, at the Hearing, or may be filed and may be supported by declarations, a memorandum of points and authorities and a proposed resolution. The adverse Party shall file its response within (10) days. Declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution may also accompany the response. The Hearing Officer may convene a conference (in person or by telephone) to hear the dispute and shall file its resolution of the dispute within thirty (30) days.

### ***Rule 12. Closing Arguments***

- A. Each Party shall have the right to submit oral or written argument. A waiver of argument at the Administrative Hearing shall not constitute a waiver of argument before the Board.
- B. Unless the parties waive closing briefs, the parties shall adhere to the following schedule for filing written closing briefs:



**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

1. Petitioner's closing brief shall be filed within thirty days (30) of the date the transcript of the Hearing is filed.
  2. Respondents' closing briefs shall be filed within sixty (60) days of the date the transcript of the Hearing is filed.
  3. Petitioner's reply brief shall be filed within fifteen (15) days of the date that Respondents' closing briefs are filed.
- C. Each party's closing brief may be supported by facts in the record and citation to law. The Petitioner's and Respondents' closing brief shall not exceed fifteen (15) pages and the reply brief shall not exceed ten (10) pages, unless the Hearing Officer in the exercise of his/her discretion determines that a longer limit is appropriate under the circumstances.

***Rule 13. Hearing Officer's Findings of Fact and Recommended Decision***

- A. **Time for Filing.** The Hearing Officer shall file his/her Proposed Findings of Fact and Recommended Decision within sixty (60) days of the date that the Petitioner's reply brief is due or, if the Parties waived closing briefs, within sixty (60) days of the date the transcript of the Hearing is filed.
- B. **Content of Proposed Findings of Fact and Recommended Decision.** The Hearing Officer's Proposed Findings of Fact and Recommended Decision shall include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) the exhibits offered by the parties, both those received into evidence and those not received; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended action. The summary of the testimony, plus all other evidence received, shall be sufficient to satisfy the requirements of Government Code Section 31534(b).
- C. **Objections.** Any Party may file objections to the Hearing Officer's Proposed Findings of Fact and Recommended Decision within 20 days from the date that the Hearing Officer files his/her Proposed Findings of Fact and Recommended Decision.

***Rule 14. Hearing and Action by the Board***

- A. The Clerk shall refer to the Board for its consideration the Hearing Officer's Proposed Findings of Fact and Recommended Decision and any related objections.
- B. The Clerk shall provide written notice of the time and date of the regular meeting where the matter will be placed on the Board's agenda for action. The Parties will have the opportunity to be heard at the Board meeting subject to appropriate time limitations.
- C. After reviewing the foregoing documents, pursuant to Government Code Section 31534, the Board may:
1. Approve and adopt the proposed findings and the recommendations of the Hearing Officer; or
  2. Require a transcript or summary of all testimony, plus all other evidence received by the Hearing Officer. On receipt thereof, the Board shall take such action as in its opinion is indicated by such evidence; or

**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

3. Refer the matter back with or without instructions to the Hearing Officer for further proceedings; or
  4. Set the matter for hearing before itself. At such hearing, the Board shall hear and decide the matter *de novo*.
- D. The Hearing Officer's Proposed Findings of Fact and Recommended Decision shall be sufficient to satisfy the requirements of Government Code Section 31534(b) and Rule 14.C.2. In any case where the Board makes a decision based on a transcript or summary of all testimony, plus other evidence received by the Hearing Officer, or where the Board sets the matter for Hearing before itself, the Board may approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer; otherwise, the Board shall prepare its Findings of Fact and Decision, either itself or through direction to staff with its approval.
- E. Upon action by the Board, the decision will be final for all purposes. There shall be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review shall be governed by the California Code of Civil Procedure Section 1094.6.

***Rule 15. Alteration of Time Requirements and Relief from Orders***

- A. The Hearing Officer may amend or continue the time periods set forth in these rules only for good cause shown.
- B. Good cause for continuing a time period set forth in these Rules or established by the Hearing Officer shall be only:
  1. the discovery of relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced;
  2. the need to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine a Medical Witness, as set forth under Rule 10.I; or
  3. the illness or disability of an Applicant, witness, attorney, or the Hearing Officer which was unknown to the person at the time of the Pre-Hearing Scheduling Conference (or other time at which the deadline was set) which makes it impossible for the person to participate in the Administrative Hearing process. Relief in this instances shall be granted only if the person raises the request as soon as practicable, and the Hearing Officer shall consider a failure to timely seek relief a waiver by the person.
- C. Any continuance granted under this Rule shall be for as short a period as necessary to allow the person to participate in the process.
  1. If an illness or disability affects an attorney who will not be able to participate in the process within a reasonably short period of time, then the continuance shall only be for such time as is necessary to secure substitute counsel.



**OCERS Board Policy**

**Adjudication Policy and Administrative Hearing  
Rules (Disability and Non-Disability Benefits)**

---

2. If the illness or disability affects the Hearing Officer, and the Hearing Officer cannot proceed within the time period set forth in Rule 16, below, the Hearing Officer shall recuse him/herself and a new Hearing Officer shall be appointed.
- D. If good cause exists, the Hearing Officer may order a Pre-Hearing Scheduling Conference in order to re-set the Hearing Date.
  - E. Until such time as the matter has been referred to the Board, the Hearing Officer may, upon any terms as may be just, relieve a party or his or her legal representative from an order, or other action taken against him/her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be made within a reasonable time and once the matter has been placed on the Board agenda, the Hearing Officer shall no longer have jurisdiction.

***Rule 16. Dismissal for Failure to Pursue the Administrative Hearing***

Except as otherwise provided, if as a result of an Applicant's failure to pursue his/her case or to comply with any of these Rules, the Applicant's Request for Administrative Hearing (or Board referral) is not heard within one year after the Applicant files a Request for Administrative Hearing (or the Board's referral of a case to a Hearing Officer), the Hearing Officer shall dismiss the Administrative Hearing and the initial determination or Committee recommendation shall become final as if no Request for Administrative Hearing had been filed.

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

### 1. Intent

The Board of Retirement ("Board") of the Orange County Employees Retirement System ("OCERS") specifically intends that this ~~policy shall~~ Adjudication Policy and Administrative Hearing Rules ("Policy") shall apply to and ~~shall~~ govern ~~in each~~ the process by which the Board:

- a. Makes determinations on disability retirement applications (including, but not limited to determinations of permanent incapacity, whether the incapacity arose out of and in the course of employment, and the effective date);
- b. Resolves disputes over retirement benefits (including but not limited to disputes regarding final compensation); and
- ~~a-c.~~ Makes any final administrative review procedure regarding a order or decision made by the Board of Retirement pursuant to the County Employees Retirement Law of 1937, as amended ("CERL"); the result of a proceeding in which by law a hearing is required to be given. See Cal. Civ. Proc. Code § 1094.5. Any person who is entitled to an administrative hearing who does not request one under this policy shall be deemed to have waived his/her right to a hearing. See Cal. Civ. Proc. Code § 1094.5.

### 2. Definitions

The following terms shall have the meanings set out in this section. ~~All other words~~

**Administrative Hearing:** The process described in this Policy (including an Expedited Administrative Review), which is the exclusive means by which a Party may seek an administrative review of a determination on a disability retirement application, a resolution of a dispute over retirement benefits, or any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given. An Administrative Hearing shall have their common meanings be a hearing de novo, conducted as if the original recommendation or determination had not taken place. This means the Hearing Officer or other fact finding body will consider anew all of the evidence submitted without relying on the past findings of a court, the Committee, the Board or other fact finding body. A Party is entitled to request an Administrative Hearing within the time periods set forth in this Policy, and failure to make a timely request shall result in a waiver of the Party's rights to contest the final determination by OCERS. See Cal. Civ. Proc. Code § 1094.5.

**Administrative Record:** The ~~Administrative Record~~ documents and other records relied upon by OCERS staff or a fact-finding body in an Administrative Hearing conducted pursuant to this Policy and includes any documents submitted by an Applicant or on behalf of an Applicant, documents prepared by OCERS or by independent sources that are received by OCERS, or any other documents that are relevant to deciding the issue of an Applicant's request to receive or modify a benefit ~~and that are admitted into evidence by the Hearing Officer after the Parties have had an opportunity to object.~~ A Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer or other fact-finding body shall decide the admissibility of all evidence.

## **Adjudication Policy and Administrative Hearing Procedures** **Rules (Disability and Non-Disability Benefits)**

~~The~~For purposes of any proceeding following an Administrative Hearing, the Administrative Record also includes written correspondence, Party Pre-Hearing Statements, ~~Party Briefs,~~the Hearing ~~Officer~~Officer's ~~Proposed~~ Findings of Fact and ~~recommendations~~Recommended Decision, Party objections ~~and requests for clarification, rulings on objections and requests for clarification, Hearing, hearing~~ transcripts, and other documents that are relevant to deciding the issue of an Applicant's request to receive or modify a benefit.

**Applicant:** Any member of OCERS, or a person or other entity on behalf of a member of OCERS (including but not limited to the member's surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member, who files an application with OCERS to request or modify a benefit that ~~the Board of Retirement~~OCERS may grant pursuant to ~~its authority set forth in~~ the CERL.

**Application:** The paper(s) initially filed with OCERS by or on behalf of an Applicant, and/or any amended paper(s) filed with OCERS by or on behalf of an Applicant after the initial filing, to request or modify a benefit provided by OCERS.

**Board:** The Board of Retirement of OCERS.

**Clerk, Clerk to the Hearing Officers.** A person or persons designated by the OCERS General Counsel or his/her designee to fulfill the duties of providing administrative assistance to the Hearing Officers appointed by OCERS under this Policy.

**Days:** All days are calendar days.

~~Effective Date:~~ The effective date**Disability Committee, Committee:** A committee of anythe Board, chartered by the Board to review Applications for disability retirement ~~benefits shall be governed by Government Code §31724.~~

**Expedited Administrative Review:** An alternative administrative review process, set forth in Rule 6 of the Hearing Rules, under which an Applicant may obtain a more speedy resolution of his/her Administrative Hearing.

**Hearing:** Presentation of sworn testimony, other evidence, and legal argument before a Hearing Officer or other fact-finding body on the merits of an Application or benefit determination.

~~Hearing de novo:~~ A new Hearing of a matter, conducted as if the original Hearing or Board determination had not taken place. This means the court or other fact finding body will consider anew all of the evidence submitted without relying on the past findings of a court, the Board or other fact finding body.

**Hearing Officer:** PursuantA referee appointed pursuant to Government Code §31533, that is either (i) a current member of the California State Bar on the approved OCERS' Hearing Officer panel ~~or, as selected under the OCERS Hearing Officer Selection and Retention Policy, or (ii)~~ a member of the Board ~~of Retirement.~~

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

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

## **Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)**

**Member Services Director:** The Party or Parties: OCERS, any Applicant who seeks an Administrative Director in charge of the Member Services Department Hearing under this Policy, the member's employer/plan sponsor, and any other person who may be affected by the Board's decision and participates in the Administrative Hearing.

**Petitioner:** The Party filing a Request for Administrative Hearing. (In most instances, the Applicant is also the Petitioner.)

**Plan Sponsor:** The employer who employed the member whose benefits are at issue in any given matter. The Plan Sponsor is a Party to an Administrative Hearing but does not need to participate in an Administrative Hearing.

**Pre-Hearing Statements:** Statements filed by the Parties pursuant to Rule 8 of the Hearing Rules.

**Proposed Findings of Fact and Recommended Decision:** The recommendation of the Hearing Officer to the Board, as set forth in Rule 13 of the Hearing Rules.

**Request for Administrative Hearing:** The document filed by the Petitioner to appeal a decision of the Committee or OCERS Staff and initiate the Administrative Hearing.

**Respondent:** OCERS, provided that the Plan Sponsor or the Applicant may join as the Respondent, as appropriate.

**Rule:** A hearing rule included in the Hearing Rules.

### **3. OCERS Disability Determination Process**

For determinations on Applications for disability retirement:

- A. OCERS staff will investigate all disability retirement Applications to determine whether the Applicant is permanently incapacitated from the performance of his or her usual duties, whether the incapacity arose out of and in the course of employment, and the appropriate effective date of any disability retirement allowance. In undertaking this investigation, staff will have discretion, based on staff's review of the Application including the Applicant's treating physicians' medical reports, to determine whether or not to seek further medical examination of the Applicant, expert medical advice or expert review of Applicant's medical records. Upon completion of the investigation, OCERS staff will make a recommendation to the Committee regarding permanent incapacity, service connection, and effective date.
- B. The Committee will review the disability Application at a duly-noticed meeting of the Committee. OCERS staff will give Applicant (or his or her attorney) notice of the date of the Committee meeting, and the Applicant (or his or her attorney) will have the opportunity to be heard by the Committee.
- C. After the Committee makes a recommendation, OCERS staff will notify the Applicant (and his or her attorney) of the Committee's recommendation and provide the Applicant with instructions regarding how the Applicant can appeal the determination by filing a Request for Administrative Hearing.
- D. In the event that the Committee recommends that any part of the Application be denied, the Applicant will have 90 days from the date of the notice required by 3.C., above, to file a Request for

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

Administrative Hearing with the Clerk, as set forth in the Hearing Rules. In the event that the Committee recommends the Application be granted in full, any person aggrieved by the recommendation, including the Plan Sponsor, will have 10 days from the date of the notice required by 3.C., above, to make a written Request for Administrative Hearing as set forth in the Hearing Rules.

- E. If no Request for Administrative Hearing is filed within the time limits set forth in 3.D., above, the matter shall be placed on the consent agenda at the next regularly scheduled meeting of the Board.

### 4. Non-Disability Benefit Determination Process

For all other benefit determinations:

- A. An Applicant may request a written review of any OCERS staff level benefit determination (e.g., non-disability determinations regarding amount of the benefit, effective date, reciprocity determinations) within 90 days of the benefit determination by OCERS. The CEO or his/her designee will provide a written review, which may include a synopsis of the member's request and shall include citation of any authority relied upon by OCERS in making its determination. In addition, the written review will include instructions regarding how the Applicant can appeal the determination by filing a Request for Administrative Hearing.
- B. The Applicant will have 90 days from the date of the notice provided in 4.A., above, to file a Request for Administrative Hearing. If no Request for Administrative Hearing is filed within 90 days, the determination made after the review in 4.A, above, shall be final.

### 5. Appeals of Disability and Non-Disability Benefit Determinations

A Party has a right to an Administrative Hearing only if the Party files a request for Administrative Hearing within the time frames set forth in Sections 3 or 4, above. An Administrative Hearing shall proceed according to the Hearing Rules.

### 6. Closed Sessions for Board Determination of Disability and Non-Disability Benefits

Except for matters on the Board's consent agenda, the Board shall adjourn to a closed session, pursuant to Cal. Gov't Code § 54957(b), to discuss the Application of any member for disability or other benefit.

- A. **Closed Session With the Parties Present.** The Board shall conduct any discussion of an Application, including instances where the Board convenes an Administrative Hearing before itself, as a closed session. Attendance at the closed session will be limited to 1) the Parties; 2) counsel for the Parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination or Committee recommendation; 4) any witnesses called to present testimony before the Board; 5) OCERS staff necessary to facilitate the hearing (including the Clerk of the Board

## **Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)**

and IT Staff); 6) the CEO; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Board.

B. **Closed Session Without Parties.** Following the Board's hearing of a matter in a closed session with the Parties present, the Board may adjourn to a closed session including only the CEO and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.

### **7. Board Determination of Disability and Non-Disability Benefits**

A. **Consent Agenda.** When no appeal has been timely filed on an Application for a disability retirement, the Board shall consider the Committee's recommendation on a consent agenda. Any member of the Board may object to an Application on the consent agenda except that the alternate seventh member (and not the seventh member) of the Board may object to any item relating to a member of the same service as the alternate seventh member. In addition, if the alternate seventh member is present, s/he shall be considered to have voted to approve any item adopted on the consent agenda relating to a member of the same service.

B. **Absence of Unanimous Consent for Disability Applications Recommended for Approval By the Committee; Administrative Hearing Before the Board.** If any Board member objects to the approval of an Application for disability retirement that has been placed on the consent agenda, and the matter has not been the subject of an Administrative Hearing, the Board shall either (i) adopt the recommendation of the Committee; or (ii) refer the matter to a Hearing Officer for an Administrative Hearing.

C. **Matters Referred to the Board After an Administrative Hearing.** Following an Administrative Hearing and the Board's receipt of the Hearing Officer's Proposed Findings of Fact and Recommended Decision, the Board shall hear the matter at a duly-noticed meeting of the Board as set forth in the Hearing Rules.

### **8. Policy Review**

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

### **9. Policy History**

and / or any Applicant who sought administrative review of a decision. This Policy was adopted by the Board of Retirement on February 19, 2002. It was amended most recently on \_\_\_\_\_.

### **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

Adjudication Policy and Administrative Hearing Procedures  
Rules (Disability and Non-Disability Benefits)

Steve Delaney  
Secretary of the Board

Date

**Pre-**

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

### Appendix - Administrative Hearing Conference: A Pre-Rules

#### Rule 1. Definitions

All capitalized terms contained within these ~~Hearing Conference is~~ Rules shall have the meaning set forth in Section 2 of the OCERS Disability and Non-Disability Benefits Adjudication Policy and Administrative Hearing Rules.

#### Rule 2. Filing of Documents

##### A. Administrative Hearing Filing Procedures

1. OCERS staff shall promulgate, and may from time to time amend, the "Administrative Hearing Filing Procedures" to set forth the procedures by which the Clerk to the Hearing Officers shall accept filing of documents in Administrative Hearings and service of documents on Parties.
2. The Administrative Hearing Filing Procedures may include forms that parties may be permitted or required to use during the course of an Administrative Hearing.
3. The Clerk shall provide the Petitioner with a ~~conference between the~~ copy of the Administrative Hearing Filing Procedures upon Petitioner's filing of a Request for Administrative Hearing.

##### B. Filing of Documents

1. All documents required or permitted to be filed by any Party during the course of the Administrative Hearing shall be filed with the Clerk.
- 1-2. An Applicant(s) and OCERS ~~conducted by the assigned~~ may file documents in person, by US Mail, or electronically, in conformance the Administrative Hearing Filing Procedures. Any other Party and the Hearing Officer ~~to discuss preliminary matters related to the Hearing process,~~ shall file all documents electronically, in conformance with the Administrative Hearing Filing Procedures.

~~Respondent:~~ OCERS and / or Board:

3. ~~Rule:~~ A Hearing Rule including Documents filed by US Mail shall be considered filed on the following dates:
  - i. If mailed from within Orange County, on the date post-marked on the envelope containing the documents;
  - ii. If mailed within the State of California, five (5) days following the date post-marked on the envelope containing the documents;
  - iii. If mailed outside of the State of California, ten (10) days following the date post-marked on the envelope containing the documents.



## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

4. Documents filed in person shall be considered filed on the day received by OCERS.
5. Documents filed electronically shall be considered filed on the date electronically sent.

### C. Service of Documents

Within one (1) business day of any document being filed, the Clerk shall serve all subparagraphs or subdivisions as contained in this policy documents that have been filed in any

2.1.3 Administrative Hearing Rules on all Parties and the Hearing Officer.

### 1. Hearing De Novo

2. The Clerk shall serve an Applicant by US Mail, unless the Applicant consents to be served electronically, in conformance with the Administrative Filing Procedures. The Clerk shall serve any other Party and the Hearing Officer electronically, in conformance with the Administrative Hearing Filing Procedures.

### Rule 3. Administrative Hearing Request, Scope, and Settlement

A. Request for Hearing. A written request Request for Administrative Hearing must be received by the Board, or its designee, within ninety (90) days after the initial Board determination of the initial application. A Hearing de novo shall be scheduled before a Hearing Officer. For disability retirement Hearings, the Board on its own filed with the Clerk within the time frame set forth in Sections 3 and 4 of the OCERS Adjudication Policy and Administrative Hearing Rules (the "Policy"). The Request for Administrative Hearing shall include a short and plain statement of the grounds for the appeal of the recommendation of the Committee or the OCERS staff.

B. Referral from the Board. In the event that the Board refers a matter to a Hearing Officer for an Administrative Hearing, the Applicant shall be considered the Petitioner and the referral may limit from the issues to Board shall be presented to disability, service connection, or effective date only. If not so limited, considered the Request for Administrative Hearing.

C. Burden of Proof. The Applicant will have the burden of proof to establish his/her right to the benefit sought by a preponderance of the evidence.

#### D. Scope of Hearing.

1. A disability retirement Administrative Hearing will address the issues of disability, service connection, and effective date.-
- 1.2. Except as set forth in these Rules, for disability retirement Hearings and all other administrative Hearings, the Hearing Officer shall not make a finding or recommendation on any issue that was not raised before in the Board. These Hearing Rules will apply Applicant's original application to OCERS (either for disability retirement Hearings and all other administrative Hearings or non-disability benefits).
3. If the Applicant seeks to raise new issues or add conditions, s/he will be required to file a new Application, provided however, that OCERS shall retain the discretion to stipulate that

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

the Applicant may dismiss the original Application and file an amended Application, the date of which shall relate back to date of the original Application.

- E. Settlement. If at any time during the Administrative Hearing it becomes apparent to OCERS staff that a different result is appropriate, OCERS staff and the Applicant may settle and dismiss the Administrative Hearing. For settlements related to non-disability benefits, the Administrative Hearing shall be the settlement deemed final. For settlements related to disability benefits, the settlement shall be referred to the Board to be heard on a consent agenda.

### Rule 4. Assignment of Hearing Officers

Assignment of Hearing Officer. Hearing Officers are selected and placed on the panel pursuant to OCERS' Hearing Officer Selection and Retention Policy.

#### 2. Notification of Request for, or Referral to, a Hearing

- A. As Administrative Hearings are requested, the Clerk shall randomly assign the Hearing Officer, subject to the procedures for challenge under Rule 4.C, below.

A-B. Notice to Parties of Hearing Officer Assignment. Within fourteen (14) days after OCERS receives the Petitioner files a requestRequest for Administrative Hearing or referral to a Hearing, OCERS, the Clerk will notify the Applicant in writing of file a notice indicating the name and address of the Hearing Officer to whom the matter has been assigned.

~~Assignment of Hearing Officer: Hearing Officers are selected and placed on the panel pursuant to OCERS' Hearing Officer Selection and Retention Policy. As Hearings are requested, the Member Services Director assigns the next Hearing Officer on the list in alphabetical order, subject to the procedures for challenge under Rule 3 below.~~

#### 3. Petition to Reassign a Hearing Officer

B-C. Each Party shall Removal of Hearing Officer. A Party shall be entitled to have a Hearing Officer replaced by another Hearing Officer in accordance with the provisions of this Rule following procedures.

1. ~~Peremptory: Each Party~~An Applicant is entitled to one automatic challenge to the assignment of the Hearing Officer in accordance with the provisions of this section. ~~That~~The challenge must be submitted in writing, directed to the Member Services Director, filed with the Clerk within fourteen (14) days after the date of the ~~letter~~notice assigning the Hearing Officer. ~~Thereafter, any challenge to~~ The Clerk shall then re-assign the assigned case to another Hearing Officer ~~shall only be for cause~~in the same fashion as selection of the first hearing officer.

~~At any time before the date of the Hearing if an Applicant obtains new counsel of record, or if OCERS replaces its counsel of record, each new counsel shall be entitled to a peremptory challenge. The challenge must be submitted in writing, directed to the Member Services Director, within fourteen (14) days after the date counsel commences representation.~~

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

2. Removal for Cause: ~~Each~~Any Party ~~is entitled to~~may challenge a Hearing Officer for cause by ~~submitting~~filing a ~~written~~ request, with supporting declarations made under penalty of perjury under the laws of the State of California and any other evidence the Party is relying on, ~~to the Member Services Director, who shall then place the matter on the agenda for the next regularly scheduled Board meeting.~~ Any opposing Party will have fourteen (14) days to file a response. The Clerk shall then randomly assign the request to another Hearing Officer, who must decide the issue within thirty (30) days. If the Hearing Officer grants the request, the Clerk shall re-assign the case to a Hearing Officer other than the Hearing Officer who heard the request for re-assignment. Cause for removal shall be limited to bias against a Party or counsel based on a personal or financial relationship (other than the Hearing Officer's contract with OCERS) that would make a reasonable person doubt the Hearing Officer's ability to render an impartial decision.
3. Removal Due to Unforeseen Circumstances: If the service of a Hearing Officer is discontinued due to unforeseen circumstances, including but not limited to death, or illness, or termination with or without cause, ~~or for medical restrictions,~~ each Party the Applicant is entitled to a peremptory challenge to the new Hearing Officer in accordance with subsection (1) of this Rule.

### 4. Appointment Notice of the Assignment to Hearing Officer

~~C.D. On.~~ After the expiration of the time period in Rule 3(a), the Member Services Director shall contact the Hearing Officer by letter notifying4.C, above, the Clerk shall file a Notice to the Hearing Officer of his/her assignment, providing the name, address and phone number of the Applicant, Applicant's counsel, if any, and counsel representing OCERS.

E. Recusal of Hearing Officer. If at any time the Hearing Officer determines that there is cause to remove him/her, s/he shall immediately file with the Clerk a statement of recusal, and the Clerk shall reassign the case pursuant to Rule 4.A.

### Rule 5. Preparation of Administrative Record

#### ~~5. Preparation of Administrative Record~~

~~Following receipt~~Within 45 days of the requestfiling of a Request for a ~~Administrative~~ Hearing, OCERS shall assemble and file the initial Administrative Record. A Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer shall decide the admissibility of all evidence.

### Rule 6. Alternative Expedited Administrative Review

A. Provisions for Alternative Expedited Administrative Review. Expedited Administrative Review is an irrevocable waiver of the Applicant's right to the process described in Rules 7 through 12. The goal of the Alternative Expedited Administrative Review process is to complete the Administrative Hearing in less than six months and based only on the Administrative Record and written arguments, without in-person testimony or argument.

## **Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)**

### **B. Availability of Expedited Administrative Review.**

1. An Expedited Administrative Review shall only be available in those cases that OCERS determines are appropriate for an Expedited Administrative Review.
2. OCERS will make the determination as to whether Expedited Administrative Review is appropriate in its sole discretion, on a case-by-case basis. In determining whether Expedited Administrative Review is appropriate, OCERS shall consider: whether there are any material facts in dispute, and whether the introduction of testamentary evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant's condition is such that time is of the essence in seeking review of the staff recommendation or ultimately judicial review.
3. If OCERS determines that the matter is appropriate for Expedited Administrative Review, the Applicant will have the choice of whether or not to opt for the Expedited Administrative Review.

**C. Waiver and Election.** In the event that OCERS determines that a matter is appropriate for Administrative Review, OCERS shall file a Notice of Right to Expedited Administrative Review which provides the Applicant notice of his or her rights and provides a Waiver of Rights and Election for Expedited Administrative Review (the "Waiver and Election"). The Applicant may file its Waiver and Election any time prior to or at the Pre-Hearing Scheduling Conference.

**D. Timeline.** The Expedited Administrative Review shall be conducted according to the following timeline.

1. Within 30 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), each party shall file any written evidence that it seeks to rely on in addition to the Administrative Record.
2. Within 30 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), each Party shall file a Statement of Issues of not more than five (5) pages which shall set forth the Party's contentions.
3. Within 90 days from the date the Applicant files the Waiver and Election (or within 30 days after the Administrative Record is filed, whichever is later), the Hearing Officer shall file its Proposed Findings of Fact and Recommended Decision, which shall conform to Rule 13.

### **Rule 7. Pre-Hearing Scheduling Conference**

- A. The Clerk shall schedule a Pre-Hearing Scheduling Conference to be held within 30 days of the filing of the Administrative Record. The Clerk shall undertake its best efforts to schedule the Pre-Hearing Scheduling Conference at a time convenient to all Parties.
- B. The Pre-Hearing Scheduling Conference may be held telephonically or electronically (e.g. Skype, Facetime). The Pre-Hearing Scheduling Conference will not be transcribed unless a Party files a request for a court reporter at least seven (7) days before the Pre-Hearing Scheduling Conference, but any party may make an audio recording of the conference. If any Party requests a

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

transcription, the Clerk shall arrange for a court reporter, but the requesting Party shall be liable for reimbursing OCERS for the costs.

C. At the Pre-Hearing Scheduling Conference, the Hearing Officer shall advise the Applicant (whether or not the Applicant is the Petitioner) of the following:

1. The Applicant has the right to be represented by counsel;
2. Any financial or personal interest that the Hearing Officer has in the case, other than the Hearing Officer's contract with OCERS;
3. The Hearing will be a hearing *de novo*, conducted as if the original recommendation or determination had not taken place. This means the Hearing Officer or other fact finding body will consider anew all of the evidence submitted, without relying on the past findings of a court, the Committee, the Board, OCERS staff, or other fact finding body;
4. The Hearing Officer's purpose in the process is to find the facts relevant to the Applicant's request and provide it to the Applicant or his or her attorney, if any, OCERS' counsel and the Hearing Officer, an impartial recommendation to the Board;

### ***6. Applicant's Pre-Hearing Statement***

5. The Applicant shall serve a Pre-Hearing Statement on The Applicant has the burden of proof in establishing by a preponderance of the evidence his or her right to the benefit s/he seeks;
6. The Applicant must identify witnesses and other evidence when filing his/her Pre-Hearing Statement, and that failure to include in the Pre-Hearing Statement the witnesses and other evidence s/he intends to rely on could mean that evidence will be excluded unless the Applicant shows that s/he could not have discovered the information earlier through the exercise of reasonable diligence;
7. The timelines required under these rules for filing documents and for the Administrative Hearing, and the result of a failure to meet those deadlines, including that the Applicant's case can be dismissed.
8. That upon the completion of the Administrative Hearing, the matter will be referred to the Board pursuant to these Rules. Upon action by the Board, the decision will be final for all purposes. There shall be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review shall be governed by the California Code of Civil Procedure Section 1094.6

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

D. At the Pre-Hearing Scheduling Conference, each Party shall:

1. Make a good faith effort to identify the witnesses, both expert and non-expert, that it intends to call;
2. Ensure that that the witnesses it intends to call either speak and understand English or that the Party calling the witness is responsible for requesting a translator for the witnesses in accordance with Rule 10. J.;
3. Indicate whether it will require an opposing party's Medical Witness to appear in person to be cross-examined at the Hearing;
4. If possible, set mutually convenient dates for any depositions.

