

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

REGULAR MEETING
Tuesday, January 16, 2018
9:00 a.m.

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

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) N/A

ADMINISTRATION

C-2 BOARD MEETINGS AND COMMITTEE MEETINGS

Audit Committee Meeting Minutes
Regular Board Meeting Minutes

December 14, 2017
December 18, 2017

Recommendation: Authorize meeting and approve minutes.

C-3 AUDIT COMMITTEE OUTCOMES FROM DECEMBER 14, 2017 MEETING

The Audit Committee recommends that the Board of Retirement:

- (1) Receive and file the Audit of OCERS' Travel Expense Reports.
- (2) Receive and file the Hotline Update.
- (3) Receive and file the Status of 2017 Internal Audit Plan.
- (4) Approve the 2018 Risk Assessment and 2018 Audit Plan.

C-4 2017 OCERS YEAR IN REVIEW: COMMUNICATION PLAN

Recommendation: Approve the 2017 Year in Review Communication Plan.

ACTION ITEMS

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

A-2 GOVERNANCE COMMITTEE OUTCOMES REGARDING REFORM OF THE ADMINISTRATIVE HEARING PROCESS

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

The Governance Committee recommends that the Board of Retirement:

- (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.

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

January 16, 2018
January 16, 2018

- I-2 [CEO FUTURE AGENDAS AND 2018 OCERS BOARD WORK PLAN](#)
Written report only
- I-3 [QUIET PERIOD – NON-INVESTMENT CONTRACTS](#)
Written report only
- I-4 [FOURTH QUARTER 2017 EDUCATION AND TRAVEL EXPENSE REPORT](#)
Written report only
- I-5 [BOARD COMMUNICATIONS POLICY FACT SHEET](#)
Written report only
- I-6 [DISABILITY RETIREMENT STATISTICS – 2017 REPORT](#)
Written report only
- I-7 [OVERPAID AND UNDERPAID PLAN BENEFITS – 2017 REPORT](#)
Written report only
- I-8 [2018 OCERS BOARD OF RETIREMENT COMMITTEE ASSIGNMENTS](#)
Written report only
- I-9 [2017 FORM 700 DESIGNATED FILERS LIST AND FACT SHEETS AND OCERS ANNUAL DISCLOSURE FORM](#)
Written report only
- I-10 [PUBLIC PENSION COORDINATING COUNCIL \(PPCC\) STANDARDS AWARD FOR FUNDING AND ADMINISTRATION AWARD](#)
Written report only
- I-11 [BOARD COMMUNICATIONS](#)
Written report only
- I-12 [OCERS INNOVATIONS AND EMPLOYEE STAFF AWARDS](#)
Presentation by Steve Delaney, Chief Executive Officer, OCERS

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 INDIVIDUAL AGENDA

D-1: James Bau

Sergeant, 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 connected disability retirement: 12/30/2016

Recommendation: Grant service connected disability retirement with an effective date of November 18, 2016. (Safety Member)

D-2: Ryan Bowsher

Deputy Sheriff II, Orange County Sheriff's Department

Date of employer filed application for service and non-service connected disability retirement: 11/04/2016

Date of employee filed application for service and non-service connected disability retirement: 12/20/2016

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

D-3: Emilio Mondragon

Coach Operator, Orange County Transportation Authority

Date of employer filed application for service and non-service connected disability retirement: 06/10/2016

Date of employee filed application for service connected disability retirement: 06/12/2017

Recommendation: Grant service connected disability retirement with an effective date of June 10, 2016. (General Member)

D-4: Walter Rejon

Coach Operator, Orange County Transportation Authority

Date of employer filed application for service and non-service connected disability retirement: 10/10/2016

Date of employee filed application for service and non-service connected disability retirement: 11/18/2016

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

D-5: Izabel Rivera

Deputy Juvenile Correctional Officer II, Probation Department

Date of employee filed application for service and non-service connected disability retirement: 02/06/2017

Recommendation Grant service connected disability retirement with an effective date of November 11, 2016, the day following the last day of regular compensation as a Deputy Juvenile Correctional Officer 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 November 11, 2016, the date of the position change until the day Ms. Rivera wishes to retire. (Safety Member)

D-6: Dortha Ronan

Lieutenant, Orange County Sheriff's Department

Date of employee filed application for service connected disability retirement: 06/17/2016

Recommendation Grant service connected disability with an effective date of June 17, 2016. (Safety Member)

D-7: Dean Weckerle

Sergeant, Orange County Sheriff's Department

Date of employee filed application for service connected disability retirement: 07/18/2016

Recommendation Grant service connected disability retirement with an effective date of August 5, 2016. (Safety Member)

D-8: Maxine Perry

Recommendation: Adopt the findings and recommendations of the Hearing Officer and Grant Applicant's application for service connected disability retirement with an effective date of the day after the last day of regular compensation.

D-9: Lisa Coley

Recommendation: Adopt the findings and recommendations of the Hearing Officer and find that at the time of her death, Lisa Coley, was legally married to Jerel Manning, therefore, Mr. Manning is entitled to a continuation of the disability allowance awarded to Ms. Coley as he is the surviving spouse.

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

INVESTMENT COMMITTEE MEETING

January 24, 2018

9:00 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

AUDIT COMMITTEE MEETING

January 30, 2018

1:30 P.M.

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

**REGULAR BOARD MEETING
February 13, 2018
9:00 A.M.**

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

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

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

C-2

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

**AUDIT COMMITTEE MEETING
December 14, 2017**

MINUTES

The Chair called the meeting to order at 1:41 p.m. and read the opening statement for the record. Attendance was as follows:

Present: Charles Packard, Chair; Frank Eley, Vice Chair; Eric Gilbert; Shari Freidenrich

Staff: Steve Delaney, CEO; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, Chief Legal Officer; Cynthia Hockless, Director of Administrative Services; Jenny Sadoski, Director of Information Technology; Jon Gossard, Security Operations Manager; Mark Adviento, Internal Auditor; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician

OPEN SESSION

A. AUDIT OF OCERS' TRAVEL EXPENSE REPORTS

Presentation by Mark Adviento, Internal Auditor

Mark Adviento, Internal Auditor, presented the Audit of OCERS' Travel Expense Reports.

The Committee discussed travel expense scenarios relevant to the audit recommendations.

Following discussion, a **motion** was made by Mr. Gilbert, **seconded** by Mr. Eley, to receive and file.

The **motion passed unanimously.**

B. HOTLINE UPDATE

Presentation by Mark Adviento, Internal Auditor

Mark Adviento, Internal Auditor, informed the committee that there were no ethics violations to report of since the last update to the committee.

Following discussion, a **motion** was made by Mr. Gilbert, **seconded** by Mr. Eley, to receive and file.

C. STATUS OF 2017 INTERNAL AUDIT PLAN

Presentation by Mark Adviento, Internal Auditor

Mark Adviento, Internal Auditor, discussed the status of two outstanding projects from the 2017 Internal Audit Plan.

Following discussion, a **motion** was made by Mr. Gilbert, **seconded** by Ms. Freidenrich, to receive and file.

D. CONSIDERATION OF 2018 RISK ASSESSMENT AND 2018 AUDIT PLAN

Presentation by Mark Adviento, Internal Auditor

Mark Adviento, Internal Auditor, presented the 2018 Risk Assessment and a proposed 2018 Audit Plan. Following discussion, the Committee agreed to revise the proposed 2018 audit plan by postponing the recruitment of a Cyber Security Consultant until 2019.

Following discussion, a **motion** was made by Mr. Gilbert, **seconded** by Mr. Eley, to approve the 2018 Risk Assessment and a revised 2018 Audit Plan.

CLOSED SESSION

**E. THREAT TO PUBLIC SERVICES OR FACILITIES
(GOVERNMENT CODE SECTION 54957)**

Adjourn pursuant to Government Code section 54957 to consult with Steve Delaney, CEO, Brenda Shott, Asst. CEO; Jenny Sadoski, Director of Information Technology; Jon Gossard, Security Operations Manager; Cynthia Hockless, Director of Administrative Services, and Gina M. Ratto, Chief Legal Officer

Recommendation: Take appropriate action.

**F. PUBLIC EMPLOYMENT
(Government Code section 54957)**

Title: Acting Director of Internal Audits

Recommendation: Take appropriate action.

The Committee recessed into closed session at 2:36 p.m.

The Committee reconvened from closed session at 3:57 p.m.

Item E - The Committee took no reportable action.

Item F - The Committee instructed the CEO to begin negotiations in regards to the hiring of Extra Help, or OCERS employee, or a Consultant for the position of Acting Director of Internal Audit.

The Meeting was adjourned at 3:59 p.m.

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

Audit Committee Meeting
December 14, 2017

PUBLIC COMMENTS:

None

COMMITTEE MEMBERS COMMENTS:

None

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS:

None

Submitted by:

Approved by:

Steve Delaney
Secretary to the Committee

Charles Packard
Committee Chair

**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.**

MINUTES

Chair Ball called the meeting to order at 9:00 a.m.

Attendance was as follows:

Present: David Ball, Chair Chris Prevatt, Vice Chair; Eric Gilbert, Chuck Packard, 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; Javier Lara, Visual Technician; Megan Cortez; Disability Coordinator; Cammy Danciu, Recording Secretary.

Guests: Harvey Leiderman

Absent: Russell Baldwin

Mr. Hilton led the Pledge of Allegiance.

The Board adjourned into closed session at 9:02a.m.

Mr. Gilbert arrived at 9:04a.m.

Ms. Freidenrich arrived at 9:15a.m.

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.

No reportable action taken.

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

No reportable action taken.

The Board reconvened from closed session at 9:56a.m.

OPEN SESSION

COUNSEL COMMENTS

Ms. Ratto explained the revised structure and formatting of the new Regular Board Meeting Agenda.

The agenda will be discussed at the Governance Committee in January for any potential modifications that would need to be made.

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.

Following discussion, a **motion** was made by Mr. Dewane **seconded** by Mr. Packard to move the consent agenda.

Motion passed **unanimously**.

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.

Ms. Freidenrich pulled item I-5 for discussion.
Mr. Packard pulled item I-6 for discussion.

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

Doug Storm and Linda Robinson updated the OCERS Board on retirees' concerns as well as suggestions they would like OCERS to consider in 2018. They asked if OCERS staff can explain how the system really works to the retirees in laymen's terms. In their monthly newsletter, REAOC would like to highlight one of the OCERS Board Members in order to allow retirees to get to know the individuals on the OCERS Board better. Lastly, Mr. Storm and Ms. Robinson asked if the OCERS by the Numbers document broke out general member statistics in such a way that line staff benefits were more clearly understood compared to highly paid general members such as attorneys and doctors. Mr. Delaney stated he would look into that possibility when preparing the next edition.

Ms. Prevatt asked how retirees feel about OCERS online experience and if OCERS can do anything different.

Mr. Storm stated there's a drastic split in approach to computers among retirees. Some refuse to use a computer while others are more than willing to use computers.

I-9 OPERATIONAL RISK MANAGEMENT PRESENTATION

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

Ms. Shott and Mr. Doezie summarized the OCERS Operation Risk Management Program that will be going into effect in 2018. This program is to ensure that OCERS is managing risk within the organization on an enterprise-wide basis.

Mr. Ball stepped out at 10:47am

Mr. Ball returned at 10:51am

Mr. Prevatt encouraged staff to add line staff into the process as that will allow for identifying risk factors where otherwise it would be difficult to recognize.

Mr. Ball stated that he would like the Audit Committee to be involved in this process. He would also like a practical live test to be conducted once a year to measure risk and to see if the disaster recovery and business continuity plan that has been put in place works.

Board recessed for break at 10:56a.m.

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

ACTION ITEMS

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

I-5 - EXPLANATION OF THE CALIFORNIA GIFT REPORTING RULES

Ms. Freidenrich clarified that due to her position as Treasurer, she must follow the more restrictive County limitation reporting rules and guidelines in regards to the gift reporting rules, a requirement not placed on other Trustees.

I-6 - RVK PUBLIC FUND UNIVERSE ANALYSIS REPORT

Mr. Packard asked Mr. Delaney how OCERS stands on the RVK report.

Mr. Delaney stated that in general, 2017 was a good year.

Ms. Murphy added that a high point for OCERS were the real estate holdings.

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 **motion** was made by Mr. Lindholm **seconded** by Mr. Prevatt to nominate Charles Packard as the new OCERS Board Vice-Chair for calendar year 2018.

Motion passed **unanimously**.

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

The Board reconvened from lunch at 1:01p.m.

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.

Ms. Ratto presented the Board with the Governance Committee's recommendations to revise the OCERS appeals process. She presented the proposed Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Retirement Benefits), Hearing Officer Selection Policy, and Disability Committee Charter.

Ms. Ratto explained the Governance Committee's process for devising these. The Legal staff has been working on this for several months, and the Governance Committee had three meetings with substantial discussions in September, October, and November. The final product includes the policy documents before the Board and the plan for implementation following the Board adoption. Ms. Ratto explained that the Governance Committee had recommended that the proposal be brought to the Board for a "first read" so that the staff could take input from the Board now as well as solicit input from stakeholders in the process.

Ms. Ratto commented that the new process, once approved by the Board, could be implemented as soon as June 2018.

Board members raised numerous questions and issues for staff to consider and respond to:

1. What can we learn from other CERL systems to improve our process?
2. How many members should the Disability Committee have?
3. Should the Disability Committee have two elected members and one appointed member?
4. Should the membership of the Disability Committee be defined in the charter?
5. How does the "on-call" alternate member of the Disability Committee work?
6. Should there be a prohibition on Disability Committee members discussing disability applications with Board members?
7. Would there be training for Disability Committee members?
8. Will meetings of the Disability Committee be subject to the Brown Act?
9. How frequently will the Disability Committee meet?
10. Should the Disability Committee have a member that is not a Board member – perhaps a medical professional?
11. Should the Chair or Vice Chair of the Disability Committee be Non-Voting members of the Hearing Officer Selection Panel?
12. Should the member on the Hearing Officer Selection Panel be a non- Disability Committee member?
13. Should OCERS forego its own peremptory challenge of Hearing Officers?
14. Does Closed Session slow down the process?
15. Can Plan Sponsors be included in the Closed Hearings?
16. How would the logistics of the closed hearing be handled – e.g., people waiting for next Closed Session item?
17. What level of information is going to be sent or available to the Board from the Disability Committee?
18. Should there be a shorter time to appeal denials of disability applications?
19. Should there be a shorter (30 day) time period for members to appeal non-disability benefit determinations?
20. Does having the appeals go from Disability Committee to an Administrative Hearing really save time?

Staff was given direction to respond to these questions and any other issues raised during the effort to solicit feedback and report back to the Board at its next meeting.

Following discussion, a **motion** was made by Mr. Eley, **seconded** by Mr. Prevatt to approve the Governance Committee recommendation of the following on a “first reading” basis, to schedule further discussion and possible adoption of the proposal at the next Board meeting, and to direct staff to solicit feedback from stakeholders on the proposal.

- (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.

Motion passed **unanimously**.

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).

Ms. Ratto explained OCERS’ Internal Revenue Code (IRC) section 415(b) (Section 415(b)) as it imposes a cap on the amount of retirement benefits that can be paid to governmental plan retirees.

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. In January 2006 OCERS adopted a detailed 415(b) Policy & Operational Process (the “415(b) Policy”) designed to ensure that the retirement benefits paid by OCERS will conform to the 415(b) Limit.

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.

Following discussion, a **motion** was made by Mr. Dewane **seconded** by Mr. Ball to 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).

Motion passed **unanimously**.

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.

The Board decided on the following 2018 Board Meeting dates:

Regular Board Meetings – 9:00 a.m.

Tuesday - January 16

Tuesday - February 13

Monday - March 19

Wednesday - April 18

Monday - May 14

Monday - June 18

Monday - July 16

Monday - August 20

Monday - October 15

Monday - November 19

Monday - December 17 (combined Regular Board and Investment Committee meeting)

Investment Committee Meetings – 9:00 a.m.

Wednesday - January 24

Tuesday - February 20

Thursday - March 29

Tuesday - April 24

Thursday - May 24

Wednesday - June 27

Thursday - July 26

Thursday - August 30

Thursday - October 25

Wednesday - November 28

A-6 ANNUAL CEO COMPENSATION REVIEW

Presentation by OCERS Board Chair, David Ball

Recommendation: Take appropriate action.

Mr. Prevatt presented the annual CEO compensation review materials.

Following discussion, a **motion** was made by Mr. Prevatt **seconded** by Mr. Packard to adopt a 4% annual increase to the CEO's salary.

A substitute **motion** was made by Mr. Ball **seconded** by Mr. Dewane to adopt a \$12,000 annual increase to the CEO's salary.

The substitute motion passed **unanimously**.

******* 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.

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Packard to approve the disability consent agenda. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

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)

Item D-1 was pulled from the agenda.

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

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

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Dewane to 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. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

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

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Eley to grant service connected disability retirement with an effective date of November 1, 2016. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

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

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Gilbert to grant service connected disability retirement with an effective date of January 13, 2016. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

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

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Gilbert to grant service connected disability with an effective date of December 14, 2014. The motion carried **8-1** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

Mr. Hilton

ABSTAIN

ABSENT

Mr. Baldwin

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

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)

Following discussion, a **motion** was made by Mr. Lindholm, **seconded** by Mr. Packard to grant service connected disability retirement with an effective date of April 8, 2016. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

Megan Cortez, Disability Coordinator, presented item D-9.

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)

Following discussion, a **motion** was made by Mr. Eley, **seconded** by Mr. Lindholm to grant non-service connected disability retirement with an effective date of the day after the last date of regular compensation. The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

Megan Cortez, Disability Coordinator, presented item D-10.

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Eley to grant service connected disability retirement with an effective date of September 19, 2016. The motion carried **8-1** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Gilbert
Chair Ball

NAYS

Mr. Lindholm

ABSTAIN

ABSENT

Mr. Baldwin

Megan Cortez, Disability Coordinator, presented item D-11.

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)

Following discussion, a **motion** was made by Mr. Hilton, **seconded** by Mr. Packard to grant service connected disability retirement with an effective date of the day after the last date of regular compensation. The motion carried **8-1** with voting as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Packard	Mr. Lindholm		Mr. Baldwin
Mr. Prevatt			
Mr. Hilton			
Ms. Freidenrich			
Mr. Dewane			
Mr. Eley			
Mr. Gilbert			
Chair Ball			

Megan Cortez, Disability Coordinator, presented item D-12.

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)

Following discussion, a **motion** was made by Mr. Prevatt, **seconded** by Mr. Packard to grant service connected disability retirement with an effective date of March 3, 2017. The motion carried **9-0** with voting as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Packard			Mr. Baldwin
Mr. Prevatt			
Mr. Hilton			
Ms. Freidenrich			
Mr. Dewane			
Mr. Eley			
Mr. Lindholm			
Mr. Gilbert			
Chair Ball			

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)

Item D-13 was pulled from the agenda.

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)

Item D-14 was pulled from the agenda.

Megan Cortez, Disability Coordinator, presented item D-15.

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.

Ms. Freidenrich asked staff explain the catastrophic leave time and how it relates to regular compensation. She asked how other agencies operate the catastrophic leave program.

Mr. Fink elaborated on the catastrophic leave program.

Mr. Ball asked if there’s a financial impact to compress the period of time.

Ms. Jenike explained the compress time and its effective date process. She also stated that this is very much a standard practice with the other pension systems.

Mr. Ball stated that it would make sense to have this item as a study and education session item for the Board in the future.

Following discussion, a **motion** was made by Mr. Eley, **seconded** by Mr. Prevatt to 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. The motion carried **9-0** with voting as follows:

AYES

NAYS

ABSTAIN

ABSENT

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

Mr. Baldwin

Megan Cortez, Disability Coordinator, presented item D-16.

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).

Mr. Prevatt wanted to confirm that Mr. Ohanesian was aware of this item being brought to the Board.

Ms. Cortez stated yes, he was notified..

Following discussion, a **motion** was made by Mr. Dewane, **seconded** by Mr. Packard to 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). The motion carried **9-0** with voting as follows:

AYES

Mr. Packard
Mr. Prevatt
Mr. Hilton
Ms. Freidenrich
Mr. Dewane
Mr. Eley
Mr. Lindholm
Mr. Gilbert
Chair Ball

NAYS

ABSTAIN

ABSENT

Mr. Baldwin

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

N/A

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

Active Members

Olson, Ronald
Perry, Andrew
Sakoguchi, Richard

Retired Members

Allshouse, Richard
Arciga, Reyna
Avila, Concepcion
Bourdy, Patrick
Bouyear, George
Byrd, Sylvia
Cantrell, Kay
Corrao, Dawn
Dallman, Darold
Daywalt, Lester
De Guzman, Irma
Dunham, Joan
Dunlap, Ronald
Eugley, Frank
Fiorina, Velma
Fuentez, Vincent
Funicello, James
Griffiths, Richard
Helland, Lavada
Jones, Patricia
Kimbell, Charles
Mauerman, Dorcas
Moore, Linda
Muchow, Keith
Novella, Ronald
O'Brien, Jackie
Sarkin, Harriet
Scales, Walter
Shook, Brandon
Smith, Richard
Sontag, Arlene
Sterns, Eileen
Sylvester, John

Temple, Ralph
Vane, Doris
Weber, Susan
White, Stephen

Surviving Spouses

Beddingham, Hilda
Blosk, Stanely
Lawton, Mary
Person, Nettie
Schiebeck, Carlos
Waters, Leslie

There being no further business to bring before the Board, the meeting adjourned at 2:37 p.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

David Ball
Chairman

C-3



Memorandum

DATE: December 29, 2017
TO: Members of the Board of Retirement
FROM: Mark Adviento, CPA, Internal Auditor
SUBJECT: **AUDIT COMMITTEE OUTCOMES FROM DECEMBER 14, 2017 MEETING**

Recommendation

The Audit Committee recommends that the Board of Retirement:

- (1) Receive and file the Audit of OCERS' Travel Expense Reports.
- (2) Receive and file the Hotline Update.
- (3) Receive and file the Status of 2017 Internal Audit Plan.
- (4) Approve the 2018 Risk Assessment and 2018 Audit Plan.

Background/Discussion

AUDIT OF OCER'S TRAVEL EXPENSE REPORTS

A presentation was made by Mark Adviento, Internal Auditor, describing the results of the audit.

Recommendation: The Committee voted to receive and file Audit of OCERS' Travel Expense Reports.

HOTLINE UPDATE

A presentation was made by Mark Adviento, Internal Auditor, describing Hotline activity.

Recommendation: The Committee voted to receive and file the Hotline Update.

STATUS OF 2017 INTERNAL AUDIT PLAN

A presentation was made by Mark Adviento, Internal Auditor, describing the status of outstanding 2017 audit projects.

Recommendation: The Committee voted to receive and file the Status of 2017 Internal Audit Plan.

CONSIDERATION OF 2018 RISK ASSESSMENT AND 2018 AUDIT PLAN

A presentation was made by Mark Adviento, Internal Auditor, describing proposed 2018 internal audits and audit projects.

Recommendation: The Committee voted to approve the 2018 Risk Assessment and a revised 2018 Audit Plan.



Memorandum

Submitted by:

M.A. - approved

Mark Adviento, CPA
Internal Auditor

C-4

Memorandum

DATE: January 5, 2018
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: 2017 OCERS YEAR IN REVIEW: COMMUNICATION PLAN

Recommendation

Approve the 2017 Year in Review Communication Plan.

Background/Discussion

Since 2009 OCERS has crafted a strong outreach communication plan at the start of each year. In that year the Great Recession was at its worst, and our goal was to assure our primary stakeholders that the OCERS Board of Retirement was actively involved in tackling the challenges facing the system.

We begin this process by meeting with each of the County Supervisors on an individual basis. The OCERS team for those meetings has been the OCERS Board Chair, Vice-Chair and me followed by meetings with each plan sponsor, major labor group, as well as the Retired Employees Association of Orange County (REAOC). In the ongoing debate over public pension benefits, ensuring a well-educated audience is one of the best methods for quelling rumors and replacing them with facts in order to better guide policy makers.

I propose the same process in 2018:

1. Individual meetings of the OCERS Chair, Vice-Chair and CEO with each of the County Supervisors and their support staff.
2. Individual meetings of a team of OCERS Executive Staff (Ms. Jenike, Ms. Shott and me) with the executive staff of each OCERS plan sponsor, as well as with the executive staff of each of our primary labor groups.
3. A presentation for our active members.
4. A presentation at a quarterly REAOC luncheon.

The different stakeholder groups may not necessarily share interest in the same issues or concerns, so I have attached an outline of those topics or accomplishments I believe were of greatest importance in 2017, and have indicated which groups I plan on providing with a more detailed discussion of any given topic.

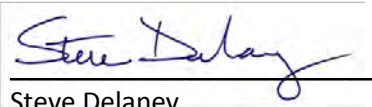
As a general overview of the proposed topics attached, Item 1 would focus on how the OCERS Retirement Fund fared in 2017; Item 2 would provide detail on how those earnings were achieved; Item 3 would indicate how we compare nationally; Item 4 would review the assumptions used in reaching our funding goals; and Item 5 ties all those issues together in presenting a projection of possible future contribution rates.

Additionally, I propose touching on several ongoing topics – the need to properly report, salary and contributions, the challenges of cyber security, and finally a heads up regarding several very important legal precedents that could be set in 2018.

If there are any other topics you the Trustees feel it is important to share in these meetings, please let me know and I can work with the Chair of the Board to determine how and when to include additional information.

This is a fairly large undertaking, but one I believe well worth the effort. Scheduling conflicts will undoubtedly arise, but I would anticipate the bulk of the outreach to be accomplished in the February through May time frame.

Submitted by:



Steve Delaney
Chief Executive Officer

Attached – Matrix of 2017 discussion topics.



2017 OCERS Year in Review

TOPIC	ITEM #	MEMBERS	RETIREES	SUPERVISORS	STAKEHOLDERS	LEGISLATORS
2017 OCERS Fund Earnings	1	X	X	X	X	X
Overview of OCERS Fund Asset Allocation	2	X	X	X	X	
R V Kuhns Comparison Report, <i>including</i> Funding Level Discussion	3	X	X	X	X	X
2017 – The Triennial Assumption Setting Process	4	X		X	X	
Twenty Year Contribution Rate Projections	5	X		X	X	X
Post Mandatory Contributions – The Need To Codify All Salary Codes	6			X	X	X
OCERS and Cybersecurity	7	X	X	X	X	X
Vested Rights Cases Before the California Supreme Court in 2018	8	X		X	X	X
OCERS Board Membership Overview	9	X	X	X	X	
What do you want to learn about OCERS in 2018?	10	X	X	X	X	X

“We provide secure retirement and disability benefits with the highest standards of excellence.”

A-2

Memorandum

DATE: January 16, 2018
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

Staff recommends that the Board of Retirement approve the following:

- (1) Creation of a Disability Committee;
- (2) The Disability Committee Charter ([Attachment #5](#));
- (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 ([Attachment #6](#)); and
- (4) Revisions to Hearing Officer Selection Policy ([Attachment #7](#))

Background/Discussion

This item presents the Board with a second reading of, and a request to approve, the Governance Committee's recommendations regarding proposed improvements to OCERS' current processes for the adjudication of disability and non-disability benefit applications. The Board's first reading took place at its December 2017 meeting. In connection with that review, the Board was provided with a 12 page memorandum outlining all of the recommendations and their anticipated benefits. In addition, the Board was provided with (1) the proposed Charter for the Disability Committee; (2) proposed revisions to the Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits; and (3) proposed revisions to the Hearing Officer Selection Policy, all of which had been approved by the Governance Committee. All of the materials provided to the Board in December are attached to this memorandum for the Board's ease in reference. (**[Attachment #1.](#)**)

As noted in December, this represents the culmination of six months' work of the staff prior to and during the September, October and November 2017 meetings of the Governance Committee. At the September meeting, staff presented the broad contours of a 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 Governance Committee, staff drafted large-scale revisions to the governing OCERS policies, which were presented at the October meeting of the committee. Again, the committee engaged in substantial discussions, asked staff for additional research, and made changes to the proposal. At the November meeting of the Governance Committee, staff returned with additional research and refinements, and the committee approved final recommendations for presentation to the Board for a first reading in December.

At the Board's December meeting, numerous questions and comments were directed to staff for further investigation, research and response. In addition, subsequent to the meeting, staff engaged with and solicited feedback from numerous stakeholders. Attached is a memorandum listing all of the questions or concerns raised by the Board and stakeholders and staff's responses (and recommendations for addressing) each. (**Attachment #2.**) Also attached is the feedback received from OCERS' Hearing Officers. (**Attachment #3.**)

Recommendation #1: Creation of a Disability Committee

The Governance Committee approved and recommends the Board approve the establishment of a Disability Committee to review all applications for Disability Retirement. The Board retains the final decision making authority on all disability applications (this is a duty that cannot be delegated), but the Disability Committee will help focus the Board's attention on the most salient facts of each application. 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.

Recommendation #2: Approval of the Disability Committee Charter (Attachment #5)

The Governance Committee approved and recommends the Board approve the Charter for the Disability Committee. Only one change to the Charter as presented in December is proposed. It is to state that committee members are prohibited from discussing disability applications outside the context of Board or Committee meetings. The proposed Charter (clean and marked against the December version) is attached as **Attachment #5** for the Board's approval.

The Governance Committee recommended that 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. At the Board's meeting in December there were several questions raised by the Board regarding the constitution of the membership of the Disability Committee. Subsequent to further consideration, staff continues to recommend the composition of the committee as approved by the Governance Committee. (See **Attachment #2**, Questions 2-4.)

Recommendation #3: Approval of the Adjudication and Administrative Hearing Rules for Disability and Non-Disability Benefits (Attachment #6)

Based on feedback received from the Board and numerous stakeholders, staff has made a number of modest changes to the recommend policy and hearing rules. The changes are summarized in a memorandum, **Attachment #4.**

The proposed Adjudication and Administrative Hearing Rules for Disability and Non-Disability Benefits (clean and marked against the December version) is attached as **Attachment #6** for the Board's approval.

Recommendation #4: Approval of Revisions to the Hearing Officer Selection Policy (Attachment #7)

No additional changes (in addition to the revisions recommended in December) to the Hearing Officer Selection Policy are currently recommended. Staff recommends the Board approve the revisions to the Hearing Officer

Selection Policy that were approved by the Governance Committee and presented to the Board in December. The Hearing Officer Selection Policy is attached as **Attachment #7** for the Board's approval.

Attachments

- (1) December 18, 2017 Board of Retirement Agenda Item Materials
- (2) Memorandum to Board outlining questions/concerns received from the Board and stakeholders with staff's responses
- (3) Feedback received from OCERS Hearing Officers
- (4) Memorandum summarizing the revisions to the Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits and the Disability Committee Charter
- (5) Marked (against the December proposal) and clean copies of the Proposed Charter for the Disability Committee
- (6) Marked (against the December proposal) and clean copies of the Adjudication Policy and Administrative Hearing Rules for Disability and Non-Disability Benefits
- (7) Clean copy of the Hearing Officer Selection Policy

Submitted by:



Gina M. Ratto
General Counsel

Submitted by:



Lee K. Fink
Deputy General Counsel

Attachment 1

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 2012-2017,¹ 360 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

¹ 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.

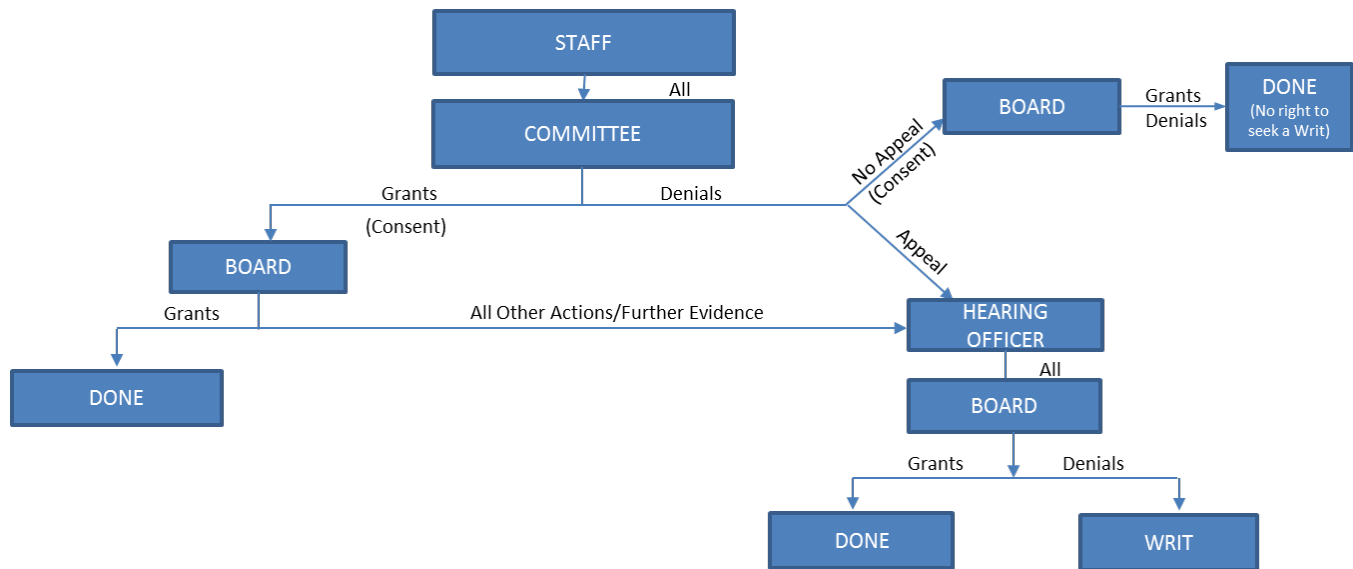
In addition, the time the Board spends on disability matters is likely to increase if the process is not changed. Since 2009, the number of disability applications has increased by 50%, from 56 disability applications in 2009 to 84 in 2016. As OCERS grows, the number of disability applications will likely 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 member² 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;

² 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.³ 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

³ 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 twice⁴ 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

⁴ 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 13th 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.⁵ 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.⁶ 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

⁵ 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.

⁶ 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

CHANGE LOG EDITOR	CHANGES FROM PREVIOUS VERSION	DATE

REVIEWED BY	SIGNATURE	DATE

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.



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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.

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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:

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- 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



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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 Secretary of the Board	Date
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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

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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,

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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.

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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.

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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

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- 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;

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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.

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- 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.

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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:

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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

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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.

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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 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 PartyAn Applicant** is entitled to one automatic challenge to the assignment of the Hearing Officer in accordance with the provisions of this section. ThatThe 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 letternotice 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 causein 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 notifying ~~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

~~5. Preparation of Administrative Record~~

~~Following receipt~~ Within 45 days of the request filing 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

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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

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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;

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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.~~

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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.

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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

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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.~~

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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

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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

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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. ObjectionsThe 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:

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- 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*.

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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. ~~22~~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~~

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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.

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~~(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**~~

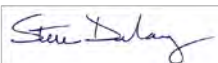
~~The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.~~

~~**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.~~
 - ~~c.~~ 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

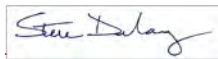
19-22. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

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

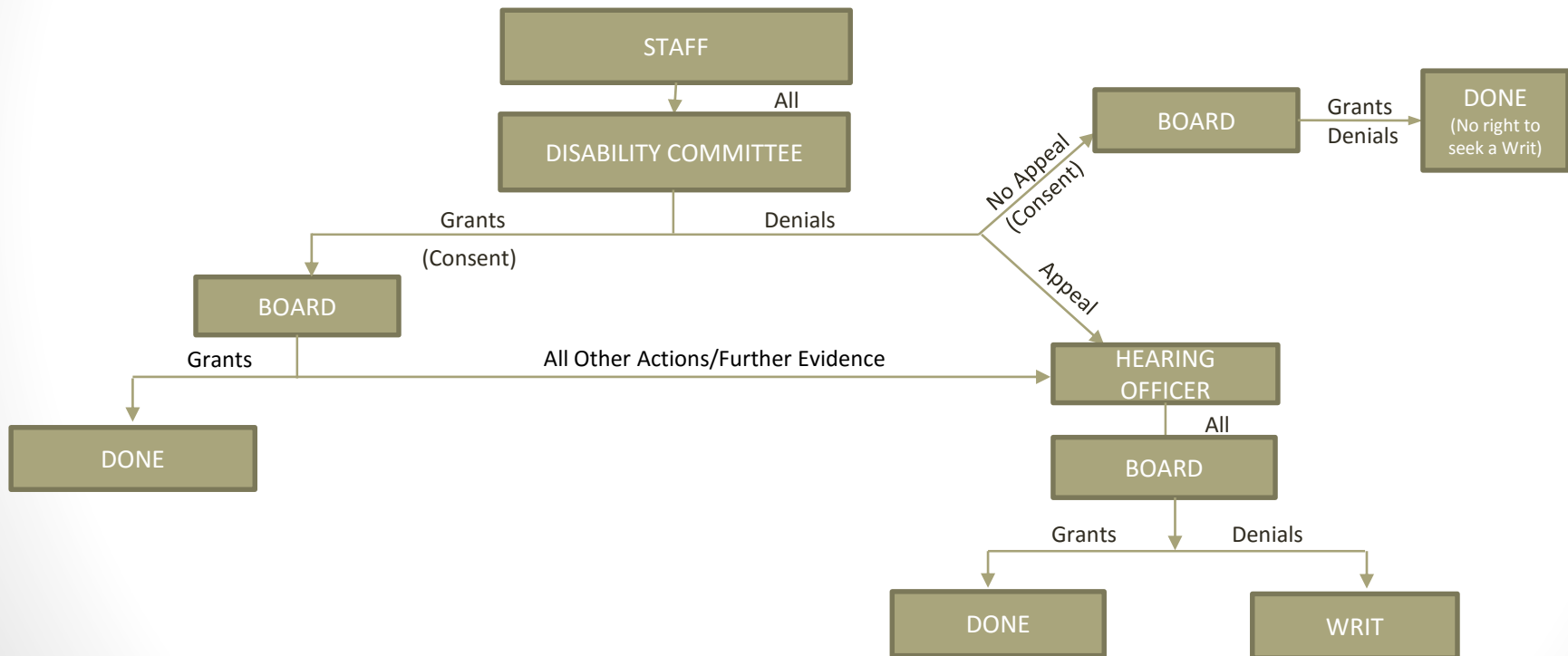
The Map That Guided Us

- **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%
Total	109/299 (36%)	57 (52%)	19	9	28	32%

*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
Total Cases	360	61	90	91	79	64	65

* 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

Attachment 2

Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel; Lee K. Fink, Deputy General Counsel
SUBJECT: RESPONSES TO QUESTIONS AND FEEDBACK FROM THE BOARD AND STAKEHOLDERS REGARDING REFORM OF THE ADMINISTRATIVE HEARING PROCESS

Background/Discussion

At the December 18, 2017 Board of Retirement (Board) meeting, staff presented the recommendations of the Governance Committee to revise the adjudication process for disability and non-disability benefits. During that meeting, numerous questions and suggestions were raised regarding the new process. At the Board's direction, OCERS staff has also solicited feedback from numerous stakeholders, including member groups (to date, OCEA and AOCDS), plan sponsors, applicant attorneys, and OCERS hearing officers. This memorandum summarizes the questions or comments that were raised and provides staff recommendations, where appropriate, for any changes to the Governance Committee recommendations on the revised policies and Disability Committee Charter.

For clarity and organization, these questions and answers are grouped by topic.

COMMENTS AND QUESTIONS RAISED BY THE BOARD REGARDING THE ADJUDICATION POLICY REFORM

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OVERVIEW

1. What can we learn from other CERL systems to improve our process?

The process reforms recommended by the Governance Committee were based on a survey of at least 13 CERL systems regarding how those systems handle their disability applications. In addition, staff has looked at several systems specifically for particular ideas, including LACERA and SCERA for how their Disability Committees work, at SBCERA for its use of an expedited administrative review, and how ACERA and CCCERA offer administrative hearings before disability applications go to the full Board. Staff has also relied on the SACRS Disability Retirement Law Resource, Second Edition (July 2011) for issues of disability law under the CERL.

DISABILITY COMMITTEE

2. How many members should the Disability Committee have?

Several members raised concern about the makeup of the Disability Committee. The first issue was that the proposal calls for the Disability Committee to be only three members plus an alternate, whereas other Board committees have four members.

Staff Recommendation:

That the Disability Committee be composed of three members, plus an alternate.

A membership of three people ensures there are not tie votes. Although the other committees of the Board have four members, making tie votes possible, it is more important for the Disability Committee to avoid tie

votes. For the other committees, the hope is that the members can reach a consensus, and if that takes longer (e.g., requires staff to bring an item back to a subsequent committee meeting), the delay is acceptable. But for the Disability Committee, it is important that a decision be made in order to advance the member's application to the next stage.

Although a quorum of the Disability Committee would be two members, making ties possible, because there is an alternate member, the committee would most likely always have three voting members in attendance.

Finally, the membership of the Disability Committee should be as small as possible so that when an application is later presented to the full Board, the fewest possible number of Board members have previously considered the case. This reduces concerns that Board members have already formed an opinion on the application. Additionally, the smaller number allows for greater flexibility in scheduling meetings of the Committee.

Alternative Recommendation:

That the Disability Committee be composed of four members. For the reasons above, staff does not recommend this alternative.

3. Should the Disability Committee have two elected members and one appointed member?

Several Board members raised concerns that the proposed composition of two elected members and one appointed member could upset the balance that exists on the Board. This would be enshrining a permanent majority of members who may be viewed as more favorably inclined toward granting disability applications.

Staff Recommendation:

That the Disability Committee be composed of two elected members and one appointed member, with an alternate member that can be any member of the Board.

Members of the Governance Committee initially suggested that the Disability Committee be composed of three elected Board members because they work (or have worked) for an OCERS plan sponsor and therefore arguably have more familiarity with the types of jobs and disabilities that OCERS members face. That recommendation was altered to reflect the view that there should be at least one appointed or ex-officio Board member on the Disability Committee to ensure that the committee remains representative of the Board, ensuring both well-rounded decisions as well as broad "buy-in" to the Disability Committee's decisions. This "buy-in" will be important in implementing the Consent Agenda approach to presentation of the applications to the Board. It is also important to include both elected and appointed Board members on the Disability Committee so that as committee membership rotates each year, the burden of the workload is not shifted disproportionately on to any one group of Board members.

Alternative Recommendation 1:

That the Disability Committee be composed of three members of the Board, appointed by the Board Chair, without regard to the nature of their membership on the Board. A three member committee will always have an imbalance between elected and appointed members, but that imbalance would vary each year. This alternative would make the appointment of the Disability Committee members consistent with the way members are appointed to the other committees of the Board.

Alternative Recommendation 2:

That the Disability Committee be composed of one elected member, one appointed member, and the County Treasurer. The County Treasurer is not appointed by the Board of Supervisors, and as a person elected by the

voters of the County, would embody the concerns of the public at large. This would also mirror the balance in the Board's membership of four elected members, four appointed members, and the Treasurer.

Staff does not recommend this alternative. Staff believes the time demands on the Committee members in preparing for meetings will be significant, and the Committee will meet at least monthly. As a full-time elected position as head of a County department, the Treasurer likely does not have the time to dedicate this committee nor the flexibility in her schedule to attend additional monthly meetings.

Alternative Recommendation 3:

That the Disability Committee be composed of four members of the Board, two elected members and two appointed or ex-officio members. This keeps a balance between the elected and appointed members. Staff believes the benefit of retaining this membership balance is outweighed by the value of keeping the membership of the Committee as small as possible so that when an application is later presented to the full Board, the fewest possible number of Board members have previously considered the case.

4. Should the membership of the Disability Committee be defined in the charter?

Additionally, some concerns were raised that the proposed Disability Committee Charter defined the membership of the Disability Committee, whereas the membership of other Committees is simply by appointment by the Board Chair.

Staff Recommendation:

That the Disability Committee membership be defined in the charter.

This provides some comfort to the stakeholders that the committee will have elected membership from both groups of members and that it will have the best possible make-up as the Governance Committee recommended.

Alternative Recommendation #1:

That the Disability Committee Charter require at least one elected member and at least one appointed member, and leave it to the Chair to appoint the remaining member.

Alternative Recommendation #2:

That the Disability Committee Charter not specify the characteristics of the membership.

5. How does the "on-call" alternate member of the Disability Committee work?

There is a concern that the alternate member will always attend the Disability Committee meetings. This is not what is intended. The alternate member will only attend meetings of the Disability Committee when a regular member of the Committee knows, in advance, that he or she cannot attend a meeting. The role of alternate member of the Disability Committee is different in this respect from the role of the Alternate Safety Member, who serves as a member of the Board of Retirement for all purposes except voting. If the Disability Committee included a fourth member in all the meetings of the committee, it would detract from the numerous reasons to limit the size of the Disability Committee (reducing workload burden, avoid the appearance of the Board becoming overly involved in the case before it acts as the final adjudicatory authority, allow the committee more flexibility).

Instead, the alternate member need only attend meetings when a regular member will be absent, though he or she will receive the materials for every meeting. Board members rarely, if ever, miss regularly scheduled Board or committee meetings. In those few instances when they do, the absent Board member always notifies OCERS staff and typically the Board or Committee Chair as far in advance as possible. That same norm should be applied to the Disability Committee, and a Disability Committee member should additionally let the alternate know if he or she will be absent. This should ensure that the alternate is available, but only needs to attend in a few circumstances each year.

6. Should Disability Committee members be prohibited from discussing disability applications with Board members?

Some Board members raised concerns that there should be a prohibition on the Disability Committee members discussing applications with Board members. Those discussions could result in a conflict of interest, a pre-judgment by Board members, or in extreme cases, a Brown Act violation.

Staff Recommendation

Disability Committee members should be prohibited from discussing individual applications with other members outside of committee or Board meetings.

7. Will there be training for Disability Committee members?

Some Board members asked if Disability Committee members will be provided training to assist them in performing their specialized duties as members of the Committee. One of the OCERS Hearing Officers suggested that training for Disability Committee members should include a video of a hearing that was done in San Diego County. Additionally, the Disability staff reports that LACERA has substantial trainings that OCERS may be able to leverage.

Staff Recommendation:

Additional trainings for Disability Committee members should be organized by the Disability Staff and the Legal Department, and coordinated with the Chair of the Disability Committee, once the Disability Committee is established.

Alternative Recommendation:

Include a requirement in the Disability Charter that Disability Committee members participate in six hours of Disability Law training each year.

8. Will meetings of the Disability Committee be subject to the Brown Act?

Board members asked if the Disability Committee would be subject to the Brown Act. The Brown Act applies to the Board of Retirement as well as any “standing committee[] of [the Board] which ha[s] a continuing subject matter jurisdiction, or a meeting schedule fixed by charter.” Cal. Gov’t Code § 54952(b). All OCERS standing committees including the Disability Committee are subject to the Brown Act.

9. How frequently will the Disability Committee meet?

Some Board members asked how often the Disability Committee will meet.

Staff Recommendation:

The Disability Committee should meet at least once a month, as set forth in the draft Charter.

The Disability Committee should set a regular meeting schedule annually, much like the Board and the Investment Committee does. The regular meeting should be three weeks before the Regular Board meeting. This meeting schedule would allow the time for appeals of a grant of an application to expire and the entire Consent Agenda to be posted ten days before the Board meeting.¹

In addition, the Disability Committee may decide to meet more frequently, or hold special meetings from time-to-time, as it deems necessary.

10. Should the Disability Committee have a member that is not a Board member (perhaps a medical professional)?

Several Board members asked whether the Disability Committee should have a non-Trustee as a Committee member. There is no prohibition on having non-Trustees serve as a committee member.

Staff Recommendation:

That the Disability Committee be composed of three Trustees. OCERS uses a panel of physicians to provide independent medical examinations. These physicians tend to specialize in their particular fields. They would be available to provide more information to the Disability Committee as the Committee requires. The panel physicians should be able to provide information that is more detailed than a single generalist could. Additionally, adding a non-Trustee member to the Disability Committee would likely involve additional costs to the System and would likely make meetings of the Committee more difficult to schedule.

Alternative Recommendation #1:

That the Disability Committee include the Director of the Orange County Health Care Agency as a member. Under the CERL, “[t]he county health officer shall advise the board on medical matters and, if requested by the board, shall attend its meetings.” Cal. Gov’t Code § 31530. This provision, however, was designed for counties where the retirement system is a part of the County government under control of the County Treasurer. As an independent district, OCERS would have to enter into an arrangement with the County of Orange to have the County Health Officer serve in this capacity.

Alternative Recommendation #2:

Hire or contract with an outside medical expert to serve as a permanent member of the Disability Committee.

Alternative Recommendation #3:

Form the Disability Committee with only Trustees as members, but ask the Disability Committee itself to study whether to include a non-Trustee member.

¹ This timeline could be compressed if the Board is comfortable with the Disability Consent Agenda being added to the Board materials later than ten days before the Board meeting.

HEARING OFFICERS

11. Should the Board member on the Hearing Officer Selection Panel be a non-Disability Committee member?

Some Board members were concerned that having the Chair or Vice Chair of the Disability Committee serve on the Hearing Officer Selection Panel could create an appearance of a conflict since the Chair or Vice Chair would be involved in both the initial determination on the application and selecting the Hearing Officers who would hear appeals of those determinations.

Staff Recommendation:

The Chair or Vice Chair should serve on the Hearing Officer Selection Panel.