E. At the Pre-Hearing Scheduling Conference, the Hearing Officer and OCERS' counsel shall set the date for the Hearing.

1. The Hearing Officer shall confer with the Parties to determine a mutually agreeable date for the hearing ("Hearing Date"), but in all cases the Hearing Date shall be set as soon as reasonably practicable, but for no later than six (6) months after the date of the Pre-Hearing Scheduling Conference. The hearing will be held within the time frame provided by Rule 16. OCERS, at its expense, shall arrange for a court reporter and a room for the Hearing.
2. Each Party shall provide a good faith estimate of the amount of time it anticipates the Hearing will last. As much as practicable, the Hearing shall continue from day-to-day until complete, and the Hearing Officer shall schedule all dates to which s/he anticipates the Hearing will be continued until complete.

F. Within five (5) days of the Pre-Hearing Scheduling Conference, the Clerk shall file a Notice of Administrative Hearing Dates, which shall include the Date(s) of the Hearing and the dates that each Party's Pre-Hearing Statements are due.

G. After the Pre-Hearing Scheduling Conference, the Hearing Officer may continue the Hearing Date only upon a showing of good cause as set forth in Rule 15, below.

### Rule 8. Pre-Hearing Statements

A. The Petitioner shall file a Pre-Hearing Statement no later than sixty (60) days before the date on which prior to the Hearing is to be held Date.

B. Respondent shall file a Pre-Hearing Statement no later than thirty (30) days prior to the Hearing Date.

C. Any Party may file supplemental Pre-Hearing Statements no later than fourteen (14) days prior to the Hearing Date.

~~B.~~D. The Pre-hearing Statement Statements shall include the following:

1. A statement of the issues and contentions of the Applicant Party, and a brief summary of the evidence to be presented;

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

2. A list and copies of any expert's reports, depositions of any witnesses, and any other documentary evidence on which the ApplicantParty will rely, if not already in the Administrative Record;
3. The names, addresses and telephone numbers of any non-expert witnesses whose testimony the ApplicantParty intends to present at the Hearing and a brief description of the content of that testimony.
4. The names, addresses and phone numbers of any expert witnesses whom the ApplicantParty intends to call for oral testimony at the Hearing and a synopsis of the expected testimony.

~~A.—If at any time during the Hearing process the Applicant either (i) alleges an injury or disease not listed on the disability retirement application or (ii) raises an issue that was not previously presented to the Board, the Hearing process shall be suspended by OCERS and the Application shall be treated as an amended Application. The amended Application shall be referred back to the Member Services Director to be processed. If the Board denies the amended Application or refers it for Hearing, the Hearing Officer who is presiding at that time will hear all allegations at the same time. A new Hearing date will be set in accordance with Rule 9 and all Pre-Hearing Statements not already served will be due in accordance with the new Hearing date.~~

~~C.E. If an Applicant If a Petitioner disputes the Effective Date established by the Board, or the Board in its initial decision found that an Applicant asserts that the proper Effective Date for the retirement allowance is a date other than the date of the Application, that Applicant shall raise the Effective Date effective date of the disability retirement, the Petitioner shall raise the effective date as an issue and shall state that Applicant's-Petitioner's contention in his/her Pre-Hearing Statement.~~

### 7. Respondent's If a Petitioner fails to timely file a Pre-Hearing Statement

~~OCERS, the Clerk shall serve a file an Order to Show Cause why the case should not be dismissed, and give the Petitioner five (5) days to respond. Unless the Petitioner shows good cause for the failure to timely file its Pre-Hearing Statement on, the Hearing Officer and the Applicant or Applicant's attorney no later than thirty (30) days before the date on which the shall dismiss the Administrative Hearing is to be held. The Pre and the initial determination or Committee recommendation shall proceed as if no Request for Administrative Hearing Statement shall include the following:-~~

- ~~A.—A statement of the issues and the contentions of OCERS;~~
- ~~B.—A list and copies of any experts' reports, depositions of any witnesses, and other documentary evidence on which OCERS will rely, if not already in the administrative record;  
  
The names and addresses of any non-expert witnesses whose testimony OCERS intends to present a had been filed. If the Petitioner shows good cause, the Hearing and a brief description of the content of that testimony; Officer may allow~~
- ~~C.—The names and addresses of any expert witnesses whom OCERS intends to call for oral testimony at the Hearing and a synopsis of Respondent additional time to file its Pre-Hearing Statement or may re-schedule the expected testimony.~~



## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

### ***8. Supplemental Pre-Hearing Statements***

Any Party may submit supplemental Pre-Hearing Statements no later than fourteen (14) days prior to the Hearing date.

### ***9. Applicant's Non-Compliance in Submitting Pre-Hearing Statement***

If an Applicant does not comply with the within the time requirements of Rule 6,16 and the Hearing Petitioner shall be taken off calendar and the administrative proceeding shall be suspended until the Pre-Hearing Statement has been filed unless otherwise agreed to by the Parties. Subject to Rule 23, "Dismissal," once the Pre-Hearing Statement has been filed, the Hearing will be reset in the same manner as set forth in Rule 10, below. OCERS' Pre-Hearing Statement will be due thirty (30) days before the new Hearing date.

### ***10. Establishing a Hearing Date***

The Hearing Officer will confer with the Parties to set a mutually agreeable Hearing date. The Hearing will be held within the time frame provided by Rule 23. OCERS, at its expense, shall arrange for a court reporter and a Hearing room.

- A. The Hearing Officer may continue any Hearing on stipulation of the Parties or liable to OCERS for good cause shown, on receipt of a written request by either Party.
- B. With the exception of an emergency continuance request, all requests for a continuance as set forth herein shall be made at least thirty (30) days in advance of the Hearing date. If not made thirty (30) days before the Hearing, the Hearing Officer or the Board shall not be obligated to honor the request. Nevertheless, the Hearing Officer is authorized to grant an emergency continuance to the next agreeable Hearing date because of the illness or disability of any Party, witness, attorney, or the Hearing Officer himself or herself, or any family emergency or matter of a similar nature of any Party, witness, attorney, or the Hearing Officer.
- D.F. If an Applicant cancels a Hearing less than thirty (30) days prior to the scheduled Hearing date, the Board is authorized to seek reimbursement from the Applicant for any actual costs incurred as a result of the cancellation delay.
- C. The Applicant or OCERS may request, or the Hearing Officer on his/her own motion may schedule a Pre-hearing Conference; provided, however, in all cases where the Applicant is pro per, the Hearing Officer shall schedule a Pre-Hearing Conference.

### ***11. Time Rule 9. Depositions and Place of Hearings Subpoenas***

All Hearings on the merits shall be held at OCERS' offices; Pre-Hearing Conferences shall be held at the OCERS offices and may be held telephonically on the agreement of the Parties and the Hearing Officer. Hearings that are not concluded within the original time set shall be continued to the next agreeable Hearing date.



## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

### 12. Documentary Evidence

- A. ~~Statement of Policy~~: Documentary evidence shall be produced in the form of written medical reports or other documentary evidence attached to the Parties' Pre-Hearing Statements or included in the Administrative Record. A written medical report bearing the signature of the Medical Witness shall be admissible in evidence as the author's direct testimony.
- B. ~~Late Submission of Documentary Evidence~~: Submission of a medical report or other documentary evidence after a Party files his, her or its Pre-Hearing Statement shall be allowed only on a showing of Good Cause. For purposes of this Rule, "Good Cause" means relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced. The Party requesting submission of such evidence shall address a written request to the Hearing Officer. The written request shall state the reason the evidence was not timely produced. After providing a reasonable opportunity for each adverse party to be heard, the Hearing Officer shall rule on such a request. If the evidence is allowed to be admitted into evidence, the Parties shall have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or cross-examine the Medical Witness.

### 13. Oral Testimony of Expert and Non-Expert Witnesses

- A. ~~Hearings~~: Oral testimony shall be taken as prescribed under Rule 15(a).
- B.A. ~~Depositions~~: Witness depositions may be taken by either Party before a certified ~~shorthand reporter~~ Court Reporter and shall be taken under oath or affirmation. The Party taking the deposition shall pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party shall provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
- C.B. ~~Subpoenas and Related Fees/Costs~~:
1. ~~Any Party may request OCERS shall issue~~ a subpoena for the personal appearance of a witness at the time of the Hearing or at a deposition. ~~The request must be in writing and addressed to the Member Services Director. OCERS will prepare the, or for the production of documents (subpoena, but duces tecum), in conformance with California Government Code Section 31535, upon the request of any Party filed at least seven (7) days before the date the subpoena is to be issued. The~~ requesting Party shall be obligated to serve the subpoena and pay all associated witness fees and costs of service. ~~and production~~. The Party requesting oral testimony of an expert witness shall in all cases be responsible for any expert witness fees.
  2. ~~Any Party may request a subpoena for the production of documents. The request must be in writing and addressed to the Member Services Director. OCERS will prepare the subpoena, but the requesting party shall be obligated to serve the subpoena and pay all associated costs of service and production.~~
  - 3.2. Any fee disputes between a witness and the requesting Party is independent from any proceeding between the ~~Applicant~~ Petitioner and OCERS. Those fee disputes shall be resolved

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority or jurisdiction to hear evidence about, or decide any such dispute.

### ~~14. Resolution of Disputes about Depositions and Conduct of Hearings~~

~~The Hearing Officer shall resolve disputes about depositions and conduct of the Hearing. If not made at a Hearing, a request for resolution of a dispute shall be made in writing and may be supported by declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution. The adverse Party involved shall have ten (10) days after receipt of such a request in which to respond. Declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution may also accompany the response. The Hearing Officer shall notify the Parties and the witness(es) involved of the Hearing Officer's resolution of the dispute within thirty (30) days of the Hearing Officer's receipt of the adverse Party's response to the request for resolution.~~

### 15 Rule 10. Conduct of Hearings

A. All Hearings shall be held at the OCERS office, 2223 East Wellington Avenue, Santa Ana, California.

A.B. The Clerk shall arrange for a court reporter to be paid at OCERS's expense. Oral evidence shall be taken only on oath or affirmation administered by the Hearing Officer or the shorthand court reporter.

- ~~1. If an Applicant or witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings shall be provided to that Applicant or witness at OCERS' expense. An Applicant or witness who requires interpreting services shall provide OCERS with reasonable notice of the need for an interpreter and the language the Applicant or witness will use during the proceedings so that OCERS has sufficient time to locate and contract with an interpreter.~~
- ~~2. The Hearing Officer may continue or reschedule a Hearing so that the Applicant or witness requesting an interpreter can be accommodated.~~
- ~~3. All interpreters in OCERS' Hearings shall be certified to provide interpreting services in administrative hearings pursuant to Gov. Code § 11435.30. The interpreter shall not have had any involvement in the issues of the case prior to the Hearing.~~
- ~~4. If an Applicant or witness objects to the interpreter provided by OCERS and wishes to locate his or her own interpreter certified under Gov. Code § 11435.30, the Applicant or witness shall provide OCERS with contact information for his or her chosen interpreter. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. The Applicant or witness shall be responsible for any amounts charged by the interpreter that are over the amount OCERS would have paid to an interpreter hired directly by OCERS. Fee disputes between the interpreter and the Applicant or witness shall not be resolved in this forum, and the Hearing Officer shall have not authority to resolve any fee disputes between interpreters and the Parties.~~

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

C. A written medical report bearing the signature of the Medical Witness shall be admissible in evidence as the author's direct testimony, provided that the adverse Party has had the opportunity to cross-examine the witness, or to depose the witness and have the deposition transcript admitted into evidence.

~~B.~~ Each Party shall have ~~thesethe~~ rights:

~~C.D.~~ Subject to paragraph (2) of this subsection (B) of this Rule, to call and examine witnesses; to introduce exhibits, including reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, OCERS may call and examine the Applicant under cross-examination.

~~1.~~ Any witness a Party did not list in his/her Pre-Hearing Statement shall not be called to testify unless each adverse Party has the right to a continuance to obtain rebuttal evidence and/or to cross-examine the unlisted witness. The Party who originally called the unlisted witness to testify shall bear the responsibility of ensuring the unlisted witness's attendance at each further hearing set for that witness's cross-examination.

~~D.E.~~ The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which ~~responsible~~reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the Hearing. Irrelevant and unduly repetitious evidence shall be excluded.-

~~E.F.~~ Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but shall not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions. This section shall not be applicable to written medical reports received into evidence pursuant to Rule 10.C. Every Hearing shall proceed as though each Party had made a standing objection to all inadmissible hearsay at the commencement of the Hearing. ~~This section shall not be applicable to written medical reports received into evidence pursuant to Rule 12.~~

~~F.~~ Each Party shall have the right to submit oral or written argument, as determined by the Hearing Officer. A waiver of argument at the administrative Hearing shall not constitute a waiver of argument on appeal before the Board.

G. The record shall be closed to new evidence at the conclusion of the final day of Hearing ~~unless each Party stipulates to leave the record open.~~ However, if subsequent to the close of the Hearing, a Party discovers or obtains new evidence that is relevant and not repetitive, that Party may submitfile that evidence ~~to and request that~~ the Hearing Officer ~~to be considered for inclusion~~include it in the Administrative Record. The Hearing Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of ~~Good Cause~~good cause as defined under Rule ~~12(b);10.I,~~ the Hearing Officer allows inclusion of the new

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule ~~12(b)-10.I.~~

### 16. Findings of Fact, Conclusions of Law, and The court reporter shall file the transcript of the Hearing Officer's Recommended Decision

- H. ~~The within 30 days of the final day of the Hearing Officer shall serve his/her Proposed Findings of Fact, Conclusions of Law, and Recommended Decision on all Parties or their counsel. Service shall be made within sixty (60) days of either (i) the date the Hearing Officer receives the last brief or (ii) the date the Hearing Officer deems the matter closed.~~
- I. Late Submission of Evidence. No party may submit a medical report or other documentary evidence, nor shall any Party call a witness not listed in its Pre-Hearing Statement except for purposes of impeachment, unless it demonstrates good cause. For purposes of this Rule, "good cause" means relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced. The Party requesting submission of such evidence shall file a written request prior to the Hearing, or if unable to do so in the exercise of reasonable diligence, shall make an oral request at the Haring. The request shall state the reason the evidence was not timely produced. After providing a reasonable opportunity for each adverse Party to be heard, the Hearing Officer shall rule on such a request. If the evidence is allowed to be admitted into evidence, the Parties shall have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine the Medical Witness.
- J. Use of Interpreter Services.
1. If an Applicant or witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings shall be provided to that Applicant or witness at OCERS's expense. Notice that an Applicant or witness requires interpreting services shall be given to OCERS at the Pre-Hearing Scheduling Conference or be included in the Party's Pre-Hearing Statement. If a Party fails to provide such notice, then the witness may not be called unless good cause is shown, as set forth Rule 10.I.
  2. All interpreters must be certified to provide interpreting services in administrative hearings pursuant to Government Code Section 11435.30. The interpreter may not have had any involvement in the issues of the case prior to the Administrative Hearing.
  3. If an Applicant objects to the interpreter provided by OCERS, the Applicant may supply her/her own interpreter, provided that the interpreter is certified under Government Code Section 11435.30. However, time for an Applicant to find and hire an interpreter shall not be considered good cause to continue the Hearing. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. ~~17- Objections~~The Applicant shall be responsible for any amounts charged by the interpreter that are over the amount OCERS would have paid to, an interpreter hired directly by OCERS. Fee disputes between the interpreter and ~~Responses~~the Applicant shall not be

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

resolved in this forum, and the Hearing Officer shall not have authority to resolve any fee disputes between interpreters and the Parties.

### Rule 11. Resolution of Disputes about Depositions and Conduct of Hearings

The Hearing Officer shall resolve disputes about depositions and conduct of the Hearing. A request for resolution of a dispute shall be made in person at a Pre-Hearing Scheduling Conference, at the Hearing, or may be filed and may be supported by declarations, a memorandum of points and authorities and a proposed resolution. The adverse Party shall file its response within (10) days. Declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution may also accompany the response. Objections~~The Hearing Officer may convene a conference (in person or by telephone) to, the~~ hear the dispute and shall file its resolution of the dispute within thirty (30) days.

### Rule 12. Closing Arguments

- A. Each Party shall have the right to submit oral or written argument. A waiver of argument at the Administrative Hearing shall not constitute a waiver of argument before the Board.
- B. Unless the parties waive closing briefs, the parties shall adhere to the following schedule for filing written closing briefs:
  - 1. Petitioner's closing brief shall be filed within thirty days (30) of the date the transcript of the Hearing is filed.
  - 2. Respondents' closing briefs shall be filed within sixty (60) days of the date the transcript of the Hearing is filed.
  - 3. Petitioner's reply brief shall be filed within fifteen (15) days of the date that Respondents' closing briefs are filed.
- C. Each party's closing brief may be supported by facts in the record and citation to law. The Petitioner's and Respondents' closing brief shall not exceed fifteen (15) pages and the reply brief shall not exceed ten (10) pages, unless the Hearing Officer in the exercise of his/her discretion determines that a longer limit is appropriate under the circumstances.

### Rule 13. Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Decision

~~Any Party shall have thirty (30) days after service of the Proposed Findings of Fact, Conclusions of Law, and Recommended Decision, to submit written objections and/or written requests for clarification to the Hearing Officer and serve such objections and/or requests for clarification on each other Party. Each adverse Party shall then have twenty (20) days after service of the written objections and/or written requests for clarification to serve a response to them. The objections and/or requests for clarification and any response to those objections and/or requests for clarification shall be added to the Administrative Record to be considered by the Board. Within thirty (30) days after the later of the date that Hearing Officer receives the objections and/or requests for clarification or an adverse party's response to such objections and/or requests for clarification, the Hearing Officer may:~~

## **Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)**

- A. ~~Affirm the findings, conclusions, and recommendations as originally submitted, or~~
- B. ~~Make such changes the Hearing Officer deems appropriate in light of the evidence, the objections or requests for clarification submitted by the Parties, and the responses.~~
- A. 18-Time for Filing. The Hearing Officer shall file his/her Proposed Findings of Fact and Recommended Decision within sixty (60) days of the date that the Petitioner's reply brief is due or, if the Parties waived closing briefs, within sixty (60) days of the date the transcript of the Hearing is filed.

### **Content of Proposed Findings of Fact and Recommended Decision. The Hearing Officer's Proposed Findings of Fact and Recommended Decision**

- ~~A.B. The Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommended Decision shall include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) the exhibits offered by the parties, both those received into evidence and those not received; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended action. The summary of the testimony, plus all other evidence received, shall be sufficient to satisfy the requirements of Government Code Section 31534(b).~~
- C. 19-Objections. Any Party may file objections to the Hearing Officer's Proposed Findings of Fact and Recommended Decision within 20 days from the date that the Hearing Officer files his/her Proposed Findings of Fact and Recommended Decision.

### **Rule 14. Hearing and Action by the Board**

- A. The ~~Board's staff~~Clerk shall refer to the Board for its consideration the Hearing Officer's Proposed Findings of Fact, ~~Conclusions of Law~~ and Recommended Decision, and any related objections and/or requests for clarification and any responses to those objections and/or requests for clarification. After reviewing the foregoing documents, pursuant to Government Code §31534, the Board may:
  - A. ~~Approve and adopt the proposed findings, conclusions and recommendation of the Hearing Officer; or~~
  - 1. Require a transcript or summary of all Hearing testimony, plus all other evidence received by the Hearing Officer. On receipt thereof, the Board shall take such action as in its opinion is indicated by such evidence; or
  - B. ~~Refer the matter back, with or without instructions, to the Hearing Officer for further proceedings; or~~
  - 1. Set the matter for hearing before itself. At such hearing, the Board shall hear and decide the matter de novo.

## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

### 20. Oral Argument Before the Board Regarding Objections to a Hearing Officer's Recommended Decision

- B. The Parties~~Clerk~~ shall ~~be provided~~provide written notice of the time and date of the regular meeting where the matter will be placed on the Board's agenda for action. The Parties will have the opportunity to be heard at the Board meeting subject to appropriate time limitations.
- C. After reviewing the foregoing documents, pursuant to Government Code Section 31534, the Board may:
1. Approve and adopt the proposed findings and the recommendations of the Hearing Officer;  
or
  2. Require a transcript or summary of all testimony, plus all other evidence received by the Hearing Officer. On receipt thereof, the Board shall take such action as in its opinion is indicated by such evidence; or
  3. Refer the matter back with or without instructions to the Hearing Officer for further proceedings; or
  4. Set the matter for hearing before itself. At such hearing, the Board shall hear and decide the matter *de novo*.

### 21. Board's Decision After its Review of the Record

- ~~C.D.~~ The Hearing Officer's Proposed Findings of Fact and Recommended Decision shall be sufficient to satisfy the requirements of Government Code Section 31534(b) and Rule 14.C.2. In any case where the Board makes a decision based on a transcript or summary of all Hearing testimony, plus other evidence received by the Hearing Officer, or where the Board sets the matter for Hearing before itself, the Board may approve and adopt the Proposed Findings, ~~Conclusions~~ of Law~~Fact~~ and Recommended Decision of the Hearing Officer; otherwise, the Board shall ~~direct the prevailing Party to prepare Proposed~~its Findings of Fact, ~~Conclusions of Law~~ and ~~Recommended Decision~~ consistent, either itself or through direction to staff with its tentative decision. ~~The Proposed Findings shall then be served on the unsuccessful Party who shall have ten (10) days after such service to serve and file written objections to the Board. The Board shall then consider such written objections, if any, and then adopt its final decision as it deems appropriate approval.~~
- E. Upon action by the Board, the decision will be final for all purposes. There shall be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review shall be governed by the California Code of Civil Procedure Section 1094.6.

### Rule 15. Alteration of Time Requirements and Relief from Orders

- A. Nothing in these Rules shall be construed to prevent the Parties from stipulating to different intervals than those prescribed in these Rules. The Hearing Officer may, amend or continue the



## Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)

time periods set forth in these rules only for good cause shown after giving both parties an opportunity.

B. Good cause for continuing a time period set forth in these Rules or established by the Hearing Officer shall be only:

1. the discovery of relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced;
2. the need to be heard, shorten or lengthen the times specified above as he/she deems engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine a Medical Witness, as set forth under Rule 10.I; or
3. the illness or disability of an Applicant, witness, attorney, or the Hearing Officer which was unknown to the person at the time of the Pre-Hearing Scheduling Conference (or other time at which the deadline was set) which makes it impossible for the person to participate in the Administrative Hearing process. Relief in this instances shall be granted only if the person raises the request as soon as practicable, and the Hearing Officer shall consider a failure to timely seek relief a waiver by the person.

A.C. Any continuance granted under this Rule shall be for as short a period as necessary to allow the person to participate in the process.

1. If an illness or disability affects an attorney who will not be able to participate in the process within a reasonably short period of time, then the continuance shall only be for such time as is necessary to secure substitute counsel.
2. If the illness or disability affects the Hearing Officer, and the Hearing Officer cannot proceed within the time period set forth in Rule 16, below, the Hearing Officer shall recuse him/herself and a new Hearing Officer shall be appointed.

D. If good cause exists, the Hearing Officer may order a Pre-Hearing Scheduling Conference in order to re-set the Hearing Date.

E. Until such time as the matter has been referred to the Board, the Hearing Officer may, upon any terms as may be just, relieve a party or his or her legal representative from an order, or other action taken against him/her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be made within a reasonable time and once the matter has been placed on the Board agenda, the Hearing Officer shall no longer have jurisdiction.

### **Rule 16. Dismissal Without Prejudice for Failure to Pursue the Administrative Hearing**

Except as otherwise provided, if, as a result of an Applicant's failure to pursue his/her case or to comply with any of these Rules and/or with any request made by either the OCERS' Disability Section or Member Services staff, the Applicant's request Request for an Administrative Hearing (or Board referral) is not heard within one year after receipt of the Applicant's request Applicant files a Request for Administrative Hearing.



**Adjudication Policy and Administrative Hearing Procedures**  
**Rules (Disability and Non-Disability Benefits)**

~~(or the Board's referral of a case to a Hearing Officer, the case shall be dismissed without prejudice by the Board.~~

**24. Service of Documents**

~~Unless otherwise agreed to by the Hearing Officer and Parties in writing, service of documents provided for in these Rules may be made by first class mail, postage pre-paid, or by personal delivery. If documents are sent by first class mail, the postmark date shall be deemed the date of service. If the Hearing Officer and Parties do agree in writing to service by facsimile transmission and/or electronic mail, the service date for any documents so delivered will be the date shown in a delivery receipt generated by the facsimile machine or electronic mail program.~~

**4. Policy Review**

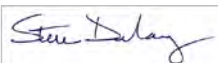
~~The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.~~

**5.) the Hearing Officer shall dismiss the Administrative Hearing-**  
**Policy History**

~~This policy was adopted by the Board of Retirement on February 19, 2002. It was amended on August 30, 2004, June 18, 2007, May 19, 2008, June 18, 2012 and December 14, 2015.~~

**Secretary's Certificate**

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



12/14/15

~~the initial determination or Committee recommendation shall become final as if no Request for Administrative Hearing had been filed. Steve Delaney Secretary of the Board~~

Date

# **Hearing Officer Selection and Retention Policy**

---

## **Purpose and Background**

1. The purpose of the Hearing Officer Selection and Retention Policy is to provide OCERS with a framework for selection and retention of Hearing Officers for administrative hearings. The Board of Retirement is charged with the responsibility of administering the System in a manner to assure prompt delivery of benefits and related services to plan participants and their beneficiaries. Selection of competent Hearing Officers must be made in a manner that assures the due process rights of plan participants and their beneficiaries are met.
2. Pursuant to Government Code Section 31533, the Board of Retirement has the right to appoint one of its own members to serve as a Hearing Officer in an administrative hearing. The procedures delineated in this policy apply only to external third party Hearing Officers.

## **Policy Objectives**

3. The objectives of the Hearing Officer Selection and Retention Policy are to:
  - a. Establish a procedure for the selection of Hearing Officers that complies with the due process rights of plan participants and their beneficiaries;
  - b. Establish a procedure for selection of Hearing Officers that assures only qualified, competent and impartial Hearing Officers are appointed;
  - c. Establish a procedure for monitoring and evaluating Hearing Officers' performance to assure that only qualified and competent Hearing Officers are retained after they have been appointed; and
  - d. Establish a procedure for assignment of Hearing Officers to individual cases that complies with the due process rights of plan participants and their beneficiaries.

## **Roles and Responsibilities**

4. The role of the Board of Retirement with respect to the selection of Hearing Officers is to:
  - a. Establish appropriate policies with respect to the selection and evaluation of Hearing Officers; and
  - b. Approve, upon the recommendation of the Hearing Officer Selection Panel, the appointment of Hearing Officers where it is determined that such Hearing Officers are qualified.
5. The role of the Disability Committee with respect to the selection of Hearing Officers is to:
  - a. Monitor compliance with Board of Retirement policies.
6. A Hearing Officer Selection Panel consisting of (i) the Chief Executive Officer, (ii) the General Counsel (iii) either the Assistant CEO for External Operations or the Director of Member Services; and (iv) either the Chair or Vice Chair of the Disability Committee shall be responsible for:
  - a. Interviewing and recommending to the Board of Retirement for its approval competent and qualified Hearing Officers in conformity with the Selection Process set forth in this Policy;
  - b. Evaluating the performance of Hearing Officers in accordance with the process for Hearing Officer Performance Evaluations set forth in this Policy;

## **Hearing Officer Selection and Retention Policy**

---

- c. Maintaining a list of Hearing Officers sufficient in number to meet OCERS' needs as set forth in this Policy.

### **Hearing Officer Qualifications**

7. All Hearing Officers must be members of the State Bar of California (Government Code Section 31533).
8. Additional factors for consideration when selecting Hearing Officers shall include the following:
  - a. Past experience as an adjudicator (e.g. judge, judge pro-tem, arbitrator etc.); and
  - b. Past experience in disability retirement or workers' compensation law.

### **Hearing Officer Selection and Retention Procedure**

#### ***The Selection Process***

9. Request for Proposals
  - a. Whenever the General Counsel determines that it is necessary in order to maintain a sufficient number of Hearing Officers, the Hearing Officer Selection Panel shall initiate a Request for Proposals (RFP).
  - b. At the discretion of the Chief Executive Officer, the RFP may be published in major legal periodicals, journals, and/or bar association magazines. The RFP may also be posted at OCERS' web site as well as other job related web sites. Further, the RFP may be sent to potential candidates that are brought to the attention of the Chief Executive Officer.
10. Selection Process
  - a. The Hearing Officer Selection Panel shall review the responses to the RFP and select qualified candidates for formal interviews.
  - b. The Hearing Officer Selection Panel shall conduct formal interviews of qualified candidates. At the Hearing Officer Selection Panel's discretion, writing samples, references, or other materials that would reflect on the candidate's ability to competently perform the duties of a Hearing Officer may be required. Based on these interviews and review of materials, the Hearing Officer Selection Panel shall compile a list of candidates that it recommends to the Board of Retirement for appointment as Hearing Officers.
  - c. Prior to submitting the list of recommended candidates to the Board of Retirement, the list shall be submitted to plan sponsors of OCERS, employee representation units of these plan sponsors, and attorneys who regularly represent OCERS members in administrative hearings. These entities and individuals shall be allowed a reasonable amount of time in which to comment on the list of proposed Hearing Officers.
  - d. Plan sponsors, employee representation units, attorneys or other interested individuals may provide additional comments with respect to the proposed list of candidates at the time that the Board of Retirement is to vote on the list of proposed Hearing Officers.
  - e. These selection procedures shall apply to all external third party Hearing Officers.

# **Hearing Officer Selection and Retention Policy**

---

## ***Hearing Officer Contracts***

### **11. Term of Appointment**

- a. Subsequent to appointment by the Board of Retirement, each Hearing Officer shall execute an independent contractor agreement (contract) to provide services as a Hearing Officer for OCERS. Among other terms, the contract shall allow for the termination of services by either party with cause.
- b. The contract shall provide for a term of seven years.

### **12. Expiration of Contract**

The contract shall terminate at the end of its seven year term, provided however, that the term may be extended by the Chief Executive Officer in order for the Hearing Officer to complete any appeals that are not yet final (as defined by the OCERS Administrative Hearing Rules) as of the end of the seven year term. Upon expiration of the contract, the Hearing Officer cannot reapply to serve as a Hearing Officer until two years after the expiration of the previous contract, and must participate in the Hearing Officer Selection Process again as a condition to being awarded a new contract.