Hearing Officers are the designees of the Board, appointed by it to assist the Board in making its determinations whenever the Board deems it necessary. See Cal. Gov't Code § 31533. They are, and must be, approved by the full Board. Although they should be independent of the staff, there is no conflict between the Board and Hearing Officers. The proposed new process improves the integrity of the Hearing Officer selection process because the Board limits its involvement in the disability process to its quasi-judicial role as the ultimate decision-maker, rather than engaging in the agency's investigative role, which would be mostly left to staff. Including a Board member on the Hearing Officer Selection Panel further ensures that the Hearing Officers are the servants of the Board, not of the OCERS staff. Including the Chair or Vice Chair of the Disability Committee on the panel makes the most sense because the Disability Committee will be responsible not only for the initial review of disability applications, but oversight of the disability function, and therefore most knowledgeable.

12. Should the Chair or Vice Chair of the Disability Committee be non-voting members of the Hearing Officer Selection Panel?

Some Board members were concerned that having the Chair or Vice Chair of the Disability Committee serve on the Hearing Officer Selection Panel could create an appearance of a conflict since the Chair or Vice Chair would be involved in both the initial determination on the application and selecting the Hearing Officers who would hear appeals of those determinations.

Staff Recommendation:

The Chair or Vice Chair should be a full participating and voting member of the Hearing Officer Selection Panel. Because there is no conflict with the Board choosing the Hearing Officers, making a Committee member a non-voting member does not resolve any conflicts.

13. Should OCERS forego peremptory challenges of Hearing Officers?

Some Board members were concerned that if OCERS gives up its right to a peremptory challenge in the Administrative Hearing process, OCERS would not be able to effectively deal with a bad Hearing Officer who continually rendered poor decisions, made bad recommendations, or offered legal opinions that were poorly reasoned or researched.

Staff Recommendation:

OCERS should not have the right to make peremptory challenges.

Typically, a peremptory challenge is used if a lawyer or litigant has a bad history with a particular judge. Peremptory challenges are not intended to address systematic problems with a Hearing Officer. When a party uses a peremptory challenge against a Hearing Officer, that Hearing Officer's spot in the rotation is not skipped, but rather the next case is assigned to him or her. If there is a systematic problem with a Hearing Officer, OCERS would have to make a peremptory challenge against him or her in every case. Because this is a terribly ineffective method of managing the concern, OCERS should (and will) address such a problem in a systematic fashion.

Moreover, because the Board of Retirement itself selects the Hearing Officers, there is no reason why OCERS employees and attorneys should not be able to appear in front of any Hearing Officer on the OCERS panel (and there is no reason why any Hearing Officer on the OCERS panel should not be able to be on a case assigned to any OCERS attorney or staff).

Alternative Recommendation:

OCERS would have the right to one peremptory challenge to a Hearing Officer (as under the current rules).

14. Should there be a two-year "sit-out" period for Hearing Officers?

An OCERS Hearing Officer raised the concern that the Hearing Officer Selection Policy requires that, after a Hearing Officer sits on the OCERS panel for the seven-year contract term, he or she cannot be re-appointed to the panel for at least two years.

Staff Recommendation:

That Hearing Officers should be required to sit-out for two years before being reappointed to the OCERS panel.

This "sit-out" period may give some comfort that the Hearing Officer has sources of business other than OCERS and are therefore are not biased towards OCERS. It also ensures that OCERS has access to fresh perspectives.

Alternative Recommendation:

That Hearing Officers not be required to sit-out after their seven-year contract is complete. Good Hearing Officers are sometimes hard to find, and should not be required to sit out. This also makes it difficult for semi-retired hearing officers who make OCERS the bulk of their practice from continuing to serve as hearing officers. And finally, if there are bad hearing officers, they should be removed regardless of the two-year "sit-out" period.

CLOSED SESSIONS/CLOSED HEARINGS

15. Can Plan Sponsors be included in the Closed Hearings?

Some Board members asked whether the Brown Act allows plan sponsors to participate in Closed Sessions of the Board or the Disability Committee when it conducts a hearing on an application.

While the CERL does not require that disability hearings be held in closed session, the Attorney General has opined 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 (Memorandum for Hon. Wesley Chesboro, State Senator, February 23, 2005).

The Brown Act's closed session provisions prevent a local agency from including select general member of the public from participating in a closed session, but it does allow any person with an "essential role to play in the

closed session.” That would include witnesses and plan sponsors. The CERL makes explicit that plan sponsors have the right to be parties in disability matters, since plan sponsors can file applications for disability retirement, Cal. Gov’t Code § 31721, and may seek judicial review of the Board’s determination, Cal. Gov’t Code § 31725.

San Bernardino CERA holds a “Closed Hearing” on Disability Applications that includes the member, staff, and representatives from the Plan Sponsor, and then can adjourn to a “Closed Session” with only the General Counsel to seek legal advice.

16. Will Closed Hearings slow down the process?

Some Board members raised the concern that holding hearings on disability applications in closed session would actually delay that process, contrary to the goal of expediting the adjudication process.

Closed Hearings should add little, if any time to the process. Members or their representatives rarely speak at Board meetings regarding disability applications. In 2017, the Board heard 116 initial applications under the disability calendar,² and only six times (5%) did a member or their representative speak to the issue, and never more than one in a month.³ In some instances, members were apparently present but did not speak. The shuffling in of members and their representatives to closed session therefore causes very little delay in a meeting flow.

At meetings of the Disability Committee, OCERS members who appear for their cases would be asked to wait in the Modjeska (Training) Room and then brought into the Board room for their matters. Given that only a few OCERS members are present for their matters, and only one or two speak in any given month, it presents only a small logistics problem. The Committee would likely first hear matters where members are present and then address the rest of the Committee’s agenda. The Disability Committee would then convene in open session briefly to announce its results. Since the Disability Committee would only be hearing disability matters, there would not be the large number of members of the public, outside consultants, and OCERS staff that are present at Board meetings, so movement of the small group of people would not be a problem.

At the Full Board level, the Consent Agenda would be adopted as a whole in open session. Since Consent Agenda items are not discussed by the Board, there would be no reason to go to closed session. The only items for which the Board would need to adjourn to Closed Session would be matters referred after an administrative hearing and matters pulled from the Consent Agenda. There should be very few matters pulled from the Consent Agenda under the new process. The greatest use of closed session for the Board would be consideration of matters after receiving the recommendation from a hearing officer. In 2017 the Board heard ten cases after reviewing the recommended decision of the hearing officer, and only in three of them did the member or their representative appear before the Board to argue their cases. The Board would take those matters up after the Consent Agenda, and clear the Board room. Once the matter was concluded, the Board would reconvene in open session to announce its action. Other than some orchestration of movement, there is no added time to the process.

² These included both disability applications and non-disability benefits issues.

³ This could actually be over-counting, because in some instances, the same matter has come before the Board on more than one occasion, and a member or their representative has spoken to the Board on more than one occasion.

BOARD ADJUDICATION PROCESS

17. How would the logistics of the Closed Hearing be handled – e.g., people waiting for next Closed Session item?

Some Board members asked staff to explain how the staging of hearings would work when the Board or the Disability Committee holds a “Closed Hearing.” There was some concern of how the physical space would be arranged to accommodate people and orchestrate the movement of individual applicants, counsel, plan sponsors, and support staff.

As set forth above, there are a relatively small number of instances where members or their representatives appear to argue their cases. For Disability Committee meetings, the Committee would be small enough that it could meet in Conference Room behind the Board Room, using the Board Room as waiting space. Alternatively, when the Disability Committee and the Board met in closed session in the Board Room, the Lobby or the Modjeska (Training) room would be used as waiting space and overflow.

To facilitate the logistics, Disability matters before the Board should continue to be held at a time certain. In many City Council and other special districts, the council or governing board holds its closed session meeting before the regular meeting. The Board could similarly set the Disability agenda for 9 AM, the first item on its agenda, and set the rest of the meeting for 10 AM. That way, members of the public, consultants, and outside contractors and presenters would not show up until after the Board is (typically) finished with any closed session disability matters. This would create a lesser burden on the public and on the staff in clearing the Board Room. Alternatively, the Board could always fix the disability calendar for 1:30 PM, so that the Board Room is cleared for the lunch break. This makes the logistics of the clearing the Board room easier since there are usually only a few matters after lunch. Staff could work to attempt to schedule most outside consultants for the morning session so that any presentation or discussion for the Board would rely only on internal staff, rather than outside consultants or presenters waiting for completion of the disability agenda.

18. What level of information will be provided to the Board from the Disability Committee?

Some Board members raised the concern that if the Board continues to receive the same volume of information that it currently does, there would be no time saving for Board members preparing for the meetings. Other Board members raised the concern that without the information, a Board member would not have sufficient information to offer an objection to a Consent Agenda item.

Any member of the Board of Retirement has the right to access every piece of information contained in a disability application. Those files typically range from 200 to 1000 pages. Currently, only a summary is provided to the Board with the Disability agenda, which consists of a short staff report, the report of the OCERS Independent Medical Examiner, the treating physicians’ statement of disability, the employee’s statement of disability.

Staff Recommendation:

The Disability Committee would be provided the same level of information that the Board currently receives in connection with the Disability Agenda. When matters are referred to the Board, a brief staff memorandum summarizing the application and the Committee’s action would be provided. Board members will also have access through BoardVantage to the staff report, the report of the OCERS Independent Medical Examiner, the treating physicians’ statement of disability, and the employee’s statement of disability that were provided to the Disability Committee, similar to how Board members have access to materials from all committees, whether or

not they are a member of that particular committee. If a Board member wanted additional information, he or she would contact the Disability staff, similar to what he or she would do now.

Over time, the Disability Committee itself, exercising its oversight of the disability function, might conclude that a different quantum or quality of information is appropriate.

19. Should there be a shorter time to appeal denials of disability applications?

Some Board members raised the concern that 90 days for an appeal from the Disability Committee’s recommendation is too long and can be seen as slowing down the process. One of the OCERS hearing officers also suggested that “60 days for those determinations is sufficient, even taking into account some applicants’ desire to engage counsel.”

Staff Recommendation:

That there be a 90-Day period from the date of the Disability Committee’s recommendation to deny an application for the applicant to file an appeal.

90-days is the current time period that someone has to appeal a decision of the Board. This gives the member flexibility. It also is the same time as a member would have to seek judicial review of the Board’s final determination under the Civil Procedure Code, so 90-days is a consistent period of time. However, many systems use significantly shorter periods of time, with the Alameda County Employees Retirement Association using a 14-day appeal period.

In any event, the member can always accelerate the process by filing their request for an administrative hearing sooner than the 90-day limit.

Alternative Recommendation 1:

Adopt a 30 or 60 day period to request an administrative hearing. Either of these would still be a viable alternative, and would present a sufficient period of time.

Alternative Recommendation 2:

Adopt a 30 day period to request an administrative hearing with an option to grant an extension. Staff does not recommend this alternative because there is no mechanism that works administratively to have a time period that can be extended. There is no unbiased decision-maker empowered to offer that extension, other than the Board itself. And having the Board consider requests for extensions would cause greater administrative burden for the, member, the staff and the Board, than retaining the 90-day period. There is also no standard that on which to base such an extension that is sufficiently impartial.

20. Should there be a longer time to appeal grants of disability applications?

One of the OCERS hearing officers commented that “large employers might need more than 10 days to decide whether to appeal the committee’s recommendation” to grant a disability application.

Staff Recommendation:

That the period for an employer to request an administrative hearing when the Disability Committee recommends granting the application be ten days.

Most employers/plan sponsors do not engage in the disability application or hearing process, so creating additional time for those rare instances creates unnecessary delays for the member. In those instances where the plan sponsor does engage, it is much more sophisticated than the members and should therefore be able to act within the ten day period. In a worst-case scenario, the plan sponsor can file a “protective” request for administrative hearing, and then withdraw its request after completing its evaluation.

Alternative Recommendation:

That the timeline to request an administrative hearing after any recommendation (grant or denial) be the same period of time. Staff does not recommend this because it would simply slow down most meritorious applications for the exceptionally few instances where an employer seeks to appeal.

21. Should there be a shorter (30 day) time period for members to appeal non-disability benefit determinations?

Some Board members asked whether a shorter period should be afforded for members to request an administrative hearing for review of non-disability benefits than for disability benefits.

Staff Recommendation:

That the time to request an Administrative Hearing for non-disability benefit appeals be the same as for disability determinations.

Differing and inconsistent processes are the surest ways to create confusion and poor service. The same staff has to administer both programs. Creating different time-tables, when not required by law, and when there is no benefit to the members, creates unnecessary confusion that will poorly serve the system and inevitably create errors.

In any event, the member can always accelerate the process by filing their request for an administrative hearing sooner than the 90-day limit.

Alternative Recommendation 1:

Adopt a shorter (30 or 60 day) period to request an administrative hearing. Either of these would still be a viable alternative, and would present a sufficient period of time. For the reasons stated above, staff does not recommend this alternative.

22. Will having appeals go from Disability Committee to an administrative hearing save time?

Some Board members raised the concern that the Board’s current process may save time because it allows the Board to correct any mistakes that have been made before the Board’s initial determination.

In 90% of the disability cases over the last five years, the Board has adopted the staff recommendation, so there are very few instances where the Board is correcting errors. Even so, in 68% of the cases that have gone to an administrative hearing, the Hearing Officer has reversed the Board’s initial determination. And yet it is in these more contested cases where the Board is more likely to intervene. While it is not clear why there are so many reversals by Hearing Officers, the Board’s current process has not served to correct member errors significantly.

What is worse is that in these close cases, the time for members to have their administrative hearing has already been delayed. The Disability staff (in conjunction with the Legal staff) will already have closely scrutinized the issue and often put in extra work after a monthly meeting to review the cases. Not infrequently, as a result of

that meeting, the Disability staff will pull a case from the agenda and seek follow-up with the panel physician or the employer. When the matter does go to the Board, a Board member will often ask staff for additional information, or even an additional medical examination, sometimes delaying the initial determination. All of this takes place before the applicant even has the right to an administrative hearing.

The proposed new system addresses all of these issues. OCERS staff will establish transparent OAPs to set out timelines for members to know exactly how long it will take for their applications to be reviewed. The Disability Committee will address the applications before they reach the Board, rather than delaying the matters through iterative staff work. If the application is denied, the new process affords members the opportunity to meet their burden of establishing their right through a hearing that is far more expedited than the current system. Under the current system, Board members may feel that the Board meeting is the last chance for a member to make his or her case before a long and drawn out administrative hearing process. That might lead the Board member to delay the initial decision to give the member a chance. But with a quick and effective hearing process, Disability Committee members should feel no compunction about denying an application since they can be assured that the member will be able to get their appeal heard and resolved in a timely fashion.

Having the member go through both the Disability Committee and the Board before gaining rights to an administrative hearing would be an unjustifiable delay. It would extend the process even more than exists now and add no additional value. Plus, for members whose applications are denied, it would create a perception that Board members would have a more firm view of denying the application, since some would have now denied the application twice (once in committee, once before the Board), while simply creating more work for Board members and staff and increasing the costs to the system.

HEARING RULES

23. How are Hearing Officers randomly assigned?

One of the OCERS Hearing Officers noted that under Rule 4.A the Clerk will randomly assign a Hearing Officer, but no guidance is offered about how to do so. For example, if the Clerk draws lots each time, some Hearing Officers may receive no assignments while others may receive several.

Staff Recommendation:

That the rules be amended to clarify that the drawing be done to ensure a roughly even distribution of cases to Hearing Officers.

Historically, OCERS has simply assigned cases alphabetically. Alphabetic assignment, however, makes the assignment of Hearing Officers quite predictable. Under the proposed method, the Clerk would confidentially create a random order of Hearing Officers to assign cases to, and then re-shuffle that random order each time through the panel (currently seven) of Hearing Officers.

24. When should the hearing be held?

One of the OCERS hearing officers commented that the timeline for setting a hearing (not later than six months after the pre-hearing conference) may be too long.

Staff Recommendation:

That the hearing be set not later than six months after the pre-hearing conference.

Although the desire for alacrity is appreciated, a six-month period is reasonable. Under the rules, the applicant's pre-hearing statement is due two months before the hearing. Thus, the pre-hearing conference is only four months before the first filing is due. That is the period of time by which the applicant should assemble all of his or her evidence and complete any depositions. As the new rules are implemented, the legal staff (after soliciting more input) can recommend any additional changes to the process to speed it up.

Alternative Recommendation:

That the hearing be set no later than four months after the pre-hearing conference. This is a shorter period of time, but would still allow the parties two months to assemble their evidence before the first filing is due. Additionally, the pre-hearing statement is typically not a complex document, as it is merely a recitation of basic issues, not an opening argument or brief, and thus should not take too much time for even a pro per applicant to prepare.

25. Can Medical Witnesses submit reports with electronic signatures?

One of the OCERS hearing officers commented that Rule 10.C which allows medical reports to be submitted if it bears the signature of a medical witness is sometimes taken to mean "wet" signatures.

Staff Recommendation:

That the hearing rules be amended to allow for electronic signatures of medical witnesses.

It is the 21st Century and most signatures are now provided digitally. It becomes an unnecessary burden on an applicant to obtain a "wet" signature from a treating physician. If any counsel has cause to question the validity of the digital signature (and the same cause could exist with "wet" signatures"), it can be raised with the Hearing Officer. Otherwise, courts use electronic signatures, why shouldn't OCERS?

26. Will there be an ability to extend a deadline if there is a good reason?

AOCDS expressed the concern that where there is a deadline for members to do something (file a document, for instance) that the deadline can be extended for good cause. Under Rule 15 of the proposed new hearing rules, the Hearing Officer can extend a deadline for "good cause." This is the discovery of new evidence that could not have been discovered before, the need to obtain rebuttal evidence to newly discovered evidence, or the illness or inability of a person involved in the case that was not known earlier.

It is important that a good cause exception exist, but it is equally important that such an exception not be abused. There are far too many instances where needless delays—sometimes by the member themselves—drag out administrative hearings for months and even years. These do not serve the members. Dates should be set at the beginning, evidence obtained timely, and the matter proceed as planned unless something truly unpredictable intercedes.

27. What should the Hearing Officer's Findings of Fact and Recommended Decision include?

One of the OCERS hearing officers raises the question that the requirement in Rule 13.B requiring a summary of "the exhibits offered by the parties, both those received into evidence and those not received" to be included in the hearing officer's report is overbroad.

Staff Recommendation:

That the Hearing Officer's Findings of Fact and Recommended Decision include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) all other evidence received by the Hearing Officer; (4) a factual

discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended action.

The requirement to include all exhibits offered by the parties was overbroad. This more targeted rule complies with the requirements of Government Code Section 31534 if the Hearing Officer's Recommended Decision is to be used as a summary after which the Board may take any appropriate action under subsection (b).

Submitted by:



Gina M. Ratto
General Counsel

Submitted by:



Lee K. Fink
Deputy General Counsel

Attachment 3

ROBERT M. SNIDER, Attorney at Law

33208 Decker School Road
Malibu, California 90265

(310) 457-4628
bobsnider58@gmail.com

December 27, 2017

Lee Fink, Deputy General Counsel
Orange County Employees Retirement System
2223 East Wellington Avenue, Suite 100
Santa Ana, California 92701

VIA E-MAIL AND U.S. MAIL

Dear Mr. Fink:

I appreciate the opportunity to comment on the proposed changes in OCERS's adjudication and administrative hearing procedures.

I see only positives in the most important change, the creation of a Disability Committee, especially given how much of the Board's review time is devoted to disability matters. It was also heartening to read about the plan to accelerate many of the steps from application to Board resolution. One of my pending cases will be seven years old next March. I do think the 400-plus days allowed before an applicant receives the staff's preliminary determination (at page 8 of the December 18 memorandum) is too long, but that's probably none of my business as a hearing officer.

More specifically as to the Disability Committee Charter, section 11.a provides for "any witnesses called to present testimony" before the committee. Would the hearing officer have the benefit of those statements, for possible corroboration or impeachment at the hearing? I realize that review is de novo, but it would be valuable to know what was presented to the committee. (The same point applies to testimony before the Board, which is authorized in section 6.A of the proposed Adjudication Policy.)

And if you would permit me a suggestion as to section 3.d of the proposed charter, the committee's duty to "coordinate continuing education for the members of the Board" might be facilitated with a video showing an actual administrative hearing. The San Diego County Employees Retirement Association, with all parties' consent, video-taped a pro per hearing I conducted so that new board members could become more familiar with the process.

With regard to the Adjudication Policy, having a Clerk coordinate scheduling and the filing of documents is an excellent idea. One amendment to the policy that I would offer concerns the 90-day time period for appealing the Disability Committee's or staff's denials of benefits under sections 3.D and 4.A-4.B, respectively. It would seem that 60 days for those determinations is sufficient, even taking into account some applicants' desire to engage counsel. Conversely, large employers might need more than 10 days to decide whether to appeal the committee's recommendation.

Also, a minor observation about the Adjudication Policy: The definition of "Medical Witness" in section 2 should probably include acupuncturists, who are licensed by the state, and should exclude surgeons, who are already included as physicians.

The rest of my thoughts pertain to the proposed Administrative Hearing Rules.

In Rule 3.D, subsection 1, a hearing should address the issues of disability, service connection, and/or effective date as needed, not necessarily all of them. Under Government Code section 31722, the timeliness of the application is also a potential issue.

Under Rule 4.A, the Clerk would randomly assign a hearing officer, but no guidance is offered about how to do so. For example, if the Clerk draws lots each time, some hearing officers may receive no assignments while others may receive several.

As to Rule 6, I've had good experience in San Bernardino with expedited administrative reviews. But I'm unclear why OCERS, instead of the applicant, would get to choose under Rule 6.B whether an expedited administrative review is appropriate. In addition, whichever party is exercising the choice ought to be governed by a deadline.

In Rule 7.B, a party making an audio recording of the conference should first obtain the consent of the participants, in compliance with state law.

In subsection 7 of Rule 7.C and in Rule 16, there are provisions for dismissal of the applicant's case by the hearing officer. A fairer procedure would be for the hearing officer merely to recommend dismissal and for the Board to dismiss or not, since this would be a critical stage of the proceedings. The same point applies to Rule 8.E. If the hearing officer can dismiss an appeal for want of a pre-hearing statement, the applicant should have the right to argue to the Board that he or she showed good cause for the omission.

In Rule 7.D, section 3, the pre-hearing scheduling conference may be too early a juncture for a party to know whether it will compel the presence of an opposing party's medical witness. Having the party state whether it may require the witness to appear in person would be the better course.

In subsection 1 of Rule 7.E, consistent with my previous comments, I believe a six-month timeline for setting the hearing date is too long.

Under Rule 9.B, OCERS would issue witness subpoenas, but since OCERS is also the opposing party, it might be more appropriate to have subpoenas issued by the Clerk.

Rule 12.C should clarify that oversize briefing is not allowed unless permission is first obtained at the hearing, in order to eliminate the possibility of requests that are filed simultaneously with the oversized brief.

In Rule 13.A, I agree that the hearing officer's 60-day clock should begin on the date the reply brief is due, but only if no brief is filed. Otherwise, the 60-day period should begin upon the hearing officer's actual receipt of the reply brief.

In Rule 13.B, instead of requiring a summary of "the exhibits offered by the parties, both those received into evidence and those not received" to be included in the hearing officer's report, it would be preferable to require "a discussion of all relevant documents presented at the hearing." Exhibits not received are generally either withdrawn by agreement or else debated at length in the oral proceedings, thus preserving the record. Furthermore, the obligation to summarize every exhibit, regardless of its materiality or cumulative nature, has led one of respondent's attorneys to object when the summary is not included.

In Rule 14.B, besides the parties, notice to the hearing officer of the date the Board will consider the recommendation would be appreciated.

And in Rule 15.D, in accord with other responsibilities given the Clerk, the hearing officer should not calendar a second pre-hearing scheduling conference when good cause exists but instead should direct the Clerk to do so.

Finally, a few small editorial suggestions:

Mr. Lee Fink
December 27, 2017
Page 4 of 4

In Rule 2.B, reverse subsections 3 and 4 so as to maintain the order of the alternatives listed in subsection 2.

In Rule 3.E, “the settlement” should be deleted from the middle sentence.

In Rule 6.D, subsection 3, the Hearing Officer should file “his/her,” not “its,” Proposed Findings of Fact.

And in Rule 15.B, subsection 3, the last sentence should begin “Relief in these instances” rather than “Relief in this instances.”

Thank you again for the invitation to comment on OCERS’s new direction. The proposed changes not mentioned here all have merit, and I’m looking forward to working in a system that will no doubt be vastly improved.

Yours truly,

Bob Snider

ROBERT M. SNIDER
Hearing Officer

From: [Jane Kearl](#)
To: [Fink, Lee](#)
Subject: RE: OCERS Administrative Hearing Process Proposed Changes - Request for Input
Date: Saturday, December 30, 2017 12:54:40 PM

Mr. Fink,

The use of a clerk would definitely help in the scheduling of hearings. Establishing set timelines would also be useful. These revisions seem similar to the procedures used by the City of LA Civil Service Committee where I also serve as a hearing officer.

Regards,

Jane Kearl

Jane G. Kearl | Partner

WATT, TIEDER, HOFFAR & FITZGERALD, LLP

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c: 949-606-3653 **w:** www.watttieder.com

From: Fink, Lee [mailto:lfink@ocers.org]
Sent: Thursday, December 21, 2017 4:33 PM
To: jkearl@kjklawyers.com; Jane Kearl
Subject: OCERS Administrative Hearing Process Proposed Changes - Request for Input

Dear Mr. Kearl,

I am writing to solicit your input as someone who is involved in the OCERS disability process. The OCERS Board of Retirement is considering a number of proposed changes to the OCERS adjudication and administrative hearing process in an effort to provide better service for members and a more efficient process for adjudications and administrative hearings.

Since September, the Governance Committee of the Board has been developing recommendations to update these processes. At the Board meeting on December 18, 2017, the Governance Committee presented a set of comprehensive changes that would make several significant changes to the current system of adjudicating disability applications and administrative hearings. The Board adopted these changes on a "first reading" basis. The Board's direction to staff was to solicit input from stakeholders and return with more information for the Board's January meeting. At the January meeting, the Board may consider final approval of these changes.

We would like to get your input on these changes to make sure that we are doing our best to achieve the goals and provide the best possible services to OCERS members. We would

appreciate if you could send me any comments that you might have by return e-mail, preferably by **January 8, 2018** so that we can include that in the information for the Board for the Board's next meeting.

The changes proposed by the Governance Committee include:

- The establishment of a Disability Committee which would review applications for Disability Retirement before the Board of Retirement considers the application.
- The Applicant's (or Plan Sponsor's) right to seek an administrative hearing would attach once the Disability Committee makes its decision, and *before* the Board of Retirements considers the application.
- If no person requests an administrative hearing after the Disability Committee makes its recommendation, the right to an administrative hearing would be exhausted and the matter would be placed on the Board of Retirement's Consent Agenda. (The Board would still have the option of referring the matter to an administrative hearing.)
- Consideration of a disability application would be done in closed session (except for adoption of the consent agenda). Closed sessions would include the parties and their counsel, although the Board or Committee could adjourn to a closed session to obtain legal advice from its counsel.
- OCERS would promulgate procedures that set out timelines for disability applications.
- Contracts for panel physicians/independent medical examiners, hearing officers, and court reporters would be amended to include the requirement that each OCERS service provider meet the deadlines and follow the new adjudication policies and hearing rules.
- The Administrative Hearings Rules would be altered in several specific ways:
 - all documents (pre-hearing statements, closing arguments, etc.) would be filed with a clerk, who would then serve the papers. Most filing and service would be electronic;
 - the clerk would schedule a pre-hearing conference *in all matters* to set hearing dates;
 - the rules would have set timelines for filing pre-hearing statements, transcripts, closing arguments, and Recommended Decisions;
 - hearing dates could be continued by the Hearing Officer only for good cause;
 - if an applicant failed to meet the required dates without a showing of good cause, the case would be dismissed.

Attached is the staff memorandum and back-up information provided to the Board, as well as a draft of the new "Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)" (both a clean and a redline format), a draft of the new "Hearing Officer Selection Policy" (both a clean and a redline format), and a draft of the charter for the new Disability Committee.

Please feel free to contact me with any questions that you have or comments that you would like for the OCERS staff to consider or for the OCERS Board of Retirement to consider. The sooner we get your comments, the sooner we can work these into any additional modifications to the proposal. We would like to get your comments by January 8 so that we can present these to the Board in advance of the meeting. And we welcome you to attend the Board meeting on January 16, 2018 to address the Board if you have any comments you would like to provide in person.

Sincerely,

Lee K. Fink
Deputy General Counsel
Orange County Employees Retirement System
lfink@ocers.org
(714) 569-4888 (office)
(714) 586-6733 (mobile)

Disclaimer:
The information contained in this communication from jkearl@watttieder.com is confidential and may be legally privileged. It is intended solely for use by lfink@ocers.org and others authorized to receive it. If you are not lfink@ocers.org you are hereby notified that any disclosure, copying, distribution or taking action in reliance of the contents of this information is strictly prohibited and may be unlawful. Please consider the environment before printing this email.

Telephone Conversation with OCERS Hearing Officer Michael Diliberto - January 4, 2018

Mr. Diliberto likes the hearing rule allowing services by electronic means. He serves as an arbitrator for a lot of cases, and encourages use of e-mail because it is more efficient.

Mr. Diliberto said it looked like it is easier to have a pre-hearing conference by telephone.

Mr. Diliberto thinks that it makes sense to have a scheduling conference for cases where the applicant is represented by counsel, not just the pro per cases. He says that he does that in the private sector. This makes it more so that the Hearing Officer is essentially managing the case, which is normal. Usually, he does not use a court reporter in the private sector, and that is appropriate.

Mr. Diliberto thinks that the Alternative Expedited Review process also makes sense. He is currently arbitrating some opt-out claims in the GM emissions control cases. The expert witnesses are all paper reports from the class actions, and the evidence is all essentially a trial by mail. He thinks that this can work well if the parties choose to do so. This also happens with a lot of federal agencies, and of course a lot of federal courts now decide matters only on the papers without in-person hearings.

Mr. Diliberto likes the process of having the Hearing Officer resolve disputes during the course of the case. He does this a lot currently, and thinks it makes sense to have the rules capture this process.

Mr. Diliberto asked if OCERS wanted to clarify that the submission of an electronic signature is sufficient for the admission of an expert medical report. He suggested that OCERS may want to comply with any digital signature requirements under the law. If counsel has reason to challenge the validity of the signature, it can be raised with the Hearing Officer. Otherwise, courts use electronic signatures, why shouldn't OCERS?

Mr. Diliberto commented that he does not like that OCERS has a 7-year term limit for Hearing Officers. He is on the panel for the LAPD and the LA Civil Service Commission, among others, and there are no term limits for those positions. Is there a real reason for OCERS to have a two year sit out period for Hearing Officers? If they are good hearing officers, they will get re-appointed. If not, they would be removed from the panel after the contract term. The sit-out/term limit is an equal opportunity punisher.

Mr. Diliberto likes the removal of the disclosure of the 33% limit on OCERS hearing officers. This is the only panel on which he has to disclose his income and has the limit. If he had to choose between the income limit and the term limit, he would get rid of the term limit.

Mr. Diliberto commented that it might be too harsh to dismiss a case if the Applicant does not submit pre-hearing brief. He asked if OCERS really needed the pre-hearing statement, and it might depend on whether a hearing officer is too harsh as to whether their application is dismissed.

From: [John Rosenthal](#)
To: [Fink, Lee](#)
Subject: Re: OCERS Administrative Hearing Process Proposed Changes - Request for Input
Date: Sunday, January 07, 2018 8:03:51 PM

Mr. Fink:

Thank you for the opportunity to review the proposed revisions to the OCERS' administrative disability hearing process.

I have reviewed those proposals and agree with most of the changes.

I think the Disability Committee could streamline the process. Most of the other CERP counties do hold their disability application deliberations in closed session and, then, report out. Certainly, timelines are generally good. Of course, there needs to be some exceptions. I would propose that the Hearing Officer rule on those exceptions.

I'm not certain that filing of documents with a clerk would add any value or expedite the process. I do think the pre-hearing conference in all cases is a good idea; as most counties hold those only when the applicant is in pro per.

Hopefully, this is helpful. I would be happy to answer any specific questions if you believe that would be of value.

John

John L. Rosenthal
Attorney at Law
P.O. Box 6535
Laguna Niguel, CA 92607
C: (949) 395-5803
jlrlaw@sbcglobal.net

From: "Fink, Lee" <lfink@ocers.org>
To: "jlrlaw@sbcglobal.net" <jlrlaw@sbcglobal.net>
Sent: Thursday, December 21, 2017 4:29 PM
Subject: OCERS Administrative Hearing Process Proposed Changes - Request for Input

Dear Mr. Rosenthal,

I am writing to solicit your input as someone who is involved in the OCERS disability process. The OCERS Board of Retirement is considering a number of proposed changes to the OCERS adjudication and administrative hearing process in an effort to provide better service for members and a more efficient process for adjudications and administrative hearings.

Since September, the Governance Committee of the Board has been developing recommendations to update these processes. At the Board meeting on December 18, 2017, the Governance Committee presented a set of comprehensive changes that would make several significant changes

to the current system of adjudicating disability applications and administrative hearings. The Board adopted these changes on a “first reading” basis. The Board’s direction to staff was to solicit input from stakeholders and return with more information for the Board’s January meeting. At the January meeting, the Board may consider final approval of these changes.

We would like to get your input on these changes to make sure that we are doing our best to achieve the goals and provide the best possible services to OCERS members. We would appreciate if you could send me any comments that you might have by return e-mail, preferably by **January 8, 2018** so that we can include that in the information for the Board for the Board’s next meeting.

The changes proposed by the Governance Committee include:

- The establishment of a Disability Committee which would review applications for Disability Retirement before the Board of Retirement considers the application.
- The Applicant’s (or Plan Sponsor’s) right to seek an administrative hearing would attach once the Disability Committee makes its decision, and *before* the Board of Retirements considers the application.
- If no person requests an administrative hearing after the Disability Committee makes its recommendation, the right to an administrative hearing would be exhausted and the matter would be placed on the Board of Retirement’s Consent Agenda. (The Board would still have the option of referring the matter to an administrative hearing.)
- Consideration of a disability application would be done in closed session (except for adoption of the consent agenda). Closed sessions would include the parties and their counsel, although the Board or Committee could adjourn to a closed session to obtain legal advice from its counsel.
- OCERS would promulgate procedures that set out timelines for disability applications.
- Contracts for panel physicians/independent medical examiners, hearing officers, and court reporters would be amended to include the requirement that each OCERS service provider meet the deadlines and follow the new adjudication policies and hearing rules.
- The Administrative Hearings Rules would be altered in several specific ways:
 - all documents (pre-hearing statements, closing arguments, etc.) would be filed with a clerk, who would then serve the papers. Most filing and service would be electronic;
 - the clerk would schedule a pre-hearing conference *in all matters* to set hearing dates;
 - the rules would have set timelines for filing pre-hearing statements, transcripts, closing arguments, and Recommended Decisions;
 - hearing dates could be continued by the Hearing Officer only for good cause;
 - if an applicant failed to meet the required dates without a showing of good cause, the case would be dismissed.

Attached is the staff memorandum and back-up information provided to the Board, as well as a draft of the new “Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)” (both a clean and a redline format), a draft of the new “Hearing Officer Selection Policy” (both a clean and a redline format), and a draft of the charter for the new Disability Committee.

Please feel free to contact me with any questions that you have or comments that you would like for the OCERS staff to consider or for the OCERS Board of Retirement to consider. The sooner we get your comments, the sooner we can work these into any additional modifications to the proposal. We would like to get your comments by January 8 so that we can present these to the Board in advance of the meeting. And we welcome you to attend the Board meeting on January 16, 2018 to address the Board if you have any comments you would like to provide in person.

Sincerely,

Lee K. Fink
Deputy General Counsel
Orange County Employees Retirement System
lfink@ocers.org
(714) 569-4888 (office)
(714) 586-6733 (mobile)

Attachment 4

Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel; Lee K. Fink, Deputy General Counsel
SUBJECT: SUMMARY OF CHANGES TO THE ADJUDICATION POLICY AND ADMINISTRATIVE HEARING RULES (DISABILITY AND NON-DISABILITY BENEFITS) and Disability Committee Charter SINCE THE DECEMBER BOARD MEETING

Background/Discussion

At the December 18, 2017 Board of Retirement (Board) meeting, staff presented the recommendations of the Governance Committee to revise the adjudication process for disability and non-disability benefits. Based on feedback received from the Board and numerous stakeholders, staff has made a number of modest changes to the recommend policy and committee charter. “Clean” versions of the policy and charter that staff is recommending, plus versions marked against the December Board presentation are provided here. This memorandum briefly summarizes these changes.

Universal

Changed “his or her” to “his/her” for brevity.

Policy Section 1

This addition clarifies that OCERS is not conceding that a full administrative hearing or evidentiary hearing is required by law. There is some uncertainty over whether the due process clause requires that an applicant be afforded a full administrative hearing for a non-disability benefit determination. As a matter of policy, OCERS has heretofore afforded such a hearing in most cases, and staff recommends continuing to do that. But staff also recommends making clear that OCERS and the Board reserve its rights not to afford such a process unless the law requires it.

Policy Section 2

Includes transcripts or recordings of testimony as part of the Administrative Record.

Hearing Rules 2.B(3) and 2.B(4)

Re-orders the rules for consistency.

Hearing Rule 3.D(1)

Clarifies that timeliness of the application may be considered in the hearing, and that the hearing may consider any of the four issues (incapacity, service-connection, timeliness, and effective date) and need not consider all four of the issues.

Hearing Rule 3.E

Clarifies language on a “settlement” of an administrative hearing.

Hearing Rule 4.A

Clarifies that each Hearing Officer on the panel is to be assigned an equal number of cases, as far as is possible.

Hearing Rule 4.F

Sets forth the process by which a Hearing Officer is assigned should the original hearing officer become unavailable due to unforeseen circumstances.

Hearing Rule 7.B

Clarifies that an audio recording may be made of a Pre-Hearing Conference because it is not a “confidential communication” under California’s Two-Party Consent law.

Hearing Rule 8.C

Clarifies that rebuttal Pre-Hearing Statements are only for presenting rebuttal information, not new information or evidence.

Hearing Rules 8.F and 16

Clarifies that dismissal of an Administrative Hearing simply functions so as it will be deemed that no Request for Hearing was ever filed. The result is that Disability Applications would then proceed to the Board’s Consent Agenda, but other benefit determinations by staff would be final.

Hearing Rule 10.C

Clarifies that a digital signature is sufficient to admit the report of a Medical Witness.

Hearing Rule 10.G

Clarifies that in Administrative Hearings, no endless string of rebuttal evidence presented.

Hearing Rule 13.B

Clarifies that only evidence actually received be summarized by the Hearing Officer in his/her Recommendation.

Hearing Rule 14.B

Requires that the Clerk notify the Hearing Officer when a case he/she heard will be before the Board.

Hearing Rule 15.D

Clarifies that the Clerk would set a new Pre-Hearing Conference at the Hearing Officer’s direction, rather than the Hearing Officer setting on him/herself.

Disability Committee Charter Section 10

Prohibits members from discussing disability applications outside the context of board or Committee meetings.

Submitted by:



Gina M. Ratto
General Counsel

Submitted by:



Lee K. Fink
Deputy General Counsel

Attachment 5

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. Disability Committee members shall not discuss disability applications with other Board members outside of the Disability Committee or Board meetings.
11. The Disability Committee shall adjourn to a closed session, Cal. Gov't Code § 54957(b), to discuss the application of any member for disability benefit.
 - a. Closed Session With the Parties Present. The Disability Committee shall conduct any discussion of an application as a closed session. Attendance at the closed session will be limited to 1) the parties; 2) counsel for the parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination; 4) any witnesses called to present testimony before the Disability Committee; 5) OCERS staff necessary to facilitate the hearing (including the clerk of the Board and IT Staff); 6) the CEO or Assistant CEO or their designee; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Disability Committee.
 - b. Closed Session Without Parties. Following the Disability Committee's hearing of a matter in a closed session with the parties present, the Disability Committee may adjourn to a closed session including only the CEO or the Assistant CEO or their designee and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.

Monitoring and Reporting

OCERS Board Charter

Disability Committee Charter

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

Charter Review

13. The Disability Committee shall review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.

Charter History

14. This charter was adopted by the Board of Retirement on 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

CHANGE LOG EDITOR	CHANGES FROM PREVIOUS VERSION	DATE

REVIEWED BY	SIGNATURE	DATE

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. Disability Committee members shall not discuss disability applications with other Board members outside of the Disability Committee or Board meetings.
11. The Disability Committee shall adjourn to a closed session, Cal. Gov't Code § 54957(b), to discuss the application of any member for disability benefit.
 - a. Closed Session With the Parties Present. The Disability Committee shall conduct any discussion of an application as a closed session. Attendance at the closed session will be limited to 1) the parties; 2) counsel for the parties; 3) any OCERS disability staff members and/or attorneys acting as advocates for the staff initial determination; 4) any witnesses called to present testimony before the Disability Committee; 5) OCERS staff necessary to facilitate the hearing (including the clerk of the Board and IT Staff); 6) the CEO or Assistant CEO or their designee; and 7) the OCERS General Counsel (or his/her designee) to provide legal advice to the Disability Committee.
 - b. Closed Session Without Parties. Following the Disability Committee's hearing of a matter in a closed session with the parties present, the Disability Committee may adjourn to a closed session including only the CEO or the Assistant CEO or their designee and the OCERS General Counsel (or his/her designee) to provide legal advice to the Board in order to consider the merits of the case and the Board's legal obligations.

Monitoring and Reporting

OCERS Board Charter
Disability Committee Charter

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

Charter Review

13. The Disability Committee shall review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.

Charter History

14. This charter was adopted by the Board of Retirement on 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

CHANGE LOG EDITOR	CHANGES FROM PREVIOUS VERSION	DATE

REVIEWED BY	SIGNATURE	DATE

Attachment 6

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.

Although the Board intends to follow this policy for the internal management of OCERS, nothing in this policy shall be deemed an admission or waiver by OCERS that any procedure set forth herein, including an administrative hearing, is required by law. The Board retains the right to amend this policy or, in extraordinary cases, vary the process set forth in this policy, in any manner consistent with the law.

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, any transcripts or recordings of testimony provided, 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.

OCERS Board Policy

Adjudication Policy and Administrative Hearing Rules (Disability and Non-Disability Benefits)

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.

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, acupuncturist, 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.)

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

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. 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.

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Rules (Disability and Non-Disability Benefits)

- 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 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.



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

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

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
Secretary of the Board

Date

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 in person shall be considered filed on the day received by OCERS.

~~3.4.~~ 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.

~~4.1. 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

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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~~ timeliness of the application, and/or 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 shall be 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, the Clerk shall randomly assign the Hearing Officer, subject to the procedures for challenge under

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Rule 4.C, below. The Clerk's random assignment process shall ensure that, to the extent possible, each Hearing Officer on the panel is assigned an equal number of cases.

- 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.-
- F. Assignment After 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, before the Hearing Date is set, or after the Hearing has commenced, the Clerk shall assign a Hearing Officer randomly pursuant to Rule 4.A above and schedule a Pre-Hearing Scheduling Conference pursuant to Rule 7, below. If the service of a Hearing Officer is discontinued due to unforeseen circumstances after the Hearing Date has been set, the Clerk shall assign a Hearing Officer who agrees to the Hearing Date. If no such Hearing Officer is

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available, the Clerk shall assign a Hearing Officer randomly pursuant to Rule 4.A above and schedule a Pre-Hearing Scheduling Conference pursuant to Rule 7, below.

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.

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 testimonial 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.

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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 ~~it~~his/her 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 transcription, the Clerk shall arrange for a court reporter, but the requesting Party shall be liable for reimbursing OCERS for the costs. Any party may make an audio recording of the Pre-Hearing Scheduling Conference, and a copy of the recording must be filed with the Clerk. The Pre-Hearing Scheduling Conference shall not be considered a "confidential communication" under the California Invasion of Privacy Act, Cal. Penal Code § 632(c).
- 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~~his/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;

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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
- 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.

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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- solely for the purpose of providing rebuttal information or reports to information or evidence included in another party's Pre-Hearing Statement.
- 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;
 - 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 matter~~ 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:**

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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.
- 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 (including a digital 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

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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. No rebuttals of the rebuttal shall be permitted.

- 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. 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. 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.

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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:
 - 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 at the Hearing 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~~ all other evidence ~~and those not~~ received by the Hearing Officer; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended action. The summary of the testimony, plus all other evidence received, shall be sufficient to satisfy the requirements of Government Code Section 31534(b).

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- 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 to the Parties and the Hearing Officer 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*.
- 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:

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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~~these 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.
 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 ~~that the Clerk schedule~~ 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~~matter shall ~~become final~~proceed as if no Request for Administrative Hearing had been filed.

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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.

Although the Board intends to follow this policy for the internal management of OCERS, nothing in this policy shall be deemed an admission or waiver by OCERS that any procedure set forth herein, including an administrative hearing, is required by law. The Board retains the right to amend this policy or, in extraordinary cases, vary the process set forth in this policy, in any manner consistent with the law.

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, any transcripts or recordings of testimony provided, 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.

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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.

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, acupuncturist, or chiropractic practitioner licensed by the State of California or by such other jurisdiction of the United States in which such person maintains his/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.)

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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. 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/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/her attorney) notice of the date of the Committee meeting, and the Applicant (or his/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/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.

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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 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.

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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

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
Secretary of the Board

_____ Date

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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 in person shall be considered filed on the day received by OCERS.
4. 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.
5. Documents filed electronically shall be considered filed on the date electronically sent.

C. Service of Documents

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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, timeliness of the application, and/or 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 settlement shall be 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, the Clerk shall randomly assign the Hearing Officer, subject to the procedures for challenge under

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Rule 4.C, below. The Clerk's random assignment process shall ensure that, to the extent possible, each Hearing Officer on the panel is assigned an equal number of cases.

- 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.
- F. Assignment After 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, before the Hearing Date is set, or after the Hearing has commenced, the Clerk shall assign a Hearing Officer randomly pursuant to Rule 4.A above and schedule a Pre-Hearing Scheduling Conference pursuant to Rule 7, below. If the service of a Hearing Officer is discontinued due to unforeseen circumstances after the Hearing Date has been set, the Clerk shall assign a Hearing Officer who agrees to the Hearing Date. If no such Hearing Officer is

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available, the Clerk shall assign a Hearing Officer randomly pursuant to Rule 4.A above and schedule a Pre-Hearing Scheduling Conference pursuant to Rule 7, below.

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.

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/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.

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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 his/her 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. 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. Any party may make an audio recording of the Pre-Hearing Scheduling Conference, and a copy of the recording must be filed with the Clerk. The Pre-Hearing Scheduling Conference shall not be considered a "confidential communication" under the California Invasion of Privacy Act, Cal. Penal Code § 632(c).
- 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/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;

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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
- 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.

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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 solely for the purpose of providing rebuttal information or reports to information or evidence included in another party's Pre-Hearing Statement.
- 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;
 - 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 matter 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:**

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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.
- 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 (including a digital 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

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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. No rebuttals of the rebuttal shall be permitted.

- 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 Hearing. 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. 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.

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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:
 - 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 at the Hearing 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) all other evidence received by the Hearing Officer; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended action. The summary of the testimony, plus all other evidence received, shall be sufficient to satisfy the requirements of Government Code Section 31534(b).
- A. **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.

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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 to the Parties and the Hearing Officer 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*.
- 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;

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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 these 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.
 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 that the Clerk schedule 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/her legal representative from an order, or other action taken against him/her through his/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 matter shall proceed as if no Request for Administrative Hearing had been filed.

Attachment 7

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



Memorandum

DATE: January 16, 2018
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 – ADDITIONAL FEEDBACK FROM STAKEHOLDERS**

Recommendation

At the December 18, 2017 Board of Retirement (Board) meeting, staff presented the recommendations of the Governance Committee to revise the adjudication process for disability and non-disability benefits. The Board directed staff to obtain feedback from stakeholders on the proposal. Staff solicited written feedback from OCERS Hearing Officers and attorneys who represent disability applicants. The materials presented to the Board for this month's meeting included written feedback from several OCERS Hearing Officers. Since that time, additional written feedback from an OCERS Hearing Officer and an applicant's attorney was received. That feedback is attached to this memorandum.

Submitted by:

Gina M. Ratto
General Counsel

Submitted by:

Lee K. Fink
Deputy General Counsel

From: [Manohar Sukumar](#)
To: [Fink, Lee](#)
Subject: RE: OCERS Administrative Hearing Process Proposed Changes - Request for Input
Date: Monday, January 08, 2018 3:33:39 PM

Dear Mr. Fink,

Hope you and your family had a good Holiday break.

First of all, I just have some minor non-substantive recommendations on corrections:

Page 2

- "mater" ==> "matter"

Page 3

- "Disability to Committee" ==> "Disability Committee"

Page 6

- "come to the Board come only" ==> "come to the Board only after"

Page 7

- "because the they" ==> "because they"
- Not sure of "fulsome" is the right word for the context

Page 9

- "process of the selecting" ==> "process of selecting"
- "and not OCERS or the employer, has this right" ==> "and not OCERS or the employer, to have this right"
- "reassure participating in the process that OCERS is acting impartially" ==> "reassure participating in a process where OCERS is acting impartially"

Page 11

- "where the case presents a systematic concern, the Legal Department finds" ==> "where the case presents a systematic concern, and the Legal Department finds"
- "seeks and Administrative Hearing" ==> "sees an Administrative Record"

I think a number of the recommendations are good, including establishing a Disability Committee and having closed sessions in order to reduce the chance of disclosing confidential medical information to the public, as well as only giving a hearing officer peremptory challenge to the applicant. I would hope that the Disability Committee would also have the oversight power to request more information be gathered by OCERS staff for a disability case, or to eliminate the potential of any biases being introduced into the staff recommendations.