### **13. Compliance with OCERS Rules**

- a. Each contract shall contain a provision whereby the Hearing Officer agrees that s/he will be bound by the OCERS Administrative Hearing Rules, which may be amended by OCERS from time to time, and that his or her duties shall be performed in a timely and efficient manner, including within the time frames set forth in the OCERS Administrative Hearing Rules.

### **14. Code of Judicial Ethics**

- a. Each contract shall contain a provision whereby the Hearing Officer agrees that he or she is subject to and bound by the provisions of subdivision D of Canon 6 of the Code of Judicial Ethics.

## ***Hearing Officer Performance Evaluations***

### **15. Evaluation Criteria**

- a. Quality of opinions
  - i. A record shall be maintained of the number of times that a Hearing Officer's recommendation is overturned by the Superior Court on a writ.
  - ii. Recommendations of the Hearing Officer shall be reviewed by the General Counsel or his or her designee to determine whether they are well reasoned and logically apply the law to the facts of a given case.
- b. Timeliness of opinions
  - i. A record shall be maintained of the number of times that a Hearing Officer's recommendation is issued after its due date.
  - ii. The record shall also include the number of recommendations issued by the Hearing Officer during the contract term.

### **16. Evaluation Process**

## **Hearing Officer Selection and Retention Policy**

---

- a. The Hearing Officer Selection Panel will evaluate each Hearing Officer based on the criteria listed in Section 15, above, within four years of his or her appointment.
- b. In addition, the Hearing Officer Selection Panel shall at any time during the term of the contract evaluate Hearing Officers to determine whether cause exists to terminate the contract with the Hearing Officer. Cause for termination includes, but is not limited to, a finding by the Hearing Officer Selection Panel that the Hearing Officer has repeatedly failed to submit Findings, Conclusions of Law and Recommendations in a timely manner, has engaged in fraudulent billing practices, or has been publicly disciplined by the State Bar of California.
- c. Based on the above referenced evaluations with respect to a particular Hearing Officer, the Chief Executive Officer or General Counsel may recommend to the Board of Retirement that it terminate the contract prior to its normal expiration date or take other appropriate action as necessary.

### **Miscellaneous**

#### ***Assignment of Cases***

17. OCERS staff shall review, maintain, and formalize a system that ensures that Hearing Officers are assigned cases on a random basis. The General Counsel or his or her designee shall oversee this process.

#### ***Number of Hearing Officers***

18. At all times, the Hearing Officer Selection Panel shall make all reasonable efforts to maintain a list of Hearing Officers sufficient in number to meet the needs of OCERS. The General Counsel will determine the number of Hearing Officers necessary to meet those needs based upon the following factors:
  - a. The average number of hearings per month during the calendar year;
  - b. The number of hearings per month assigned to each Hearing Officer;

#### ***Remuneration***

19. In order to help attract and retain the most qualified Hearing Officers possible, the General Counsel shall review, from time to time and before the issuance of any RFP, the contracted rate of pay for OCERS' Hearing Officers. The purpose of the review shall be to determine whether OCERS' rate of pay is competitive with current market rates paid for Hearing Officer services by other public retirement systems similarly situated to OCERS.
20. Based on this review, the General Counsel may recommend that the Board of Retirement consider modifications to the Hearing Officers' contracted rate of pay.

### **Document Terms**

21. For purposes of this policy, the term Hearing Officer shall have the same meaning as the term referee, as that term is used in the relevant sections of the California Government Code.



# Hearing Officer Selection and Retention Policy

---

## Policy Review

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

## Policy History

- 23. The Hearing Officer Selection and Retention Policy was originally approved and adopted by the Board of Retirement on April 17, 2000. It was amended on February 22, 2005 and May 16, 2005; reviewed on June 18, 2007 with no changes; and amended on August 23, 2010, January 21, 2014 and December 19, 2016.

## 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

# Hearing Officer Selection and Retention Policy

## Purpose and Background

1. The purpose of the Hearing Officer Selection and Retention Policy is to provide OCERS with a framework for selection and retention of Hearing Officers for administrative hearings. The Board of Retirement is charged with the responsibility of administering the System in a manner to assure prompt delivery of benefits and related services to plan participants and their beneficiaries. Selection of competent Hearing Officers must be made in a manner that assures the due process rights of plan participants and their beneficiaries are met.
2. Pursuant to Government Code Section 31533, the Board of Retirement has the right to appoint one of its own members to serve as a Hearing Officer in an administrative hearing. The procedures delineated in this policy apply only to external third party Hearing Officers.

## Policy Objectives

- 2.3. The objectives of the Hearing Officer Selection and Retention Policy are to:
- a. Establish a procedure for the selection of Hearing Officers that complies with the due process rights of plan participants and their beneficiaries;
  - b. Establish a procedure for selection of Hearing Officers that assures only qualified ~~and~~, competent and impartial Hearing Officers are appointed;
  - c. Establish a procedure for monitoring and evaluating Hearing Officers' performance to assure that only qualified and competent Hearing Officers are retained after they have been appointed; and
  - d. Establish a procedure for assignment of Hearing Officers to individual cases that complies with the due process rights of plan participants and their beneficiaries.

## Roles and Responsibilities

- 3.4. The role of the Board of Retirement with respect to the selection of Hearing Officers is to:
- a. Establish appropriate policies with respect to the selection and evaluation of Hearing Officers; and
  - ~~b. Monitor compliance with such policies.~~
  - e.b. Approve, upon the recommendation of the Hearing Officer Selection Panel, the appointment of Hearing Officers where it is determined that such Hearing Officers are qualified.
5. The role of the Disability Committee with respect to the selection of Hearing Officers is to:
- a. Monitor compliance with Board of Retirement policies.
- 4.6. A Hearing Officer Selection Panel consisting of (i) the Chief Executive Officer, (ii) the ~~Chief Legal Officer~~ and General Counsel (iii) either the Assistant CEO for External Operations or the Director of Member Services; and (iv) either the Chair or Vice Chair of the Disability Committee shall be responsible for:
- a. ~~Interviewing and recommending to the Board of Retirement for its approval competent and qualified Hearing Officers in conformity with the Selection Process set forth in this Policy;~~

## Hearing Officer Selection and Retention Policy

- b. Evaluating the performance of Hearing Officers in accordance with the process for Hearing Officer Performance Evaluations set forth in this Policy;
- c. Maintaining a list of Hearing Officers sufficient in number to meet OCERS' needs as set forth in this Policy.

### ~~Hearing Officer Selection and Retention Procedure~~

#### ~~The Selection Process~~

##### ~~5.1 Request for Proposals~~

- ~~a. In order to generate a list of Hearing Officers, a Request for Proposals shall be prepared.~~
- ~~b. At the discretion of the Chief Executive Officer, the Request for Proposals may be run in all major legal periodicals, journals, and/or bar association magazines. The Request for Proposals may also be posted at OCERS' web site as well as other job related web sites. Further, the Request may be sent to potential candidates that are brought to the Chief Executive Officer's attention.~~

### Hearing Officer Qualifications

- ~~6.7.1. The All Hearing Officer candidate Officers~~ must be ~~a member~~members of the State Bar of California (Government Code Section 31533).
- ~~7.8.2.~~ Additional factors for consideration when selecting Hearing Officers shall include the following:
  - a. Past experience as an adjudicator (e.g. judge, judge pro-tem, arbitrator etc.); and
  - b. Past experience in disability retirement or workers' compensation law.

### Hearing Officer Selection and Retention Procedure

#### The Selection Process

##### 9. Request for Proposals

- a. Whenever the General Counsel determines that it is necessary in order to maintain a sufficient number of Hearing Officers, the Hearing Officer Selection Panel shall initiate a Request for Proposals (RFP).
- b. At the discretion of the Chief Executive Officer, the RFP may be published in major legal periodicals, journals, and/or bar association magazines. The RFP may also be posted at OCERS' web site as well as other job related web sites. Further, the RFP may be sent to potential candidates that are brought to the attention of the Chief Executive Officer.

##### 8.10. Selection Process

- a. ~~1.~~ The Hearing Officer Selection Panel shall review the responses to the ~~Request for Proposals~~RFP and select qualified candidates for formal interviews.



## Hearing Officer Selection and Retention Policy

- b. ~~2.~~—The Hearing Officer Selection Panel shall conduct formal interviews of qualified candidates. At the Hearing Officer Selection Panel’s discretion, writing samples, references, or other materials that would reflect on the candidate’s ability to competently perform the duties of a Hearing Officer may be required. Based on these interviews and review of materials, the Hearing Officer Selection Panel shall compile a list of candidates that it recommends to the Board of Retirement for appointment as Hearing Officers.
- c. ~~3.~~—Prior to submitting the list of recommended candidates to the Board of Retirement, the list shall be submitted to plan sponsors of OCERS, employee representation units of these plan sponsors, and attorneys who regularly represent OCERS members in administrative hearings. These entities and individuals shall be allowed a reasonable amount of time in which to comment on the list of proposed Hearing Officers.
- d. ~~4.~~—Plan sponsors, employee representation units, attorneys or other interested individuals may provide additional comments with respect to the proposed list of candidates at the time that the Board of Retirement is to vote on the list of proposed Hearing Officers.
- e. ~~5.~~—These selection procedures shall apply to all external third party Hearing Officers.

### Hearing Officer Contracts

#### ~~9.11.~~ Term of Appointment

- a. Subsequent to ~~approval for~~ appointment by the Board of Retirement, each Hearing Officer shall execute an independent contractor agreement (contract) to provide services as a Hearing Officer for OCERS. Among other terms, the contract shall allow for the termination of services by either party with cause.
- b. The contract shall provide for a term of seven years.

#### ~~10.12.~~ Expiration of Contract

The contract shall terminate at the end of its seven year term, provided however, that the term may be extended by the Chief Executive Officer in order for the Hearing Officer to complete any appeals that are not yet final (as defined by the OCERS Administrative Hearing Rules) as of the end of the seven year term. Upon expiration of the contract, the Hearing Officer ~~shall be required to participate in the Hearing Officer selection process again as a condition to being awarded a new contract. In addition, the Hearing Officer~~ cannot reapply to serve as a Hearing Officer until two years after the expiration of the previous contract, and must participate in the Hearing Officer Selection Process again as a condition to being awarded a new contract.

#### ~~A.~~—Income

- ~~1.—Each contract shall contain a provision whereby the Hearing Officer is required to provide yearly written certification that the annual income that the Hearing Officer derives from OCERS shall not exceed 33% of the Hearing Officer’s annual earned income from all other sources in that same year. Such certification shall be due at each anniversary of the date the contract was executed.~~

#### 13. Compliance with OCERS Rules

## Hearing Officer Selection and Retention Policy

- a. Each contract shall contain a provision whereby the Hearing Officer agrees that s/he will be bound by the OCERS Administrative Hearing Rules, which may be amended by OCERS from time to time, and that his or her duties shall be performed in a timely and efficient manner, including within the time frames set forth in the OCERS Administrative Hearing Rules.

### 11.14. Code of Judicial Ethics

- a. Each contract shall contain a provision whereby the Hearing Officer agrees that he or she is subject to and bound by the provisions of subdivision D of Canon 6 of the Code of Judicial Ethics.

### *Hearing Officer Performance Evaluations*

#### 12.15. Evaluation Criteria

- a. Quality of opinions
  - i. a.—A record shall be maintained of the number of times that a Hearing Officer’s recommendation is overturned by the Superior Court on a writ.
  - ii. b.—Recommendations of the Hearing Officer shall be reviewed by the Chief Legal OfficerGeneral Counsel or his or her designee to determine whether they are well reasoned and logically apply the law to the facts of a given case.
- b. Timeliness of opinions
  - i. A record shall be maintained of the number of times that a Hearing Officer’s recommendation is issued beyond the requiredafter its due date during the contract term.
  - ii. The record shall also include the number of opinionsrecommendations issued by the Hearing Officer during the contract term.

#### 13.16. Evaluation Process

- a. The Hearing Officer Selection Panel will evaluate alleach Hearing OfficersOfficer based on the criteria listed in Section A15, above, within four years of theirhis or her appointment.
- b. In addition, the Hearing Officer Selection Panel shall at any time during the term of the contract performevaluate Hearing Officer evaluations for determination ofOfficers to determine whether cause exists to terminate the contract with the Hearing Officer. Cause for termination includes, but is not limited to, a finding by the Hearing Officer Selection Panel that the Hearing Officer has repeatedly failed to submit Findings, Conclusions of Law and Recommendations in a timely manner, has engaged in fraudulent billing practices, or has been publicly disciplined by the State Bar of California.
- c. Based on the above referenced evaluations with respect to a particular Hearing Officer, the Chief Executive Officer or Chief Legal OfficerGeneral Counsel may recommend to the Board of Retirement that it terminate the contract prior to its normal expiration date or take other appropriate action as necessary.

# Hearing Officer Selection and Retention Policy

## Miscellaneous

### *Assignment of Cases*

~~14.17.~~ OCERS staff shall review, maintain, and formalize a system that ensures that Hearing Officers are assigned cases on a random basis. The ~~Chief Executive Officer~~General Counsel or his or her designee shall oversee this process.

### *Number of Hearing Officers*

~~15.18.~~ At all times, the Hearing Officer Selection Panel shall make all reasonable efforts to maintain a list of Hearing Officers sufficient in number to meet the needs of OCERS. The ~~Chief Legal Officer~~General Counsel will determine the number of Hearing Officers necessary to meet those needs based upon the following factors:

- a. The average number of hearings per month during the calendar year;
- b. The number of hearings per month assigned to each Hearing Officer;

~~→ Whether there are a sufficient number of Hearing Officers on the panel to ensure that no Hearing Officer is assigned cases which will cause his or her income from OCERS to exceed 33% of his or her annual compensation from all other sources~~

~~The Hearing Officer Selection Panel shall initiate a Request for Proposals whenever the Chief Legal Officer determines that this action is necessary in order to maintain the appropriate number of Hearing Officers.~~

### *Right to Appoint Board Members*

~~Pursuant to Government Code Section 31533, the Board of Retirement has the right to appoint one of its own members to serve as a Hearing Officer in an administrative hearing. The procedures delineated in this policy apply to external third party Hearing Officers only.~~

### *Remuneration*

~~16.19. A.~~ In order to help attract and retain the most qualified Hearing Officers possible, the ~~Chief Legal Officer~~General Counsel shall review, ~~on an annual basis from time to time and before the issuance of any RFP,~~ the contracted rate of pay for OCERS' Hearing Officers. The purpose of the review shall be to determine whether OCERS' rate of pay is competitive with current market ~~rates paid~~rates paid for Hearing Officer services by other public retirement systems similarly situated to OCERS.

~~17.20. B.~~ Based on this review, the ~~Chief Legal Officer~~General Counsel may recommend that the Board of Retirement consider modifications to the Hearing Officers' contracted rate of pay.

## Document Terms

~~18.21.~~ For purposes of this policy, the term Hearing Officer shall have the same meaning as the term referee, as that term is used in the relevant sections of the California Government Code.

# **Hearing Officer Selection and Retention Policy**

---

## **Policy Review**

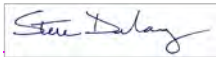
**19-22.** The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

## **Policy History**

**20-23.** The Hearing Officer Selection and Retention Policy was originally approved and adopted by the Board of Retirement on April 17, 2000. It was amended on February 22, 2005 and May 16, 2005; reviewed on June 18, 2007 with no changes; and amended on August 23, 2010, January 21, 2014 and December 19, 2016.

## **Secretary's Certificate**

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



**12/19/16**

Steve Delaney  
Secretary of the Board

Date

# Disability & Benefit Adjudication Reform

Gina M. Ratto, General Counsel

Lee Fink, Deputy General Counsel

# Adjudication Policy Reform

## *The Road to Here*

- **Summer 2017**
  - Legal Department review of Administrative Hearing process, prior studies performed for OCERS, and research of legal issues.
- **September 5, 2017 Governance Committee Meeting**
  - Staff presents initial concepts to Governance Committee. Governance Committee makes numerous suggestions, including the use of a Disability Committee and methods to insure fairness of hearing officers.
- **October 24, 2017 Governance Committee Meeting**
  - Staff presents revised policies and hearing rules and draft Charter for the Disability Committee to Governance Committee. Governance Committee makes several changes, approves concepts, and asks for additional information.
- **November 29, 2017 Governance Committee Meeting**
  - Governance Committee approves revised Disability Committee Charter, final process changes and related policy documents for recommendation to the Board.

# Adjudication Policy Reform

## *The Road Ahead*

- **December 18, 2017 Board Meeting**
  - Board of Retirement “first reading” of proposals and solicitation of feedback from Board members.
- **December 2017/January 2018**
  - Staff outreach to Stakeholders (Unions, REAOC, Hearing Officers, Applicant Attorneys, Plan Sponsors).
- **January 16, 2018 Board Meeting**
  - Staff response to information requests, revisions of policy documents based on Board feedback, and review of stakeholder input.
- **January 16, 2018 or February 13, 2018 Board Meeting**
  - Potential final adoption by the Board.
- **Winter/Spring 2018**
  - Staff implementation of new procedures, including new OAPs and contracts with Hearing Officers and other service providers.

# OCERS Values

## *The Map That Guided Us*

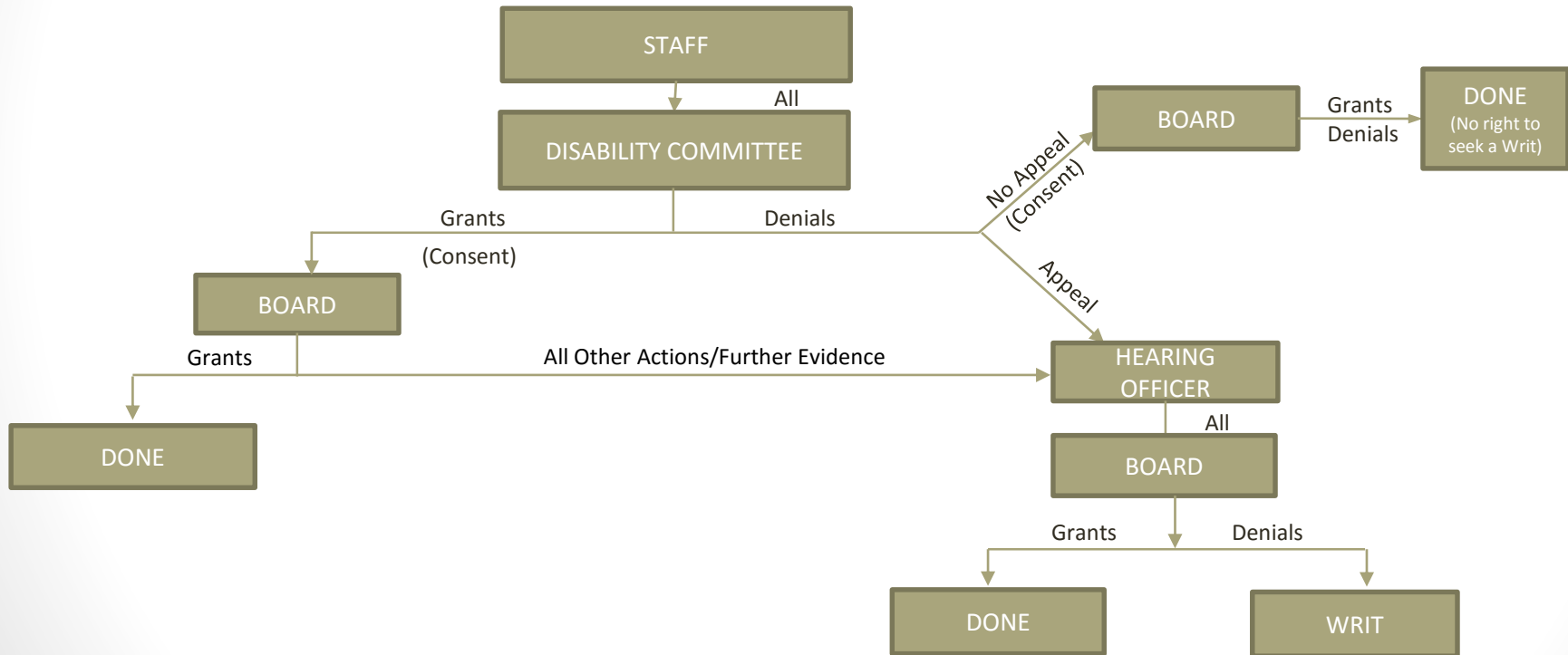
- **Open and Transparent**
- **Commitment to Superior Service**
- **Engaged and Dedicated Workforce**
- **Reliable and Accurate**
- **Secure and Sustainable**



# Advantages of New Process

- Members' rights are protected
- Adjudications made accurately
- Clear standards for accountability
- Clear and transparent timelines for the process
- More expedient adjudication process through timelines and added efficiencies
- More efficient use of OCERS Board and staff time and system resources

# Proposed New Process for Disability Cases



# Initial Staff Review of Disability Applications

- Member application reviewed by staff
- Medical examinations scheduled and conducted
- Staff formulates initial recommendation
- New metrics built into OCERS Administrative Process (OAP) and contracts with panel physicians to give timeline for initial decision

# Disability Committee

- New committee of the Board
- Comprised of three Board Members
  - 2 Elected Members
  - 1 Appointed/Ex-Officio
  - 1 Alternate (any member, “on-call” only)
- Reviews Disability Applications and makes recommendation
- Appeals of Disability Committee Decisions go to Administrative Hearings
- Committee Recommendations with no appeal go to Board on Consent Agenda
- Committee provides oversight for Disability Adjudication Process

# Disability Appeal By Member

- Member has 90 days after Disability Committee action to request an Administrative Hearing
- If no appeal, Member's application placed on Board Consent Agenda
- Administrative Hearing Rules revised with clear timelines, streamlined requirements, and pilot Expedited Administrative Review Process (see below)

# Administrative Hearing Rules

- **Scheduling conference to set hearing dates**
  - Common practice in state and federal court
  - Avoids delay and confusion regarding hearing requirements
- **Set timelines for pre-hearing and post-hearing briefs**
  - Timelines set out in the rules are transparent for members
- **Set timeline for Hearing Officer's Recommended Decision**
  - Creates accountability for Hearing Officers
- **Hearing Officer can only continue the dates for good cause**
  - Avoids unnecessary delays
- **Post-Hearing Objections filed directly with Board**
  - Current process has long period for each party to respond and Hearing Officer respond, but the result is unlikely to change

# Hearing Officer Selection Policy

- Add the Disability Committee Chair or Vice-Chair to the Hearing Officer Selection Panel
- Retain Member's right to one preemptory challenge of the assigned Hearing Officer, but eliminate OCERS' right of preemptory challenge

# Optional Expedited Administrative Review

- No witnesses or testimony, just review of the record
- Each side may submit additional evidence within 30 days
- Each side may submit short (5-page) Statement of Issues
- Hearing Officer has 60 days to issue Proposed Findings of Fact and Recommended Decision
- Post-Hearing Objections filed directly with Board



# Board Action On Disability Applications

- Disability Committee's Recommended Action
  - Consent agenda for "grants" and when member does not appeal "denial"
- After hearing, presentation of Hearing Officer Recommended Decision
- Discussions held in Closed Session to include:
  - *Board and staff (clerk, AV support, etc.)*
  - *OCERS Disability Staff*
  - *OCERS Legal Staff (as advocate for staff position)*
  - *Member and Counsel*
  - *Employer/Plan Sponsor and Counsel (if any)*
  - *OCERS GC (or lawyer designated as advisor to the Board)*

# Non-Disability Benefit Appeal Process

- One level of internal appeal – to the CEO or his or her designee
  - Staff to continue the collaborate approach to resolving member benefit disputes
- Member right of direct appeal to Hearing Officer after CEO determination
  - Expedited Review Process may be appropriate option
- Presentation of Hearing Officer Recommended Decision to the Board for Board final action

# Implementation

## *The Road Ahead (cont.)*

- Board Feedback
- Stakeholder Outreach
- Additional Research/Questions/Changes From Staff
- Board adopts Disability Committee Charter
- Board adopts changes to Adjudication Policy and Hearing Rules
- Board adopts changes to the Hearing Officer Selection Policy
- Staff issues new OAPs
- Staff amends contracts with Panel Physicians, Hearing Officers, and Court Reporters
- Staff implements new process

# APPENDIX

# Administrative Hearing Results: 2012-2016

Year	Denials/Total Applications (%)	Appeals (% of Denials)	Overtured by HO	Affirmed by HO	Pending Hearing*	Affirm Percentage
2012	27/65 (42%)	16 (59%)**	9	3	3	25%
2013	25/64 (39%)	9 (36%)	3	3	3	50%
2014	22/79 (28%)	14 (64%)	6	2	6	25%
2015	18/91 (20%)	8 (44%)	0	1	7	100%
2016	17/90 (19%)	10 (59%)	1	0	9	0%
<b>Total</b>	<b>109/299 (36%)</b>	<b>57 (52%)</b>	<b>19</b>	<b>9</b>	<b>28</b>	<b>32%</b>

\*Pending includes matters waiting for Final Board action and matters where the Member's right to seek a Writ may not have expired.

\*\* Includes one voluntary dismissal.

# Data on Disability Cases and Resource Commitment

- Disability Applications in Each Year < 100
  - Less than ¼% of all OCERS members
- Disability Agenda in 2017 = 6005 pages
  - 70% of OCERS Board Agenda Pages
- Board reviews every disability case that goes to hearing at least twice and often three or more times

2017	Regular Calendar Pages	Disability Calendar Pages
January	228	567
February	274	900
March	212	1283
April	227	322
May	317	409
June	707	544
July	202	811
August	400	1169
Totals	2567(30%)	6005 (70%)

# Data on Disability Cases and Resource Commitment (cont.)

- Board Rejects Staff Recommendation less than 4% of the time

Board Action on Disability Applications, 2012-August 2017							
	2012- Present	2017*	2016	2015	2014	2013	2012
Return to Staff/Other	13 (3.6%)	2	5	1	1	3	1
Second Medical Opinion	10 (2.8%)	0	4	3	0	2	1
Alternate Recommendation	13 (3.6%)	2	5	2	0	3	1
Accept Staff Recommendation	324 (90%)	57	76	85	78	56	62
<b>Total Cases</b>	<b>360</b>	<b>61</b>	<b>90</b>	<b>91</b>	<b>79</b>	<b>64</b>	<b>65</b>

\* through August 2017

# Data on Disability Cases and Resource Commitment(cont.)

- **OCERS Investment Fund has tripled since 2003**
  - \$4.7 Billion at the end of 2003
  - \$15 Billion today
  - Expected to reach \$30 Billion by 2030.
- **Number of retired members and beneficiaries has nearly doubled since 2003**
  - 9,079 retired members and beneficiaries in 2003
  - 16,369 retired members and beneficiaries at the end of 2016
- **Disability applications increased 50% since 2009**
  - 56 disability applications in 2009
  - 84 disability applications in 2016
- **Current process not sustainable with continued growth**



# Summary of CERL Systems Surveyed

County	Administrative Hearing	Open/Closed	Agenda
OCERS	Board Denial	Open Session (or Closed by Request of Member*)	Regular
Alameda	Staff Denial	Closed Session	Consent
Contra Costa	Staff Denial	Closed Session	Consent
Fresno	Board Denial	Closed Session	Regular
Imperial	Board Denial	Closed Session	Regular
Kern	Staff Denial	Closed Session	Consent
Los Angeles	Board Denial	Closed Hearing	Consent
Mendocino	Board Denial	Closed Session	Regular
San Bernardino	Board Denial	Closed Hearing	Consent
San Diego	Staff Denial or Board Denial	Open (or Closed by Request of Member)	Consent
San Joaquin	Staff Denial	Closed Session	Consent
Sonoma	Board Denial	Closed Session	Regular
Stanislaus	Board Denial	Closed Session	Consent
Tulare	Board Denial	Closed Session	Regular

\* Members rarely request closed session

**A-4**



## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT: OCERS' INTERNAL REVENUE CODE SECTION 415(M) AMENDED AND RESTATED REPLACEMENT BENEFIT PLAN**

---

### Recommendation

Adopt an Amended and Restated Replacement Benefit Plan for OCERS, as an employer, to further document and supplement existing policies and practices of OCERS as an employer and retirement system administrator governing the payment of retirement benefits to OCERS members that are otherwise capped by Internal Revenue Code section 415(b).

### Background

Internal Revenue Code (IRC) section 415(b) (Section 415(b)) imposes a cap on the amount of retirement benefits that can be paid to governmental plan retirees (the 415(b) Limit); and the cap in some instances is lower than the amount of the benefit that would otherwise be paid under the applicable retirement formula. However, IRC section 415(m) permits governmental employers, including employers participating in OCERS, to establish excess benefit arrangements (generally referred to as replacement benefit plans) to make up the difference between the 415(b) Limit and what System retirees would otherwise be entitled to receive.

Chapter 3.9 (Sections 31899 through 31899.9) was added to the CERL in 1990 to reflect the provisions of Section 415(b) and to ensure compliance with federal tax laws. (A copy of Chapter 3.9 is attached.) Subsequently, Section 31899.4 was added effective January 1, 2004, to mandate that every CERL system employer establish a replacement benefit program as permitted by IRC section 415(m). Specifically, subdivision (e) of Section 31899.4 provides that, "[t]he county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program."

In 2004 and 2005, OCERS staff engaged with OCERS' participating employers to draft and implement internal procedures to ensure compliance with the 415(b) Limit and Section 31899.4. This engagement resulted in OCERS adopting and implementing, in January 2006, a detailed 415(b) Policy & Operational Process (the "415(b) Policy") designed both to ensure that the retirement benefits paid by OCERS will conform to the 415(b) Limit and to assist participating employers (including OCERS) in meeting their obligations under Section 31899.4 to establish a replacement benefit program. As such, OCERS has intended that the 415(b) Policy would serve as the required "written documentation" called for by Section 31899.4(e)<sup>1</sup>. (A copy of the 415(b) Policy is attached.)

---

<sup>1</sup> In late 2005, a few larger OCERS employers including the County, the Fire Authority and the Sanitation District formally adopted written replacement benefit plans that supplement or compliment the 415(b) Policy. The City of San Juan Capistrano adopted a replacement benefit plan in 2015. These plans are consistent with the 415(b) Policy.