Regarding the use of a medical advisor, while I think the panel of independent physician specialists does help provide expertise in the disability at issue, I believe that a staff medical advisor would also bring a level of accountability and quality to disability decisions. The staff medical advisor would likely have a better grasp on how to use reports provided by applicant, as well as information gathered during the investigation, for the medical evaluation. An independent physician specialist could still be assigned to do her own diagnosis, which would take into account the applicant's medical history, and would also have probative value for the disability decision.

If I think of any other comments, I will let you know as soon as possible.

Best,
Mark

Manohar "Mark" Sukumar, JD, MPH

Lead Staff Attorney, Health Unit

PUBLIC LAW CENTER

601 Civic Center Drive West, Santa Ana, CA 92701

Tel: (714) 541-1010 Ext. 267 | Fax: (714) 541-5157

msukumar@publiclawcenter.org

From: Fink, Lee [mailto:lfink@ocers.org]

Sent: Thursday, December 21, 2017 4:31 PM

To: Manohar Sukumar

Subject: OCERS Administrative Hearing Process Proposed Changes - Request for Input

Dear Mr. Sukumar,

I am writing to solicit your input as someone who is involved in the OCERS disability process. The OCERS Board of Retirement is considering a number of proposed changes to the OCERS adjudication and administrative hearing process in an effort to provide better service for members and a more efficient process for adjudications and administrative hearings.

Since September, the Governance Committee of the Board has been developing recommendations to update these processes. At the Board meeting on December 18, 2017, the Governance Committee presented a set of comprehensive changes that would make several significant changes to the current system of adjudicating disability applications and administrative hearings. The Board adopted these changes on a "first reading" basis. The Board's direction to staff was to solicit input from stakeholders and return with more information for the Board's January meeting. At the January meeting, the Board may consider final approval of these changes.

We would like to get your input on these changes to make sure that we are doing our best to achieve the goals and provide the best possible services to OCERS members. We would appreciate if you could send me any comments that you might have by return e-mail, preferably by **January 8, 2018** so that we can include that in the information for the Board for the Board's next

meeting.

The changes proposed by the Governance Committee include:

- The establishment of a Disability Committee which would review applications for Disability Retirement before the Board of Retirement considers the application.
- The Applicant's (or Plan Sponsor's) right to seek an administrative hearing would attach once the Disability Committee makes its decision, and *before* the Board of Retirements considers the application.
- If no person requests an administrative hearing after the Disability Committee makes its recommendation, the right to an administrative hearing would be exhausted and the matter would be placed on the Board of Retirement's Consent Agenda. (The Board would still have the option of referring the matter to an administrative hearing.)
- Consideration of a disability application would be done in closed session (except for adoption of the consent agenda). Closed sessions would include the parties and their counsel, although the Board or Committee could adjourn to a closed session to obtain legal advice from its counsel.
- OCERS would promulgate procedures that set out timelines for disability applications.
- Contracts for panel physicians/independent medical examiners, hearing officers, and court reporters would be amended to include the requirement that each OCERS service provider meet the deadlines and follow the new adjudication policies and hearing rules.
- The Administrative Hearings Rules would be altered in several specific ways:
 - all documents (pre-hearing statements, closing arguments, etc.) would be filed with a clerk, who would then serve the papers. Most filing and service would be electronic;
 - the clerk would schedule a pre-hearing conference *in all matters* to set hearing dates;
 - the rules would have set timelines for filing pre-hearing statements, transcripts, closing arguments, and Recommended Decisions;
 - hearing dates could be continued by the Hearing Officer only for good cause;
 - if an applicant failed to meet the required dates without a showing of good cause, the case would be dismissed.

Attached is the staff memorandum and back-up information provided to the Board, as well as a draft of the new "Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)" (both a clean and a redline format), a draft of the new "Hearing Officer Selection Policy" (both a clean and a redline format), and a draft of the charter for the new Disability Committee.

Please feel free to contact me with any questions that you have or comments that you would like for the OCERS staff to consider or for the OCERS Board of Retirement to consider. The sooner we get

your comments, the sooner we can work these into any additional modifications to the proposal. We would like to get your comments by January 8 so that we can present these to the Board in advance of the meeting. And we welcome you to attend the Board meeting on January 16, 2018 to address the Board if you have any comments you would like to provide in person.

Sincerely,

Lee K. Fink
Deputy General Counsel
Orange County Employees Retirement System
lfink@ocers.org
(714) 569-4888 (office)
(714) 586-6733 (mobile)

From: [Joseph Stine](#)
To: [Fink, Lee](#)
Subject: RE: OCERS Administrative Hearing Process Proposed Changes - Request for Input
Date: Monday, January 08, 2018 3:56:10 PM

Dear Mr. Fink:

Thank you for allowing me an opportunity to comment on the proposed rules changes.

I have been an OCERS hearing officer since April 2011 and would like to continue in that service.

In terms of the proposed hearing rule alterations, I like them and offer the following supplemental comments:

- 1) I think that the process to hearing can be made more expeditious and proposed rules would assist in those efforts;
- 2) Having the clerk serve a clearinghouse function for documents makes sense in terms of efficiency;
- 3) Having a prehearing conference in all appeals makes sense as long as it can be conducted telephonically but requiring all participants be physically present would not be cost effective considering the brevity of most conferences and travel time/expense to the OCERS office;
- 4) As a practical matter, hearing date continuances are being granted subject to a good cause standard in many instances where something unexpected happens in the weeks before the scheduled hearing; formalizing this standard in the rules is fine and makes it consistent with the discretion used by trial judges in considering requests for trial continuance; and
- 5) Not sure who (e.g., OCERS Board, hearing officer) would be making the dismissal for good cause determination but think it is an appropriate incentive for the applicant to diligently pursue his/her appeal and a possible sanction (to be applied sparingly) when there is inexcusable, protracted delay. (Trial judges exercise similar discretion in civil litigation not diligently prosecuted by plaintiffs.)

Final Suggestion re Content of Administrative Hearing: Speaking for myself as one hearing officer only (I do not know the other hearing officers) , it would be helpful if OCERS would bring in live testimony from IME physicians on occasion particularly when the IME physician findings and conclusions directly contradict those of one of more of the applicant's treating physicians. Having the IME physician subject to cross-examination by the applicant's attorney and supplemental questioning by the hearing officer could be very instructive in evaluating conflicting medical evidence and make for a better informed recommendation to the OCERS Board. That would put the process more in alignment with the way juries in personal injury trials evaluate the conflicting plaintiff and defense medical expert witnesses (and not just their reports) to assess the extent and causation of injuries.

Feel free to contact me if you desire clarification on any of these points.

Very truly yours,

Joseph ("Joe") Stine

Law Office of Joseph L. Stine
2173 Salk Ave., Suite 250
Carlsbad, CA 92008

Phone: (760) 579-7694
Fax: (760) 579-7695
www.jstinelaw.com

The information in this email message and any files transmitted with it are confidential and may be legally privileged. It is intended only for the use of the individual(s) named above. If you have received the email in error, please notify the sender and delete the material from your computer.

From: Fink, Lee [mailto:lfink@ocers.org]
Sent: Thursday, December 21, 2017 4:30 PM
To: Joseph Stine <jstine@jstinelaw.com>
Subject: OCERS Administrative Hearing Process Proposed Changes - Request for Input

Dear Mr. Stine,

I am writing to solicit your input as someone who is involved in the OCERS disability process. The OCERS Board of Retirement is considering a number of proposed changes to the OCERS adjudication and administrative hearing process in an effort to provide better service for members and a more efficient process for adjudications and administrative hearings.

Since September, the Governance Committee of the Board has been developing recommendations to update these processes. At the Board meeting on December 18, 2017, the Governance Committee presented a set of comprehensive changes that would make several significant changes to the current system of adjudicating disability applications and administrative hearings. The Board adopted these changes on a "first reading" basis. The Board's direction to staff was to solicit input from stakeholders and return with more information for the Board's January meeting. At the January meeting, the Board may consider final approval of these changes.

We would like to get your input on these changes to make sure that we are doing our best to achieve the goals and provide the best possible services to OCERS members. We would appreciate if you could send me any comments that you might have by return e-mail, preferably by **January 8, 2018** so that we can include that in the information for the Board for the Board's next meeting.

The changes proposed by the Governance Committee include:

- The establishment of a Disability Committee which would review applications for Disability Retirement before the Board of Retirement considers the application.
- The Applicant's (or Plan Sponsor's) right to seek an administrative hearing would attach once

the Disability Committee makes its decision, and *before* the Board of Retirements considers the application.

- If no person requests an administrative hearing after the Disability Committee makes its recommendation, the right to an administrative hearing would be exhausted and the matter would be placed on the Board of Retirement’s Consent Agenda. (The Board would still have the option of referring the matter to an administrative hearing.)
- Consideration of a disability application would be done in closed session (except for adoption of the consent agenda). Closed sessions would include the parties and their counsel, although the Board or Committee could adjourn to a closed session to obtain legal advice from its counsel.
- OCERS would promulgate procedures that set out timelines for disability applications.
- Contracts for panel physicians/independent medical examiners, hearing officers, and court reporters would be amended to include the requirement that each OCERS service provider meet the deadlines and follow the new adjudication policies and hearing rules.
- The Administrative Hearings Rules would be altered in several specific ways:
 - all documents (pre-hearing statements, closing arguments, etc.) would be filed with a clerk, who would then serve the papers. Most filing and service would be electronic;
 - the clerk would schedule a pre-hearing conference *in all matters* to set hearing dates;
 - the rules would have set timelines for filing pre-hearing statements, transcripts, closing arguments, and Recommended Decisions;
 - hearing dates could be continued by the Hearing Officer only for good cause;
 - if an applicant failed to meet the required dates without a showing of good cause, the case would be dismissed.

Attached is the staff memorandum and back-up information provided to the Board, as well as a draft of the new “Adjudication Policy and Administrative Hearing Procedures Rules (Disability and Non-Disability Benefits)” (both a clean and a redline format), a draft of the new “Hearing Officer Selection Policy” (both a clean and a redline format), and a draft of the charter for the new Disability Committee.

Please feel free to contact me with any questions that you have or comments that you would like for the OCERS staff to consider or for the OCERS Board of Retirement to consider. The sooner we get your comments, the sooner we can work these into any additional modifications to the proposal. We would like to get your comments by January 8 so that we can present these to the Board in advance of the meeting. And we welcome you to attend the Board meeting on January 16, 2018 to address the Board if you have any comments you would like to provide in person.

Sincerely,

Lee K. Fink
Deputy General Counsel
Orange County Employees Retirement System
lfink@ocers.org
(714) 569-4888 (office)
(714) 586-6733 (mobile)

I-1

*Orange County Employees Retirement System
Retirement Board Meeting
January 16, 2018
Application Notices*

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Albia, Francisco	Superior Court	11/10/2017
Baldi, Delia	Health Care Agency	10/27/2017
Bazant, Rick	Social Services Agency	11/10/2017
Brennler, Larry	Health Care Agency	11/17/2017
Brown, Stephen	Sheriff's Dept	11/23/2017
Campos, Elizabeth	Health Care Agency	11/2/2017
Chavez, Vanessa	OC Public Works	10/27/2017
Christensen, Kimberly	Sanitation District	10/27/2017
Craven, Monique	Health Care Agency	10/27/2017
Edwards, Alan	Health Care Agency	11/21/2017
Fierro, Joanne	Health Care Agency	10/25/2017
Fisher, Gary	Sheriff's Dept	11/3/2017
Fleischmann, Marc	District Attorney	12/22/2017
Gallie, Joyce	OC Community Resources	9/29/2017
Grajcier, Paul	OC Public Works	11/16/2017
Inta, Stellamarie	Fire Authority (OCFA)	11/10/2017
Lawhorn, Charles	District Attorney	10/2/2017
Lawson, Lori	OC Community Resources	11/10/2017
Malone, Timothy	OCTA	11/4/2017
Mcnealy, Tim	Health Care Agency	11/4/2017
Medalle, Ellen	Fire Authority (OCFA)	11/10/2017
Mofidi, Mozhqan	Health Care Agency	11/10/2017
Moot, John	Probation	10/27/2017
Morales, Leslie	Treasurer/Tax Collector	11/12/2017
Muir, Spencer	Sheriff's Dept	10/27/2017
Nquyen, Don	Social Services Agency	11/10/2017
Nquyen, Vinh	Health Care Agency	11/10/2017
Obaid, Laurence	Health Care Agency	11/3/2017
Ortiz, Larry	Sheriff's Dept	11/10/2017
Pearson, Kenneth	Probation	11/10/2017
Roth, Bret	OCTA	11/3/2017
Sharp, Donald	OCTA	12/6/2017
Tafoya, Alicia	Social Services Agency	10/27/2017
Taylor, Karen	OCTA	10/25/2017
Tice, Zina	Social Services Agency	11/16/2017
Trumbauer, Randy	Social Services Agency	10/27/2017
Vanover, Wendy	Sheriff's Dept	11/16/2017
Wheatley, Michael	District Attorney	11/10/2017
Wong, Chun	Sheriff's Dept	11/21/2017
Yokoyama, Dan	Health Care Agency	11/17/2017

*Orange County Employees Retirement
Retirement Board Meeting
January 16, 2018
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>	<i>Date of Death</i>
Mallozzi, Pietro	OCTA	11/23/2017
Raymundo, Francisco	Sheriff's Dept	11/28/2017

<i>Retired Members</i>	<i>Agency/Employer</i>	<i>Date of Death</i>
Beavers, Geraldine	OCTA	11/6/2017
Branson, Deloria	Social Services Agency	11/9/2017
Denbraber, Elva	Auditor Controller	11/28/2017
Doyle, Agnes	Assessor	12/5/2017
Gertsch, Marleen	Superior Court	11/27/2017
Heckrotte, Dorothy	Probation	12/8/2017
Hinkson, Edgar	OC Public Works	12/11/2017
Jones, Laura	District Attorney	12/3/2017
Kennedy, Ronald	Child Support Services	11/22/2017
Kim, Yanghee	Social Services Agency	11/27/2017
Klonowski, Dennis	City of San Juan Capistrano	12/5/2017
Lee, Insun	County Executive Office (CEO)	11/10/2017
Magruder, Marjorie	County Counsel	12/3/2017
Miller, Eugene	Sheriff's Dept	11/26/2017
Munoz, Anita	Probation	11/25/2017
Perez, Gloria	OC Public Works	11/7/2017
Pierre, Ronald	OC Waste and Recycling	12/11/2017
Rhodes, Marshall	Sheriff's Dept	11/23/2017
Rivas, Robert	Probation	12/5/2017
Rivas, Robert	Sheriff's Dept	11/20/2017
Solar, Mac	Social Services Agency	11/1/2017
Virnick, Joseph	Sheriff's Dept	11/20/2017
Volkov, Alan	Fire Authority (OCFA)	12/4/2017

<i>Surviving Spouses</i>	<i>Date of Death</i>
Anaya, Leonor	11/4/2017
Hobel, Lavonne	11/21/2017
Holderman, Eugene	12/10/2017
Kawanami, Carol	11/28/2017
Norris, Kathryn	11/28/2017
Sharpe, Peggy	11/15/2017
Taylor, Betty	12/3/2017

I-2

Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2018 OCERS BOARD WORK PLAN**

Written report only

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

FEBRUARY

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

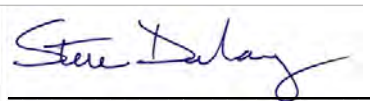
MARCH

The Current State of OCERS – Annual Report
SACRS Election Materials
2018 Star COLA FINAL APPROVAL
GFOA Awards
Quarterly 2018-2020 Strategic Plan Review

APRIL

Annual Brown Act Training
Annual Conflicts Training
SACRS Board of Directors Election
Regular Review of Acceptance and Reporting of Gifts Policy

Submitted by:



Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2018 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight		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)						
Board Governance				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)
Regulation / Policies												
Compliance			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-3

Memorandum

DATE: January 2nd, 2018
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. Awarded the bid. To finalize a contract before announcements are made.
- Distributed an RFP October 12th for Tax Counsel Services. Received six proposals. Finalists selected. Reviewing interview responses.
- IL-Liquid Investment Advisor RFP was distributed October 2nd. Bids received October 31st. Proposals being evaluated.
- 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: January 3, 2018
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FOURTH QUARTER 2017 EDUCATION AND TRAVEL EXPENSE REPORT**

Written report only

Background/Discussion

In accordance with OCERS' Travel Policy, the Chief Executive Officer is required to submit a quarterly report to the Board of Retirement on conference attendance and related expenditures incurred by OCERS' Board Members and staff. Attached is the Fourth Quarter 2017 Education and Travel Expense Report that includes all expenses submitted through January 3, 2018.

Submitted by:

A rectangular stamp with the OCERS logo on the left and the text "OCERS T.B. - Approved" on the right.

OCERS T.B. - Approved

Tracy Bowman
Director of Finance

EDUCATION AND TRAVEL EXPENSE REPORT
FOURTH QUARTER 2017
Submitted Through January 3, 2018**

Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2017 YTD Total	2016 Total*
BALDWIN	1/25-1/26/17	Institutional Real Estate Conference	Carlsbad, CA	Conference	-	-	21.42	-	-	74.36	-	95.78	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	120.00	69.36	521.95	1,048.82	91.02	-	1,851.15	
	6/1/17	CALAPRS Communications Round Table	Burbank, CA	Conference	-	-	-	-	-	21.00	-	21.00	
	6/2/17	CALAPRS Trustee Roundtable	Burbank, CA	Conference	-	125.00	-	-	220.17	68.03	-	413.20	
	7/24-7/26/17	SACRS UC Berkeley Program	Berkeley, CA	Conference	-	2,500.00	30.04	332.96	777.66	17.20	-	3,657.86	
	8/5-8/9/17	NASRA Annual Conference	Baltimore, MD	Conference	-	1,050.00	121.64	673.96	1,089.55	27.92	-	2,963.07	
	9/25-9/28/17	IFEBP Advanced Investments Management	Philadelphia, PA	Conference	-	5,530.00	133.27	640.96	1,022.20	64.77	-	7,391.20	
	10/27/17	CALAPRS Trustee Roundtable	San Jose, CA	Conference	2.62	125.00	94.01	208.96	228.66	27.00	-	686.25	
	11/1-11/3/17	2017 SRI Conference	San Diego, CA	Conference	98.65	895.00	20.00	-	557.80	-	-	1,571.45	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	20.00	182.95	493.06	-	-	816.01	
	1/23-1/25/18	REI Conference***	Dana Point, CA	Conference	-	-	-	-	262.01	-	-	262.01	
Sub Total					101.27	10,465.00	509.74	2,561.74	5,699.93	391.30	-	19,728.98	-
BALL	3/29-3/31/17	CALAPRS Principles of Pension Management	Los Angeles, CA	Conference	-	3,100.00	-	-	-	-	-	3,100.00	
	9/25-9/28/17	IFEBP Advanced Investments Management	Philadelphia, PA	Conference	-	5,530.00	-	640.96	995.20	-	-	7,166.16	
Sub Total					-	8,630.00	-	640.96	995.20	-	-	10,266.16	1,137.26
DEWANE	8/28-8/31/17	CALAPRS Pension Management for Trustees	Malibu, CA	Conference	71.26	2,500.00	127.00	-	-	-	-	2,698.26	
Sub Total					71.26	2,500.00	127.00	-	-	-	-	2,698.26	-
ELEY	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	120.00	51.76	521.95	1,048.82	181.02	-	1,923.55	
	5/21/5/24/17	NCPERS Annual Conference	Hollywood, FL	Conference	-	1,000.00	169.07	691.60	567.27	329.83	-	2,757.77	
	11/14-11/17/17	SACRS Fall Conference (3)	Burlingame, CA	Conference	-	120.00	-	187.96	219.00	-	-	526.96	
Sub Total					-	1,240.00	220.83	1,401.51	1,835.09	510.85	-	5,208.28	120.00
FREIDENRICH	1/25-1/26/17	Institutional Real Estate Conference	Carlsbad, CA	Conference	-	-	-	-	250.23	25.00	-	275.23	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	11.80	156.40	705.99	-	-	994.19	
Sub Total					-	120.00	11.80	156.40	956.22	25.00	-	1,269.42	2,497.18
GILBERT	9/10-9/12/17	NCPERS Public Pension Funding Forum	San Francisco, CA	Conference	9.68	650.00	-	202.96	558.08	105.95	-	1,526.67	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	-	202.96	739.59	61.90	-	1,124.45	
Sub Total					9.68	770.00	-	405.92	1,297.67	167.85	-	2,651.12	180.88
HILTON	1/29-1/31/17	NCPERS (1)	Washington, D.C.	Conference	26.75	-	40.86	-	-	110.59	10.00	188.20	
	3/4-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	42.59	-	17.03	97.88	898.78	60.00	-	1,116.28	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	120.00	38.78	209.96	1,382.58	353.17	-	2,104.49	
	6/13-6/14/17	Legislative Outreach Program	Sacramento, CA	Meeting	-	-	-	417.96	252.30	74.98	5.00	750.24	
	6/25-6/27/17	Pension and Investments Global Future of Retirement	New York, NY	Conference	-	-	42.81	677.85	867.86	97.13	-	1,685.65	
	8/5-8/9/17	NASRA Annual Conference	Baltimore, MD	Conference	13.38	1,050.00	117.08	559.95	891.64	112.46	-	2,744.51	
	10/1-10/4/17	NCPERS Public Safety Pension & Benefits	San Antonio, TX	Conference	13.38	700.00	44.69	558.97	733.02	86.44	-	2,136.50	
	10/27/17	CALAPRS Trustee Roundtable	San Jose, CA	Conference	-	125.00	-	287.96	262.98	28.00	5.00	708.94	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	17.96	162.96	754.59	43.66	-	1,099.17	
Sub Total					96.10	2,115.00	319.21	2,973.49	6,043.75	966.43	20.00	12,533.98	11,552.53
LINDHOLM					-	-	-	-	-	-	-	0.00	
Sub Total					-	-	-	-	-	-	-	0.00	120.00
PACKARD	2/3/17	CALAPRS Trustee Roundtable	San Jose, CA	Conference	-	125.00	-	255.90	-	27.28	-	408.18	
	3/5-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	394.83	100.00	-	-	657.29	50.00	-	1,202.12	
	8/5-8/9/17	NASRA Annual Conference	Baltimore, MD	Conference	-	1,050.00	54.40	543.09	871.64	-	-	2,519.13	
	9/24-9/28/17	IFEBP Advanced Investments Management	Philadelphia, PA	Conference	-	5,680.00	-	611.60	1,010.65	-	-	7,302.25	
Sub Total					394.83	6,955.00	54.40	1,410.59	2,539.58	77.28	-	11,431.68	120.00
PREVATT	2/25-2/28/17	NASRA/NIRS Winter Conference	Washington, D.C.	Conference	-	600.00	41.30	382.40	555.53	372.86	15.00	1,967.09	
	3/4-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	-	-	129.36	237.40	883.78	200.63	5.00	1,456.17	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	120.00	-	-	1,240.39	593.29	15.00	1,968.68	
	6/2/17	CALAPRS Trustee Roundtable	Burbank, CA	Conference	-	125.00	-	-	220.17	-	-	345.17	
	8/5-8/9/17	NASRA Annual Conference	Baltimore, MD	Conference	-	1,050.00	61.84	460.60	871.64	208.77	-	2,652.85	
	9/25-9/28/17	IFEBP Advanced Investments Management	Philadelphia, PA	Conference	-	5,530.00	58.80	454.00	1,171.20	147.38	35.00	7,396.38	
	10/27/17	CALAPRS Trustee Roundtable	San Jose, CA	Conference	-	125.00	-	243.95	251.54	38.87	-	659.36	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	29.15	233.17	739.59	12.78	-	1,134.69	
	12/18/17	SACRS Program Committee	Sacramento, CA	Meeting	-	-	-	127.97	-	-	-	127.97	
Sub Total					-	7,670.00	320.45	2,139.49	5,933.84	1,574.58	70.00	17,708.36	6,651.00
BOARD Total					673.14	40,465.00	1,563.43	11,690.10	25,301.28	3,713.29	90.00	83,496.24	22,378.85

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Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2017 YTD Total	2016 Total*
DANCIU					-	-	-	-	-	-	-	0.00	
Sub Total					-	-	-	-	-	-	-	0.00	1,618.74
DELANEY	2/25-2/28/17	NASRA	Washington, D.C.	Conference	44.62	600.00	57.34	315.20	580.53	87.12	-	1,684.81	
	3/4-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	44.62	100.00	23.98	285.60	712.86	86.96	-	1,254.02	
	3/30/17	CALAPRS Advanced Course	Los Angeles, CA	Training	54.25	-	-	-	-	15.00	-	69.25	
	4/25/17	CALAPRS Reciprocity Roundtable (2)	Pasadena, CA	Conference	-	125.00	-	-	-	-	-	125.00	
	5/5-5/11/17	CEM Benchmarking Conference	Chicago, IL	Conference	44.62	-	-	439.40	736.99	42.00	-	1,263.01	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	120.00	-	237.20	609.57	190.48	-	1,157.25	
	6/13-6/14/17	Legislative Outreach Program	Sacramento, CA	Meeting	17.40	-	211.32	447.96	252.30	40.00	-	968.98	
	6/23/17	CALAPRS Administrators Roundtable	Glendale, CA	Conference	46.28	125.00	-	-	167.17	-	-	338.45	
	7/5-7/6/17	Contra Costa & Stanislaus County Retirement Association	Concord/Modesto, CA	Meeting	203.19	-	45.67	-	274.84	50.00	-	573.70	
	7/12/17	SACRS Audit Committee	Sacramento, CA	Meeting	-	-	-	277.96	-	-	-	277.96	
	8/5-8/9/17	NASRA Annual Conference	Baltimore, MD	Conference	43.87	1,050.00	121.23	417.40	653.85	75.29	-	2,361.64	
	9/6/17	SACRS Audit Committee	Sacramento, CA	Meeting	7.38	-	-	163.96	-	59.81	-	231.15	
	9/15-9/19/17	LAPERS Conference	New Orleans, LA	Conference	44.24	250.00	92.75	349.40	773.31	150.20	-	1,659.90	
	9/27-9/29/17	CALAPRS Administration Institute	Carmel-By-The-Sea, CA	Conference	-	1,250.00	-	389.40	-	22.98	-	1,662.38	
	10/1-10/4/17	NCBERS Public Safety Pension & Benefits (2)	San Antonio, TX	Conference	-	100.00	-	-	-	-	-	100.00	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference/Due Diligence	3.58	120.00	25.09	262.40	739.59	101.68	-	1,252.34	
	12/1/2017	CALAPRS Board Meeting	San Jose, CA	Meeting	6.53	-	25.00	170.40	-	-	-	201.93	
	12/3-12/5/17	OPAL Group Alternative Investing Summit 2017	Dana Point, CA	Conference	15.03	-	-	-	-	30.00	-	45.03	
Sub Total					575.61	3,840.00	602.38	3,756.28	5,501.01	951.52	-	15,226.80	10,045.11
JENIKE	3/4-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	-	-	52.89	141.40	706.86	353.63	-	1,254.78	
	4/20/17	CALSTA	Irvine, CA	Conference	7.65	100.00	-	-	-	22.00	-	129.65	
	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	52.27	125.00	-	-	-	16.00	-	193.27	
	5/1-5/04/17	IFEBP Portfolio and Management	Philadelphia, PA	Conference	-	5,095.00	76.18	843.88	1,149.25	123.54	-	7,287.85	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	-	-	-	278.41	-	-	-	278.41	
	6/1/17	CALAPRS Communications Round Table	Burbank, CA	Conference	-	125.00	-	-	-	26.50	-	151.50	
	6/2/17	CALAPRS Trustee Roundtable	Burbank, CA	Conference	-	125.00	-	-	-	26.50	-	151.50	
	10/22-10/25/17	IFEBP Employee Benefits Conference	Las Vegas, NV	Conference	-	1,925.00	116.19	521.95	409.32	50.31	-	3,022.77	
	11/14-11/17/17	SACRS Fall Conference (3)	Burlingame, CA	Conference	-	120.00	-	156.40	-	-	-	276.40	
Sub Total					59.92	7,615.00	245.26	1,942.04	2,265.43	618.48	-	12,746.13	7,982.39
SHOTT	3/5-3/7/17	CALAPRS General Assembly	Monterey, CA	Conference	8.83	100.00	96.37	127.40	526.50	156.00	-	1,015.10	
	3/8-3/10/17	Liebert Cassidy Whitmore Annual Conference	Anaheim, CA	Conference	26.00	500.00	-	-	-	24.00	-	550.00	
	5/5/17	CALAPRS Overview Course in Retirement	Burbank, CA	Conference	46.76	-	-	-	-	-	-	46.76	
	5/21-5/24/17	GFOA CORBA 111th Annual Conference	Denver, CO	Conference	7.17	-	180.81	409.96	642.78	108.41	-	1,349.13	
	6/20/17	Wells Fargo Treasury Management Forum	Carlsbad, CA	Training	28.36	-	-	-	-	-	-	28.36	
	8/8/2017	Gartner CIO Roundtable	San Diego, CA	Training	56.92	-	-	-	-	-	-	56.92	
	10/22-10/25/17	P2F2 Fall Conference	Albuquerque, NM	Conference	10.00	400.00	74.93	351.40	844.03	121.08	-	1,801.44	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	24.75	262.96	256.53	31.40	-	695.64	
	11/30-12/1/17	Nossaman Fiduciaries' Forum	San Francisco, CA	Conference	-	375.00	32.80	232.96	353.31	88.45	14.95	1,097.47	
	12/4/17	CORBA Membership Committee Meeting	Washington, D.C.	Conference	-	-	76.45	519.60	393.84	93.17	-	1,083.06	
	12/8/17	CALAPRS Overview Staff Training	Oakland, CA	Conference	-	-	-	278.96	-	30.00	-	308.96	
Sub Total					184.04	1,495.00	486.11	2,183.24	3,016.99	652.51	14.95	8,032.84	7,148.53
EXECUTIVE Total					819.57	12,950.00	1,333.75	7,881.56	10,783.43	2,222.51	14.95	36,005.77	26,794.77

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Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2017 YTD Total	2016 Total*
BEESON	1/30/17	GMO Investment Presentation	Beverly Hills, CA	Training	27.34	-	-	-	-	10.00	-	37.34	
	4/27-4/28/17	Institutional Investor Public Funds Roundtable	Beverly Hills, CA	Conference	51.25	-	-	-	242.64	42.00	-	335.89	
	5/4-5/12/17	Pharo, Caspian, Gotham, DE Shaw, Angelo Gordon, Highfields, AEW	New York, NY & Boston, MA	Due Diligence	-	-	45.05	438.00	1,209.32	158.78	-	1,851.15	
	9/27/2017	Waterton Real Estate Conference	West Hollywood, CA	Conference	44.90	-	-	-	-	25.00	-	69.90	
	10/23-10/26/17	EnCap & GSO Energy	Houston/Dallas, TX	Due Diligence	-	-	46.32	419.12	937.35	173.85	-	1,576.64	
Sub Total					123.49	-	91.37	857.12	2,389.31	409.63	-	3,870.92	4,826.14
CHARY	4/21/17	Dodge & Cox, Pantheon	San Francisco, CA	Due Diligence	-	-	5.05	127.98	-	60.55	-	193.58	
	6/23/17	CALAPRS Investment Roundtable	Glendale, CA	Conference	-	125.00	-	-	-	43.02	-	168.02	
	9/28/17	WIIN Building a Collective	Los Angeles, CA	Conference	-	85.00	-	-	-	-	-	85.00	
Sub Total				-	210.00	5.05	127.98	-	103.57	-	-	446.60	571.46
CHENG	1/10-1/12/17	Argo, Blackrock, and JPMorgan	New York, NY	Due Diligence	-	-	129.39	573.20	352.96	198.30	-	1,253.85	
	5/1-5/3/17	Milken Investment Conference	Beverly Hills, CA	Conference	42.80	-	-	-	-	63.62	-	106.42	
Sub Total				42.80	-	129.39	573.20	352.96	261.92	-	-	1,360.27	1,486.50
CUARESMA	10/19/17	Private Equity Conference	Los Angeles, CA	Conference	-	-	-	-	-	40.50	-	40.50	
Sub Total				-	-	-	-	-	-	40.50	-	40.50	-
MURPHY	9/28/17	WIIN Building a Collective	Los Angeles, CA	Conference	36.06	85.00	-	-	-	35.00	-	156.06	
	10/2-10/6/17	Adams Street, Monroe Capital, Caspian, & Consultants Roundtable	Chicago, IL	Due Diligence	-	-	7.19	429.60	1,768.04	247.15	-	2,451.98	
	10/23-10/24/17	EnCap	Dallas, TX	Due Diligence	-	-	22.59	778.40	343.85	46.64	-	1,191.48	
	11/7/2017	WIIN Speaking Panel	Los Angeles, CA	Conference	55.32	-	-	-	-	-	-	55.32	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference/Due Diligence	-	120.00	48.19	123.40	493.06	111.10	-	895.75	
Sub Total				91.38	205.00	77.97	1,331.40	2,604.95	439.89	-	-	4,750.59	-
WALANDER-SARKIN	1/19/17	IMN Real Estate Opportunity & Private Fund Investing	Laguna Beach, CA	Conference	22.26	-	-	-	-	-	-	22.26	
	1/20/17	CALAPRS Investment Roundtable	San Jose, CA	Conference	-	125.00	-	349.88	-	20.00	-	494.88	
	1/30/17	GMO Investment Presentation	Beverly Hills, CA	Training	27.34	-	-	-	-	10.00	-	37.34	
	9/28/17	WIIN Building a Collective	Los Angeles, CA	Conference	-	85.00	-	-	-	-	-	85.00	
Sub Total				49.60	210.00	-	349.88	-	30.00	-	-	639.48	204.30
Educational Forum				-	-	-	-	-	-	-	-	0.00	-
Sub Total				-	-	-	-	-	-	-	-	0.00	6,616.90
INVESTMENTS Total				307.27	625.00	303.78	3,239.58	5,347.22	1,285.51	-	-	11,108.36	13,705.30
KINSLER	6/1/17	CALAPRS Communications Round Table	Burbank, CA	Conference	-	125.00	29.56	-	199.15	54.00	-	407.71	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	-	192.96	493.06	-	-	806.02	
Sub Total				-	245.00	29.56	192.96	692.21	54.00	-	-	1,213.73	4,430.33
ITCHY	6/1/17	CALAPRS Communications Round Table	Burbank, CA	Conference	-	125.00	29.01	-	199.15	54.00	-	407.16	
Sub Total				-	125.00	29.01	-	199.15	54.00	-	-	407.16	953.25
COMMUNICATIONS Total				-	370.00	58.57	192.96	891.36	108.00	-	-	1,620.89	5,383.58
FINK	5/16-5/19/17	SACRS Spring Conference (3)	Napa, CA	Conference	-	120.00	-	-	455.86	-	-	575.86	
	6/2/17	CALAPRS Attorney Roundtable	Burbank, CA	Conference	51.36	125.00	-	-	-	21.00	-	197.36	
	6/27-6/30/17	NAPPA Legal Education Conference	Monterey, CA	Conference	-	895.00	36.94	190.40	511.56	124.18	-	1,758.08	
	10/27/17	CALAPRS Attorney Roundtable	San Jose, CA	Conference	-	125.00	-	295.96	-	20.00	-	440.96	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	-	122.96	493.06	78.08	-	814.10	
Sub Total				51.36	1,385.00	36.94	609.32	1,460.48	243.26	-	-	3,786.36	-
MATSUO	2/21-2/24/17	NAPPA	Tempe, AZ	Conference	-	535.00	59.40	127.90	715.23	-	-	1,437.53	
	3/8-3/10/17	Liebert Cassidy Whitmore Annual Conference	Anaheim, CA	Conference	-	500.00	-	-	-	-	-	500.00	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	-	120.00	-	133.94	493.06	-	-	747.00	
Sub Total				-	1,155.00	59.40	261.84	1,208.29	-	-	2,684.53	5,098.02	
RATTO	2/21-2/24/17	NAPPA	Tempe, AZ	Conference	-	535.00	-	281.90	735.78	-	-	1,552.68	
	5/16-5/19/17	SACRS Spring Conference	Napa, CA	Conference	10.00	130.00	87.92	262.40	1,367.58	280.91	-	2,138.81	
	6/27-6/30/17	NAPPA Legal Education Conference	Monterey, CA	Conference	-	895.00	57.96	184.40	722.94	163.19	-	2,023.49	
	11/14-11/17/17	SACRS Fall Conference	Burlingame, CA	Conference	10.00	120.00	89.26	206.40	759.59	106.16	-	1,291.41	
	11/30-12/1/17	Nossaman Fiduciaries' Forum	San Francisco, CA	Conference	-	375.00	-	296.40	348.31	100.82	-	1,120.53	
Sub Total				20.00	2,055.00	235.14	1,231.50	3,934.20	651.08	-	-	8,126.92	808.87
SINGLETON	10/7/17	OCPA Educational Conference	Costa Mesa, CA	Conference	-	125.00	-	-	-	-	-	125.00	
	11/28/17	Advanced Legal Writing Course	Los Angeles, CA	Training	-	795.00	-	-	-	15.50	-	810.50	
Sub Total				-	920.00	-	-	-	-	15.50	-	935.50	1,121.21
WEISSBURG	6/2/17	CALAPRS Attorney Roundtable	Burbank, CA	Conference	-	125.00	-	-	-	-	-	125.00	
Sub Total				-	125.00	-	-	-	-	-	-	125.00	200.00
LEGAL Total				71.36	5,640.00	331.48	2,102.66	6,602.97	909.84	-	-	15,658.31	7,228.10

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BERCARU	4/3-4/4/17	CALAPRS Management/Leadership Academy	Pasadena, CA	Training	52.50	3,000.00	-	-	195.08	22.00	-	3,269.58	
	6/12-6/14/17	CALAPRS Management/Leadership Academy	Pasadena, CA	Training	52.50	-	24.27	-	385.16	39.00	-	500.93	
	7/17-7/19/17	CALAPRS Management/Leadership Academy	Pasadena, CA	Training	53.05	-	-	-	440.46	39.00	-	532.51	
Sub Total				158.05	3,000.00	24.27	-	1,020.70	100.00	-	4,303.02	1,209.18	
CLEBERG	10/27/17	CALAPRS Benefits Round Table	San Jose, CA	Conference	23.75	125.00	-	327.96	-	17.00	-	493.71	
Sub Total				23.75	125.00	-	327.96	-	17.00	-	-	493.71	-
HALBUR	10/23-10/25/17	CalPERS Educational Forum 2017	Rancho Mirage, CA	Conference	106.04	399.00	-	-	-	-	-	505.04	
Sub Total				106.04	399.00	-	-	-	-	-	-	505.04	6,666.58
LOMELI	10/27/17	CALAPRS Benefits Round Table	San Jose, CA	Conference	17.55	125.00	-	317.96	-	44.00	-	504.51	
Sub Total				17.55	125.00	-	317.96	-	44.00	-	-	504.51	-
MERIDA	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	-	125.00	-	-	-	-	-	125.00	
Sub Total				-	125.00	-	-	-	-	-	-	125.00	693.49
MIRAMONTES	10/27/17	CALAPRS Benefits Round Table	San Jose, CA	Conference	-	125.00	-	317.96	-	17.00	-	459.96	
Sub Total				-	125.00	-	317.96	-	17.00	-	-	459.96	-
PANAMENO	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	-	125.00	-	-	-	-	-	125.00	
	12/6-12/7/17	Leadership & Management Skills for Women	Anaheim, CA	Training	-	299.00	-	-	-	-	-	299.00	
Sub Total				-	424.00	-	-	-	-	-	-	424.00	120.00
PERSI	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	-	125.00	-	-	-	-	-	125.00	
Sub Total				-	125.00	-	-	-	-	-	-	125.00	-
TALLASE	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	-	125.00	-	-	-	-	-	125.00	
Sub Total				-	125.00	-	-	-	-	-	-	125.00	-
MEMBER SERVICES Total					305.39	4,573.00	24.27	963.88	1,020.70	178.00	-	7,065.24	8,689.25
BOWMAN	6/20/17	Wells Fargo Treasury Management Forum	Carlsbad, CA	Training	50.72	-	-	-	-	10.72	-	61.44	
	10/22-10/25/17	P2F2 Fall Conference	Albuquerque, NM	Conference	10.00	400.00	57.98	190.39	832.68	34.84	-	1,525.89	
Sub Total				60.72	400.00	57.98	190.39	832.68	45.56	-	-	1,587.33	1,719.43
DILLARD					-	-	-	-	-	-	-	0.00	
Sub Total				-	-	-	-	-	-	-	-	0.00	161.84
HUYNH					-	-	-	-	-	-	-	0.00	
Sub Total				-	-	-	-	-	-	-	-	0.00	4,309.40
REYES					-	-	-	-	-	-	-	0.00	
Sub Total				-	-	-	-	-	-	-	-	0.00	550.30
FINANCE Total					60.72	400.00	57.98	190.39	832.68	45.56	-	1,587.33	6,740.97
CORTEZ	9/14/17	CALAPRS Course in Retirement Disability Administration	San Jose, CA	Training	-	100.00	-	222.95	-	-	-	322.95	
Sub Total				-	100.00	-	-	222.95	-	-	-	322.95	890.71
G. GARCIA	9/14/17	CALAPRS Course in Retirement Disability Administration	San Jose, CA	Training	-	250.00	-	232.96	-	15.98	-	498.94	
Sub Total				-	250.00	-	-	232.96	-	15.98	-	498.94	50.62
SANDOVAL					-	-	-	-	-	-	-	0.00	
Sub Total				-	-	-	-	-	-	-	-	0.00	144.00
DISABILITY Total					-	350.00	-	455.91	-	15.98	-	821.89	1,085.33
DOEZIE	6/4-6/7/17	PRIMA Annual Conference	Phoenix, AZ	Conference	-	690.00	14.39	215.95	489.69	39.00	-	1,449.03	
Sub Total				-	690.00	14.39	-	215.95	489.69	39.00	-	1,449.03	-
E. GARCIA					-	-	-	-	-	-	-	0.00	
Sub Total				-	-	-	-	-	-	-	-	0.00	45.00
HOCKLESS	3/8-3/10/17	Liebert Cassidy Whitmore Annual Conference	Anaheim, CA	Conference	-	500.00	-	-	-	24.00	-	524.00	
	5/5/17	CALAPRS Overview Course in Retirement	Burbank, CA	Conference	-	250.00	-	-	133.43	23.52	-	406.95	
	5/7-5/10/17	SALGBA 2017 Conference	Anaheim, CA	Conference	-	400.00	-	-	-	16.00	-	416.00	
	8/28-8/30/17	PIHRA HR Conference	Long Beach, CA	Conference	-	799.00	-	-	-	-	-	799.00	
Sub Total				-	1,949.00	-	-	-	133.43	63.52	-	2,145.95	4,517.44
MORALES	5/7-5/10/17	SALGBA 2017 Conference	Anaheim, CA	Conference	-	400.00	-	-	-	-	-	400.00	
Sub Total				-	400.00	-	-	-	-	-	-	400.00	851.10
ADMINISTRATION Total					-	3,039.00	14.39	215.95	623.12	102.52	-	3,994.98	5,413.54

EDUCATION AND TRAVEL EXPENSE REPORT
FOURTH QUARTER 2017
Submitted Through January 3, 2018**

Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2017 YTD Total	2016 Total*
GOSSARD	4/9/17	PRISM Association Conference	Nashville, TN	Conference	-	550.00	30.98	794.48	779.69	-	-	2,155.15	
	4/28/17	CALAPRS IT Round Table	Glendale, CA	Conference	-	125.00	-	-	-	-	-	125.00	
	5/17-5/18/17	SANS Security West	San Diego, CA	Conference	-	2,360.00	104.81	-	552.63	84.00	-	3,101.44	
	7/10-7/15/17	SANS Security Leadership Essentials	Long Beach, CA	Conference	25.36	5,819.00	139.87	-	1,148.25	75.00	-	7,207.48	
	10/30-11/4/17	SANS Institute Security Controls	San Diego, CA	Conference	-	5,859.00	105.94	-	1,020.16	79.50	-	7,064.60	
	12/4-12/6/17	GARTNER Applications Strategies & Solutions	Las Vegas, NV	Conference	-	-	50.56	-	548.76	33.82	-	633.14	
Sub Total					25.36	14,713.00	432.16	794.48	4,049.49	272.32	-	20,286.81	7,494.17
LARA	4/9/17	PRISM Association Conference	Nashville, TN	Conference	-	550.00	-	477.40	773.13	-	-	1,800.53	
	4/28/17	CALAPRS IT Round Table	Glendale, CA	Conference	-	125.00	-	-	-	-	-	125.00	
	12/4-12/6/17	GARTNER Applications Strategies & Solutions	Las Vegas, NV	Conference	-	-	84.73	186.96	548.76	159.28	-	979.73	
Sub Total				-	675.00	84.73	664.36	1,321.89	159.28	-	2,905.26	4,651.97	
SADOSKI	2/12-2/17/18	SANS Leadership Essentials**	Orange, CA	Conference	-	6,149.00	-	-	-	-	-	6,149.00	
Sub Total				-	6,149.00	-	-	-	-	-	-	6,149.00	-
IT Total					25.36	21,537.00	516.89	1,458.84	5,371.38	431.60	-	29,341.07	12,146.14
ADVIENTO	4/26/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	49.06	125.00	-	-	-	12.00	-	186.06	
	6/7-6/9/17	IIA 2017 Western Regional Conference	Anaheim, CA	Conference	22.74	795.00	-	-	-	42.00	-	859.74	
Sub Total					71.80	920.00	-	-	-	54.00	-	1,045.80	483.54
JAMES	3/17/2017	LACERA Roundtable	Pasadena, CA	Conference	40.56	-	-	-	-	-	-	40.56	
	4/10-4/12/17	AMA: Leading with Emotional Intelligence	San Francisco, CA	Training	23.64	2,645.00	180.83	272.40	706.49	241.43	-	4,069.79	
	4/25/17	CALAPRS Reciprocity Roundtable	Pasadena, CA	Conference	26.00	125.00	-	-	-	12.00	-	163.00	
	5/7-5/10/17	APPFA 2017 Spring Conference	Little Rock, AR	Conference	10.96	375.00	58.98	643.60	320.88	98.25	-	1,507.67	
	6/28/17	Pacific Club's Distinguished Speakers' Series	Irvine, CA	Conference	10.70	-	-	-	-	-	-	10.70	
	11/14-11/17/17	SACRS Fall Conference (3)	Burlingame, CA	Conference	-	120.00	-	-	-	-	-	120.00	
Sub Total					111.86	3,265.00	239.81	916.00	1,027.37	351.68	-	5,911.72	5,495.21
INTERNAL AUDIT Total					183.66	4,185.00	239.81	916.00	1,027.37	405.68	-	6,957.52	5,978.75
Total					2,446.47	94,134.00	4,444.35	29,307.83	57,801.51	9,418.49	104.95	197,657.60	115,544.58

Footnotes:

* Prior year totals only presented for 2017 active staff & Board members.

** Excludes expenses for non-travel related training conferences including: misc. lunches, meetings, mileage, strategic planning, and tuition reimbursement.

*** Expense reflects travel for 2018 paid in 2017.

1 Registration, Airfare, and Hotel charges were paid in 2016.

2 Trip cancelled. Registration expense does not qualify for full refund.

3 Expense does not qualify for refund due to trip cancelled late outside policy period.

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Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: BOARD COMMUNICATIONS POLICY FACT SHEET

Written Report Only

Background/Discussion

The OCERS Monitoring and Reporting Policy requires that a copy of the Board of Retirement Communications Policy Fact Sheet be provided to the Board members annually. The Fact Sheet summarizes the contents of the OCERS Communications Policy and is intended to provide Board members with a quick reference guide.

The objectives of the OCERS Communication Policy are to encourage and facilitate open, accurate, timely and effective communications among all relevant parties, and to mitigate the risks to OCERS, the Board and the Board members that may arise in connection with communications. The policy was last revised in May 2017.

A copy of the OCERS Communications Policy and the Communications Policy Fact Sheet are attached.

Submitted by:

A handwritten signature in cursive script that reads "Gina M. Ratto".

Gina M. Ratto
General Counsel

Background

1. The Board of Retirement recognizes that effective communication is integral to good governance. In order to achieve the mission and objectives of OCERS, the Board must establish mechanisms for communicating clearly among Board members, and with senior management, plan sponsors, plan members, and external parties. The Board has adopted this Policy to provide the Board as a whole, individual Board members, and staff with guidelines for executing the communications function of the Board.

Policy Objectives

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

Principles and Assumptions

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

Policy Guidelines

General Guidelines

6. Members of the OCERS Board and staff represent many differing backgrounds and viewpoints. Partisan political communications from persons in positions of authority may create a hostile work environment. Therefore, Board members and staff shall refrain from sending any partisan political communications to a majority of the members of the Board or a majority of the members of a standing committee, or to OCERS staff, contractors, temporary employees, or others working for or providing services to OCERS.
7. Members of the Board and staff shall also refrain from using OCERS equipment for disseminating partisan political communications to anyone, except where specifically authorized for fulfillment of duties of a duly appointed labor representative.
8. OCERS Board and staff shall also refrain from engaging in any communications that may be considered offensive, profane, vulgar, or based on any protected class under Federal law or laws in the State of California, regardless of the motivation for such communications.
9. Electronic mail allows for near instantaneous communications between individuals and / or groups of people. The prevalence of electronic communications also brings challenges in managing communications and potential infringement of the *Ralph M. Brown Act* (Gov. Code §§ 54950-54962) (the "Brown Act") and challenges in complying with the Public Records Act (Gov. Code

OCERS Board Policy **Communications Policy**

§§6250, et.seq.). As such, the OCERS Board has adopted the following guidelines for use and management of electronic mail by Board members:

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

Communications Among Board Members

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

OCERS Board Policy **Communications Policy**

- d. Properly describing all items to be considered in closed session in the notice or agenda for the meeting (Section 54954.5 of the Brown Act);
 - e. Not conducting or participating in a series of communications one at a time or in a group that in total constitutes a quorum of the Board or Committee either directly or through intermediaries or electronic devices, for the purpose of developing a concurrence as to action to be taken (a serial or secret meeting prohibited by Section 54953 of the Brown Act);
 - f. Not taking any action, whether preliminary or final, by secret ballot (Section 54953(c) of the Brown Act); and
 - g. Ensuring Board and committee meeting agenda materials are properly made available to members of the public, upon request and without delay (Section 54957.5 of the Brown Act).
11. Internal or external counsel for OCERS shall provide Brown Act training/education annually to members of the Board.
12. A member of the Board shall disclose information in his or her possession pertinent to the affairs of OCERS to the entire Board in a timely manner.
13. During meetings of the Board and its committees, Board members shall communicate in a straightforward, constructive manner with due respect and professionalism.