In brief, under the 415(b) Policy, OCERS regularly monitors retiree benefit levels and notifies participating employers when any of their retirees' anticipated benefit amounts are within 85% of the 415(b) Limit. In those situations, OCERS' actuaries then conduct a more detailed analysis of the retiree's benefit calculations; and OCERS staff coordinates communications with both the employer and the retiree regarding the status of the 415(b) limit. Like some of the smaller employers participating in the OCERS plan, OCERS, as an employer, has relied upon the 415(b) Policy as OCERS' written documentation of a replacement benefit program for OCERS direct employees.<sup>2</sup> The passage of PEPRA in 2012, however, created some uncertainty regarding what constitutes acceptable written documentation of a replacement benefit plan. PEPRA prohibits public employers from offering replacement benefits to employees hired after January 1, 2013 (the effective date of PEPRA), but states that public retirement systems may continue to administer replacement benefit plans for employees hired prior to January 1, 2013 (i.e., legacy members). PEPRA also prohibits employers from beginning to offer replacement benefits to legacy members if those benefits were not offered prior to January 1, 2013, and from extending replacement benefits to legacy member groups not offered such benefits prior to January 1, 2013.

Although staff believes a strong argument can be made that the 415(b) Policy constitutes acceptable written documentation of OCERS' replacement benefit plan, staff and external tax counsel recommend, out of an abundance of caution, that OCERS as an employer formally adopt an Amended and Restated Replacement Benefit Plan (Plan), that is separate from the 415(b) Policy but that relies upon and incorporates by reference the 415(b) Policy and adds details such as treatment of domestic relations orders, error correction, appeals procedures and integration with PEPRA. The Plan reflects the replacement benefit plan that OCERS has offered to its employees since the adoption of the 415(b) Policy, and does not add any OCERS employees not already covered by the 415(b) Policy or grant any benefits not already guaranteed by CERL Section 31899.4 and the 415(b) Policy. A copy of the proposed Plan is attached. Staff has consulted with both fiduciary and tax counsel, and both concur with staff's recommendation and agree that PEPRA is not an impediment to the Board approving the Plan.

Attachments:

- (1) CERL Chapter 3.9, Sections 31899, *et. seq.*
- (2) OCERS' 415(b) Policy
- (3) Proposed Amended and Restated Replacement Benefit Plan

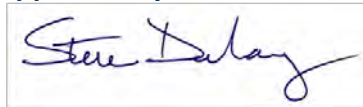
**Submitted by:**



---

Gina M. Ratto  
General Counsel

**Approved by:**



---

Steve Delaney  
Chief Executive Officer

---

<sup>2</sup> OCERS has yet to have any OCERS-direct employee/retiree exceed or come within 85% of the 415(b) Limit.

California Government Code  
Title 3. Division 4. Part 3. Chapter 3.9

**§. 31899 Purpose**

(a) The purpose of this chapter is to ensure the federal tax- exempt status of the county employees' retirement systems, to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions, and to ensure that members are provided with retirement and other related benefits that are commensurate, to the extent deemed reasonable, with the services rendered without violating the intent and purposes of Section 415 of the Internal Revenue Code.<sup>1</sup>

(b) To achieve this purpose, this chapter incorporates certain pension payment limitations and elects the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code. Also, this chapter provides for certain replacement benefits.

(c) On or after January 1, 2013, the application of this chapter is limited as specified in Section 7522.43.

**§ 31899.1. Definitions**

(a) The definitions in Chapter 3 (commencing with Section 31450) of this part shall apply to this chapter.

(b) The term "Internal Revenue Code" includes all regulations, revenue rulings, notices, and revenue procedures issued by the Internal Revenue Service.

**§ 31899.2. First time members on or after Jan. 1, 1990; payment limitations; grandfather election; counties of first class; application**

(a) In accordance with Section 31899.3, the retirement benefits for any person who for the first time became a member of the system on or after January 1, 1990, shall be subject to the payment limitations of Section 415 of the Internal Revenue Code. The retirement benefits for any person who became a member of the system before January 1, 1990, also shall be subject to the payment limitations of Section 415 of the Internal Revenue Code to the extent that those benefits are not exempt from those limitations under the "grandfather" election that has been made under that section and this section.

(b) The "grandfather" election in Section 415(b)(10) of the Internal Revenue Code is hereby made. All members of a retirement system who joined the system prior to January 1, 1990, are exempt from the Section 415 limits to the extent permitted by the Internal Revenue Code.

(c) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

**§ 31899.3. Impact of I.R.C. upon retirement rights; notice to employers; counties of first class**

(a) Notwithstanding any other provision of law, the retirement rights conferred by this chapter and by Chapter 3 (commencing with Section 31450) of this part upon any person who for the first time becomes a member of a retirement system on or after January 1, 1990, shall be subject to the limitations in the Internal Revenue Code upon benefits that may be paid by public retirement systems. That person may not have any retirement right or benefit that exceeds those limitations, and no retirement right or benefit may

California Government Code  
Title 3. Division 4. Part 3. Chapter 3.9

accrue to or vest in that person under Chapter 3 (commencing with Section 31450) that exceeds those limitations. That person may, however, have retirement rights and benefits under the replacement benefits program established under this chapter.

(b) Each retirement board shall provide to each employer a notice of the content and effect of subdivision (a) for distribution, prior to employment, to each person who may become a member and to each person who for the first time becomes a member on or after January 1, 1990.

(c) Chapter 3 (commencing with Section 31450) shall be construed as if it included this section.

(d) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

**§ 31899.4. Replacement benefits program**

(a) Each county and district shall provide a program to replace the benefits that are limited by Section 415 of the Internal Revenue Code for members whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Section 31538. The replacement benefits program shall provide benefits that, together with the benefits provided by the retirement system, are the same as, and may not exceed, the benefits that would be paid by the retirement system but for the application of the limits of Section 415. Notwithstanding the foregoing, the county or district may modify its replacement benefits program and may add, modify, or eliminate any replacement benefits, as necessary, to carry out the purpose of this chapter. A replacement benefit may not be reduced if the reduction would impair the vested rights of any person.

(b) Each county shall establish and administer its own replacement benefits program for members whose retirement benefits are limited by Section 415 of the Internal Revenue Code.

(c) A county may, pursuant to a contract with a district, agree to administer the district's replacement benefits program for the district's members whose retirement benefits are limited by Section 415 of the Internal Revenue Code. The county may charge each district a reasonable fee for administering the district's program and the county and district may agree on any other conditions relating to that administration. If a district does not contract with the county to administer its replacement benefits program, it shall establish and administer its own replacement benefits program.

(d) Upon the recommendation of the retirement system's actuary, and in accordance with its obligation to recommend county and district contribution rates under Sections 31453 and 31453.5, the board shall adjust the contributions required to be made by a county or district to the extent that benefits are payable under a replacement benefits program of that county or district.

(e) The county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program.

(f) Notwithstanding any other provision of this chapter, a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, is not required to provide replacement benefits to any member under this

California Government Code  
Title 3. Division 4. Part 3. Chapter 3.9

section if that member participates in General Plan F or Safety Plan F under Article 2.1 (commencing with Section 31510) of Chapter 3.

**§ 31899.5. Administration of replacement benefits program**

Each county, and each district that establishes its own replacement benefits program, shall administer the replacement benefits program established by it pursuant to this chapter. The board may, pursuant to an agreement with the county or the district that establishes its own program, assist in the administration of the replacement benefits program to the extent permitted under the Internal Revenue Code.

**§ 31899.6. Nonconformity with I.R.C. § 415; inoperative effect on Chapters 3 and 3.9**

If the Internal Revenue Service determines that any provision of Chapter 3 (commencing with Section 31450) of this part or this chapter cannot be given effect without placing a retirement system administered under this chapter or Chapter 3 (commencing with Section 31450) of this part out of conformity with Section 415 of the Internal Revenue Code, that provision, only to the extent that it causes that nonconformity and only with respect to the affected parties shall become inoperative with respect to the payment of benefits pursuant to Chapter 3 (commencing with Section 31450) of this part, as of the effective date of the determination. The retirement board shall notify the Secretary of State of inoperation under this section.

**§ 31899.7. Exclusion of public retirement systems; invalidation of application of I.R.C. § 415; inoperation of chapter; action by retirement board**

(a) If Section 415 of the Internal Revenue Code is amended to exclude public retirement systems, or if the application of Section 415 of the Internal Revenue Code to public retirement systems is invalidated by the final decision of an appellate court of proper jurisdiction, all sections of this chapter, except this section, shall become inoperative as of the effective date of that amendment or decision. The retirement board shall immediately notify the Secretary of State whenever any provision of this chapter becomes inoperative pursuant to this section.

(b) Whenever all sections of this chapter, except this section, become inoperative pursuant to this section, and to the extent not prohibited by the Internal Revenue Code, the retirement board, county, and districts shall do all of the following:

- (1) Remove the pension limitations imposed by Section 415 of the Internal Revenue Code for prospective payments to annuitants.
- (2) Eliminate the replacement benefits, and pay benefits that are due under the system to the affected annuitants without regard to any limitations of Section 415 of the Internal Revenue Code.
- (3) Take any and all other actions they deem necessary and feasible.

**§ 31899.8. Legislative intent; compliance with I.R.C.; legislative findings and declarations; costs**

California Government Code  
Title 3. Division 4. Part 3. Chapter 3.9

It is the sole intent of the Legislature, in enacting this chapter, to fully comply with the provisions of the Internal Revenue Code that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the county employees' retirement systems, to elect the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code, and to require that each county and district provide benefits that replace the benefits that are limited by Section 415 of the Internal Revenue Code for affected members of the county employees' retirement systems.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of the Internal Revenue Code are a federal mandate within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2, as construed in *City of Sacramento v. State of California* (50 Cal. 3d 51).

It is the intent of the Legislature that this chapter not be construed to impose upon local public agencies that are maintaining county retirement systems pursuant to Chapter 3 (commencing with Section 31450) of this part, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2.

If either the Commission on State Mandates or a court determines that this chapter imposes upon any local agency, state-mandated local program benefit costs, notwithstanding any other provision of law, no reimbursement therefor shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 or from any other state fund.

**§ 31899.9. Amendment of chapter; reservation of power; memorandums of understanding**

The Legislature reserves the power and right to amend this chapter, as needed to effect its purposes. This chapter shall be controlling over any memorandum of understanding reached between employers and employees pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.





**Orange County  
Employees' Retirement System**

---

**415(b) Policy & Operational Process**



## IRC §415(b) Limit Screening and Capping Process

### 1 SCOPE

#### 1.1 What's included

This business process covers the following:

- Screening of OCERS' payee records to identify those who will come within 85% of the annual IRS General or IRS Safety 415(b) limits as applicable.
- Determination of 415(b) limitation eligibility or exclusion.
- Referral to OCERS' actuary for individual limit calculation.
- Monitoring total benefit payment status and implementing caps as adjustments to specific benefit payments.
- Communication with the plan sponsors to provide information needed to make payments under a 415(m) replacement benefits program.
- Communication of 415(b) and 415(m) requirements and policies to all members, and specific communication to those payees who may be subject to 415(b) limitation.
- Process for re-calculation of individual member caps to reflect changes in IRS limits and OCERS' annual COLA grant.
- Process for the administration of the plan sponsors' 415(m) replacement benefits program.
- Reconciliation of payee benefits capped under 415(b) with payments made under 415(m).

#### 1.2 What's NOT included

- The detailed actuarial calculations used to determine the unique individual 415(b) limitations.

### 2 POLICY OVERVIEW

Internal Revenue Code §415(b) limits the annual benefit that can be accrued or paid to a participant under a defined benefits plan. This statement, taken from an IRS publication is deceptively simple, when in fact the rules surrounding §415(b) limitations are extremely complex and subject to interpretation.

OCERS has worked to ensure absolute compliance with the §415(b) limitations, while continuing to safeguard its member's interests. This document outlines the screening and benefit limitation process that OCERS will follow in conjunction with its Actuary and Legal Counsel, to identify and address those Members and their associated payees who are subject to benefit capping under §415(b) and eligible for replacement benefit payments under an employer-sponsored §415(m) program.



### 3 STAKEHOLDERS

Below are the stakeholders in this process and an outline of their respective responsibilities:

Stakeholder	Responsibilities / Relation to process
Retirees (& other non-member monthly benefit recipients)	<ul style="list-style-type: none"> <li>• Those eligible will be subject to benefit capping as dictated by IRC§415(b) and OCERS policy. Those payees who are subject to benefit limitation will be eligible to receive replacement benefit payments under an IRC §415(m) program.</li> </ul>
Information Technology Department	<ul style="list-style-type: none"> <li>▪ Will support the tools and systems that have been developed or modified for the §415(b) and §415(m) processes.</li> </ul>
Member Services Department	<ul style="list-style-type: none"> <li>▪ Will run quarterly “soft screening” reports to identify any new payees who are projected to come within 85% of the 415(b) limits.</li> <li>▪ Will review all payees’ records on the quarterly screening, and refer those who are <b>not</b> exempt to the actuary for specific limit calculation.</li> <li>▪ Will enter individual caps and other calculation components into the PensionGold member records when received from the actuary.</li> <li>▪ Will run monthly limit “hard screen” reports in conjunction with normal payroll.</li> <li>▪ Will issue communication with payees subject to capping.</li> <li>▪ Will enter 415(b) adjustments for those payees whose benefits must be capped.</li> </ul>
Member Services Manager	<ul style="list-style-type: none"> <li>▪ Will review and sign off on quarterly screening report.</li> <li>▪ Will serve on the review committee of senior managers responsible for payee file review prior to referral to the Actuary.</li> </ul>





	<ul style="list-style-type: none"> <li>Will review and sign off on the 415(b) adjustments.</li> <li>Will ensure that appropriate counseling is being given to retirees and other payees who may be subject to 415(b) limits.</li> <li>Will forward screening and capping reports to the Accounting Department.</li> </ul>
Accounting Department	<ul style="list-style-type: none"> <li>Will forward funding request and associated reports to the plan sponsor for use in producing 415(m) replacement benefit payments for capped payees.</li> <li>Will manage the 415(m) replacement fund from which 415(m) payments will be made.</li> <li>Will produce 415(m) payments according to validated reports from the Member Services Manager.</li> <li>Will perform an analytical review and reconciliation of A/R credit adjustments taken by plan sponsors to 415(b) payment reductions and 415(m) replacement payments.</li> <li>Will calculate the cost of administering the 415(m) program on behalf of plan sponsors and bill them accordingly</li> </ul>
Communications Department	<ul style="list-style-type: none"> <li>Will produce 415(b) and 415(m) communications for OCERS active and retired members.</li> </ul>
Actuary	<ul style="list-style-type: none"> <li>Will produce updated age reduction tables each year, based on new 415(b) limit issued by the IRS.</li> <li>Will use individual payee data supplied by OCERS to calculate payee-specific limits.</li> </ul>

**4 RISKS**

Following are the risks associated with this process:



- Correctness of the 415(b) limitation implementation is a direct member service issue. If not done correctly, a member’s livelihood can be affected.
- If 415(b) limitations are not implemented according to IRS rules, OCERS runs the risk of very substantial penalties and could possibly jeopardize its tax exempt status.

.....  
**Version Control**

Version	Date	Changes from previous version
1.0		Initial Draft

**For OCERS Use Only**

Approved by	Signature	Date



## IRC §415(b) Limit Screening and Capping Process

### 1 IRS Limits

IRC §415(b) places an annual limit on total benefits paid to individuals participating in tax qualified benefit plans. The “year” is a twelve-month period that is determined by OCERS, and could be based on a fiscal year or a calendar year. The IRS issues annual revised limits, making cost of living adjustments to its formula for deriving the limits. When this occurs, OCERS must re-calculate the caps for those members with actuarially determined specific limits.

Actual limits will differ from one member to the next, because the basic IRS limits are adjusted by various factors. After-tax contributions, which must be factored at their present value over the lifetime of the benefit (determined actuarially) will potentially increase the benefit limit. Note, however, that this is not equivalent to the monthly safe harbor amount that reduces the basis for tax withholding. Contributions based on service purchase, if post tax dollars are used, may also increase the limit, as will rollovers from 401K, 401(a), 403(b), 457 and traditional IRAs. Other factors that may affect the limits on an individual basis are:

- 10-year rule – if a person has less than ten years of service, the benefit limit is prorated on the percentage of ten years service that the person has.
- Associated payees are limited based on the original member’s benefit limit.
- If there are multiple survivor benefits, all of the combined benefits must be totaled and then compared to the limit.
- QDROs are limited to the aggregated amount between the member and non-member.
- If the various benefit options are not actuarially equivalent to the IRS’ single life annuity, the limits will vary by option selected. Otherwise, the limits are the same as the unmodified option.

In order to determine a nonexempt member’s specific 415(b) annual limit with the highest degree of accuracy possible, the member’s pertinent information will be forwarded to OCERS’ actuary for limit calculation once the member comes within 85% of the applicable General or Safety limit.

#### 1.1 General Limits

All members who do not meet the definition of IRS Safety are subject to the IRS General limits and the associated age reduction based on their age at retirement. In 2006, General members have a limit of \$175,000 if retired at age 62 but this amount is reduced for each year that a person is younger than 62 at retirement.





### 1.2 IRS Safety Limits

The IRS has a very specific definition of Safety that is narrower than OCERS' definition of a Safety member. Only employees of a police, sheriff, or fire department are considered IRS Safety. The member needs 15 years of police, sheriff or fire department service at any point in his or her career to qualify, but doesn't actually have to be a police officer, sheriff, or firefighter. For example, an administrative assistant working in a sheriff's office for 15 years would qualify as IRS Safety. Members and their associated payees that do not qualify must adhere to the General Limits and the age reductions. Reciprocal and purchased service do not count towards the 15 years.

### 1.3 Eligibility

Only non-exempt members and their associated payees are subject to 415(b) limitations on their total annual benefits. A member is considered exempt or "grandfathered" if and only if all of the following are true:

- The benefit formula under which the member retired existed prior to 10/14/1987, AND;
- There were no early retirement incentives offered to the member after 10/14/1987, and
- His or her date of entry into the OCERS system is prior to 01/01/1990

If one or both is not true, then the member or associated payee is subject to 415(b) limits. It should be noted that the Ventura Settlement is not considered a change in benefit.

## 2 Screening

Generally speaking, total pension + annuity + cost of living amount paid is compared to the applicable annual limits when a screening is done. OCERS will conduct two levels of screening. The first is referred to as "soft screening" and will compare projected annual benefit payments for all non-exempt payees against the non-specific IRS General and Safety limits. Anyone who is projected to come within 85% of these limits will be returned on a screening report. This screening will be done quarterly, excluding only those payees who have been previously assessed and marked as exempt.

All non-exempt payees will have their information sent to the actuary for the calculation of a specific individual limit. Once this limit is received, it will be entered into PensionGold and used for the second level of screening. Referred to as "hard screening" it is done monthly as part of the payroll process and results in a report listing information for each payee for whom an individual limit has been established. This hard screening report is used to monitor payees to ensure that benefits are capped in the appropriate period.



**3 Capping**

When OCERS' screening process indicates that a payee will exceed his or her 415(b) limit in the current year, plans are made to cap benefits at the limit through adjustments to the normal payroll.

**3.1 Implementation of 415(b) Payroll Adjustments**

It is OCERS' policy to pay out the full annual annuity benefit due all payees, while still observing the 415(b) limits set by the IRS. Paying annuity throughout the year will accommodate any payroll deductions that the payee may have (this is especially important in the case of healthcare premium deductions). This concept is best explained by way of a simple example:

Member John Doe has a projected benefit of **\$124,303.44** for a given year, with a monthly Normal payroll gross amount of **\$10,358.62** of which **\$1,549.15** is annuity and **\$66.60** is MBRP.

The annual 415(b) cap provided by the actuary for John is **\$114,401.64**.

His amount over the 415(b) cap to be paid as part of a 415(m) program by the County is **\$9,901.80**.

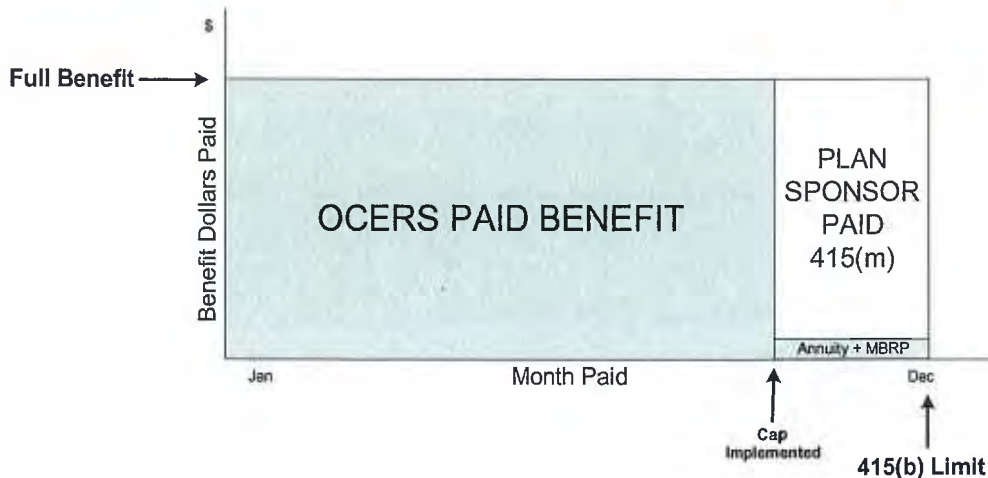
Monthly health insurance premium deduction (after subsidies) is **\$286.48**, and other monthly deductions are **\$170.00** for a total of **\$456.48**.

When John's benefits are capped, his payment schedule for benefit dollars will look like this:

Payment Type	Jan - Oct	Nov	Dec
Retirement Benefits	\$10,358.62 / per mo	\$9,199.69	\$1,615.75
415(m) Payment	\$0.00	\$1,158.93	\$8,742.87

Notice that the total of all benefits paid by OCERS as of December 31<sup>st</sup> do not exceed the 415(b) cap of \$114,401.64. By paying the full annuity amount through the end of the year, we would actually reserve enough benefit dollars below the cap to cover payroll deductions. This procedure will ensure that medical coverage will be unaffected, and that OCERS' Vendor Payroll process continues unchanged.





### Exception Cases

- **Annuity is “Not Enough Gross” to Handle Deductions**

If Payroll Analysis indicates that this is the case, then the cap will be implemented one month earlier. The Payroll Analysis report will be used to confirm correct payments required for each month. All other procedures will remain unchanged.

- **Death During Capped Period**

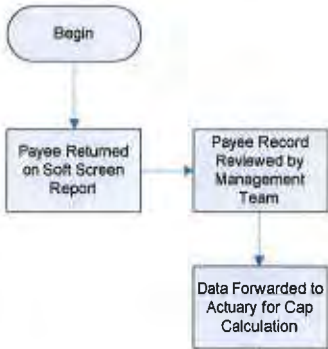
If a payee dies during the capped period, we will have to perform a “true-up” to reclassify some or all of the payments from 415(m) by the County to benefit dollars paid by OCERS. It is important that this true-up occur prior to mid-January so that the annual tax forms can be accurately issued on time.

### 3.2 415(m) Replacement Benefit Programs

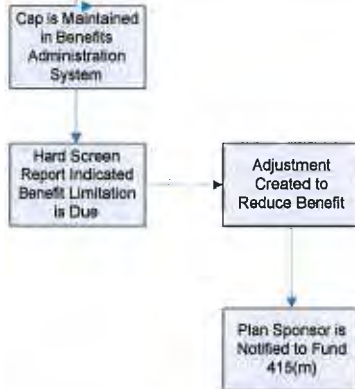
If a payee’s benefit must be capped, it will be replaced by a payment issued under the 415(m) replacement program funded by the plan sponsor. The following diagram is a high level view of the cap and replacement process. Each component will be addressed in detail in subsequent sections of this document.



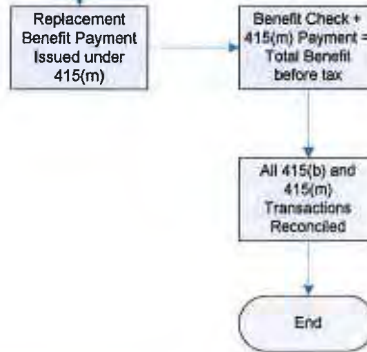
SCREENING PROCESS



MONITORING PROCESS



BENEFIT CAP & REPLACEMENT



Version Control

Version	Date	Changes from previous version
1.0		Initial Draft

For OCERS Use Only

Approved by	Signature	Date

**AMENDED AND RESTATED REPLACEMENT BENEFITS PLAN  
FOR ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

Article 1. Establishment And Purpose

1.1 Background and Purpose. The Orange County Employees Retirement System ("OCERS") is an independent public entity existing pursuant to the County Employees Retirement Law of 1937 ("CERL"). OCERS administers a tax qualified retirement plan under Section 401(a) of the Internal Revenue Code of 1986 ("IRC"), which is also a governmental plan as defined in IRC Section 414(d) (the "System").

1.2 Plan Establishment; Amendment. The Orange County Employees Retirement System Replacement Benefits Plan (the "Plan") was originally provided for under the terms of California Government Code ("Code") Section 31899.4, effective January 1, 2004, which amended the CERL to mandate the Plan in order to provide the annual retirement benefits otherwise earned by and payable to employees of OCERS who are members of the System but which are limited by the rules of IRC Section 415(b). In accordance with Subsection (e) of Code Section 31899.4, the Plan is further documented in the System's 415(b) Policy & Operational Process, applicable to all System members and employers.

In light of evolution in applicable law since the Plan became effective (including the adoption of PEPRA, defined below), OCERS in its capacity as a CERL employer pursuant to Code Section 31522.5 (the "Employer") hereby amends and restates the Plan.

1.3 Portion of the System. This Plan shall be deemed a "portion" of the System solely to the extent required by, and within the meaning of, IRC Section 415(m)(3) in effect on January 1, 2002, and not for any other purpose.

1.4 Purpose and Tax Status of this Plan. In accordance with IRC Section 415(m), this Plan is solely for the purpose of providing to certain OCERS employees who are retired members of the System, and to their Eligible Survivors, that part of the annual benefit otherwise payable under the System that exceeds the limitations on benefits imposed by IRC Section 415(b). It is intended that this Plan be treated as an "exempt governmental deferred compensation plan" described in IRC Section 3121(v)(3). Therefore, payments under this Plan are not included as wages subject to Social Security and Medicare taxes.

No assets directly or indirectly relating to this Plan shall be held in trust, or otherwise held or set aside for the exclusive benefit of participants and their beneficiaries. This Plan shall be unfunded within the meaning of the federal income tax laws and is not an "eligible deferred compensation plan" described in IRC Section 457(b) because, inter alia, the amount of deferred income under this Plan is not subject to the limits of IRC Section 457(b) and the "held in trust" rule of IRC Section 457(g) is not met.

Article 2. Definitions

2.1 Plan Definitions. Terms used in this Plan shall have the meaning set out below.

*415(b) Policy* means the "415(b) Policy & Operational Process" adopted by the System effective January 27, 2006, intended, among other things, to serve as "written documentation setting forth the terms of its replacement benefits program" called for in Code Section 31899.4(e).

*Beginning Date* means the first date during a Plan Year with respect to which payment begins under this Plan as set out in Section 4.5 hereof.

*CERL* means the County Employees Retirement Law of 1937 as set out in the California Government Code, Section 31450 et seq.

*Code* means the California Government Code, unless specified otherwise.

*Commencement Date* means the date of commencement of participation in this Plan as set out in Section 3.2 hereof.

*Domestic Relations Order or "DRO"* means any judgment, decree, or order made in accordance with state domestic relations law which relates to the provision of child support, spousal maintenance, or marital property rights of any spouse, former spouse, child, or other dependent of a Participant. A domestic relations order shall not be considered a DRO with respect to this Plan if it is inconsistent with the Plan. To the extent practicable, the rules under the CERL governing the treatment of a qualified domestic relations order shall equally govern payment of benefits under this Plan.

*Effective Date* means the first date with respect to which benefits are payable under this Plan as set out in Section 1.2 hereof.

*Eligible Survivor* means the surviving spouse, surviving child or children, surviving parent or parents, or surviving beneficiary designated by the Member, to whom benefits are payable from the System on the death of the Member.

*Employer* means OCERS, in its capacity as an employer pursuant to Code Section 31522.5.

*IRC* means the Internal Revenue Code of 1986, as amended, and any rules and regulations issued thereunder.

*Member* means a member, as defined in the CERL, of the System who is a current or former employee of the Employer.

*OCERS* means the Orange County Employees Retirement System, a public body.

*Participant* means a retired Member who participates in this Plan pursuant to Article 3 hereof. An Eligible Survivor is not a Participant in this Plan, but is a beneficiary who receives benefits under this Plan with respect to a Participant or Member.

*PEPRA* means the Public Employees' Pension Reform Act, which took effect as of January 1, 2013.

*Plan* means this Replacement Benefits Plan for Employees of the Employer, mandated by Code Section 31899.4, as originally documented by the 415(b) Policy which is incorporated herein by this reference.

*Plan Administrator* means the Employer.

*Plan Year* means the 12-month period beginning on January 1 and ending on December 31.

*Section 415* means IRC Section 415.

*System* means the OCERS tax qualified retirement plan under IRC Section 401(a), which is also a governmental plan as defined in IRC Section 414(d).

### Article 3. Participation

3.1 Eligibility. Participation in this Plan is limited solely to retired Members whose benefits payable by the System are limited by Section 415(b), and therefore covered by Code Section 31899.4, unless excluded by PEPRA.

3.2 Terms of Participation. An eligible retired Member shall commence participation in this Plan on the first date with respect to which his or her benefits payable from the System cannot be fully paid because of the limits of Section 415(b). This date is the Commencement Date. Participation in this Plan shall cease as of the first date for which benefits payable to the retired Member from the System are no longer limited by Section 415(b), and therefore can be fully paid by the System. Participation shall also cease on the retired Member's death or when the retired Member's System benefits cease. If a Participant has ceased participation in this Plan but at a later date the full payment of his or her System benefits is again limited by Section 415(b), he or she shall again commence participation as provided above.

3.3 Eligible Survivors. Any Eligible Survivor of a Member who would have been eligible to participate in this Plan in accordance with Section 3.1 shall receive benefits under this Plan as of the first date on which benefits payable to him or her from the Employer cannot be fully paid because of the limits of Section 415(b). The Eligible Survivor's benefits paid under this Plan shall cease as of the first date for which his or her System benefits are no longer limited by Section 415(b) and therefore can be fully paid by the System. The Eligible Survivor's benefits paid under this Plan shall recommence at a later date if full payment of his or her System benefits is again limited by Section 415(b), and shall thereafter cease as of the next date that full payment of the System benefit is no longer limited by Section 415(b).

3.4. No One Else Shall Receive Benefits. No one other than a person described in Section 3.1 and his or her Eligible Survivors shall receive any benefits under this Plan, except as required by a Domestic Relations Order or applicable law.

### Article 4. Retirement Benefits Payable

4.1 Applicable Rules and Procedures. The procedures set out below are intended to carry out the purpose of this Plan, and incorporate by reference the System's 415(b) Policy. In

the event of a conflict between the terms of this Plan and the 415(b) Policy, the terms of the Plan shall prevail.

4.2 Amount of Benefit - Initial Determination.

- (a) The benefit paid under this Plan in any Plan Year shall be initially determined for each Participant at the Participant's Commencement Date under the following steps.
- (1) Determine the Participant's benefits payable at the time of the Commencement Date under the System without regard to the limits of Section 415(b) and after taking into account the form of System benefit selected by the Participant.
  - (2) Determine the amount of the Participant's System benefits (if any) attributable, at the Commencement Date, to after-tax Member contributions, rollovers and direct transfers which are excluded from the limits of Section 415(b), after taking into account the form of System benefit selected by the Participant.
  - (3) Subtract the amount determined in (2) from the amount determined under (1); this is the amount subject to the Section 415(b) limits for the Participant.
  - (4) Determine the maximum benefits payable to the Participant from the System under the then current benefit payment limits of Section 415(b), ignoring any benefits determined under (2). The determination under this step (4) shall take into account items such as the applicable dollar limits, the form of benefit payment chosen, the date that the Participant first became a Member, and whether he or she qualifies for special limits under Section 415(b), such as those for certain safety members.
  - (5) Subtract the amount determined under (4) from the amount determined under (3). If the amount in (3) is greater than that in (4), the difference is the initial benefit paid under this Plan. If the amount in (4) is equal to or greater than the amount in (3), then no benefits are payable under this Plan.
- (b) The total retirement benefit that will be paid to a Participant in any year will be the sum of the benefit paid under this Plan and the benefit paid under the System, including amounts attributable to both Employer and after-tax Member contributions. Therefore, the total retirement benefit that will be paid to a Participant under this Plan and the System is the sum of the amounts in (2), (4) and (5) above. However, this Plan and System shall be treated as separate entities for purposes of this Plan and shall be administered separately. In addition, separate checks will be paid for the benefits under this Plan and the System; the Plan Administrator shall provide separate tax reporting for the benefits paid under this Plan; and no assets of the System shall be used, directly or indirectly, to pay

for benefits or administration or any other costs of this Plan, except as permitted in Section 6.3, below.

4.3 Amount of Benefit - Redeterminations

- (a) As of each January 1 following the Participant's Commencement Date (or the date of commencement of benefits under this Plan for any Eligible Survivor), the Participant's, or Eligible Survivor's, benefit under this Plan shall be redetermined by following each of steps (1) through (5) of Section 4.2(a), but using the then current amounts determined by applying (i) cost of living adjustments and other changes (if any) to the System benefits, and (ii) cost of living adjustments, and other changes (if any) to the maximum benefit limits established by Section 415(b).
- (b) At the Plan Administrator's discretion, and in accordance with the System's internal procedures, the amount of every Participant's and Eligible Survivor's benefits may be redetermined at a date other than January 1 for administrative convenience or if there is a material change in the rules governing the maximum benefit limits established under Section 415(b) or a material change in System benefits.

4.4 Amount of Benefit - Eligible Survivors. Eligible Survivors shall be entitled to benefits under this Plan only if they are entitled to benefits that are limited by Section 415(b) under OCERS after the death of a Member or Participant who is eligible for participation under this Plan under Section 3.1. The benefit paid to an Eligible Survivor under this Plan shall be determined as if he or she were the Participant, substituting in the calculations under Sections 4.2 or 4.3, as applicable, the amounts due to the Eligible Survivor for the amounts due to the Participant.

4.5 Timing of Payments

- (a) In any Plan Year, benefits shall only be paid under this Plan to a Participant or Eligible Survivor after the date in the Plan Year that the benefits paid to such person from the System have reached the maximum annual benefit that the System can pay under Section 415(b) for that Plan Year. The day after the maximum annual benefit payment from the System is reached is the Beginning Date for the Participant or Eligible Survivor for that Plan Year. The Beginning Date may change from Plan Year to Plan Year as the amount payable under this Plan is redetermined.
- (b) The amount of benefits provided under this Plan shall be paid monthly starting as of the Beginning Date and continuing through the end of the Plan Year, or (if earlier) the date that participation ceases (or, for an Eligible Survivor, the date that benefits would cease if an Eligible Survivor were treated as a Participant).
- (c) If a retired Participant is reemployed by the Employer or another employer participating in the System and on reemployment his or her System benefits cease, then his or her benefits under this Plan shall cease at the same time.

Benefits shall resume (if at all) under this Plan when the Member again starts to receive benefits under the System if the Member is not prohibited from receiving benefits from the Plan under PEPPRA at such time. At that time, a recalculation shall be made under Section 4.3 hereof, treating the first month for which System benefits resume as if it were a date of recalculation under Section 4.3. Similar rules shall apply if the benefits of an Eligible Survivor under the System cease (or resume) for any reason, including without limitation ceasing to be an Eligible Survivor.

4.6 Form of Benefit Paid. The benefit paid to a Participant or Eligible Survivor under this Plan shall be paid in the same form as benefits are paid under the System.

4.7 Taxes. The Plan Administrator shall have full authority to withhold any and all taxes that are or may be due from any and all amounts paid under the Plan (including but not limited to income and payroll taxes), to pay them to the appropriate government agency, and to file and distribute necessary or appropriate tax reports and forms.

4.8 Determination Solely By Plan Administrator. Subject to Sections 4.2 and 4.3 hereof, the Plan Administrator shall have sole authority and discretion to determine the amount of benefits (if any) payable under this Plan.

#### Article 5. Exemption from Process; Assignments Prohibited

5.1 Prohibition Against Assignment. No benefit payable from the Plan to any Participant or Eligible Survivor or any other person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void. No such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to execution, attachment or any process whatsoever for or against such person, except to such extent as may be permitted by Section 704.110 of the Code of Civil Procedure or as required by law.

5.2 Payment Upon Marital Dissolution or Legal Separation. The provisions of Section 5.1 shall not apply in the case of any property settlements upon marital dissolution or legal separation that are made in accordance with a Domestic Relations Order that is qualified by the Plan. When the Plan Administrator receives a domestic relations order, the Plan Administrator shall notify the Participant (or Eligible Survivor) and the former spouse or dependent covered by the domestic relations order of the receipt of the order with a notice which explains the procedures for determining the qualified status of domestic relations orders, and under procedures established by the Plan Administrator, determine the qualified status of the domestic relations order.

#### Article 6. Administration

6.1 Powers of the Plan Administrator. The Employer shall administer the Plan, and in such capacity shall be the Plan Administrator. In addition to the powers of the Plan Administrator specified elsewhere in the Plan, the Plan Administrator shall be responsible for the



general administration and interpretation of the Plan and for carrying out its provisions, and shall have such powers as may be necessary or appropriate to discharge its duties hereunder, including, without limitation, the following:

- (a) To adopt such Plan regulations, interpretations and procedures deemed necessary or appropriate for the effective operation of the Plan;
- (b) To delegate administrative duties with regard to the management and operation of the Plan;
- (c) To determine all issues relating to the rights of Participants and Eligible Survivors and any other persons, and any legal representatives thereof, under the terms of the Plan;
- (d) To determine any factual questions arising in connection with the Plan's operation or administration;
- (e) To request and receive from Members and Participants and other appropriate persons such information as necessary or appropriate for the proper administration of the Plan, including, without limitation, information to determine each Participant's eligibility to participate in the Plan and the benefits payable to each Participant or his or her Eligible Survivor; and,
- (f) To engage legal, administrative, actuarial, investment, accounting, consulting or other services as the Plan Administrator deems necessary or appropriate.

6.2 Absolute Discretion of the Administrator. The Plan Administrator (or any individual acting on its behalf) shall, in its sole and absolute discretion, construe and interpret the terms and conditions of the Plan. For any issue arising out of, relating to, or resulting from the administration and operation of the Plan, such interpretation or construction shall be final and binding on all parties. When making a determination or calculation, the Plan Administrator shall, in its sole and absolute discretion, be entitled to rely upon information furnished by Members, Participants and Eligible Survivors or other individuals acting on their behalf.

6.3 Costs of Administration. The costs of administration of the Plan shall be paid by the Employer pursuant to Code Sections 31580.2, 31529.9 and 31596.1. Such expenses shall include, but are not limited to, expenses for professional, legal, accounting, and other services and other necessary or appropriate costs of administration. No costs or expenses of administering this Plan shall be paid, directly or indirectly, by the System except to the extent that such assets are provided to the Employer as an expense of the Employer's administration of the System pursuant to Code Sections 31580.2, 31529.9 and 31596.1.

6.4 Claims Review Procedure. Any person who has a claim for benefits under this Plan and who does not receive such benefits must make a written claim for benefits with the Plan Administrator at the time and in the form and manner determined by the Plan Administrator. The Plan Administrator shall provide notice in writing to any person whose claim for benefits under the Plan is denied, and the Plan Administrator shall provide such person a review of its decision

with respect to such claim, if requested in writing by the person who has made the claim. The decision of the Plan Administrator shall be final and binding on all parties.

6.5 Correction of Errors. If an error or omission is discovered in the administration of the Plan, the Plan Administrator shall take such necessary or appropriate and equitable action as may be necessary or appropriate to correct the error. Such action shall include but is not limited to taking all reasonable or necessary action to recover overpayments of benefits under the Plan.

#### Article 7. Source of Benefits

7.1 Unfunded Plan. The Plan shall be unfunded within the meaning of the federal tax laws. Control of any assets, whether cash or other investments which might be used to pay any amount under the Plan, shall at all times remain solely in the Employer. Participants and Eligible Survivors and any other persons who might be entitled to amounts under this Plan shall not have any property interest, preferred claims, liens or any other beneficial interest whatsoever in any assets of the Employer, and shall have only general creditor status with respect to the Employer's general assets. Any rights created under this Plan shall be mere unsecured contractual rights against the Employer. Benefits due under this Plan shall be paid by the Employer. The Employer shall pay all costs, charges and expenses relating to this Plan from funds subject to the claims of its general creditors. No assets of the System shall be used, directly or indirectly, to pay for benefits or any other costs (direct or indirect) of this Plan except to the extent assets are provided to the Employer as an expense of the Employer's administration of the System pursuant to Code Sections 31580.2, 31529.9 and 31596.1.

7.2 No Employee Deferrals. No employee contributions or deferrals shall be made or allowed under the Plan at any time. In accordance with Section 415(m), no election to defer compensation under this Plan shall be provided, at any time or in any manner, to any person.

#### Article 8. Miscellaneous

8.1 Applicable Law. This Plan shall be governed by the laws of the State of California and applicable federal law.

8.2 No Employment Rights. Nothing in this Plan or regulation concerning this Plan shall be construed as giving to a Participant any right to be retained in the employment of the Employer.

8.3 Unclaimed Benefits and Accumulations. In any situation where benefits are payable under this Plan, a reasonable search, including mailing of a registered letter to the last known address, shall be made to ascertain the whereabouts of the Participant or Eligible Survivor. If the person or persons entitled thereafter come forward and request payment and establish such entitlement, the amounts then due, including appropriate retroactive payments from the Commencement Date, but without payment of any interest thereon, shall be paid accordingly.

8.4 Benefit Limits. Nothing in this Plan shall be construed as creating an entitlement to any benefits greater than the difference between the amount of benefits that can be paid by the

System without regard to the limitations of Section 415 and what can be provided by the System taking into account the limitations of Section 415(b). Payment of a benefit under this Plan does not create any eligibility for any additional benefits provided by this Plan, by the System or under any other program maintained by the Employer.

Article 9. Amendment or Termination of Plan

9.1 Right to Amend. The Employer has the right to amend this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion. However, any amendment to this Plan that affects benefits paid shall be commensurate with the purposes of this Plan to provide Participants and Eligible Survivors with retirement benefits that are otherwise earned by and payable to eligible Members of the System but which are limited by the rules of Section 415.

9.2 Right to Terminate. Notwithstanding any other provisions of this Plan, the Employer has the right to terminate this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion, subject to compliance with applicable California law, including Code Section 31899.4. This right to terminate includes, but is not limited to, the right to terminate any or all benefits under the Plan for any or all persons who may be Participants or otherwise may be entitled to benefits under the Plan to the extent permitted under applicable California law.

9.3 Preservation of System Tax Status. This Plan shall not in any way jeopardize the tax qualified status of the System. To maintain this qualified status, the Employer shall take all necessary or appropriate action, including but not limited to amending this Plan and the rules governing this Plan, solely for the purpose of complying with applicable federal tax laws and regulations.

9.4 Preservation of Section 415(m) Status. The Employer shall have the authority to make appropriate amendments to the Plan in order to accommodate changes in the IRC in a manner that will preserve the status of the Plan under Section 415(m).

9.5 State Law. The Employer shall have the authority to make further appropriate amendments to the Plan in order to comply with changes in California state law.

Amended and Restated as of this 18th day of December, 2017.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

A-5

## Memorandum

---

**DATE:** December 18, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT:** **2018 OCERS BOARD MEETING CALENDAR**

---

### Recommendation

Approve the 2018 OCERS Board as well as Investment Committee meeting schedule.

### Background/Discussion

This memo outlines the dates your staff is proposing for the OCERS Board of Retirement's regular administrative meetings in 2018, as well as meetings of the Board's Investment Committee.

The first enclosed calendar reflects those dates.

The Board initially reviewed this material at its regularly scheduled meeting in November. With input from that meeting, we have revised the materials. A few important points to consider as you review this updated document and provide final approval of the Boards 2018 meeting calendar:

1. Investment Committee meetings have been moved to the fourth Thursday.
2. An exception to #1 above – the April 2018 Investment Committee meeting is being recommended for a Tuesday, as there is a conflict with a conference the Investment team will be attending later that week.
3. The June Regular Board meeting had been placed out of its normal 3<sup>rd</sup> Monday cycle. We recommend moving the date to June 18.
4. Trying to avoid holding two meetings in the same week, note the following two changes:
  - a. The Investment Committee meeting in March is now recommended to be held Thursday, March 29 (no longer March 22).
  - b. The Investment Committee meeting in August is now recommended to be held Thursday, August 23 (no longer August 30).

At the November Board meeting OCERS staff offered to poll the individual trustees regarding possible conflicts to see if those could be resolved prior to this December meeting.

Where conflicts existed between two individual trustees calendars, Ms. Danciu was asked to work directly with those trustees.

What follows are a list of possible trustee conflicts that require the entire Board to consider their individual calendars in making a determination as to whether a change in recommended date can be accommodated:

Monday - April 16 – Mr. Hilton, conflict

Thursday - January 25 – Mr. Baldwin, Mr. Lindholm, conflict

Thursday - February 22 – Mr. Ball, conflict

Thursday - May 24 – Mr. Lindholm, conflict

Thursday - June 28 – Mr. Baldwin, conflict

Thursday - November 29 – Mr. Ball, conflict

As you would have noted on November, we have outlined here a number of important training opportunities that will take place in 2018, from SACRS semi-annual conferences to upcoming Wharton School classes. A second calendar is enclosed that overlays those training opportunities with the proposed Board and committee schedules, to allow you to determine if any adjustment to the proposed meeting dates is warranted.

[Note: Where a 2018 date has not yet been selected, we have italicized the previous 2017 dates as the 2018 dates will likely be close to that same time period]

### **Regular Board Meetings – 9:00 a.m.**

Tuesday - January 16

Tuesday - February 13

Monday - March 19

Monday - April 16

Monday - May 14

Monday - June 18

Monday - July 16

Monday - August 20

Monday - October 15

Tuesday - November 13

Monday - December 17 (combined Regular Board and Investment Committee meeting)

### **Investment Committee Meetings – 9:00 a.m.**

Thursday - January 25

Thursday - February 22

Thursday - March 29  
Tuesday - April 24  
Thursday - May 24  
Thursday - June 28  
Thursday - July 26  
Thursday - August 30  
Thursday - October 25  
Thursday - November 29

**Manager Monitoring Subcommittee Meetings – 9:00 a.m.**

TBD

**2018 Macro Economic Outlook Discussion**

TBD

**2-Day Strategic Planning and Education Forum – 9:00 a.m.**

Wednesday, September 12 - Thursday, September 13

**2019 Budget Workshop**

Thursday, October 18, 2018

**Approved Conferences:**

**CALAPRS**

[http://www.calaprs.org/events/event\\_list.asp](http://www.calaprs.org/events/event_list.asp)

General Assembly

March 3-6, 2018

Renaissance Indian Wells Resort

44400 Indian Wells Lane

Indian Wells, California

Advanced Principles of Pension Management for Trustees at UCLA

March 28-30, 2018

UCLA Meyer and Renee Luskin Conference Center  
425 Westwood Plaza  
Los Angeles, CA 90095  
Principles of Pension Management for Trustees  
August 27-30, 2018 in Malibu, CA  
Registration opens Spring 2018

**CALIFORNIA RETIRED COUNTY EMPLOYEES ASSOCIATION (CRCEA)**

<http://crcea.org/calendar/>

2018 Spring Conference  
April 16-18, 2018  
FESS Parker Double Tree  
633 E. Cabrillo Blvd., Santa Barbara, CA

*2018 Fall Conference: TBD*

**IREI**

<https://irei.com/events/2018-visions-insights-perspectives-vip-americas/>

Visions, Insights & Perspectives (VIP) Americas  
January 24-26, 2018  
Monarch Beach Resort  
Dana Point, CA

**NASRA**

<http://www.nasra.org/meetings>

2018 Winter Meeting  
February 24-26  
Washington, DC

2018 Annual Conference  
August 4-8, 2018  
San Diego CA



**NCPERS**

<http://www.ncpers.org/futureconferences>

Legislative Conference

January 28–30, 2018

Capital Hilton

Washington, DC

Annual Conference & Exhibition

May 13 –16, 2018

Sheraton New York

New York, NY

Public Safety Employees Pension & Benefits Conference

October 27–31, 2018

Caesars Palace

Las Vegas, NV

**NIRS**

Annual Retirement Policy Conference

February 27-28, 2018

Washington D.C.

**REAOC**

Quarterly Lunches 2018 – Miles Square Park:

January 24

March 28

May 23

September 26

December 5

**SACRS**

<https://sacrs.org/events/events-listing/>

**SPRING CONFERENCE**

May 15-18, 2018

**SACRS PUBLIC PENSION INVESTMENT MANAGEMENT PROGRAM  
[MODERN INVESTMENT THEORY & PRACTICE FOR RETIREMENT SYSTEM]**

July 24-26, 2017

UC Berkeley

**FALL CONFERENCE**

November 13-16, 2018

**WHARTON**

<https://www.ifebp.org/pdf/edprog/wharton-investment-programs-brochure.pdf>

Portfolio Concepts and Management

April 23-26, 2018

Philadelphia, PA

Alternative Investment Strategies

July 30-August 1, 2018

San Francisco, CA

**THE PENSION BRIDGE ANNUAL**

<http://www.pensionbridge.com/agendaindex.asp>

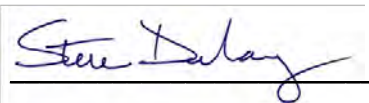
The Pension Bridge Annual: April 10-11, 2018

The Four Seasons Hotel, San Francisco

The Private Equity Exclusive: July 23-24, 2018

The Trump International Hotel & Tower, Chicago

**Submitted by:**



Steve Delaney  
Chief Executive Officer

# 2018

## MEETINGS

### January

S	M	T	W	T	F	S
	<del>1</del>	2	3	4	5	6
7	8	9	10	11	12	13
14	<del>15</del>	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	<del>19</del>	20	21	22	23	24
25	26	27	28			

### March

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### April

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

### May

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	<del>28</del>	29	30	31		

### June

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### July

S	M	T	W	T	F	S
1	2	3	<del>4</del>	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### August

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

### September

S	M	T	W	T	F	S
						1
2	<del>3</del>	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

### October


S	M	T	W	T	F	S
	1	2	3	4	5	6
7	<del>8</del>	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### November

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	19	20	21	<del>22</del>	<del>23</del>	24
25	26	27	28	29	30	

### December

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	<del>25</del>	26	27	28	29
30	31					

 Holiday Observed

 Regular Board Meeting

 Investment Committee Meeting

 Strategic Planning Workshop

 2018 Budget Workshop



# 2018

## TRAINING OPPORTUNITIES

### January

S	M	T	W	T	F	S
	<del>1</del>	2	3	4	5	6
7	8	9	10	11	12	13
14	<del>15</del>	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	<del>19</del>	20	21	22	23	24
25	26	27	28			

### March

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### April

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

### May

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	<del>28</del>	29	30	31		

### June

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### July

S	M	T	W	T	F	S
1	2	3	<del>4</del>	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### August

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

### September

S	M	T	W	T	F	S
						1
2	<del>3</del>	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

### October



S	M	T	W	T	F	S
	1	2	3	4	5	6
7	<del>8</del>	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### November

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	19	20	21	<del>22</del>	<del>23</del>	24
25	26	27	28	29	30	

### December

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	<del>25</del>	26	27	28	29
30	31					

 Holiday Observed  OTHER: IREI; Wharton; The Pension Bridge Annual; CRCEA

 SACRS  CALAPRS  NASRA  NCPERS  NIRS  OTHER



# 2018

## MEETINGS AND TRAINING OPPORTUNITIES

### January

S	M	T	W	T	F	S
	<del>1</del>	2	3	4	5	6
7	8	9	10	11	12	13
14	<del>15</del>	16	17	18	19	20
21	22	23	<del>24</del>	25	26	27
28	29	30	31			

### February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	<del>19</del>	20	21	22	23	24
25	26	27	28			

### March

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	<del>28</del>	29	30	31

### April

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

### May

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	<del>23</del>	24	25	26
27	<del>28</del>	29	30	31		

### June

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### July

S	M	T	W	T	F	S
1	2	3	<del>4</del>	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### August

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

### September

S	M	T	W	T	F	S
						1
2	<del>3</del>	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	<del>26</del>	27	28	29
30						

### October



S	M	T	W	T	F	S
	1	2	3	4	5	6
7	<del>8</del>	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### November

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	<del>12</del>	13	14	15	16	17
18	19	20	21	<del>22</del>	<del>23</del>	24
25	26	27	28	29	30	

### December

S	M	T	W	T	F	S
						1
2	3	4	<del>5</del>	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	<del>25</del>	26	27	28	29
30	31					

 Holiday Observed     OTHER: IREI; Wharton; The Pension Bridge Annual; CRCEA

 Regular Board Meeting	 Investment Committee Meeting	 Strategic Planning Workshop	 2018 Budget Workshop	 REAOC Lunches	
 SACRS	 CALAPRS	 NASRA	 NCPERS	 NIRS	 OTHER

A-6

## Memorandum

---

**DATE:** November 29, 2017  
**TO:** Members of the Board of Retirement  
**FROM:** David Ball, Board Chair  
**SUBJECT:** ANNUAL CEO COMPENSATION REVIEW

---

### Recommendation

Take appropriate action.

### Background/Discussion

OCERS's Chief Executive Officer Performance Evaluation Policy states that a formal evaluation will be conducted annually. The CEO's performance evaluation was conducted in closed session at the November 13, 2017 meeting. The Brown Act code 54957 requires the Board to discuss the Chief Executive Officer's compensation during an open session. This discussion will take place at the December 18, 2017 meeting. In prior years, the Board has requested comparable CEO compensation data from other pension systems and organizations which are both close in proximity and size to OCERS, as well as a detailed compensation history for Mr. Delaney. Attached are the CEO Compensation Performance Evaluation documents used to evaluate the CEO.

### Attachments:

1. CEO Performance Evaluation Policy
2. CEO Charter
3. 2017 Business Plan
4. Steve Delaney Self Evaluation 2017
5. Blank CEO Evaluation Form
6. Steve Delaney Total Compensation History
7. CEO Compensation Comparison

### Submitted by:

---

David Ball, Board Chair



**OCERS Board Policy**  
**Chief Executive Officer**  
**Performance Evaluation Policy**

---

## **Background and Objectives**

1. The Board of Retirement supervises the Chief Executive Officer. Formal evaluation procedures and practices are required. This process shall be performed on an annual basis.
2. The objectives of this policy are to:
  - a. Assist the Board in arriving at and communicating clear and meaningful goals and performance targets for the Chief Executive Officer;
  - b. Ensure that the Chief Executive Officer receives meaningful, objective, and timely feedback that will allow the Chief Executive Officer to perform, over time, at the highest levels possible; and
  - c. Enable the Board to hold the Chief Executive Officer accountable for performance.

## **Roles**

3. The Board will be responsible for evaluating the performance of the Chief Executive Officer.
4. The Chair and Vice Chair will be responsible for coordinating the evaluation process. The Board may use a third party to facilitate the process.

## **Policy Guidelines**

### **Process and Timelines**

5. The Chief Executive Officer will discuss the following items with the Chair during November each year:
  - a. Proposed CEO evaluation criteria for the coming calendar year;
  - b. Proposed weights for each of the above criteria; and
  - c. Proposed CEO Evaluation Form for the coming calendar year.
6. In addition, the CEO's performance for the prior twelve months based on six categories:
  - a. Achievement of performance targets established for the System as a whole;
  - b. Implementation of the annual Business Plan;
  - c. Implementation of Board policies and associated reporting to the Board;
  - d. Leadership and related qualities;
  - e. Ability to address special developments or situations that may arise; and
  - f. Other criteria that the Board may determine to be appropriate.

**OCERS Board Policy**  
**Chief Executive Officer**  
**Performance Evaluation Policy**

---

7. The Board will attempt to ensure that the criteria:
  - a. Are objective and measurable; and
  - b. Pertain only to outcomes over which the Chief Executive Officer has a reasonable degree of control.
8. The Chair shall distribute the CEO Evaluation Package to each member of the Board in October of each year. The Evaluation Package will include copies of the Evaluation Form to be completed by each Board member, Business Plan, and the CEO's self-evaluation. The Chief Executive Officer's self-evaluation report is designed to assist the Board in the evaluation process. It should describe the extent to which the CEO believes the evaluation criteria were met over the past year, as well as all relevant supporting data. Supporting data may be confirmed by internal audit material where appropriate. The report may also describe any additional accomplishments during the year.
9. The Board shall treat this material as confidential. Completed individual Evaluation Forms will be returned to the Chair or the designated third party with a copy to the Vice Chair within the time frame specified. The Chair will ensure that all data is tabulated and summarized in a Master CEO Evaluation Form and treated as confidential until released to the Board.
10. Evaluation of the Chief Executive Officer will be completed by November each year. The evaluation process itself will be conducted in executive session. The Chair will distribute a copy of the Master CEO Evaluation Form and invite discussion by the Board. At the conclusion of discussion, the Chief Executive Officer will join the Board for review and discussion of his/her performance along with any suggestions for improvement. The Board may have preliminary discussions in October, but will complete the process by November.
11. Upon completion of the Master CEO Evaluation Form, the Chair and the Chief Executive Officer will sign the Master CEO Evaluation Form and cause it to be placed in the Chief Executive Officer's personnel file.

**Documentation**

12. The Individual and Master CEO Evaluation Form(s) may take any format the Board deems appropriate, but must allow Board members an opportunity to provide general comments.

**Compensation**

13. The Board of Retirement will consider the Chief Executive Officer's compensation at the time the performance evaluation is conducted.



**OCERS Board Policy**  
**Chief Executive Officer**  
**Performance Evaluation Policy**

---

**Policy Review**

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

**Policy History**

15. This policy will be implemented in February 19, 2002. This policy was revised May 16, 2005, May 19, 2008, March 22, 2010, January 21, 2014, and November 14, 2016.

**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". The signature is enclosed in a thin black rectangular border.

**11/14/16**

Steve Delaney  
Secretary of the Board

Date

## **Introduction**

1. The Board of Retirement will appoint a Chief Executive Officer (CEO) who will serve at its pleasure. The CEO is the most senior executive of the OCERS and is not subject to county civil service and merit system rules (§31522.5). This charter sets out the roles and responsibilities of the CEO.

## **Duties and Responsibilities**

### *Leadership and Policy Analysis*

2. The CEO will provide leadership for the OCERS staff in implementing the programs necessary to achieve the mission, goals and objectives established by the Board. The CEO will manage the day-to-day affairs of the OCERS in accordance with policies established by the Board, and may delegate duties to senior management as necessary. In so doing, the CEO will solicit advice and counsel from the Board, the Chair, or individual Board members, as appropriate.
3. The CEO will provide support to the Board and its committees in establishing all policies of the Board including identifying and analyzing issues requiring Board policy, and providing well-supported policy recommendations for consideration by the Board or its committees.
4. The CEO will be responsible for ensuring that all policies of the Board and provisions of the Act, with the exception of governance policies pertaining to the conduct of the Board, are properly implemented.

### *Governance*

5. The CEO will:
  - a. Recommend to the Governance Committee policies to help ensure appropriate governance practices;
  - b. Assist the Board in implementing its governance policies, charters, and By-Laws; and
  - c. Assist with Board member education and travel.
6. The CEO will serve as Secretary to the Board and, as such, will carry out the following duties:
  - a. Coordinate meetings, agendas, schedules and presentations for both Board and committee meetings in accordance with the Ralph M Brown Act, "California Government Code Section 54950, et.seq."
  - b. Maintain minutes of Board and committee meetings;
  - c. Sign minutes upon approval of the Board ;
  - d. Sign subpoenas.