Board Member Communications with Plan Members and Plan Sponsors

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

Board Member Communications with OCERS Management

17. a. Board members who seek information solely in order to respond to inquiries from members about OCERS' policies and practices may direct their inquiries to the CEO or, with notice to the CEO, to the appropriate Assistant CEO or department head, who shall in turn direct subordinate staff as appropriate.
- b. All other Board member requests for information shall be directed to the CEO, who shall in turn direct staff as appropriate.

OCERS Board Policy **Communications Policy**

- c. All Board member expressions of concern and ideas about OCERS' policies, administration, contracting, investments, benefits, media relations and public policy issues shall be directed solely to the CEO. Under no circumstances shall Board members directly communicate about any such matters with any staff subordinate to the CEO outside of a duly noticed Board or committee meeting, without the CEO's prior express permission. If exigent circumstances arise during the CEO's absence, such matters may be directed to the CEO's designee, who shall act in lieu of the CEO.
18. a. The CEO may decline to accept Board member requests for information that require the expenditure of significant staff time or external resources, provided that the CEO then places the matter on the next subsequent Board or committee agenda, as appropriate, for consideration and direction by the full Board or committee.
- b. The Board and individual Board members shall not retaliate against either the CEO or any of OCERS' staff for acting consistently with this Policy. Board member conduct inconsistent with this Policy may be deemed by the Board to constitute a breach of fiduciary duty, and may subject the Board member to public censure or reprimand, loss of committee membership or other privileges of office, and/or other appropriate action by the Board.
19. The CEO shall ensure that all information requested by one or more Board members is made available to the entire Board.
20. Board members shall share any information in their possession pertinent to the affairs of OCERS with the CEO in a timely manner. Similarly, the CEO shall ensure that all relevant and pertinent information is disclosed to all of the Board members in a timely manner.

Board Member Communications with External Parties

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

OCERS Board Policy **Communications Policy**

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

Policy Review

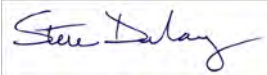
25. The Board shall review this policy at least every 3 years to ensure that it remains relevant and appropriate.

Policy History

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

Secretary's Certificate

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



5/15/17

Steve Delaney
Secretary of the Board

Date

COMMUNICATIONS POLICY FACT SHEET

COMMUNICATIONS AMONG BOARD MEMBERS

- ◆ Carry out all activities in the spirit of open governance and in compliance with the Brown Act.
- ◆ Disclose pertinent information to the entire Board and CEO in a timely manner.
- ◆ Communicate in a straightforward, constructive and professional manner.

COMMUNICATIONS WITH OCERS MANAGEMENT

- ◆ Direct concerns or questions about OCERS to the CEO or senior management staff.
- ◆ Direct requests for information to the CEO and limit those requiring expenditure of staff time or resources to those consistent with the Board's roles and responsibilities.
- ◆ All information requested by Board members shall be made available to the entire Board.

COMMUNICATIONS WITH EXTERNAL PARTIES

- ◆ Communications shall be consistent with the fiduciary duty to represent the interests of plan members.
- ◆ Board decisions shall be respected despite personal agreement or disagreement.
- ◆ Board members shall not disclose confidential communications.
- ◆ Board members shall not speak for the entire Board unless authorized to do so.
- ◆ Board members shall disclose when not representing an approved Board position or when not speaking in their Board capacity.
- ◆ The Chair and CEO shall jointly designate a spokesperson on an issue by issue basis.
- ◆ No Board member shall make unilateral commitments to the press to provide information on behalf of the Board or OCERS.
- ◆ Written material created for publication or presentation by a Board member, in his or her capacity as such, shall be peer reviewed by the CEO or internal legal counsel prior to submission or presentation.

I-6

Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO External Operations
SUBJECT: DISABILITY RETIREMENT STATISTICS - 2017 REPORT

Written Report Only

At the start of each year we compile statistical information capturing the various categories of disability retirement applications that were processed the prior calendar year. The information associated to the 2017 calendar year is presented here for the Board's review.

At the close of 2017, we had accepted seventy-one (71) new applications and adjudicated ninety-six (96) cases through the Board of Retirement.

I have also included the statistical reports applicable to the calendar years 2013, 2014, 2015 and 2016 for comparison purposes.

Submitted by:



SJ – Approved

Suzanne Jenike
Assistant CEO, External Operations

2017 Disability Statistics

Total Filed 2017:			
	#	%	
By Type:			
SCD	25	35%	
NSCD	1	1%	
BOTH	45	63%	
	71	100%	
By Employer:		%	
Auditor Controller	0	0%	
District Attorney	0	0%	
Health Care Agency	3	4%	
Fire Authority	17	24%	
Transportation Authority	8	11%	
Public Defender	2	3%	
Sanitation	2	3%	
Sheriff	25	35%	
Social Services Agency	5	7%	
Probation	5	7%	
Superior Court	1	1%	
Community Resources	2	3%	
Public Guardian	1	1%	
	71	100%	
By Member Type:		%	
General	34	48%	
Safety	37	52%	
	71	100%	

Total Granted 2017:		
	#	%
By Type / Stage:		
SCD (Initial Board Decision)	62	83%
NSCD (Initial Board Decision)	9	12%
SCD (Hearings)	3	4%
NSCD (Hearings)	1	1%
SCD (Writ)		0%
	75	100%
By Employer:		%
Public Defender	3	4%
Sanitation	3	4%
Fire Authority	11	15%
Health Care Agency	4	5%
Sheriff	21	28%
Public Works	4	5%
Superior Court	2	3%
Probation	2	3%
Waste and Recycling	2	3%
Community Resources	5	7%
Social Services Agency	9	12%
Transportation Authority	9	12%
	75	100%
By Member Type:		%
General	48	64%
Safety	27	36%
	75	100%

Total Denied 2017:		
	#	%
By Type / Stage:		
SCD/NSCD (Initial Board Decision)	13	62%
SCD (Initial Board Decision)	3	14%
NSCD (Initial Board Decision)	1	5%
SCD (2nd Board Decision)	3	14%
NSCD (2nd Board Decision)	1	5%
	21	100%
By Employer:		%
Auditor Controller	1	5%
Health Care Agency	0	0%
Sheriff	9	43%
Social Services Agency	5	24%
Fire Authority	2	10%
Transportation Authority	1	5%
Community Resources	2	10%
Sanitation	1	5%
Probation	0	0%
	21	100%
By Member Type:		%
General	16	76%
Safety	5	24%
	21	100%

<u>Disabilities In Process Overview</u>	
Total filings pending Board presentation :	113
Pending Filed within the past 12 months:	68
Pending Filed over 12 months:	45

Summary of Disability Applications and Results, 2013 - 2017

	2013	2014	2015	2016	2017	Total
Disability Applications Filed (Total)	74	84	70	84	71	383
Service Connected Disability	22	34	26	36	25	143
Non Service Connected Disability	13	7	7	8	1	36
Both	39	43	37	40	45	204
New Applications by Safety Members	41	47	34	38	49	209
by General Members	33	37	36	46	22	174
Disabilities Granted	50	68	69	56	75	318
Disabilities Denied	37	26	20	19	21	123
New Applications, by Employer*	74	84	70	84	71	383
Assessor	1					1
Auditor Controller	2			1		3
Child Support Services	1					1
City of San Juan Capistrano	1					1
District Attorney	3	3		1		7
Health Care Agency	1	4	6	7	3	21
Human Resource Services			1			1
John Wayne Airport			1			1
OC Community Resources	2	2	3	3	2	12
OC Fire Authority	14	10	9	13	17	63
OC Public Guardian/Administrator					1	1
OC Public Works	3	4	5			12
OC Transportation Authority	14	12	7	13	8	54
OC Waste and Recycling	1	2	4	2		9
Probation	8	3	3	2	5	21
Public Defender				1	2	3
Sanitation	1	1		4	2	8
Sheriff's Dept	16	31	22	21	25	115
Social Services Agency	4	12	6	15	5	42
Superior Court	2		3	1	1	7

**If employer is not listed, no applications received from 2013-2017*

2013 Disability Statistics

Total Filed in 2013:		
By Type:	#	%
SCD	22	30%
NSCD	13	18%
BOTH	39	53%
	74	100%
By Employer:	#	%
Assessor	1	1%
Auditor/Controller	2	3%
Child Support Services	1	1%
City of San Juan Capistrano	1	1%
OC Community Resources	2	3%
District Attorney	3	4%
Health Care Agency	1	1%
OC Fire Authority	14	18%
OC Public Works	3	4%
OC Transportation Authority	14	19%
Probation	8	12%
Sanitation	1	1%
Sheriff	16	20%
Social Services Agency	4	5%
Superior Court	2	6%
OC Waste and Recycling	1	1%
	74	100%
By Member Type:	#	%
General	42	57%
Safety	32	43%
	74	100%

Total Granted in 2013:		
By Type / Stage:	#	%
SCD (Initial Board Decision)	31	62%
NSCD (Initial Board Decision)	8	16%
SCD (Hearings)	7	14%
NSCD (Hearings)	2	4%
SCD (Writ)*	2	4%
	50	100%
By Employer:	#	%
City of San Juan Capistrano	1	2%
Clerk Recorder	1	2%
District Attorney	2	4%
OC Fire Authority	9	19%
Health Care Agency	1	2%
Probation	1	2%
Public Works	1	2%
Sanitation	1	2%
Sheriff	15	29%
Social Services Agency	3	7%
OC Transportation Authority	14	27%
UCI	1	2%
	50	100%
By Member Type:	#	%
General	35	70%
Safety	15	30%
	50	100%

Total Denied in 2013:		
By Type / Stage:	#	%
SCD & NSCD (Initial Board Decision)	12	32%
SCD (Initial Board Decision)	12	32%
NSCD (Initial Board Decision)	1	3%
SCD (2nd Board Decision)	3	8%
NSCD & SCD (2nd Board Decision)	5	14%
SCD (Writ)**	4	11%
	37	100%
By Employer:	#	%
OC Fire Authority	2	6%
Public Guardian	1	3%
OC Transportation Authority	5	9%
Health Care Agency	4	12%
District Attorney	3	6%
Sheriff	12	37%
Social Services Agency	4	12%
Library	2	6%
Probation	2	3%
Assessor	1	3%
Sanitation	1	3%
	37	100%
By Member Type:	#	%
General	26	70%
Safety	11	30%
	37	100%

*One member was granted SCD and the other matter was regarding setting an effective date.

**OCERS prevailed at Superior Court. One member filed a Motion for a New Trial and the other member filed an Appeal.

Disabilities In Process Overview	
Total filings pending Board presentation	109
% Pending Filed within the past 12 months	64%
% Pending Filed over 12 months	36%

2014 Disability Statistics

Total Filed 2014:		
By Type:	#	%
SCD	34	40%
NSCD	7	8%
BOTH	43	51%
	84	100%
By Employer:	#	%
OC Community Resources	2	2%
District Attorney	3	4%
Health Care Agency	4	5%
OC Fire Authority	10	12%
OC Public Works	4	5%
OC Transportation Authority	12	14%
Probation	3	4%
Sanitation	1	1%
Sheriff	31	37%
Social Services Agency	12	14%
OC Waste and Recycling	2	2%
	84	100%
By Member Type:	#	%
General	44	52%
Safety	40	48%
	84	100%

Total Granted 2014		
By Type / Stage:	#	%
SCD (Initial Board Decision)	38	56%
NSCD (Initial Board Decision)	19	28%
SCD (Hearings)	8	12%
NSCD (Hearings)	1	1%
SCD (Writ)	2	3%
	68	100%
By Employer:	#	%
Assessor	1	1%
Community Resources	4	6%
District Attorney	4	6%
OC Fire Authority	12	18%
Health Care Agency	2	2%
Probation	4	6%
Public Works	3	4%
Child Support Services	1	1%
Sheriff	19	28%
Social Services Agency	6	9%
OC Transportation Authority	12	27%
	68	100%
By Member Type:	#	%
General	35	51%
Safety	33	49%
	68	100%

Total Denied 2014:		
By Type / Stage:	#	%
SCD/NSCD (Initial Board Decision)	9	35%
SCD (Initial Board Decision)	11	42%
NSCD (Initial Board Decision)	2	8%
SCD (2nd Board Decision)	4	15%
NSCD & SCD (2nd Board Decision)	0	0%
	26	100%
By Employer:	#	%
Auditor/Controller	1	4%
Public Guardian	1	4%
OC Transportation Authority	2	8%
Health Care Agency	3	12%
District Attorney	1	4%
Sheriff	5	19%
Social Services Agency	6	23%
OC Fire Authority	1	4%
Public Works	1	4%
Probation	3	12%
Public Guardian	1	4%
Waste and Recycling	1	4%
	26	100%
By Member Type:	#	%
General	23	88%
Safety	3	12%
	26	100%

Disabilities In Process Overview

Total filings pending Board presentation :109 125

% Pending Filed within the past 12 months 90

% Pending Filed over 12 months 35

2015 Disability Statistics

Total Filed 2015:		
By Type:	#	%
SCD	26	37%
NSCD	7	10%
BOTH	37	53%
	70	100%
By Employer:	#	%
OC Community Resources	3	4%
Superior Court	3	4%
Health Care Agency	6	9%
OC Fire Authority	9	13%
OC Public Works	5	7%
OC Transportation Authority	7	10%
Probation	3	4%
Human Resource Services	1	1%
Sheriff	22	31%
Social Services Agency	6	9%
John Wayne Airport	1	1%
OC Waste and Recycling	4	6%
	70	100%
By Member Type:	#	%
General	38	54%
Safety	32	46%
	70	100%

Total Granted 2015		
By Type / Stage:	#	%
SCD (Initial Board Decision)	48	70%
NSCD (Initial Board Decision)	17	25%
SCD (Hearings)	4	6%
NSCD (Hearings)	0	0%
	69	100%
By Employer:	#	%
Assessor	1	1%
Community Resources	1	1%
District Attorney	1	1%
OC Fire Authority	16	23%
Health Care Agency	6	9%
Probation	6	9%
Waste and Recycling	1	1%
Superior Court	3	4%
Sheriff	18	26%
Social Services Agency	8	12%
OC Transportation Authority	8	12%
	69	100%
By Member Type:	#	%
General	37	54%
Safety	32	46%
	69	100%

Total Denied 2015:		
By Type / Stage:	#	%
SCD/NSCD (Initial Board Decision)	7	35%
SCD (Initial Board Decision)	11	55%
NSCD (Initial Board Decision)	0	0%
SCD (2nd Board Decision)	1	5%
NSCD & SCD (2nd Board Decision)	1	5%
	20	100%
By Employer:	#	%
Animal Care	1	5%
Sanitation	1	5%
OC Transportation Authority	5	25%
Health Care Agency	0	0%
District Attorney	0	0%
Sheriff	4	20%
Social Services Agency	5	25%
OC Fire Authority	0	0%
Superior Court	4	20%
Probation	0	0%
Public Guardian	0	0%
Waste and Recycling	0	0%
	20	100%
By Member Type:	#	%
General	17	85%
Safety	3	15%
	20	100%

<u>Disabilities In Process Overview</u>	
Total filings pending Board presentation	125
Pending Filed within the past 12 months	70
Pending Filed over 12 months	55

2016 Disability Statistics

Total Filed in 2016:		
By Type:	#	%
SCD	36	43%
NSCD	8	10%
BOTH	40	48%
	84	100%
By Employer:		%
Auditor Controller	1	1%
District Attorney	1	1%
Health Care Agency	7	8%
Fire Authority	13	15%
Transportation Authority	13	15%
Public Defender	1	1%
Sanitation	4	5%
Sheriff	21	25%
Social Services Agency	15	18%
Probation	2	2%
Superior Court	1	1%
Community Resources	3	4%
Waste and Recycling	2	2%
	84	100%
By Member Type:		%
General	55	65%
Safety	29	35%
	84	100%

Total Granted in 2016		
By Type / Stage:	#	%
SCD (Initial Board Decision)	48	86%
NSCD (Initial Board Decision)	2	4%
SCD (Hearings)	5	9%
NSCD (Hearings)	1	2%
SCD (Writ)		0%
	56	100%
By Employer:		%
District Attorney	3	5%
Sanitation	1	2%
Fire Authority	7	13%
Health Care Agency	2	4%
Sheriff	19	34%
Public Works	5	9%
Human Resource Services	1	2%
Probation	3	5%
Waste and Recycling	3	5%
Community Resources	1	2%
Social Services Agency	2	4%
Transportation Authority	9	16%
	56	100%
By Member Type:		%
General	29	52%
Safety	27	48%
	56	100%

Total Denied in 2016:		
By Type / Stage:	#	%
SCD/NSCD (Initial Board Decision)	8	42%
SCD (Initial Board Decision)	8	42%
NSCD (Initial Board Decision)	1	5%
SCD (2nd Board Decision)	1	5%
NSCD (2nd Board Decision)	1	5%
	19	100%
By Employer:		%
Assessor	1	5%
Health Care Agency	1	5%
Sheriff	3	16%
Social Services Agency	4	21%
Fire Authority	1	5%
Transportation Authority	2	11%
Community Resources	3	16%
Sanitation	2	11%
Probation	2	11%
	19	100%
By Member Type:		%
General	17	89%
Safety	2	11%
	19	100%

Applications Pending:	
Total pending adjudication:	126
Filed within the past 12 months:	84
Filed over 12 months:	42

Processing time is currently equal to 9-12 months as a result the actual applications adjudicated by the Board in 2016 may have been filed in prior calendar years. The number of granted/denied applications will not necessarily correspond to the number of applications filed in any given year.

I-7

Memorandum

DATE: January 16, 2018
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO External Operations, and Catherine Fairley, Director of Member Services
SUBJECT: OVERPAID AND UNDERPAID PLAN BENEFITS – 2017 REPORT

Written Report Only

Background/Discussion

In accordance with the Board of Retirement Overpaid and Underpaid Plan Benefits Policy adopted by the Board on May 16, 2016, this memorandum serves as the first annual Overpayment and Underpayment report covering the calendar year of 2017.

Benefit Overpayments/Underpayments:

With the inception of V3 pension software, benefit overpayment and subsequent repayments are now formally tracked in the V3 system. When an overpayment occurs, V3 automatically creates an overpayment transaction with the initial outstanding debt, and the outstanding balance is reduced as repayment deductions or payments by check are applied. A benefit recoupment report in V3 displays all outstanding overpayments created in V3 and allows OCERS to monitor the accounts of these members, view the last payment amount and date, and see the remaining balance owed.

In 2017 OCERS had 16,910 payees, of these 183 payees were overpaid and 143 payees were underpaid, with recoupments being initiated where applicable¹. The majority of the overpayments/underpayments were the result of the Sheriff's Department mandatory training and overtime issue that the Board dealt with in early 2017. The remainder were the result of staff oversight, legal/procedural changes, employer reporting issues, late death reporting, or system issues (Attachment 1).

Staff errors are being mitigated with the addition of personnel who will be doing peer audits prior to benefits being set up, as well as the newly created Quality Assurance team. The Salary and Pay Item Review project that is currently underway is expected to fully document salary and pay items so that pensionable pay is reported biweekly, thereby reducing the risk of errors due to manual entries made by staff and employer reporting. Finally, unreported deaths are an ongoing concern and we are working with our new death verification vendor to mitigate the untimely reporting of member/payee deaths. OCERS is in the process of becoming certified to have access to the Social Security death file which will give us accurate information in a more timely fashion.

¹ Several of these overpayments/underpayments were discovered in prior years however the benefit recalculation resulting in a recoupment or payment to the member was processed in 2017 and thus became part of this calendar year report.

Memorandum

Submitted by:

Approved by:



CF-Approved



SJ-Approved

Catherine Fairley
Director of Member Services

Suzanne Jenike
Assistant CEO, External Operations

Category	Overpayments by Category	Current Amounts Owed	Payee Count
Systemic Error - Mandatory Overtime, Retired Sheriff's (6D)		\$0.00	148
Systemic Error (Non-6D)	\$129,315.54	\$126,437.96	3
Return To Work	\$2,001.16	\$2,001.16	2
Employer Reporting Error	\$11,512.63	\$10,036.68	1
Unreported Death	\$184,392.50	\$129,056.20	18
Staff Errors	\$1,162.91	\$601.48	5
System Errors	\$979.19	\$58.36	6
Grand Total	\$329,363.93	\$268,191.84	183

Category	Underpayments by Category	Member Count
Systemic Error (6D)	\$299,422.10	79
Appeals	\$34,387.14	4
Employer Reporting Error	\$18,526.03	11
Staff Errors	\$26,846.30	42
System Errors	\$1,096.87	7
Grand Total	\$380,278.44	143

I-8

Memorandum

DATE: January 3, 2018
TO: Members, Board of Retirement
FROM: Chris Prevatt, OCERS Board Chair - 2018
SUBJECT: **2018 OCERS Board of Retirement Committee Assignments**

Written report only

I would like to thank my fellow OCERS Board Trustees for their input regarding committee assignments in 2018. I appreciate your flexibility and willingness to serve where needed.

In determining assignments, I had a number of goals to guide me:

- Tried to fulfill each Board member's stated committee preference(s) where possible.
- Tried to have each Board member assigned to at least one committee.
- Continued the practice of appointing a Vice Chair for all committee (should the Chair be absent).
- Continued the practice of alternating elected and appointed members as the Board Chair and the Investment Committee Chair.
- Continued the practice of alternating elected and appointed members as Investment Committee Chair and Investment Committee Vice Chair.
- To a large extent, tried to keep committee membership consistent from 2017, to allow for continued growth and experience within each committee.
- Finally, kept in mind that additional assignments will likely be necessary in 2018 should the Board approve the formation of a Disability Benefits Review Committee.

The 2018 OCERS Board of Retirement committee assignments are as follows:

Audit Committee

Frank Eley, Chair
Chuck Packard, Vice Chair
Shari Freidenrich
Russell Baldwin

Governance Committee

Shawn Dewane, Chair
Roger Hilton, Vice Chair
Chris Prevatt
David Ball

Staff Coordinator: Mark Adviento

Staff Coordinator: Gina Ratto

Investment Committee

Wayne Lindholm, Chair
Frank Eley, Vice Chair
All Other Trustees

Staff Coordinator: Molly Murphy

Manager Monitoring Subcommittee

Chuck Packard, Chair
Russell Baldwin, Vice Chair
Frank Eley
Shawn Dewane

Staff Coordinator: David Beeson

In addition, our one ad hoc committee will remain unchanged from 2017:

Ad hoc Board Room/Building Review Committee

David Ball, Chair
Chris Prevatt, Vice Chair
Chuck Packard

Staff Coordinator: Brenda Shott

My thanks to each of you, and I'm including my best wishes for a successful 2018 for OCERS and this Board of Retirement.

I-9



Memorandum

DATE: January 16, 2018
TO: Members of Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: **2017 FORM 700 DESIGNATED FILERS LIST AND FACT SHEETS AND OCERS ANNUAL DISCLOSURE FORM**

Written Report Only

Background/Discussion

This memorandum advises OCERS Board Members of the requirement that they file a Form 700 – Statement of Economic Interests, and the OCERS Annual Disclosure Form on or before April 2, 2018. More information regarding these filing requirements is set forth below.

FORM 700 – STATEMENT OF ECONOMIC INTERESTS

On or before April 1 of every year, each designated filer under OCERS' Conflict of Interest Code is required to file a Form 700 Statement of Economic Interests to disclose personal economic interests in real property, businesses, and investments as described in the regulations adopted by the California Fair Political Practices Commission (FPPC). Because April 1, 2018 falls on a Sunday, the Form 700 will be due on Monday, April 2, 2018.

OCERS' designated filers are:

- All members of the Board of Retirement
- Chief Executive Officer
- Chief Investment Officer
- Director of Investment Operations
- Investment Officers
- Investment Analysts
- Assistant Chief Executive Officer, External Operations
- Assistant Chief Executive Officer, Finance and Internal Operations
- General Counsel

The Form 700, FPPC Reference Pamphlet and Frequently Asked Questions for 2017/2018 are attached to assist you in completing your Form 700.