### *Investments*

7. The CEO will:

- a. Employ a Chief Investment Officer with appropriate education and experience in institutional investing;
- b. Carry out the duties described in this section through the CIO and other professional investment staff;
- c. Recommend to the investment committees an Investment Policy Statement which will include investment objectives;
- d. Recommend to the investment committees strategies for achieving the investment objectives;
- e. Implement the strategies approved by the Board by establishing manager structures for each asset class, which includes determining:
  - i. The number of investment manager mandates to be established; and
  - ii. The size of each investment manager mandate.
- f. Ensure execution of portfolio rebalancing and portfolio transitions;
- g. Ensure that necessary research is performed into investment trends, issues and opportunities that may have implications for the investment program of the OCERS;
- h. Ensure all necessary investment manager due diligence is performed in accordance with the Due Diligence Policy and Service Provider Selection Policy of the Board; and
- i. Oversee the recommendation of investment managers for appointment by the Board.

### ***Benefits Administration***

8. The CEO will:
  - a. Recommend to the Board, as necessary, policies to ensure effective and efficient administration of member benefits;
  - b. Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
  - c. In consultation with medical evaluators and Counsel, recommend disability applications to the Board for its consideration;
  - d. Maintain accurate records of member accounts;
  - e. Ensure delivery of high standards of service to members including calculations and counseling; and
  - f. Develop staff policies and procedures to ensure effective and efficient administration of member benefits.

### ***Operations***

9. The CEO will:
  - a. Recommend to the Board, as appropriate, Board policies designed to help ensure effective operations;

- b. Develop and recommend a business plan to the Board, as well as updates to the plan as necessary;
- c. Recommend the annual Operating Budget to the Board;
- d. Execute agreements, approve as necessary or advisable by legal counsel, and authorize payments related to the administration of the OCERS, consistent with the Operating Budget and internal controls of the OCERS;
- e. Account for and ensure appropriate collection, deposit and distribution of funds as required;
- f. Implement internal operational control policies;
- g. Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer the OCERS;
- h. Cause to be prepared a comprehensive annual financial report on the operations of the OCERS for Board approval;
- i. Maintain the records of the OCERS in a permanent and readily accessible format;
- j. Assist the Audit Committee in coordinating operational audits; and
- k. Maintain an effective working relationship with the County and other plan sponsors of OCERS.

### ***Finance, Actuarial and Accounting***

10. The CEO will:

- a. Recommend to the Audit Committee as appropriate, financial and accounting policies;
- b. Implement appropriate internal financial controls to safeguard the assets of the OCERS;
- c. Assist the Audit Committee in coordinating the annual financial audit;
- d. Coordinate the actuarial valuation, actuarial experience studies, and actuarial audits, and
- e. File in the office of the County Auditor and with the Board of Supervisors a sworn statement which will exhibit the financial condition of the OCERS at the close of the preceding calendar year and its financial transactions for the year ending on that day (§31597).

### ***Human Resources***

11. The CEO will:

- a. Recommend a human resources and compensation policy to the Board;
- b. Assess the human resource needs of the OCERS and establish and implement appropriate human resource programs and procedures, consistent with the human resources and compensation policy of the Board;
- c. Hire, manage and terminate senior management, and oversee the hiring management and termination of staff and
- d. Develop training and job development programs for the OCERS as approved in the Operating Budget.

### ***Legislation and Litigation***

12. The CEO will:
- a. Recommend for Board approval, legislative proposals to be considered by the Board;
  - b. Coordinate with legal counsel on all claims, demands, disputes or legal proceedings involving the OCERS;
  - c. In consultation with legal counsel, provide recommendations to the Board concerning the management and disposition of claims, demands, disputes or legal proceedings involving the OCERS; and
  - d. Develop and implement plans to comply with newly enacted legislation and court rulings, as applicable.

### ***Communications***

13. The CEO will:
- a. Ensure effective and timely communications with stakeholders on matters relating to the administration of the OCERS. Such communications may include press releases, newsletters, presentations, and internet communications; and
  - b. In situations that call for an official spokesperson to speak on behalf of the OCERS, jointly determine with the Chair, on an issue-by-issue basis, who will act in such capacity.

### ***Appointment of Service Providers***

14. The CEO will cause the necessary due diligence to be performed for Board-appointed service providers, as listed in section 12 of the Board Charter, and will provide the Board with appropriate recommendations, in accordance with the Due Diligence Policy and Service Provider Selection Policy of the Board.
15. The CEO may hire other service providers, consistent with the Operating Budget and other policies of the Board, provided that the Board has not specifically retained the authority to hire such service providers.

### ***Monitoring and Reporting***

16. The CEO will provide the Board with relevant, appropriate and timely information to enable it to properly carry out its oversight and fiduciary responsibilities. Furthermore, the CEO will apprise the Board in a timely manner of all significant issues, problems, or developments pertaining to the OCERS, and provide recommended courses of action as appropriate.
17. The CEO will:
- a. Review all policies of the OCERS on a regular basis to ensure they are being followed and continue to meet the needs of the OCERS;

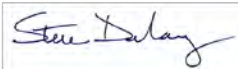
- b. Monitor the activities of the Investment Division and report annually to the Board regarding the administrative oversight of the division, including identifying any issues that arose during the reporting period;
- c. Monitor the funded status of the OCERS and all issues that may reasonably have a significant impact on such status;
- d. Monitor the investment performance of the Fund, the component asset classes, and the investment managers retained to manage the assets of the Fund;
- e. Review and respond to the findings of the annual financial audit, and of any internal audits that may be performed;
- f. Monitor employees and service providers of the OCERS to ensure compliance with the policies of the OCERS;
- g. Review the activities and performance of key service providers including the actuary, financial auditor, investment consultant, legal counsel, and custodian on a regular basis;
- h. Monitor and evaluate the activities and performance of senior management;
- i. Monitor the accuracy and timeliness of all payments due to and payable by the OCERS;
- j. Monitor OCERS' compliance with applicable laws and regulations; and
- k. In conjunction with counsel, monitor the status of all claims, demands, disputes and legal proceedings involving the OCERS and report to the Board of Retirement as appropriate.

## Charter Review

- 18. The Governance Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant and appropriate.
- 19. This charter was adopted by the Board of Retirement on November 18, 2002, and amended on August 25, 2008 and July 20, 2015.

## 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

7/20/15

Date



2017

Business Plan



# Table of Contents

<i>Business Plan Process</i> .....	3
<i>Introduction</i> .....	4
<i>Department Goals and Initiatives for 2017</i> .....	6
Executive .....	7
Information Technology .....	7
Administrative Services .....	7
Finance .....	8
Member Services .....	8
Disability .....	8
Communications .....	9
Internal Audit .....	9
Investments .....	9
Legal .....	10
<i>2016 Business Plan Review and Status Update</i> .....	11
Executive .....	15
Investments .....	18
Member Services .....	20
Communications .....	20
Disability .....	21
Finance .....	21
Information Technology .....	23
Administrative Services .....	25
Legal .....	26
Internal Audit .....	27
<i>Additional Departmental Accomplishments in 2016</i> .....	29
Executive .....	30
Investments .....	30
Information Technology .....	30
Member Services .....	31
Disability .....	31
Communications .....	31
Finance .....	32
Administrative Services .....	33
Internal Audit .....	34
<i>Appendix</i> .....	35
Appendix A OCERS Current Organization Chart .....	36
Appendix B OCERS Department Descriptions .....	37
Appendix C Budget Authority .....	40
Appendix D Budget Approval Policy .....	42
Appendix E 2016 Budget Summary .....	45
Appendix F 2016 Budget - 21 Basis Point Test (Liabilities) .....	46
Appendix G Historical Actuarial Asset and Liability Data .....	47

## Business Plan Process

On an annual basis OCERS staff prepares a one year Business Plan for the Board of Retirement's (Board) consideration and adoption. The purpose of the annual Business Plan is to set department and agency-wide goals and initiatives for the upcoming year that will support and advance the longer term strategic goals of the agency and complete short term projects. The goals and initiatives included in the Business Plan are assumed to be in support of and in addition to the ongoing business activities of the agency. The Business Plan then becomes part of the foundation for developing OCERS' annual budget.

The OCERS Strategic Plan was the starting point for developing the 2017 Business Plan. Staff reviewed the goals and objectives within the rolling three-year Strategic Plan and considered tactics to be used in implementing those long term goals in the upcoming year. The Board initially reviewed staff's proposed goals and initiatives for the upcoming year in September at the annual strategic planning session. Although an official action of the Board is not taken at that meeting, staff received verbal direction from the Board to proceed with including the goals and initiatives presented at the Strategic Planning Meeting into the 2017 Business Plan

After receiving Board approval of the 2017 Business Plan, Executive Management will perform a detailed final review of all budget requests that have been submitted by department managers during the initial stages of developing both the Business Plan and the annual budget. Executive Management ensures that the funds requested are both necessary and adequate to deliver, in an effective and efficient manner, the services OCERS is committed and obligated to provide to its plan participants and sponsors as well as to achieve the Board approved goals for the upcoming year and move longer term strategic goals forward. The budget is also reviewed for compliance with expenditure limitations set by the California Government Code. The budget includes detailed expenses by category and functional area along with comparative data from previous years.

A budget workshop is held prior to the regularly scheduled Board of Retirement meeting in November. The budget workshop will give staff an opportunity to review the detailed budget proposal with Board members. Board members will have an opportunity to ask questions and provide feedback to staff on the budget before it is before them for approval.

The annual budget is then presented to the Board of Retirement in November for review and approval. Business Plan goals must be funded in the approved budget. Should the Board decide not to fund a goal or initiative in the budget that item will either be deferred or deleted from the Business Plan. Should the Board have additional questions, comments, or are in need of further information, the schedule allows for staff to return to the Board in December if necessary.

## **Introduction**

OCERS 2017 Business Plan (the Business Plan) is organized as a list of goals and initiatives for each department at OCERS. The plan is not organized or intended to be a comprehensive financial and strategic road map for operations for 2017. Instead, the intention of the Business Plan is to set and document goals and initiatives for each department that are in addition to the everyday operations. The goals and initiatives are then incorporated into the budget process for the next year. The 2017 budget impact (not including existing staff time) for each goal/initiative has been noted when applicable. The Business Plan also contains a review of the goals approved in the 2016 Business Plan and provides a status update on how staff has progressed in achieving those goals. In addition to the stated goals from 2016, the Business Plan also includes other accomplishments in each department that resulted from either unplanned or unknown events or activities at the time of developing the 2016 Business Plan or as a result of changing priorities during the year.

Each year, as staff develops the goals and initiatives through the Business Plan Process it is important to remind ourselves what the organization's core purpose and focus is as reflected in OCERS Mission Statement. In doing so, we ensure our goals are aligned with our mission as we develop, implement and administer programs for our 21,525 active members, 15,810 retiree and beneficiary members and 5,092 deferred members.

## **OCERS Mission Statement**

***We provide secure retirement and disability benefits  
with the highest standards of excellence***

### **Supporting Goals**

- 1) Excellent Customer**
- 2) Timely & Accurate Benefits**
- 3) Secure and Reliable Data**
- 4) Prudently Managed Investments**
- 5) Professional Plan Administration**

Included in the appendix of the 2017 Business Plan are documents that are helpful in understanding OCERS' budget development process. They are intended to provide the reader additional information about OCERS as an organization and how the 2017 Business Plan goals and initiatives fit into the annual budget process. The items included are:

- A. Existing Organization Chart
- B. OCERS Department Descriptions
- C. Budget Authority
- D. Budget Policy
- E. 2016 Budget Summary
- F. 21 Basis Point Test of 2016 Adopted Budget compared to Accrued Liabilities
- G. Historical Actuarial Asset and Liability Data

# Department Goals and Initiatives for 2017



## **Executive**

1. Complete management calls to new retiree program (Strategic Plan (SP) Goal #1, Objective A)
2. Continue investigating Baldrige Performance Excellence Program (SP Goal #5)  
Budget impact: \$1,000
3. Visit two California retirement systems for on-site review (SP Goal #5)  
Budget impact: \$3,000
4. Have all OCERS managers visit another California retirement system and report on observation to management team (SP Goal #5)  
Budget impact: \$5,000
5. Attend another state wide association conference to observe issues and problem resolution (Texas, Louisiana, Florida or Michigan) (SP Goal #5)  
Budget impact: \$2,000
6. Arrange and conduct:
  - a. Annual OCERS Board Strategic Planning Workshop (SP Goal #5)  
Budget impact: \$5,000 – possible speaker costs
  - b. Annual Contract Cities OCERS overview presentation (SP Goal #1, Objective C)
  - c. Annual OCERS Year in Review presentation to membership audience (SP Goal #1, Objective C)
7. Implement pilot Staff Retention Award Program while studying expansion for key administrative positions (SP Goal #1, Objective A)  
Budget impact: TBD
8. Accompany investment staff on local due diligence trips (SP Goal #1, Objective A)

## **Information Technology**

9. Redesign the OCERS Website (SP Goal #1, Objective B)  
Budget impact: \$250,000
10. Procure and implement a new phone system (SP Goal #1, Objective A)  
Budget impact: \$250,000
11. Enhance Information Security Program (SP Goal #3, Objective B)  
Budget impact: \$100,000
12. Board room technical and safety upgrades  
Budget impact: TBD

## **Administrative Services**

13. Implement revisions to OCERS Contracting and Vendor Management Process, including the use of a contract management system

Budget impact: \$9,000

14. Continue to partner with the Legal Department to complete the Employee Handbook revisions

Budget impact: \$25,000 included in Legal Department

15. Review recommendations of completed workforce analysis with CEO and the Board and implement approved recommendations (SP Goal #3, Objective A)
16. Continue to partner with the CEO on agency wide Succession Development Plan (SP Goal #6, Objective D)

Budget impact: \$30,000

17. Investigate Education and Training database systems for tracking and reporting activity for OCERS employees (SP Goal #1, Objective A)
18. Partner with the CEO and CIO on the implementation of pilot Staff Retention Program, while studying expansion for key administrative positions
19. Investigate an agency wide volunteer internship program

### **Finance**

20. Implement GASB 72, *Fair Value Measurement and Application*

Budget impact: \$5,300

21. Determine OPEB reporting responsibility under GASB 74, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans* and conduct outreach efforts to applicable Plan Sponsors for GASB 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*.
22. Update Finance Policies and Desktop Procedures to document new process and procedures due to implementation of V3 (SP Goal #1, Objective A)

### **Member Services**

23. Create retirement forms that can be downloaded from the website (SP Goal #1, Objective B)
24. Evaluate call center options (SP Goal #1, Objective A)
25. Collaborate with IT on procuring and implementing a new phone system (SP Goal #1, Objective A)
26. Create a Quality Assurance unit (potential budget impact if additional staff are needed) (SP Goal #2, Objectives A & B)
27. Collaborate with Disability to improve the efficiency of the intake of disability retirement applications – multi-year (SP Goal #2, Objective C)

### **Disability**

28. Create disability forms that can be downloaded from the website (SP Goal #1, Objective B)



29. Collaborate with Member Services to improve the efficiency of the intake of Disability retirement applications – multi-year (SP Goal #2, Objective C)
30. Outreach – work with employers to educate employees on disability benefits and process (SP Goal #1, Objective C)

### **Communications**

31. Continue to work on revising the Summary Plan Description (Plan Sponsor specific) – multi-year project
32. Lead the redesign of the OCERS Website utilizing the IT Department for technical support  
Budget impact: \$250,000 included in IT Department
33. Redesign the newsletter to reflect the design of the new Website

### **Internal Audit**

34. Conduct two Plan Sponsor audits
35. System key internal control review
36. Entity-wide Risk Assessment
37. Develop annual Audit Plan
38. Maintain and update Plan Sponsor Review Document

### **Investments**

39. Implement new (Meketa-era) strategic portfolio structure changes including at least 80% of new manager lineup by year-end 2017 (SP Goal #4, Objective 4)
40. Update Investment Policy Statement and construct a new written Investment Beliefs statement (SP Goal #4, Objective D)
41. Research “crisis risk offset” or similar cycle-mitigation portfolio strategies and commence implementation of those approved by Committee (SP Goal #4, Objective A)
42. Resolve portfolio strategy for Absolute Return (hedge funds) and transition as necessary (SP Goal #4, Objective F)
43. Undertake one or more “pilot” operational due diligence reviews of approved or incumbent investment managers as necessary and appropriate (SP Goal #4, Objective D)
44. Complete 70% of the second-round on-site due diligence visits by year-end 2017, targeting full cycle completion 1H18 (SP Goal #4 Objective D)
45. Complete procurement and selection for Real Estate consultant, conduct/complete exploratory RFP for private equity consultant and other service providers as needs or opportunities arise (SP Goal #4 Objective F)
46. Initiate screening process and/or searches for Opportunistic investments if that portfolio category is established (SP Goal #4 Objective B)

47. Inaugurate annual reporting on portfolio-wide income
48. Investigate OCERS institute for trustee investment training in conjunction with other So Cal CERL plans (SP Goal #4 Objective C)
49. Seed capital to fund multi-plan procurement consortium through NCPERS and/or BLA Schwartz and SACRS CIOs (SP Goal #4 Objective F)

### **Legal**

50. Continue to work with Member Services and Disability departments on the Administrative Rules creation process
51. Provide internal staff education/training on various topics that affect OCERS operations
52. Provide support to OCERS Communications and IT regarding legal aspects of the OCERS public Website redesign with respect to fillable electronic form templates for domestic relations orders and public records requests
53. Issue a request for information or request for proposals for securities fraud monitoring firms

# 2016 Business Plan Review and Status Update



Below are the list of department goals and initiatives from the 2016 Business Plan. Included with each goal is a status update (as of September 2016) of the progress towards each item.

### **A. Post V-3 Implementation Process Optimization and Project Assessment**

In 2009, the Board approved a project to update the current pension administration system. The system selected through a competitive process was V3 from Vitech Systems Group. The project commenced in May 2010 with an original launch date of March 2013. During the lifecycle of the project, OCERS and the Vitech team worked together to overcome challenges that required extensions to the launch date. The system is anticipated to be put into production in December 2015. During 2016 OCERS staff from multiple departments will be working on several items related to the newly implemented system including the following:

- Defect remediation of items not needed for putting the system into production.
- Business process refinement based on knowledge gained after using the new system in production.
- Rebalancing the workloads of staff within individual departments based on revised business processes that reflect new system functionality.
- After business processes have been refined and workloads have been rebalanced, begin a workforce analysis which will identify; current and anticipated future supply of labor and skills, OCERS' needs currently and in the future in terms of labor, skills and competencies and gaps between the current and future supply and current and future demands.

In order to complete the above items, staff proposes continuing the use of three consultants/contactors that have been part of the V3 implementation team. The cost of such additional help in 2016 is estimated as follows:

Member Services:	\$ 83,200
Finance:	\$115,000
IT:	<u>\$182,600</u>
<b>Total:</b>	<b>\$380,800</b>

**The total costs being proposed for 2016 are within the projected remaining total project dollars (this does not add to the total approved cost of the project).** However, due to generally accepted accounting principles which state that once software is put into production, costs associated to the development and implementation of such software are no longer eligible to be recorded as an asset and depreciated over the useful life of the software. Therefore, the costs incurred in 2016

related to the post implementation tasks will be recorded as an expense in the current year.

- **In process. See individual manager reports in sections that follow.**

## **B. Performance Measurement and Reporting**

OCERS currently has several tools and processes that are used for planning for the future of the organization, effectively and efficiently administering the plan and measuring our performance. In 2016, the executive management team will be working to tie the OCERS Strategic Plan, performance measurements and the budget together. The purpose of doing so is to make a more robust and transparent road map and progress report on how the organization is doing on moving towards its strategic goals. Some of the items that will be undertaken in connection with this agency wide goal are:

- Investigate participating in CEM's small system benchmarking survey.
- Develop a reporting mechanism that communicates the progress being made on Strategic Plan objectives as a performance measurement tool.
- Incorporate in the annual budget process performance measurements by department to bring context to the dollars being requested for the following year.

**The engagement with CEM Benchmarking has begun. The Business Plan Goals for 2017 have been linked to the Strategic Plan as appropriate.**

## **C. Operational Risk Management**

Operational risk is the risk of loss resulting from inadequate or failed processes or systems, human factors or from external events. OCERS has many different methods and process by which operational risks are identified, assessed, managed, and mitigated. These processes are decentralized and in some cases completed informally. An area of improvement that is being endeavored in 2016 is to bolster the agency's operational risk management program. Staff will first begin with the development of a framework of a more formalized Operational Risk Management program (ORM). The framework, once completed will centralize and formalize how OCERS: 1) identifies the risks that originate in the business units, 2) assesses the size of operational risks, 3) monitors, controls and reports changes in operational risks, 4) mitigates operational risks and 5) calculates capital needed to protect the agency from operational risk losses.

Incorporated within the overall ORM will be the Business Continuity and Disaster Recovery Plan (BC/DR). Staff has been working on the development of an updated

BC/DR plan for the past eighteen months. In 2016, staff from all departments will be actively involved in the implementation of the drafted BC/DR plan. The newly revised plan calls for regular “table top” exercises to test the plans workability and to better prepare staff in the event that operations are disrupted and OCERS is faced with either a loss of facilities, people, or technology. The plan is considered a “living document” in that it will be continuously updated to stay in synch with OCERS current business processes, procedures and requirements.

In process. Alliant was hired by the Board as OCERS’ Insurance Broker and a new Contract, Risk and Performance Administrator was hired. Both of these new additions are key resources for developing and implementing an ORM. The Business Continuity and Disaster Recovery plan continues to be implemented and a “table top” exercise was successfully executed

#### **D. Procurement of Named Service Providers and Other Consultants**

OCERS policies call for the re-procurement of certain “Named Service Providers” to occur at least every six years. Named Service Providers whose current contracts are due to be re-bid in 2016 includes:

- General Investment Consultant -Complete
- Consulting Actuary - Complete
- Alternative investments consultant;- Underway
- Real estate investment consultant; - TBD
- Custodian;-Complete
- Securities lending manager; and - TBD
- Financial auditor (selection to occur in late 2015) - Complete

The process of re-procurement of contracts such as these include the writing of a Request for Proposal, evaluation of proposals, interviews with finalists and contract negotiations. Should the incumbent not be the successful vendor in a RFP process, the transition from the old to the new vendor entails staff time and effort to ensure all old business is wrapped up and adequate transfer of knowledge to the new vendor occur. Given the number of procurements to be conducted in 2016, staff will be investing a notable amount of time on these procurements.

## **Executive**

### 1. OCERS post V3 go-live review:

- Initiate business process analysis:

Meeting on July 22, the OCERS management team took up the question of V3, and its impact on OCERS business processes as part of our semi-annual off-site planning session. Coordinating with the staff analysis that will be conducted by an outside consultant as noted in the next goal below, as well as with our new contracts and performance management specialist, the management team will continue to advance the goal of business process improvement.

- Staffing analysis:

A fall 2016 goal, allowing OCERS departments time to use the new V3 system through much of the calendar year before we begin to determine impact on staffing needs. A consultant RFP was issued in August.

- Legacy data status:

Conducted by Sunera, this process began at the start of the year under the supervision of the OCERS Internal Audit team. While there are some findings, they are generally understood to be known issues and proposed variances. A final report to the audit committee will be presented in the fall 2016.

### 2. Begin annual “State of OCERS” presentation (January):

Done. Completed at the January 19, 2016 meeting of the OCERS Board of Retirement. The detailed discussion was dependent on year end data, so the Board’s directive is to continue with this annual presentation, but move it to February each year.

### 3. Annual visits to Orange County Legislative Delegation in Sacramento

- Budget Impact: \$1,000

### 4. Seek further opportunities for operational excellence including:

- Continue research into Baldrige Program applicability to OCERS:

Ongoing. During visit to Illinois Municipal Retirement Fund (IMRF) (see below) several hours were spent with their Performance Excellence Manager in review of IMRF and use of the Baldrige Quality System to determine applicability at OCERS.

- Visit Illinois Municipal Retirement Fund:

- Budget Impact: \$2,000

Done. CEO Delaney was on site at the IMRF offices on September 29, 2016, meeting with CEO Louis Kosiba and his executive team. A detailed review of that system's investment, member services and disability departments filled the day.

- Begin: Tie Strategic Plan, performance measures and the annual budget together:

Ongoing preparation with specific actions in fall 2016 following hire of agency's new Contract, Risk and Performance Administrator.

- Reengage CEM Benchmarking services.

- Budget Impact: \$25,000

Completed. With CEM Benchmarking meeting the minimum goal established by the OCERS Board (at least eight participating public employers), OCERS will once again be participating in the CEM program for Calendar Year 2016.

- Annual visit to two other California retirement systems.

- Budget Impact: \$2,000

CEO Delaney visited the City of San Diego Employees Retirement System on September 21, 2016. A full review took place with their CEO, CIO Member Services Manager and disability review team.

CEO Delaney will visit CalPERS late this year. A business acquaintance with the new CalPERS CEO, he will be meeting her and members of her executive team.



- Continue work on Staff Retention Program:

I will present a modified Staff Retention Program, improved from that previously considered by the OCERS Board at their October 2015 budget workshops.

5. Create an improved Information Security Policy to prevent and manage any possible breach or hack of member and system information:

- Budget Impact – \$250,000 Included in IT Department

An ongoing training program for OCERS staff is underway. An RFP was issued leading to the hiring of Mandiant; a security consultant. They were on site in June to review and make suggestions. A review of equipment and services will follow in the fall. Further security improvements will be developed as we enter the fall.

6. Investigate membership in Coalition for Social Security:

CEO Delaney attended the Coalition for Social Security Conference as part of the larger National Institute for Retirement Security (NIRS) conference in the first week of March 2016. The Coalition is made up of several states and certain non-profit associations that seek to prevent a mandatory imposition of Social Security on the remaining public employers (including many in California) who have not yet agreed to provide that benefit.

Mr. Delaney reports:

“In my June quarterly report I informed the Board that I had placed this topic on the CALAPRS CEO Roundtable agenda in July. From that meeting I learned that no other system is following this issue at this time, and no other system is seeking membership in the Coalition.

I believe no further action is required on this topic. I will continue to attend the annual Coalition conference as it is part of the NIRS winter conference that I attend any way, so there is no cost to adding my attendance at this short quarter day event. If movement is detected in Congress to move in the direction of mandatory Social Security I would then return to the Board to determine if, OCERS would then want to become an active member of the Coalition.”

## Investments

7. Launch General Consultant search in the first quarter, contract ends August 2016. Could result in higher fees in final months of 2016.

RFP was issued in January 2016, Meketa was hired as the General consultant for a period of five years, the agreement between OCERS and Meketa became effective June 15, 2016.

8. Launch Real Estate Consultant search in the second quarter, contracts ends November 2016.

RFP prepared and was presented to the Investment Committee at the September 28, 2016 Investment Committee meeting. Committee tabled and will revisit the RFP after asset allocation deliberations are complete.

9. Launch Hedge Fund Consultant search in the third quarter, contract ends December 2016.

Based on the recommendation of CIO, Meketa and PCA (Risk consultant) at the Annual Strategic Planning meeting, OCERS will be transitioning out of hedge funds and presently does not expect to issue a new RFP for these services which would be subsumed by Meketa.

10. Complete asset/liability study in 1H 2016.

Meketa has commenced the Asset Liability/Asset Allocation study and is expected to be completed by year-end.

11. Review Diversified Credit Program portfolio structure, and value added by long-short credit managers.

Meketa and staff will review the Diversified Credit Program in conjunction with the asset/liability and asset/allocation studies.

12. Selective, enhanced “operational” due diligence for a few money managers, probably hedge funds?

➤ Budget Impact: \$50,000

OCERS issued an RFP for ODD providers in May 2016, and hired Aksia and Laven as ODD providers; the contract negotiations with the two providers are ongoing.

13. OCERS institute trustee training for investments in conjunction with other California plans?

➤ Budget Impact: \$10,000

OCERS sponsored “Energypalooza” last spring; and we had visitors from in-state and out of state.

14. New procurement strategy and round for private equity? This fall will be the last year of the 3 year P4 effort. Could be for a separate advisor, etc. Co-investments?

Staff is looking for authorization for CIO to issue an RFP for private equity discretionary management. This recommendation was approved by the Investment Committee on September 28, 2016

15. Implement new benchmarks for selected asset classes/categories (e.g., absolute and real return, diversified credit?).

NEPC completed the education sessions in the first half of 2016, OCERS eliminated the use of benchmarks that are aspirational in nature and put into effect July 1, 2016, market related benchmarks. Implementation should be completed by year-end.

16. Expanded internal risk reporting (e.g., better, stronger use of Green Package)

OCERS issued a RFP for Strategic Portfolio and Risk Advisor and hired PCA in lieu of BRS. Staff will work with PCA on risk reporting in the future.

17. Continued efforts to establish a joint procurement legal structure.

➤ Budget Impact: \$50,000

Nothing developed in 2016, although we did encounter one proposal for international legal services which is now under review

18. Stronger involvement of Investments Staff members at California pension associations.

➤ Budget Impact: \$2,000

Staff attended SACRS here in Orange County earlier this year, will continue to seek attendance opportunities

## **Member Services**

19. V3 post go-live project wrap up tasks:

- Upon implementation of V3, restructure/reorganize MS division.

**In progress – restructure extended into 2017 to incorporate the results of the workforce analysis**

- Cross train staff; with a focus on developing desk manuals that integrate business processes to revised functionality (continues from 2015).

**In-process**

- Defect remediation.

**Completed**

- Test remaining medium and low priority defects scheduled to be delivered post go-live.

**Completed**

- Regression test new V3 build deliveries.

➤ Budget Impact: \$83,200 (see Agency-wide goal A)

**Completed**

20. Collaborate with Disability to improve efficiency of the intake of disability retirement applications.

**In process – multi-year goal**

21. Assist the Legal department with Administrative Rule creation (continues from 2015).

**Ongoing**

22. Participate in ongoing DR/BC Plan.

**Completed**

## **Communications**

23. Lead the redesign of the new OCERS Web site utilizing the IT department for technical support. This will serve as the primary effort to enhance OCERS' brand identity (including communications efforts such as newsletters, videos and social media, but extending to supporting all areas of OCERS).

**Deferred**

24. Redesign "At Your Service" newsletter, with design reflecting the look of the new Web site and including interactivity on the electronic version.

**Deferred**

25. Participate in ongoing Disaster Recovery/Business Continuity Plan tasks.

Completed

26. Redesign the “Summary Plan Description” to be available as employer-specific editions (multi-year project).

In progress – multi-year goal

27. Reinstitute the internal OCERS staff newsletter.

Completed

28. Produce a library of media and public inquiry responses.

Completed

### **Disability**

29. Review and update written policies and procedures to incorporate V3 functionality.

Completed

30. Collaborate with Member Services to improve efficiency of the intake of disability retirement applications and close the knowledge gap.

Ongoing

31. Implement any changes to the disability process as directed by the Board as a result of the presentation at October 2015 Board meeting, if applicable. -

Completed

32. Participate in ongoing Disaster Recovery/Business Continuity tasks.

Completed

33. Utilize a copy service for retrieval of medical records to ensure the member’s confidentiality and minimize vulnerability to security breach.

Under Review

### **Finance**

34. Evaluate reporting requirements for GASB 72, Fair Value Measurement and Application and its impact on financial statements for the year ended December 31, 2016.

On-going. Staff has participated in several webinars on the subject, as well as gathered sample disclosures and presentations on the subject. Finance will also be coordinating with investment staff and State Street Bank to determine how we will obtain the different levels of fair value required by this disclosure (quoted market prices, observable inputs other than quoted market prices and unobservable inputs)

35. Begin preliminary planning of implementation of GASB 74, Financial Reporting for Postemployment Benefit Plans Other Than Pensions effective for the year ended December 31, 2017 and determine assistance needed by Plan Sponsors for implementation of GASB 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions effective for the year ended June 30, 2018.

On-going. Preliminary conversations have been initiated with OCERS' external auditors and OCFA, the only Plan Sponsor determined to be directly impacted by the new pronouncements. Staff has scheduled an initial implementation planning meeting at OCFA's offices in early November 2016.

36. Work with Investments Department to issue an RFP for investment custodial services.

Completed. State Street Bank, the incumbent custodian, was selected from three semi-finalists to continue providing OCERS with custodian bank services. Contract negotiations are currently underway.

37. V3 post go-live project wrap up tasks:

- Upon implementation of V3, evaluate and redistribute Finance staff workload to create greater efficiency in department.
- Defect remediation.
- Test any remaining medium and low priority defects scheduled to be delivered post go-live.
- Regression testing of new V3 build deliveries.

On-going. Finance has been actively involved in identifying and resolving defects in the areas of contributions, retiree payroll, GL integration and actuarial/CAFR reporting. Assessment of workloads continues and an

evaluation of filling an open accounting technician position in Finance resulted in the position being reassigned to Member Services.

➤ Budget Impact: \$115,000 (see Agency-wide goal A)

38. Develop “drill-down” reports for financial statements to create efficiencies in staff’s financial statement analysis and the annual audit process.

Completed. “Drill-down” reports were available and used during the current audit of the 2015 financial statements.

39. Initiate improvements in Board level financial reporting:

- Develop user-friendly GASB 68 summary for 2016 valuation to simplify understanding of report.
- Assist Executive Department in tying the Strategic Plan, performance measurements and the annual budget together. –

In progress.

A summary report of the GASB 68 valuation was presented at the August 3, 2016 Audit Committee Meeting, followed by a slide show presentation to the full Board of Retirement at the Regular Board Meeting held on August 15, 2016. Staff will continue to refine the presentation of the GASB 68 valuation based on Board feedback.

The annual budget process has begun and strategic plan and performance measurements have been incorporated into budget requests and will be included in the formal reporting of the final budget in November 2016.

40. Continue to participate in the implementation of the BC/DR plan.

Completed. Finance continues to be involved in the implementation of the BC/DR plan and participated in a “table top” exercise that simulated a 2-3 day business interruption and identified areas where OCERS could be better prepared, such as updating its third party vendor contact list in the event of an emergency.

## **Information Technology**

41. V3 post go-live project wrap up tasks:

- Assist Internal Audit and external vendor with the V3 data conversion audit.

- Development of V3 reports to support business processes.
- Development of V3 queries.
- IT Support for V3 QA testing.
- IT Support for V3 in production.
- Defect remediation
  - Test any medium and low priority defects scheduled to be fixed after go-live.
  - Regression testing of new V3 build deliveries.

On Going. OCERS IT department is providing support to OCERS Staff of the V3 system. This includes V3 system administration and configuration, V3 QA Testing in specific areas, V3 Scripting for data cleanup, and Report creation and ad-hoc data requests.

42. Review IT staffing plan including both short and long term operational and programming requirements.

In process

43. Hardware/Software Purchases (Upgrades & Replacement)

- Anti-Spam Solution

In process

- Replace Education Center laptops

In process

44. Continue development and implementation of OCERS Intranet enhancements.

- Migrate non-member documents from LibertyNet to SharePoint
- Develop document library structure for:
  - Policy documents
  - Business process documents
  - Personnel documents
  - Training documents
  - Contracts
  - Public records requests
- Create standard forms, templates, widgets and pages for departments (i.e., meetings, calendars, action items, etc.)

In process. Staff has enhanced the OCERS Intranet home page, established document controls and procedures, including versioning and advanced search capabilities, an organizational calendar, electronic form submissions for Time Off, Overtime, and Cash Out Requests (roll out scheduled in November 2016)



45. Provide technical support to Communications department staff in the redesign of OCERS Web site.

**Deferred**

- Budget Impact: \$100,000 (deferred from 2015)

46. Continue the implementation of the Business Continuity and Disaster Recovery Solution.

- Replication, co-location, backup and recovery, remote access and support.
  - Acquire and install new hardware.
  - Upgrade existing Data Center facilities equipment: (deferred from 2014).
  - Replace UPS unit, water-based fire suppression, central A/C unit for the server room and install power generator for Data Center, additional work space and supporting facilities.
- Test BC Plan including cross training of key staff.
- Test Business Resumption Approach Document for IT (Disaster Recovery Run Book).
- Create BC & DR testing and review schedule.
- Incorporate business continuity and disaster recovery processes into daily operations.
  - Budget Impact: Range from \$750,000 - 2,000,000 (Year 3 of 3)

**In process. An RFP was issued and an implementation vendor, Side Path, was selected to carry out the procurement of hardware, software and services, perform the installation and testing of OCERS BC/DR data center solution.**

**Administrative Services**

47. Continue the development and implementation of succession planning.

**In progress. 3 Managers enrolled in CALAPRS Academy, 3 Supervisors enrolled in County of Orange Leadership program. Ethics Training and Emotional Intelligence training for staff scheduled.**

- Identify career development strategies for key leadership positions.
  - Budget Impact: \$40,000

48. Revise the current performance management program.

Pending

49. Implement a Professional Retention Program for the Investments Department.

In progress

50. Process improvement and development of the contract, risk and performance management functions which will include the addition of a new manager level position.

In progress

- Budget Impact: \$133,600 (\$84,600 salary + \$49,000 benefits)
- Manager position range: \$57,000-\$110,000

51. Post V-3 go live project wrap up tasks:

- In connection with Executive's business process analysis, review the organization structure and perform a workforce analysis.

In progress

- Budget Impact \$40,000

52. Consider options for the facility to reduce water and energy consumption.

Pending

53. Space management projects:

- Building modifications needed to vacate the 3<sup>rd</sup> floor.

Completed

- Budget Impact: \$10,000

- Legal library conversion into a conference room.

In progress

- Budget Impact: \$15,000

## **Legal**

54. Provide internal staff education/training on various topics that affect OCERS operations.

**On going**

55. Provide support to OCERS Communications and IT regarding legal aspects of the OCERS public Web site redesign with respect to fillable electronic form Web site templates for domestic relations orders and public records requests.

**Deferred**

56. Issue a request for information or request for proposals for a securities fraud monitoring firms.

**Deferred**

57. Continue to work with Member Services and Disability departments on the Administrative Rules creation process.

**In progress – multi-year goal**

58. Provide technical support to V3 post go-live as needed.

**Completed**

59. Add a paralegal position to address operational efficiencies (for the Legal and Member Services department) and risk mitigation regarding processing legal documents pertaining to member records and benefits.

- Subpoenas
- Child and spousal support orders
- Domestic relations orders
- Joinders
- Notice of adverse interest
- Tax levies
- Death and beneficiary issues
- Ad hoc member and plan sponsor requests

➤ Budget Impact: \$90,000 (\$56K salary + \$34K ben)

**Completed**

60. Participate in ongoing Disaster Recovery/Business Continuity Plan tasks

**Completed**

**Internal Audit**

61. Perform V3 data conversion audit.

➤ Budget impact: \$255,000

Audit fieldwork completed. After inclusion of management response, the final report will be presented to the Audit Committee

62. Perform payroll audit: OCFA

Postponed as the request of OCFA management

63. Audit County payroll data transmittal to V3.

Postponed



## **Executive**

- OCERS Year In Review outreach was completed in October 2016. Annually the OCERS Executive team goes out in the field to meet the executive teams of each plan sponsor, and of the majority of labor groups working with OCERS members. Additionally, the CEO accompanies the OCERS Board Chair and Vice Chair in similar presentations provided individually to the five members of the County of Orange Board of Supervisors.
- We continued regular communication outreach to the Contract Cities as requested by the OCERS Board of Retirement in 2014. A special program was hosted at OCERS in September 2016 to provide the Contract Cities with a general overview of OCERS pension liabilities and funding plan as part of an ongoing annual outreach program to Contract Cities

## **Investments**

- Board education sessions: Dan Fuss from Loomis Sayles presented on the developments in the credit markets with a special focus on high yield. NEPC conducted a multi-month educational session on performance benchmarks and attribution. Infrastructure educational session was conducted by J.P. Morgan. CIO made a presentation on Investment Governance, Discussion on GoldenTree Litigation and potential impact by outside counsel. Jim Meketa presented his views of “big picture” and “long term” investment issues and themes. Howard Marks discussed how Oaktree assesses the markets, particularly credit markets and how fundamentals and psychology impact the market.
- Updated Proxy Policy and Investment Policy Statement.
- Conducted educational sessions and issued RFP for Alternative Income.
- Presented for approval supplemental subscriptions to Cross Ocean and Kayne Anderson Energy funds.
- Completed the RFP process for Custodian and retained State Street.
- Produced “Asset Liability” scenarios in conjunction with Meketa, PCA and Segal
- Preparing Private Equity RFP following committee authorization.

## **Information Technology**

- Rolled out End User Security Awareness Training, providing a series of cyber and data security videos for staff to education and make staff aware of the

threats and vulnerabilities around them and how best to approach and handle them. We have also conducted the first of a series of Phishing /Spear-Phishing test of staff.

- Developed IT Helpdesk function in SharePoint to allow staff to submit helpdesk requests. System allows IT to track and report on the number and types of support request we are receiving. We are now in development of a similar IT Report/Query request system for the Programming department. The IT Helpdesk will be rolled out in November to all staff.

### **Member Services**

- Acquired and trained transferred staff position from Finance.
- Collaborated with legal department to expedite processing on legal opinion requests; working with new paralegal position.
- Facilitated Plan Sponsor Employer Payroll training and support.
- Provided full membership support and communication on cyber security for myOCERS member self-service portal. Participated in security awareness training.
- Initiated telephone confirmations for all direct deposit requests submitted via portal and in writing.
- Resumed professional development with managers (2) and supervisory staff (2) attending CalPERS and County leadership academies.
- Developed graphs showing the percentage of salary associated to every year of service for each of the benefit plan formulas.

### **Disability**

- Added 3 new panel physicians
- Professional development of Supervisory staff (attended LCW Consortium, SACRS, CALAPRS)
- Participated in security awareness training

### **Communications**

- Worked with I.T. Programming to develop a tracking system for all incoming media queries and Freedom of Information Act (FOIA) requests.
- Assumed the responsibility for document management and version control of all outbound correspondence.

- Coordinated a lunchtime presentation with the Orange County Fire Authority relating to fire safety in the workplace.

## **Finance**

- As a result of the implementation of V3, staff gained a better understanding of how Member Services processes retiree payroll, resulting in Finance working more closely with Member Services and creating a detailed reconciliation process related to the monthly processing of retiree payroll.
- As part of taking over the processing of deduction files, Finance instituted a procedure that requires third party payroll vendors to provide control totals for deduction files in advance of processing monthly payroll. This allows staff to identify file errors proactively instead of reactively.
- Implemented an ACH/Positive Pay File log so that all ACH/Positive Pay files are reviewed independently by a Manager or above to ensure amounts and pay dates are correct prior to submission of files to bank's secure portal.
- As part of Finance's succession planning, one of our Finance Managers participated in and successfully completed the CALAPRS Manager/Supervisor Academy.
- Planned, drafted and produced the 2015 Comprehensive Annual Financial Report (CAFR), "Progress Past | Present | Future"
- Received the prestigious Certificate of Achievement for Excellence in Financial Reporting from the Government Financial Officers Association (GFOA) for OCERS' 2014 CAFR and submitted the 2015 CAFR for consideration of the same award.
- OCERS' 2014 CAFR – "Orange County's Beautiful Blue" was submitted by our graphic designer this year to the American Advertising Federation's Addy Awards and was a recipient of the Bronze Addy award.
- Staff will be submitting the 2015 CAFR for consideration of the Public Pension Coordinating Council (PPCC) Standards Award for Funding and Administration which was awarded in late 2015 for OCERS' 2014 CAFR.
- Participated in security awareness training



## **Administrative Services**

### Recruitments

- Completed 14 recruitments and screened over 865 applications
- Received over 24,000 applicant views of employment flyers on NEOGOV website
- Hired 11 new employees, 10 temporary employees and 1 contractor
- Successfully Recruited Chief Legal Officer in-house
- Promoted 2 employees and processed 4 employee transfers

### On Boarding/Off-Boarding

- Conducted 9 New Hire and 2 Temporary Employee Orientations
- Created formal Temporary Employee Orientation
- Successfully Off-boarded 11 employees

### Coordinated 4 onsite Trainings to include:

- Active Shooter Training
- Ethics Training
- Emotional Intelligence Training
- Sexual Harassment Training

### Successfully coordinated the following Employee events:

- 2016 Take Your Child to Work Day
- 2016 California Great ShakeOut
- County Wellness Biometric screening
- Red Cross Blood Drive
- CPR/AED certification for safety committee members
- Annual Transportation Survey
- Pack-a-Pack School Supply drive – Six Points for Kids (OC Sheriff Dept)
- Operation Santa Claus

### Salary/Compensation Surveys

- Completed 10 Salary Surveys

### Building Maintenance/Improvements

- Installed file cage in mail room
- Space Management: Vacated 3rd floor and moved contractors and staff to 2nd floor and Converted 4 storage rooms to offices

- Worked with property management firm to rent out vacated space on the 3<sup>rd</sup> floor
- Conversion of vending machine room in 1st floor break room into mother's room
- Increased energy efficiency via reduction in water usage and LED lighting
- Researched other energy efficient options via the Energy Network and PFMG Solar
- Increased safety - carpet strip and safety sign in board room.

#### Managed Leave of Absence / Return to Work / Workers Comp / Ergonomics

- Intermittent Leaves of Absence (3)
- Medical Leaves of Absence and Return to Work (6)
- Return to Work Interactive Meetings (2)
- Coordinated 7 ergonomics evaluations

### **Internal Audit**

#### Private Equity audit

- Identified a process improvement to help OCERS verify that management fees for private equity investments are correct,
- Identified management fees that State Street was incorrectly netting against performance returns in its monthly reporting to OCERS.

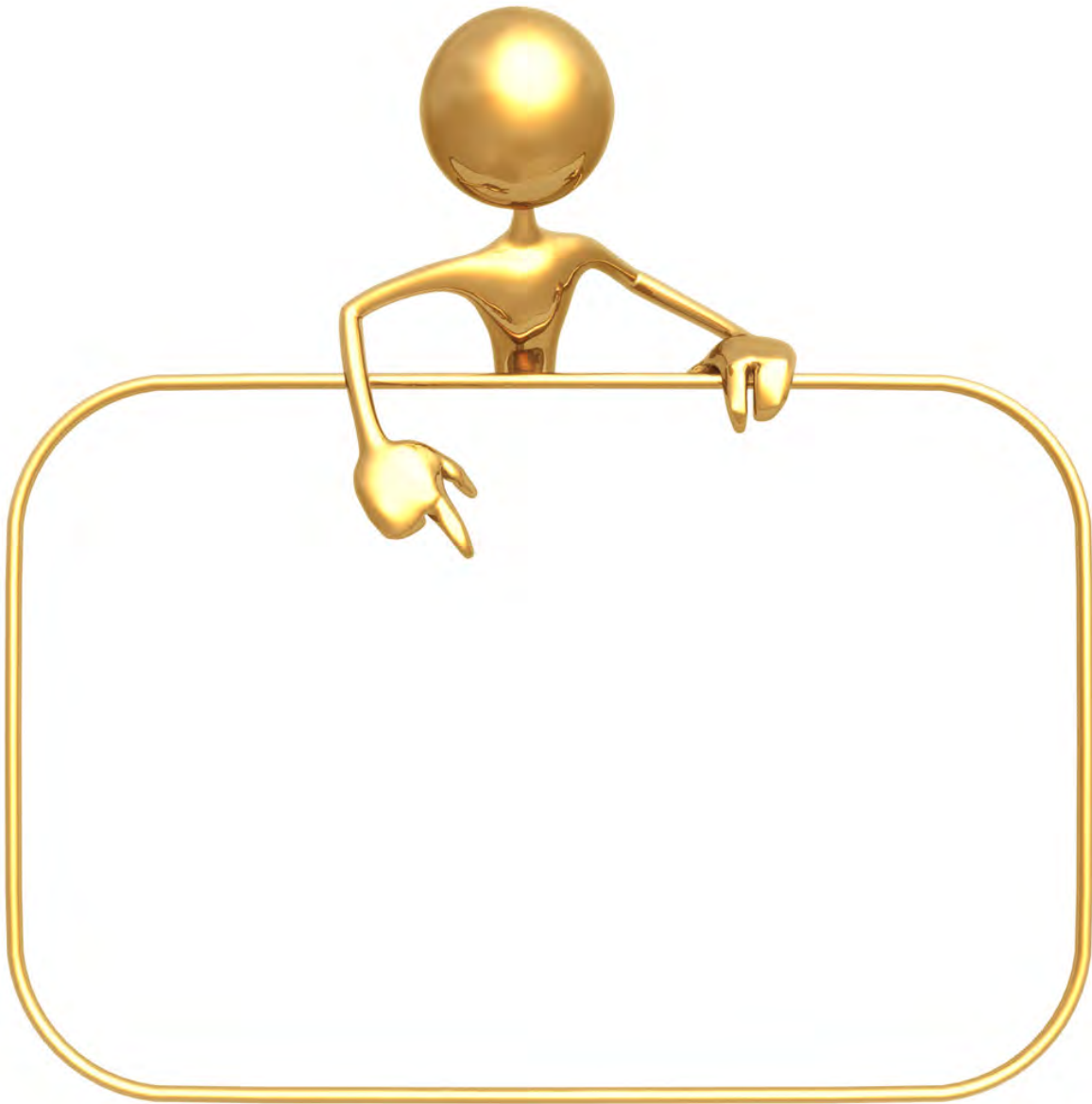
#### Death Match Process audit

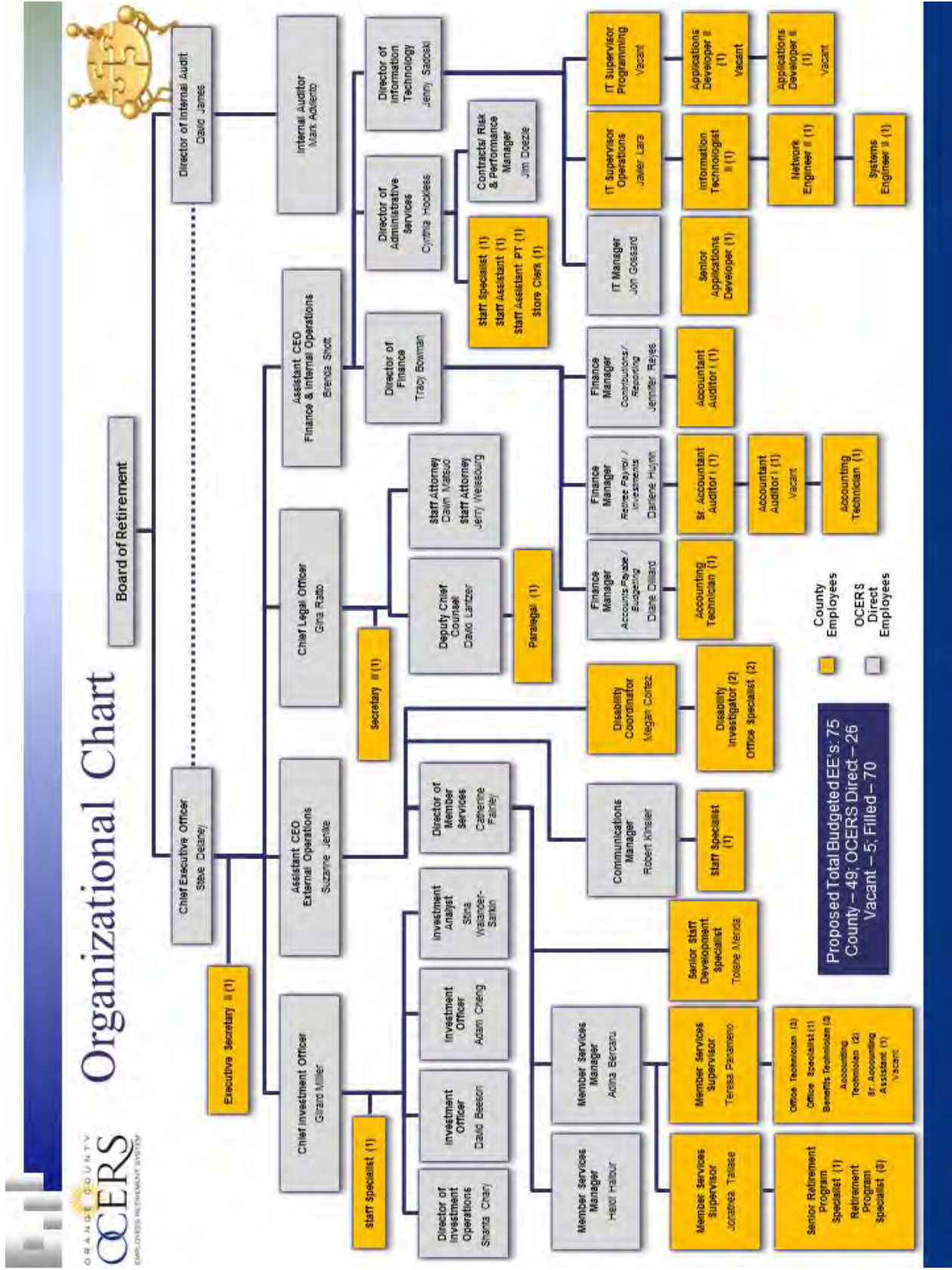
- Identified 29 deceased members who were not terminated in the pension administration system, resulting in \$990,694 of refundable contributions and interest to be made to their beneficiaries,
- Identified \$56,298 in benefit overpayments to be collected by OCERS,
- Made recommendations to help secure members' private demographic and banking data.

#### V3 Benefit Setup audit

- Identified an incorrect benefit setup in V3, resulting in re-training for Member Services staff in regards to retiring part-time members.

# Appendix





## OCERS Organization Description

### Board of Retirement

The Board of Retirement is responsible for establishing policies governing the administration of the retirement plan, making benefit determinations, establishing investment policy for the system and monitoring execution of its policies. The Board of Retirement consists of nine members and one alternate. The Board of Supervisors of the County appoints four members of the Board of Retirement; active participants of the system elect four members, one safety and two general and an alternate; the retirees elect one member; and one member is ex-officio, the Treasurer of the County.

### Executive Department

This department consists of the Chief Executive Officer (CEO) who implements and executes policies promulgated by the Board of Retirement. The Assistant CEO of Finance and Internal Operations, the Assistant CEO of External Operations, the Chief Investment Officer (CIO), Chief Legal Officer and the Director of Internal Audit assist the CEO in leading and operating the system. Two administrative staff members support the Executive department on a daily basis.

### Investment Department

This department is responsible for the administration and management of the investment program, in accordance with policies, regulations, and guidelines set forth by the Board of Retirement. It is responsible for the interface with investment managers, including monitoring investment performance objectives, adherence to investment guidelines, conducting due diligence visits to investment managers, and interviewing prospective investment managers. The department is also responsible for the interface with outside investment consultants in reviewing and evaluating all investment managers' performance and investment manager fees. The CIO leads this department of five staff.

### External Operations Division

This division is comprised of the following three departments;

The **Member Services** department is responsible for providing all benefit services to the members of the System. This includes benefit calculations, preparation of data to support applications for retirement, preparation of the retiree payroll, and membership counseling. The

Director of Member Services oversees this department of twenty-three employees.

The **Disability** department is responsible for the evaluation of claims for disability retirement. The Director of Member Services also oversees this division of five employees.

The **Communications** department is responsible for developing and coordinating information for members and plan sponsors through publications and newsletters. There are two employees who perform the communication functions for OCERS.

## Legal Department

This department provides legal advice and representation to the Board of Retirement and the Orange County Employees Retirement System (OCERS) on a wide variety of issues affecting the Agency. Among other things, this includes issues involving disability retirements, investments, legislation, vendor contracts, and family law. The Chief Legal Officer oversees this department of Deputy Chief Counsel and two Staff Attorneys.

## Internal Operations Division

The Internal Operations Division is led by the Assistant CEO of Finance and is comprised of the following three departments:

The **Finance** department is responsible for all the financial records and reports of OCERS. This includes the preparation of the Comprehensive Annual Financial Report, monthly and quarterly financial information and the annual operating budget. The Finance department also maintains OCERS' system of internal control; processes and accounts for retirement payroll and refunds of contributions and interest to members; collects and accounts for employer and members' contributions, reconciles investment portfolios and pays costs incurred for goods received and services rendered. The Finance team is managed by the Director of Finance and has nine full time staff members.

The **Administrative Services** department is responsible for providing administrative and human resources services for OCERS. Specifically, the areas of responsibility include staff and management recruitments, performance management, employee relations, employee compensation, personnel policies, and regulatory compliance, contract administration, purchasing, and facility management and maintenance. A Director of Administrative Services leads the department which includes three full time staff and a part time employee.



The **Information Technology (IT)** department is responsible for managing OCERS' network systems, personal computers, software, while providing programming and technical support on our Benefits Administration System. In addition, this department is responsible for the production of retiree payroll, file interfaces related to contributions and payroll and administering all audio/visual functions. Currently, OCERS is in the midst of implementing a new Pension Administration System. The IT department is the lead on managing the multi-year project. The Director of IT leads this division which includes nine employees.

### **Internal Audit Department**

The Internal Audit Department assists the Board of Retirement and management in the effective discharge of their fiduciary responsibilities. This is done through audits, analysis, evaluations, recommendations, and information. Objectives of the department are to promote effective internal controls, provide assurance that the Agency's assets are safeguarded; compliance is maintained with prescribed laws, Board, and management policies; the reliability and integrity of OCERS' data is maintained; and procedures and operating efficiency are enhanced. The Internal Audit Department has a dual-reporting structure. The Director of Internal Audit reports directly to the Board's Audit Oversight Committee functionally and reports to the CEO administratively. The Director supervises one Internal Auditor.

## Budget Authority

OCERS' annual budget is prepared in accordance with the California Government Code Sections 31580.2, which addresses administrative expenditures that are subjected to the 21 basis points limitation and 31596.1 for investment and other expenditures that are not subjected to the limitation. Below is an excerpt of these Code Sections.

### **§31580.2 Annual budget; expenses of administration; charges against earnings of fund**

- (a) In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1, 31522.5, or 31522.7, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed the greater of either of the following:
- (1) Twenty-one hundredths of 1 percent of the accrued actuarial liability of the retirement system.
  - (2) Two million dollars (\$2,000,000), as adjusted annually by the amount of the annual cost-of-living adjustment computed in accordance with Article 16.5 (commencing with Section 31870).
- (b) Expenditures for computer software, computer hardware, and computer technology consulting services in support of these computer products shall not be considered a cost of administration of the retirement system for purposes of this section.

### **§31596.1 Expenses of investing moneys**

The expenses of investing its moneys shall be borne solely by the system. The following types of expenses shall not be considered a cost of administration of the retirement system, but shall be considered as a reduction in earnings from those investments or a charge against the assets of the retirement system as determined by the board:

- (a) The costs, as approved by the board, of actuarial valuations and services rendered pursuant to Section 31453.
- (b) The compensation of any bank or trust company performing custodial services.



- (c) When an investment is made in deeds of trust and mortgages, the fees stipulated in any agreement entered into with a bank or mortgage service company to service such deeds of trust and mortgages.
- (d) Any fees stipulated in an agreement entered into with investment counsel for consulting or management services in connection with the administration of the board's investment program, including the system's participation in any form of investment pools managed by a third party or parties.
- (e) The compensation to an attorney for services rendered pursuant to Section 31607 or legal representation rendered pursuant to Section 31529.1.



## Orange County Employees Retirement System Budget Approval Policy

---

### BACKGROUND AND PURPOSE

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 budget for the next calendar year that supports the initiatives set out in the proposed Business Plan. The Budget will be presented during the month of November.
6. The format of the proposed budget will organize expenditures by function within OCERS as follows:
  - a. Executive;
  - b. Investments;
  - c. Communications;
  - d. Member Services;
  - e. Finance;
  - f. Administrative Service;

- g. Disabilities;
  - h. Board;
  - i. Information Technology;
  - j. Legal;
  - k. Internal Audit; and/or
  - l. Such other functions that may be adopted by OCERS in the future.
7. The budget shall be broken into three broad categories of expenditures:
- a. Salaries and Benefits;
  - b. Services and Supplies; and
  - c. Capital Projects.

The Capital Project budget category will include the current year 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 to accomplish the goals set forth in the Business Plan. Funds may not be moved from one category to another without approval of the Board of Retirement.

8. 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 to the beginning of the budget year.
9. 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. The Board shall review this policy at least every three years to ensure that it remains relevant and appropriate.

## **POLICY HISTORY**

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

## 2016 Amended Budget Summary

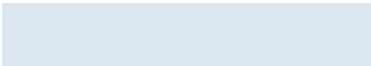
	Board	Executive	Investment	Comm	Legal	Member Services	Finance	Disability	Admin Services	IT	Internal Audit	Total
<b>Personnel cost*</b>	\$15,000	\$1,243,540	\$1,384,807	\$257,414	\$1,193,631	\$2,788,727	\$1,178,702	\$454,592	\$909,589	\$1,664,881	\$410,203	\$11,501,086
<b>Services and supplies</b>	460,200	168,540	40,281,854	228,600	427,150	101,450	625,642	285,350	949,620	2,069,956	361,855	45,960,217
<b>Capital expenditures</b>	-	-	-	-	-	-	-	-	98,000	2,000,000	-	2,098,000
<b>2016 Budget</b>	<b>475,200</b>	<b>1,412,080</b>	<b>41,666,661</b>	<b>486,014</b>	<b>1,620,781</b>	<b>2,890,177</b>	<b>1,804,344</b>	<b>739,942</b>	<b>1,957,209</b>	<b>5,734,837</b>	<b>772,058</b>	<b>59,559,303</b>

	Admin	Invest	Total
<b>Personnel cost*</b>	10,116,279	1,384,807	11,501,086
<b>Services and supplies</b>	5,678,363	40,281,854	45,960,217
<b>Capital expenditures</b>	2,098,000		2,098,000
<b>2016 Budget</b>	<b>17,892,642</b>	<b>41,666,661</b>	<b>59,559,303</b>

**Orange County Employees Retirement System  
Basis Points Test for Calendar Year 2015**

Actuarial Accrued Liability (AAL) as of 12/31/15	17,050,357
Maximum allowed for Administrative Expenses (AAL * .21%)	35,806
Actual Administrative Expenses through 6/30/2015	8,115
Excess of Allowed Over Actual Expenses	27,691

Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of 6/30/16	.05%
Actual Administrative Expense as Percentage of Projected Actuarial Accrued Liability as of 6/30/15	.04%



Administrative Expense Reconciliation

Administrative Expense per Statement of Changes in Fiduciary Net Position	\$8,789
Less administrative expense no considered per CERL section 31596.1	(674)
Administrative expense allowable under CERL section 31580.2	\$8,115

### Historical Actuarial Asset and Liability Data (dollar amounts in thousands)

<b>Valuation Summary data for OCERS</b>	<b>12/31/2015</b>	<b>12/31/2014</b>	<b>12/31/2013</b>	<b>12/31/2012</b>	<b>12/31/2011</b>
Actuarial Value of Assets	\$11,521,872	\$11,449,911	\$10,417,125	\$9,469,208	\$9,064,355
Actuarial Value of Liabilities	\$17,050,357	\$16,413,124	\$15,785,042	\$15,144,888	\$13,522,978

## Memorandum

---

**DATE:** October 23, 2017  
**TO:** David Ball, Board Chair and Chris Prevatt, Vice-Chair  
**FROM:** Steve Delaney, OCERS CEO  
**SUBJECT:** **2017 SELF PERFORMANCE EVALUATION**

---

The OCERS Board's CEO evaluation process directs that I prepare a self-review to assist the Trustees in preparing their own review of my performance in 2017.

I begin with a review of the Executive Department goals for Calendar Year 2017, and then follow with a review of challenges faced in 2017 as well as a review of other accomplishments over the past twelve months.

### **EXECUTIVE DEPARTMENT GOALS - 2017 BUSINESS PLAN**

There are a total of eight goals for the Executive Department in the current 2017 Business Plan:

#### **1. Complete "Management Calls to New Retiree" program**

Done. I am now calling retired members within six to eight weeks of their retirement, based on a survey questionnaire that they filled out during the retirement process giving me permission to call. I walk them through a series of questions to determine how well the retirement process worked for them, and elicit opportunities for improvement. Working with our IT department, I through the summer crafted a vigorous survey data base tool that has assisted me in this program. I am now calling at least two retirees a month, with an ultimate goal of engaging a retiree each week. One issue I have encountered is that while I may only speak with a couple of retirees in a month, I need to actually make many more phone calls than that, as so many of our retired members are out and about during the day when I am dialing.

The process has proved to be a bigger success than I had hoped, as I have some delightful conversations with our retired members, they in turn are impressed to be speaking with the CEO of the agency, and I get some excellent feedback that I share via e-mail with our Member Services department.

My goal in 2018 is to have each member of the Executive Management team calling at least one retiree a month, no matter what department the manager is working in, to ensure that the OCERS culture of superior customer service to our members infuses the entire agency.



## **2. Continue investigating Baldrige Performance Excellence Program**

Done. The goal here was to continue investigating the Baldrige Quality Program as a possible model for OCERS business excellence. It may still be a good goal in future years, but not presently. In late summer of this year while attending the CEM Benchmarking conference, I was able to spend two additional evenings working with the Illinois Municipal Retirement Fund (IMRF) Baldrige Quality Program Service Manager who was also in attendance. You may recall that I flew out to Illinois last year and spent a full day working through their process, as IMRF leads the nation's public pension plans in Baldrige implementation. My follow up meetings with the Service Manager convinced me that OCERS is still too early in our process of working to get the best possible service out of V3 to be able to engage the resource intensive effort needed to successfully implement Baldrige.

As I informed the Board at our Budget Workshop, I am instead focusing us in 2018 on pursuing LEAN process improvement, an approach that is more immediately relevant to what we are trying to do in getting the best use of our technology and staff.

## **3. Visit two California retirement systems for on-site review**

Done. I have always held that visiting other systems on site, not simply networking with them at a conference, can provide valuable insights into best practices that could be implemented at OCERS.

In July I visited both Contra Costa County Employees Retirement Association (CCCERA) as well as Stanislaus County Employees Retirement Association (SCERA). It was Ms. Freidenrich who suggested that I begin including a written report of my observations and findings to the full Board following such visits, a very good idea that I fully concur with, and so you previously received my report on my visits to those systems in your August 2017 Consent Agenda.

I will continue this practice in 2018.

## **4. Have all OCERS Managers visit another California Retirement System and report on observations to management team.**

Ongoing. My personal visits to other systems have been so helpful and instructive, that I have directed the nine members of our Executive Management Team to visit one other system in 2017. To keep costs low, I requested that they go to a southern California system so no

overnight costs would be incurred, which is what the majority have done. For specific reasons one manager requested permission to do an overnight visit to Sacramento County retirement, which I approved. Many have completed their visits; there are still at least two more to go out into the field. For 2017 I have only asked that they provide a verbal report to the team. I plan to continue this goal in 2018, and will request that they each begin to produce a written report of their visit and lessons learned.

**5. Attend another state wide association conference to observe issues and problem resolution**

Done. Similar to my goal #3, in 2017 I was interested in seeing how other statewide systems arranged their annual educational conferences, as we do here in California via CALAPRS and SACRS. In August I attended the Louisiana State Association of Public Retirement Systems conference, and provided a written report on my observations and findings to the full Board as part of your October 2017 consent agenda.

**6. Arrange and conduct:**

- **Annual OCERS Board Strategic Planning Workshop**
  - ✓ Done
- **Annual Contract Cities OCERS Overview Presentation**
  - ✓ Takes place on October 31, 2017
- **Annual OCERS Year in Review Presentation to membership audience.**
  - ✓ Done

**7. Implement pilot Staff Retention Award Program while studying expansion for key administrative positions**

Shelved. Beginning with approval by the OCERS Board in August 2016 to flesh out a possible Staff Retention Program, I worked through the early part of 2017 with the Governance Committee to craft a program that demonstrated the value management and the Board place on our best and brightest. Unfortunately these types of programs are always difficult to launch, and this was no different. With various concerns raised by individual Trustees, I determined with the concurrence of the Governance Committee Chair, Mr. Prevatt, to shelve this project and look to other ways to indemnify our staff and better retain their services. The Board's

initial review and tentative approval just last week of the additional salary to be paid to those with special accreditations, such as a CFA or CPA, is a good example of an alternative approach to this issue.

#### **8. Accompany investment staff on local due diligence trips**

Ongoing. This was hard to arrange this year due to the turnover in the CIO position. My goal here is to continue my visits to local money managers, in order to observe and better understand present asset allocation goals. No need for me to travel any great distance, as I am not adding to value to the visit as much as extracting value for myself. Ms. Murphy is presently planning a number of due diligence visits this November in conjunction with her attendance at the SACRS Fall Conference, and I intend to accompany her on one or more of those visits.

### **CHALLENGES IN 2017**

Of course every year has challenges, and 2017 has been no different.

#### **1. SECOVA IMPLEMENTATION AT THE COUNTY OF ORANGE**

In January the County of Orange transitioned over to use the services of a new third party health insurance provider, Secova. The transition did not go smoothly, and as we reported to the Board at that time, it was having major impact on OCERS service levels as our staff was being pulled in to assist in explaining the transition to our retirees. The impact was so detrimental that in mid-February I had to forbid OCERS IT staff from doing any further work in assisting on the transition, as we had our own annual actuarial valuation activities needing to take precedent. I reached out early to County CEO Frank Kim, and he really stepped up to engage more County resources in tackling the communications issue they had with our retirees. I was able to sincerely thank him for his support and effort, as we could see the dramatic difference in the months of March forward, he in turn thanked OCERS for having provided such excellent assistance to the County in the early stages of this transition

#### **2. POST MANDATORY OVERTIME and FINAL AVERAGE SALARY**

In January 2017 it came to OCERS' attention that there was a discrepancy in the number of the mandatory POST training hours that Member Services staff was including in retiring members' final average salary. We immediately corrected our procedures for new retirees so that all members retiring as of January 2017 were being properly credited with the appropriate amount of mandatory POST training hours. In addition, staff reviewed the accounts of all employees in the Deputy Sheriff's bargaining unit who retired between 2006 and 2017 and identified 150 members and ex-spouses who were receiving benefits that were overstated and 75 members, survivors and ex-spouses who were receiving benefits that were understated. I worked closely with

management staff and counsel, both internal and fiduciary, to ensure that the problem was resolved legally, as well as ethically and morally. Close communications were, maintained with impacted labor groups and employers (including several in-person visits by me to speak with Sheriff Hutchens), as well as individual phone calls to every single member impacted (I joined Ms. Jenike in calling those who were most impacted financially, as it was important that I as CEO offered my apologies, and provided a clear understanding of our process moving forward. With the Board's firm backing, we eventually were able to resolve this issue to the satisfaction of the majority of our members and stakeholders by June 2017.

### **3. GUIDING THE AGENCY INTERNAL AUDITOR**

At the direction of the OCERS Internal Audit Committee, I worked closely with the Director of Internal Audits. I not only have served as his work product sounding board through the years, I met with him weekly through much of 2017 to advise and guide him in completing the six-month work improvement plan that had been assigned by the committee.

### **OTHER ACCOMPLISHMENTS IN 2017**

#### **1. HIRING THE CIO**

The departure of OCERS' CIO in late 2016 raised an immediate question – should the agency pay the \$75,000 - \$100,000 necessary to hire an outside headhunting firm to conduct the search, which is what we had done in hiring Mr. Miller, or should we depend upon our own resources and conduct the hiring process in-house. I was honored to have some great talent on our staff, with Ms. Hockless and Ms. Shott ready to take up the challenge, and we did it. Posting across the nation, Ms. Hockless and her HR team processed nearly 160 applications.

With her assistance I then conducted 20 Skype interviews – specialized, 20 minute interviews where we asked no questions, but simply requested the candidates take those 20 minutes to talk to us about our portfolio's strengths and weaknesses based solely on what the candidate could glean from public sources.

Drawing on the assistance of a retired County of Orange finance manager, and several members of our Senior Management team, I conducted eight in-person interviews at OCERS.

Finally, then being joined by a subcommittee of the OCERS Board of Retirement (Mr. Ball, Mr. Hilton and Mr. Prevatt), we conducted three finalist interviews, which ended with each candidate sharing a PowerPoint presentation outlining his or her recommendations for our portfolio, presented in the OCERS Board room'

A special thanks to Ms. Allan Emkin and Mr. Steve McCourt who joined us in many if not all of those interview rounds in order to provide me with their experienced observations.

Accomplishing all of that in a comparatively short period of time (approximately four months), I am very pleased with the candidate that we were able to hire coming out of such an intense process.

## 2. COMMUNICATIONS

There are some broad areas of administration that I particularly focus on. One primary area of concern to me is **COMMUNICATIONS**. Many of my activities and accomplishments in 2017 were focused on the overall goal of ensuring that OCERS is an open and transparent organization, a goal which tends to encourage close and cooperative working relationships with all of our stakeholder groups:

1. Conducted the annual OCERS YEAR IN REVIEW meetings with three of the five County of Orange Supervisor, on an individual basis. (Unfortunately, following a sad pattern, this was the second year in a row, out of the nine years I have run this program that we were not able to get onto the calendars of all five supervisors. Of course that speaks well for the confidence the Supervisors have in the program.) I accompanied Chair Ball and Vice Chair Prevatt on each of these visits, which always provides us with insight as to issues of interest or concern from our largest plan sponsor.

2. Conducted the annual OCERS YEAR IN REVIEW meetings with each of our plan sponsor's and labor group's executive teams. In these meetings, which took us until October to complete as we are trying to get onto the calendars of at least 25 different groups, I accompany Ms. Jenike and Ms. Shott, and I can add here that it is always a real honor as those two individuals are a tremendous credit to this agency.

3. A regular monthly OCERS INFORMATIONAL MEETING is held on the 2nd Wednesday of each month at the Hall of Administration for each of the County Supervisor's OCERS Policy Analysts, as well as the County of Orange financial management team. I accompany either Ms. Jenike or Ms. Shott in those meetings. I also send out an offer to meet with the executive team of the Orange County Employees Association (OCEA) and nearby Association of Orange County Deputy Sheriffs (AOCDS) to review the same monthly materials. These meetings go a very long way in ensuring open, trusting communications with these key plan stakeholder groups.

4. A regular monthly FINANCIAL UPDATE MEETING for all plan sponsors and labor groups is held on the third Wednesday of every month at OCERS headquarters. I accompany our entire OCERS executive management team in this meeting, providing overviews of prior Board meeting outcomes, as well as previews of Board agenda items to come. These meetings are very well attended at all times by our stakeholders and have proven invaluable in providing them with direct access to OCERS staff on all manner of financial issues related to OCERS.

5. I provide an advance e-mail to stakeholders (employer, labor, supervisors), mailed individually, providing each month's OCERS Board meeting and committee agendas with a brief overview of key topics to be discussed, followed later with a summary of primary outcomes.

6. At the Board's direction I continued my outreach efforts with the Contract Cities. Working together with OCFA as well as the Sheriff's Department, a contact process has been put in place whereby I

provide both previews and updates on those OCERS-related Board meeting issues that have greatest impact on Contract Cities' budgets. In addition I will hold the Fourth Annual OCERS Informational session at OCERS headquarters for Contract City representatives on October 31.

7. I meet every month with the entire OCERS staff, management as well as County employees, to review OCERS Board actions (this assists especially our telephone counselors to better understand questions that might be coming in from those members), discuss any items that have been in the news, and to address any questions they may have for me.

8. I provide a monthly summary of activities and updates to the Board to ensure Trustees are kept fully informed of OCERS events and actions. I have for many years shared that same document with prior members of the OCERS Board, knowing that even after leaving direct service as an OCERS Trustee; they all remain keenly interested in the well-being of our members and this agency.

9. Outreach to MEMBERS and RETIREES. In addition I have been able to attend a number of the REAOC (Retired County Employees) luncheons as well as monthly executive committee meetings this year to speak about current OCERS issues. When I am unable to attend, Ms. Jenike and her Member Services Manager Ms. Catherine Fairley will alternately take my place. I do the same annually with ACLEM (County Lieutenants) and the Retired Firefighters Association.

10. I try to hold a lunch meeting with each Trustee on an individual basis at least twice a year (some of you are very difficult to capture for even that amount of time, so it has not been 100% successful) to find out what might be items of interest or concern to each of you.

### **3. SUCCESSION DEVELOPMENT**

Another broad area of concern to me and the Board as well is **SUCCESSION DEVELOPMENT** at OCERS. Here are some actions that I practice to ensure a strong succession plan:

1. A manager making any hire at OCERS, no matter the department, has to come see me and make the case for the hire. I am not going to prevent a manager from making the best hire they see fit, but I want to understand their thinking, and in turn help them think through the process, as the successful hires we are making will ensure OCERS continued success.

2. Any employee leaving OCERS is invited to come see me and sit down for an exit interview. I use these occasions to ask each employee (as I have done since my days as Deputy Director in Oregon) "tell me what I can do to improve processes here at OCERS, and tell me what I can do personally to improve as the agency director.

3. I insist that any time a manager is not available to attend our weekly management meeting, the manager assign an up and coming staff member to attend in his or her place.

4. I have had Ms. Shott and Ms. Jenike each continue to attend a large conference each year in my place, which provides them with the opportunity of networking with a larger group of agency

administrators. They also take turns accompanying me on my visits to the Supervisor's EA's monthly meeting, as well as those with the County and the primary labor executive groups. When there is a conflict with my attendance which will happen two to three times in a year, one or the other of the two will go to conduct the meeting in my place.

5. Every year we hold two off-site managerial Strategic Planning sessions. Beginning with 2016 I no longer am putting together the agendas and conducting those meetings, instead those are developed and conducted by alternating members of the Senior Management team (Jenike, Murphy, Ratto, and Shott).

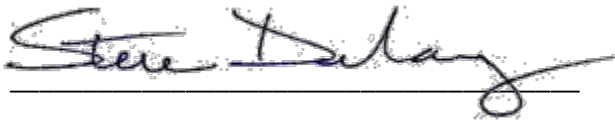
6. I have continued to work with my Executive team to encourage enrollment in leadership and development programs for both the OCERS direct team and all County employees that supervise staff. My goal is for every leader in the organization to complete a leadership development training program. Currently, we have partnered with the CALAPRS Leadership Academy and the County of Orange Personnel Development Experience (PDX) leadership program to enroll staff in their structured programs. Both programs are completed over a four month period and are designed for development in the core disciplines of leadership and emotional intelligence. These programs provide OCERS leaders with the essential knowledge to be effective in their current roles which in turn positively impact our culture, operations and quality of supervisory and managerial workforce. I have received a lot of positive feedback from employees that have graduated. Staff is excited about attending the courses and have all reported they have learned new strategies that will help them be successful in their roles. Of the 30 positions targeted to attend the training, 15 have completed either the CALAPRS or PDX training. Presently, our completion rate is at 50%. I will continue to encourage staff development and talent management in 2018 as we have 3 more employees tentatively enrolled.

A run-down of a number of **OTHER TASKS** in 2017 that have kept me busy:

1. Served for the eighth year as Chair of the SACRS Audit Committee.
2. Served for my fourth year as a member of the CALAPRS Executive Board.
3. Direction and oversight of 2017 business plan, development and initial approval of 2018 business plan, with accompanying budget that will receive final consideration in November.
4. Provide guidance to Internal Audit team in conjunction with Audit Committee Chair.

In closing, with much being accomplished here at OCERS, I want to always express my deep appreciation for the outstanding staff that I have the privilege of working alongside each and every day at OCERS. None of the tasks that have been successfully accomplished this past year would have been possible without their hard work and professional acumen.

**Submitted by:**

A handwritten signature in black ink that reads "Steve Delaney". The signature is written in a cursive style and is positioned above a solid horizontal line.

Steve Delaney  
Chief Executive Officer





## Orange County Employees Retirement System Chief Executive Officer 2017 Performance Review

**CEO Name:** Steve Delaney

**Performance Review Period:** January 1, 2017 – December 31, 2017

**Board Member Name:**

**Date:** October 25, 2017

### Rating Scale:

Superior		Above Average		Average		Below Average		Unsatisfactory		
10	9	8	7	6	5	4	3	2	1	0

**1. Direction and Oversight of benefit administration:**

Performance Rating: \_\_\_\_\_

**2. Overall leadership and development of the organization (e.g., staff training and development, improvement of work processes, policy development, professionalism of the organization)**

Performance Rating: \_\_\_\_\_

**3. Communications (membership, sponsors, Board, staff, public):**

Performance Rating: \_\_\_\_\_

4. **Direction and oversight of the investment program:**

\_\_\_\_\_

5. **Addressing exigent situations that arise during year:**

Performance Rating: \_\_\_\_\_

6. **Implementation of Annual Business Plan**

Performance Rating: \_\_\_\_\_

7. **Overall Evaluation:**

**Total Performance Rating:** \_\_\_\_\_

**Average Performance Rating:** \_\_\_\_\_

**OCERS CEO Total Compensation Cost History**

Name: Steve Delaney  
Date of Hire: 1/2/2008

Annual Salary**							Auto Allowance
Year	Increase Effective Date	% Increase over prior year	Annualized Increase	Annualized Salary	Lump Sum	Notes	Annualized
2017	1/6/2017	3%	\$7,619	\$261,435	\$0	3% Annual Salary Adjustment - 2016 Performance Evaluation	\$0
2016	None for 2016	0%	\$0	\$253,817	\$0	Last increase effective date 1/9/2015	\$0
2015	1/9/2015	0%	\$0	\$253,817	\$5,076	One time 2% non-base building performance award	\$0
2014	12/27/2013	2%	\$4,977	\$253,817	\$0	Annual Merit	\$0
2013	6/2/2013	3%	\$7,248	\$248,840	\$0	Annual Merit	\$0
2012	1/13/12	13.98%	\$29,640	\$241,592	\$0	Stop employee contribution pick up move to salary	\$0
2012	12/16/11	4%	\$8,154	\$211,952	\$0	Annual Merit	\$0
2011	12/17/10	5%	\$9,194	\$203,798	\$0	Stop auto allowance move to salary	\$0
2011	12/17/10	4%	\$7,488	\$194,605	\$0	Annual Merit	\$9,180
2010	12/18/09	8%	\$13,874	\$187,117	\$0	Annual Merit	\$9,180
2009	12/19/08	5%	\$8,258	\$173,243	\$0	Annual Merit	\$9,180
2008	1/2/08			\$164,986	\$0	Starting Salary	\$9,180

County 401(a)		
Year	% of Salary	Annualized
2017	5%	\$13,072
2016	5%	\$12,691
2015	5%	\$12,691
2014	5%	\$12,691
2013	5%	\$12,442
2012	5%	\$12,080
2011	5%	\$10,190
2010	5%	\$9,356
2009	5%	\$8,662
2008	5%	\$8,249

OCERS 401(a)*	
% of Salary	Annualized
3%	\$7,843
3%	\$7,614
3%	\$7,614
3%	\$7,614
3%	\$7,465
3%	\$7,248
3%**	\$6,114
3%	\$5,614
3%	\$5,197
3%	\$4,950

Total Annual Items Paid to Employee (Salary + 401a)	
Annualized	% Increase over prior year
\$282,350	3%
\$274,122	-2%
\$279,198	2%
\$274,122	2%
\$268,747	3%
\$260,919	19%
\$220,102	4%
\$211,266	8%
\$196,283	5%
\$187,364	

OCERS 2.7@55 Retirement Employer Contributions		
Fiscal Year	Employer contribution % of Salary	Employer Contribution Amount Annualized
7/1/17 - 12/31/17	33.98%	\$87,751
1/1/17 - 6/30/17	33.15%	
7/1/16 - 12/31/16	33.15%	\$87,491
1/1/16 - 6/30/16	35.79%	
7/1/15 - 12/31/15	35.79%	\$90,359
1/1/15 - 6/30/15	35.41%	
7/1/14 - 12/31/14	35.41%	\$84,445
1/1/14 - 6/30/14	31.13%	
7/1/13 - 12/31/13	31.13%	\$71,840
1/1/13 - 6/30/13	26.61%	
7/1/12 - 12/31/12	26.61%	\$62,669
1/1/12 - 6/30/12	25.27%	
7/1/11 - 12/31/11	25.27%	\$49,085
1/1/11 - 6/30/11	22.90%	
7/1/10 - 12/31/10	22.90%	\$41,379
1/1/10 - 6/30/10	19.26%	
7/1/09 - 12/31/09	19.26%	\$34,679
1/1/09 - 6/30/09	18.76%	
7/1/08 - 12/31/08	18.76%	\$32,874
1/1/08 - 6/30/08	18.99%	

Employer Pickup of Employee Contributions			
Calendar Year	Gov't Code Section 31581.2 Pick up	Gov't Code Section 31581.1 Pick up	Combined Total
2017	\$0	\$0	\$0
2016	\$0	\$0	\$0
2015	\$0	\$0	\$0
2014	\$0	\$0	\$0
2013	\$0	\$0	\$0
2012	\$0	\$0	\$0
2011	\$14,219	\$11,011	\$25,230
2010	\$13,662	\$10,644	\$24,306
2009	\$12,636	\$9,628	\$22,264
2008	\$10,771	\$8,802	\$19,573

Grand Total Annual Compensation Cost to OCERS							
Calendar Year	Annualized Salary	Cost of other Amounts Paid to CEO (Lump Sum/401(a))	OCERS Annualized Cost of Retirement Benefit (Pension)	Retiree Medical Benefit (annualized cost)	Health Care, Life and Disability Insurance	Optional Benefit Plan	Total Compensation
2017	\$261,435	\$20,891	\$87,553	\$10,445	\$10,528	\$4,500	\$395,352
2016	\$253,817	\$20,305	\$87,491	\$9,684	\$10,449	\$4,500	\$386,246
2015	\$253,817	\$25,382	\$90,359	\$8,630	\$11,208	\$4,500	\$393,895
2014	\$253,817	\$20,305	\$84,445	\$9,340	\$11,262	\$4,500	\$383,669
2013	\$248,840	\$19,907	\$71,840	\$9,854	\$11,314	\$4,500	\$366,255
2012	\$241,592	\$19,327	\$62,669	\$4,784	\$10,735	\$4,500	\$343,607
2011	\$203,798	\$16,304	\$74,315	\$5,329	\$9,067	\$4,500	\$313,313
2010	\$187,117	\$24,149	\$65,685	\$4,800	\$6,173	\$4,500	\$292,424
2009	\$173,243	\$23,039	\$56,942	\$3,681	\$5,839	\$4,500	\$267,245
2008	\$164,986	\$22,379	\$52,446	\$5,807	\$6,207	\$4,500	\$256,325

\*Separate & in addition to the County 401(a)

\*\*No OCERS 401a contributions were made on the portion of salary that was added by eliminating auto allowance

2017 CEO Salary Comparison

Retirement System	Net Assets (\$Billion)	CEO Salary Range	CEO Current Salary	CEO Auto Allow/mo	Est. Annual Auto Allow Amount	ER Contributions for Deferred Comp	*Est. Annual Def Comp Total By ER	Defined Benefit EE Pickup By ER	**Est. Total = Base, Auto and Deferred Comp	CEO Date of Last Increase
OCERS	14.7	Salary set by the Board	\$261,431	None	\$0	OCERS 401(a) = 5% of Salary County 401(a) = 3% of Salary	\$20,914	None	\$282,345	1/6/2017
Alameda CERA	7.22	\$227,282 - \$270,587	\$237,000	\$637	\$7,644	457b: \$18,000	\$18,000	None	\$262,644	4/11/2016
Kern CERA	4.0	\$164,045 - \$200,266	\$200,266	\$597	\$7,164	Tier I is \$0; Tier II is up to 6%	\$12,016	None	\$219,446	11/26/2016
LACERS (City)	14.8	\$164,910 - \$292,299	\$281,065	\$500	\$6,000	None	\$0	None	\$287,065	6/25/2017
San Diego County ERA	11.4	\$165,464 - \$304,741	\$273,021	\$600	\$7,200	None	\$0	None	\$280,221	11/25/2016
San Joaquin CERA	2.7	\$160,472 - \$195,062	\$185,765	\$585	\$7,020	457b: 5% of salary	\$9,288	None	\$202,073	1/1/2017
San Bernardino CERA	9.49	\$193,545 - 287,598	\$287,598	\$1,122	\$13,464	457(b): SBCERA contribution 1 times employee contribution, up to 1% 401(k): SBCERA contribution 2 times employee contribution, up to 8%	\$25,884	Tier 1 Members: 7% plus \$442.53 mo. contribution Tier 2 Members: No contribution	\$326,946	12/24/2016
LACERA (County)	52.50	\$193,900 - \$293,500	\$258,252	Uses LACERA vehicle	\$0	457b LACERA match of up to 4% of salary per plan	\$10,330	None	\$268,582	8/1/2016
Sonoma CERA	2.7	\$184,548 - \$224,304	\$224,304	\$465	\$5,580	3% foundation +1% matching 401(a) DC	\$8,972	None	\$238,856	3/14/2017
CalSTRS	215.3	\$325,00 - \$475,000	\$441,240	None	\$0	None - Incentive award: \$224,682 (Maximum Annual Incentive Opportunity is 80% of base salary)	\$224,682	None	\$665,922	7/1/2017
Sacramento CERS	8.0	\$180,500 - \$230,400	\$203,000	\$450	\$5,400	1% match	\$2,030	None	\$210,430	7/1/2017
Contra Costa CERA	8.3	\$240,768	\$240,768	None	\$0	457(b): \$2080 annually	\$2,080	None	\$242,848	7/1/2017

Additional Considerations:

Organization	Name	Title	Current Salary	Auto Allow/mo	ER Contributions 457b/403b/401a2	Defined Benefit Contribution By ER	Date of Last Increase			
County of Orange	Frank Kim	CEO	\$248,057	\$765	\$9,180	5% of biweekly salary for 401(a)	\$12,403	None	\$269,640	5/16/2014 <small>Mr. Kim has not received an increase since 2014 (per Kim Evans, OC HRS Classification Analyst)</small>
OC Superior Court	David Yamasaki	CEO	\$250,000	None	\$0	None	\$0	None	\$250,000	12/2/2016 (hire date)
OCFA	Patrick McIntosh	Interim Fire Chief	\$245,003	Uses OCFA vehicle	\$0	457b: \$11,025 annually	\$11,025	None	\$256,028	9/28/17 (interim date)
OCSD	James Herberg	General Manager	\$276,379	\$700	\$8,400	\$11,000 annually to 457(b)	\$11,000	None	\$295,779	7/2017
OCTA	Darrell Johnson	CEO	\$335,774	\$765	\$9,180	Matching contribution to 401(a) - 4% of base pay. In addition, non-match contribution of \$25,000 annually to 401(a) <small>One-time additional lump sum of \$5,000 (for the year 2017) to the Authority's 401(a) Deferred Compensation Plans</small>	\$43,431	None	\$388,385	4/10/2017
TCA	Michael Kraman	CEO	\$259,584	\$765	\$9,180	\$24,000 annually	\$24,000	None	\$292,764	12/8/2016

\*Estimated amount assumes employee is receiving the full annual match on base salary.

\*\*Estimated total includes Annual Base Salary, Annual Auto Allowance and Annual Deferred Comp.

12/7/17