OCERS filers are strongly encouraged to file their Forms 700 using the County of Orange Clerk of the Board EDisclosure system. All filers will receive an email from the Clerk of the Board's office in the next few weeks providing a link to the EDisclosure system. The EDisclosure system is very easy to use and allows for direct filing and permanent electronic storage. The Clerk of the Board's office can assist filers with user names and passwords. In addition, I am available to answer questions regarding filing.

If you prefer to submit a hard copy of your Form 700, please send it to Steve's assistant, Cammy Danciu, by March 30, 2017, so that we can forward it in a timely manner to the Clerk of the Board on your behalf.



Memorandum

OCERS ANNUAL DISCLOSURE POLICY

In addition to the Form 700, the OCERS Annual Disclosure Policy requires that by April 1 of each year Board members and certain OCERS staff file a disclosure of:

- All interests that are required to be disclosed on the Form 700;
- All family and business relationships with, and value received from, any investment manager, placement agent, registered lobbyist, vendor, consultant, actuary, counsel or other persons (i) providing or actively seeking to provide services or products to, or (ii) seeking to influence the deliberations of, OCERS' Board of Retirement;
- All other matters required to be disclosed under California law (e.g., interests in contracts; incompatible offices; honoraria; campaign contributions); and
- All matters required to be disclosed under OCERS' Conflict of Interest Code.

Attached are the OCERS Annual Disclosure Policy and the Annual Disclosure Form.

Since the Form 700 is not due until April 2 this year, and since you will need to attach a copy of the Form 700 to the Annual Disclosure Form, we are extending the due date for the disclosure form until April 2, 2018. If you are using the EDisclosure system, you can print a copy of your Form 700 directly from the system and attach it to your Annual Disclosure Form before sending it to Cammy Danciu on or before April 2, 2018.

Submitted by:

A handwritten signature in blue ink that reads "Gina M. Ratto".

Gina M. Ratto
General Counsel

2017/2018 Statement of Economic Interests



Form 700

A Public Document

Also available on the FPPC website:

- ***Form 700 in Excel format***
- ***Reference Pamphlet for Form 700***

California Fair Political Practices Commission

Email Advice: advice@fppc.ca.gov

Toll-free advice line: 1 (866) ASK-FPPC • 1 (866) 275-3772

Telephone: (916)322-5660 • Website: www.fppc.ca.gov

December 2017

What's New

Gift Limit Increase

The gift limit increased to \$470 for calendar years 2017 and 2018. The gift limit during 2016 was \$460.

Who

- Elected and appointed _____ and candidates listed in Government Code Section 87200
- Employees, appointed _____ and consultants pursuant to a _____ of interest code ("code")
Obtain your disclosure categories, which describe the interests you must report, from your agency; they are not part of the Form 700
- Candidates running for local elective _____ that are designated in a _____ of interest code (e.g., county sheriffs, city clerks, school board trustees, and water board members)

Exception: Candidates for a county central committee are not required to _____ the Form 700.

- Members of newly created boards and commissions not yet covered under a _____ of interest code
- Employees in newly created positions of existing agencies

See Reference Pamphlet, page 3, at www.fppc.ca.gov.

Where

87200 Filers

State	⇒	Your agency
Judicial	⇒	The clerk of your court
Retired Judges	⇒	Directly with FPPC
County	⇒	Your county
City	⇒	Your city clerk
Multi-County	⇒	Your agency

Code: File with your agency, board, or commission unless otherwise _____ in your agency's code (e.g., Legislative staff _____ directly with FPPC). In most cases, the agency, board, or commission will retain the statements.

Members of Boards and Commissions of Newly Created Agencies:

File with your newly created agency or with your agency's code reviewing body.

Employees in Newly Created Positions of Existing Agencies:

File with your agency or with your agency's code reviewing body. See Reference Pamphlet, page 3.

Candidates: File with your local elections

How

The Form 700 is available at www.fppc.ca.gov. Form 700 schedules are also available in Excel format. All statements must have an original "wet" signature or be duly authorized by your _____ to electronically _____ under Government Code Section 87500.2. Instructions, examples, FAQs, and a reference pamphlet are available to help answer your questions.

When

Annual Statements

⇒ March 1, 2018

- Elected State
- Judges and Court Commissioners
- State Board and State Commission Members listed in Government Code Section 87200

⇒ April 2, 2018

- Most other

Individuals _____ under _____ of interest codes in city and county jurisdictions should verify the annual _____ date with their local _____

Statements postmarked by the _____ deadline are considered _____ on time.

Most _____ within 30 days of assuming or leaving or within 30 days of the effective date of a newly adopted or amended _____ of interest code.

Exception:

If you assumed _____ between October 1, 2017, and December 31, 2017, and _____ an assuming _____ statement, you are not required to _____ an annual statement until March 1, 2019, or April 1, 2019, whichever is applicable. The annual statement will cover the day after you assumed through December 31, 2018. See Reference Pamphlet, pages 6 and 7, for additional exceptions.

Candidate Statements

File no later than the _____ date for the declaration of candidacy or nomination documents.

Amendments

Statements may be amended at any time. You are only required to amend the schedule that needs to be revised. It is not necessary to amend the entire _____ form. Obtain amendment schedules at www.fppc.ca.gov.

Statements of 30 pages or less may be faxed by the _____ deadline as long as the originally signed paper version is sent by _____ class mail to the _____ within 24 hours.

Introduction

The Political Reform Act (Gov. Code Sections 81000-91014) requires most state and local government and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing the attached Statement of Economic Interests, Form 700, and for interpreting the law's provisions.

Gift Prohibition

Gifts received by most state and local employees, and candidates are subject to a limit. During 2017 and 2018, the gift limit is \$470 from a single source during a calendar year.

In addition, state state candidates, and certain state employees are subject to a \$10 limit per calendar month on gifts from lobbyists and lobbying registered with the Secretary of State. See Reference Pamphlet, page 10.

State and local and employees should check with their agency to determine if other restrictions apply.

Public are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to governmental decisions that will affect their economic interests. This may include interests they are not required to disclose (i.e., a personal residence is often not reportable, but may be disqualifying).

requirements apply to 87200 (e.g., city councilmembers, members of boards of supervisors, planning commissioners, etc.). These must publicly identify the economic interest that creates a of interest and leave the room before a discussion or vote takes place at a public meeting. For more information, consult Government Code Section 87105, Regulation 18707, and the Guide to Recognizing of Interest at www.fppc.ca.gov.

Honorarium Ban

Most state and local employees, and candidates are prohibited from accepting an honorarium for any speech given, article published, or attendance at a conference, convention, meeting, or like gathering. See Reference Pamphlet, page 10.

Loan Restrictions

Certain state and local are subject to restrictions on loans. See Reference Pamphlet, page 14.

Post-Governmental Employment

There are restrictions on representing clients or employers before former agencies. The provisions apply to elected state most state employees, local elected county chief administrative city managers, including the chief administrator of a city, and general managers or chief administrators of local special districts and JPAs. The FPPC website has fact sheets explaining the provisions.

Late Filing

The who retains originally-signed or electronically statements of economic interests may impose on an individual a for any statement that is late. The is \$10 per day up to a maximum of \$100. Late penalties may be reduced or waived under certain circumstances.

Persons who fail to timely their Form 700 may be referred to the FPPC's Enforcement Division (and, in some cases, to the Attorney General or district attorney) for investigation and possible prosecution. In addition to the late penalties, a of up to \$5,000 per violation may be imposed.

For assistance concerning reporting, prohibitions, and restrictions under the Act:

- Email questions to advice@fppc.ca.gov.
- Call the FPPC toll-free at (866) 275-3772.

Form 700 is a Public Document Public Access Must Be Provided

Statements of Economic Interests are public documents. The must permit any member of the public to inspect and receive a copy of any statement.

- Statements must be available as soon as possible during the agency's regular business hours, but in any event not later than the second business day after the statement is received. Access to the Form 700 is not subject to the Public Records Act procedures.
- No conditions may be placed on persons seeking access to the forms.
- No information or may be required from persons seeking access.
- Reproduction fees of no more than 10 cents per page may be charged.

FPPC Form 700 (2017/2018)

FPPC Advice Email: advice@fppc.ca.gov

FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

Introduction

Types of Form 700 Filings

If you are a newly appointed _____ or are newly employed in a position designated, or that will be designated, in a state or local agency's _____ of interest code, your assuming _____ date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected _____ your assuming _____ date is the date you were sworn in.

- Investments, interests in real property, and business positions held on the date you assumed the _____ or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the _____ or position is reportable.

For positions subject to _____ by the State Senate or the Commission on Judicial Performance, your assuming _____ date is the date you were appointed or nominated to the position.

Example:

Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate _____. The assuming _____ date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

If your _____ or position has been added to a newly adopted or newly amended _____ of interest code, use the effective date of the code or amendment, whichever is applicable.

- Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment is reportable.

Annual Statement:

Generally, the period covered is January 1, 2017, through December 31, 2017. If the period covered by the statement is different than January 1, 2017, through December 31, 2017, (for example, you assumed between October 1, 2016, and December 31, 2016 or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2017.

- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the _____ of interest code amendment and disclose under the new disclosure category through the end of the reporting period.

Generally, the period covered is January 1, 2017, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2017, through the date you stopped performing the duties of your position (for example, you assumed between October 1, 2016, and December 31, 2016, or you are combining statements), the period covered must be _____. The reporting period can cover parts of two calendar years.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2017.

Candidate Statement:

If you are _____ a statement in connection with your candidacy for state or local _____ investments, interests in real property, and business positions held on the date of _____ your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of _____ your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective _____ (e.g., county sheriffs, city clerks, school board trustees, or water district board members) must _____ candidate statements, as required by the _____ of interest code for the elected position. The code may be obtained from the agency of the elected position.

Amendments:

If you discover errors or omissions on any statement, an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not necessary to _____ the entire form. Obtain amendment schedules from the FPPC website at www.fppc.ca.gov.

Instructions Cover Page

Enter your name, mailing address, and daytime telephone number in the spaces provided. **Because the Form 700 is a public document, address instead of your home address.**

Agency, or Court

- Enter the name of the agency sought or held, or the agency or court. Consultants must enter the public agency name rather than their private name. (Examples: State Assembly; Board of Supervisors; Office of the Mayor; Department of Finance; Hope County Superior Court)
- Indicate the name of your division, board, or district, if applicable. (Examples: Division of Waste Management; Board of Accountancy; District 45). **Do not use acronyms.**
- Enter your position title. (Examples: Director; Chief Counsel; City Council Member; Staff Services Analyst)
- If you hold multiple positions (i.e., a city council member who also is a member of a county board or commission), you may be required to file statements with each agency. To simplify your obligations, you may complete an expanded statement.
- To do this, enter the name of the other agency(ies) with which you are required to file and your position title(s) in the space provided. **Do not use acronyms.** Attach an additional sheet if necessary. Complete one statement covering the disclosure requirements for all positions. Each copy must contain an original signature. Therefore, before signing the statement, make a copy for each agency. Sign each copy with an original signature and with each agency.

If you assume or leave a position after a deadline, you must complete a separate statement. For example, a city council member who assumes a position with a county special district after the April 1 annual statement deadline must file a separate assuming office statement. In subsequent years, the city council member may expand his or her annual statement to include both positions.

Example:

Scott Baker is a city council member for the City of Lincoln and a board member for the Camp Far West Irrigation District – a multi-county agency that covers Placer and Yuba counties. Scott will complete one Form 700 using full disclosure (as required for the city position) and covering interests in both Placer and Yuba counties (as required for the multi-county position) and list both positions on the Cover Page. Before signing the statement, Scott will make a copy and sign both statements. One statement will be filed with City of Lincoln and the other will be filed with Camp Far West Irrigation District. Both will contain an original signature.

- Check the box indicating the jurisdiction of your agency and, if applicable, identify the jurisdiction. Judges, judicial candidates, and court commissioners have statewide jurisdiction. All other agencies should review the Reference Pamphlet, page 13, to determine their jurisdiction.
- If your agency is a multi-county agency, list each county in which your agency has jurisdiction.

- If your agency is not a state court, county city or multi-county (e.g., school districts, special districts and JPAs), check the “other” box and enter the county or city in which the agency has jurisdiction.

Example:

This is a member of a water district board with jurisdiction in portions of Yuba and Sutter Counties.

1. Office, Agency, or Court	
Agency Name: <i>(Do not use acronyms)</i> Feather River Irrigation District	
Division, Board, Department, District, if applicable N/A	Your Position Board Member
▶ If filing for multiple positions, list below or on an attachment. <i>(Do not use acronyms)</i>	
Agency: N/A	Position:
2. Jurisdiction of Office <i>(Check at least one box)</i>	
<input type="checkbox"/> State	<input type="checkbox"/> Judge or Court Commissioner (Statewide Jurisdiction)
<input checked="" type="checkbox"/> Multi-County Yuba & Sutter Counties	<input type="checkbox"/> County of _____
<input type="checkbox"/> City of _____	<input type="checkbox"/> Other _____

Part 3. Type of Statement

Check at least one box. The period covered by a statement is determined by the type of statement you are filing. If you are completing a 2017 annual statement, **do not** change the pre-printed dates to 2018. Your annual statement is used for reporting the **previous year's** economic interests. Economic interests for your annual statement covering January 1, 2018, through December 31, 2018, will be disclosed on your statement in 2019. See Reference Pamphlet, page 4.

Combining Statements: Certain types of statements may be combined. For example, if you leave a position after January 1, but before the deadline for filing your annual statement, you may combine your annual and leaving office statements. File by the earliest deadline. Consult your agency or the FPPC.

Part 4. Schedule Summary

- Complete the Schedule Summary after you have reviewed each schedule to determine if you have reportable interests.
- Enter the total number of completed pages including the cover page and either check the box for each schedule you use to disclose interests; **or** if you have nothing to disclose on any schedule, check the “No reportable interests” box. Please **do not** attach any blank schedules.

Part 5. V

Complete the cover page by signing the statement and entering the date signed. All statements must have an original “wet” signature or be duly authorized by your agency to file electronically under Government Code Section 87500.2. Instructions, examples, FAQs, and a reference pamphlet are available to help answer your questions. **When you sign your statement, you are stating, under penalty of perjury, that it is true and correct.** Only the signatory has authority to sign the statement. An unsigned statement is not considered valid and you may be subject to late filing penalties.

COVER PAGE

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court

Agency Name (Do not use acronyms)

Division, Board, Department, District, if applicable Your Position

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: Position:

2. Jurisdiction of Office (Check at least one box)

- State Judge or Court Commissioner (Statewide Jurisdiction)
- Multi-County _____ County of _____
- City of _____ Other _____

3. Type of Statement (Check at least one box)

- Annual:** The period covered is January 1, 2017, through December 31, 2017.
-or- The period covered is ____/____/____, through December 31, 2017.
- Assuming Office:** Date assumed ____/____/____
- Candidate:** Date of Election _____ and office sought, if different than Part 1: _____
- Leaving Office:** Date Left ____/____/____ (Check one)
 - The period covered is January 1, 2017, through the date of leaving office.
 - or-
 - The period covered is ____/____/____, through the date of leaving office.

4. Schedule Summary (must complete) ► Total number of pages including this cover page: _____

Schedules attached

- Schedule A-1 - Investments** – schedule attached **Schedule C - Income, Loans, & Business Positions** – schedule attached
- Schedule A-2 - Investments** – schedule attached **Schedule D - Income – Gifts** – schedule attached
- Schedule B - Real Property** – schedule attached **Schedule E - Income – Gifts – Travel Payments** – schedule attached

- or-
- None - No reportable interests on any schedule**

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS
()

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____ Signature _____
(month, day, year) (File the originally signed statement with your filing official.)

Which Schedule Do I use?

Common reportable Interests

Schedule A-1	Stocks, including those held in an IRA or a 401K
Schedule A-2	Business entities (including certain independent contracting), sole proprietorships, partnerships, LLCs, corporations, and trusts
Schedule B	Rental property in the jurisdiction, or within two miles of the boundaries of the jurisdiction
Schedule C	Non-governmental salaries of public and spouse/registered domestic partner
Schedule D	Gifts from businesses (such as tickets to sporting or entertainment events)
Schedule E	Travel payments from third parties (not your employer)

Common Non-reportable Interests

Schedule A-1	Insurance policies, government bonds, mutual funds, certain funds similar to mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 13, for detailed information. (Regulation 18237)
Schedule A-2	Savings and checking accounts and annuities
Schedule B	A residence used exclusively as a personal residence (such as a home or vacation cabin)
Schedule C	Governmental salary (such as a school district)
Schedule D	Gifts from family members
Schedule E	Travel paid by your government agency

Remember:

- ✓ Mark the “No reportable interests” box on Part 4 of the Schedule Summary on the Cover Page if you determine you have nothing to disclose and the Cover Page only. **Make sure you carefully read all instructions to ensure proper reporting.**
- ✓ The Form 700 is a public document.
- ✓ **Most individuals must consult their agency’ interests.**
- ✓ Most individuals the Form 700 with their agencies.

Questions and Answers

General

- Q. What is the reporting period for disclosing interests on an assuming statement or a candidate statement?
- A. On an assuming statement, disclose all reportable investments, interests in real property, and business positions held on the date you assumed
In addition, you must disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you assumed

On a candidate statement, disclose all reportable investments, interests in real property, and business positions held on the date you your declaration of candidacy. You must also disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you your declaration of candidacy.

- Q. I hold two other board positions in addition to my position with the county. Must I three statements of economic interests?
- A. Yes, three are required. However, you may complete one statement listing the county and the two boards on the Cover Page or an attachment as the agencies for which you will be Report your economic interests using the largest jurisdiction and highest disclosure requirements assigned to you by the three agencies. Make two copies of the entire statement before signing it, sign each copy with an original signature, and distribute one original to the county and to each of the two boards. Remember to complete separate statements for positions that you leave or assume during the year.

- Q. I am a department head who recently began acting as city manager. Should I as the city manager?
- A. Yes. File an assuming statement as city manager. Persons serving as “acting,” “interim,” or “alternate” must as if they hold the position because they are or may be performing the duties of the position.

- Q. As a designated employee, I left one state agency to work for another state agency. Must I a leaving statement?
- A. Yes. You may also need to an assuming statement for the new agency.

- Q. My spouse and I are currently separated and in the process of obtaining a divorce. Must I still report my spouse’s income, investments, and interests in real property?
- A. Yes. A public must continue to report a spouse’s economic interests until such time as dissolution of marriage proceedings is However, if a separate property agreement has been reached prior to that time, your estranged spouse’s income may not have to be reported. Contact the FPPC for more information.

Investment Disclosure

- Q. I have an investment interest in shares of stock in a company that does not have an in my jurisdiction. Must I still disclose my investment interest in this company?
- A. Probably. The of “doing business in the jurisdiction” is not limited to whether the business has an or physical location in your jurisdiction. See Reference Pamphlet, page 13.
- Q. My spouse and I have a living trust. The trust holds rental property in my jurisdiction, our primary residence, and investments in mutual funds. I have full disclosure. How is this trust disclosed?
- A. Disclose the name of the trust, the rental property and its income on Schedule A-2. Your primary residence and investments in mutual funds registered with the SEC are not reportable.
- Q. I am required to report all investments. I have an IRA that contains stocks through an account managed by a brokerage Must I disclose these stocks even though they are held in an IRA and I did not decide which stocks to purchase?
- A. Yes. Disclose on Schedule A-1 or A-2 any stock worth \$2,000 or more in a business entity located in or doing business in your jurisdiction.

Questions and Answers Continued

Q. I am the sole owner of my business, an S-Corporation. I believe that the nature of the business is such that it cannot be said to have any "fair market value" because it has no assets. I operate the corporation under an agreement with a large insurance company. My contract does not have resale value because of its nature as a personal services contract. Must I report the fair market value for my business on Schedule A-2 of the Form 700?

A. Yes. Even if there are no *tangible* assets, intangible assets, such as relationships with companies and clients are commonly sold to professionals. The "fair market value" is often for other purposes, such as marital dissolutions or estate planning. In addition, the IRS presumes that "personal services corporations" have a fair market value. A professional "book of business" and the associated goodwill that generates income are not without a determinable value. The Form 700 does not require a precise fair market value; it is only necessary to check a box indicating the broad range within which the value falls.

Q. I own stock in IBM and must report this investment on Schedule A-1. I initially purchased this stock in the early 1990s; however, I am constantly buying and selling shares. Must I note these dates in the "Acquired" and "Disposed"

A. No. You must only report dates in the "Acquired" or "Disposed" when, during the reporting period, you initially purchase a reportable investment worth \$2,000 or more or when you dispose of the entire investment. You are not required to track the partial trading of an investment.

Q. On last year's I reported stock in Encoe valued at \$2,000 - \$10,000. Late last year the value of this stock fell below and remains at less than \$2,000. How should this be reported on this year's statement?

A. You are not required to report an investment if the value was less than \$2,000 during the **entire** reporting period. However, because a disposed date is not required for stocks that fall below \$2,000, you may want to report the stock and note in the "comments" section that the value fell below \$2,000. This would be for informational purposes only; it is not a requirement.

Q. We have a Section 529 account set up to save money for our son's college education. Is this reportable?

A. If the Section 529 account contains reportable interests (e.g., common stock valued at \$2,000 or more), those interests are reportable (not the actual Section 529 account). If the account contains solely mutual funds, then nothing is reported.

Income Disclosure

Q. I reported a business entity on Schedule A-2. Clients of my business are located in several states. Must I report all clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2, Part 3?

A. No, only the clients located in or doing business on a regular basis in your jurisdiction must be disclosed.

Q. I believe I am not required to disclose the names of clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2 because of their right to privacy. Is there an exception for reporting clients' names?

A. Regulation 18740 provides a procedure for requesting an exemption to allow a client's name not to be disclosed if disclosure of the name would violate a legally recognized privilege under California or Federal law. This regulation may be obtained from our website at www.fppc.ca.gov. See Reference Pamphlet, page 14.

Q. I am sole owner of a private law practice that is not reportable based on my limited disclosure category. However, some of the sources of income to my law practice are from reportable sources. Do I have to disclose this income?

A. Yes, even though the law practice is not reportable, reportable sources of income to the law practice of \$10,000 or more must be disclosed. This information would be disclosed on Schedule C with a note in the "comments" section indicating that the business entity is not a reportable investment. The note would be for informational purposes only; it is not a requirement.

Questions and Answers Continued

Q. I am the sole owner of my business. Where do I disclose my income - on Schedule A-2 or Schedule C?

A. Sources of income to a business in which you have an ownership interest of 10% or greater are disclosed on Schedule A-2. See Reference Pamphlet, page 8, for the of “business entity.”

Q. My husband is a partner in a four-person where all of his business is based on his own billings and collections from various clients. How do I report my community property interest in this business and the income generated in this manner?

A. If your husband’s investment in the is 10% or greater, disclose 100% of his share of the business on Schedule A-2, Part 1 and 50% of his income on Schedule A-2, Parts 2 and 3. For example, a client of your husband’s must be a source of at least \$20,000 during the reporting period before the client’s name is reported.

Q. How do I disclose my spouse’s or registered domestic partner’s salary?

A. Report the name of the employer as a source of income on Schedule C.

Q. I am a doctor. For purposes of reporting \$10,000 sources of income on Schedule A-2, Part 3, are the patients or their insurance carriers considered sources of income?

A. If your patients exercise control by selecting you instead of other doctors, then your patients, rather than their insurance carriers, are sources of income to you. See Reference Pamphlet, page 14, for additional information.

Q. I received a loan from my grandfather to purchase my home. Is this loan reportable?

A. No. Loans received from family members are not reportable.

Q. Many years ago, I loaned my parents several thousand dollars, which they paid back this year. Do I need to report this loan repayment on my Form 700?

A. No. Payments received on a loan made to a family member are not reportable.

Real Property Disclosure

Q. During this reporting period we switched our principal place of residence into a rental. I have full disclosure and the property is located in my agency’s jurisdiction, so it is now reportable. Because I have not reported this property before, do I need to show an “acquired” date?

A. No, you are not required to show an “acquired” date because you previously owned the property. However, you may want to note in the “comments” section that the property was not previously reported because it was used exclusively as your residence. This would be for informational purposes only; it is not a requirement.

Q. I am a city manager, and I own a rental property located in an adjacent city, but one mile from the city limit. Do I need to report this property interest?

A. Yes. You are required to report this property because it is located within 2 miles of the boundaries of the city you manage.

Q. Must I report a home that I own as a personal residence for my daughter?

A. You are not required to disclose a home used as a personal residence for a family member unless you receive income from it, such as rental income.

Q. I am a co-signer on a loan for a rental property owned by a friend. Since I am listed on the deed of trust, do I need to report my friend’s property as an interest in real property on my Form 700?

A. No. Simply being a co-signer on a loan for property does not create a reportable interest in real property for you.

Gift Disclosure

Q. If I received a reportable gift of two tickets to a concert valued at \$100 each, but gave the tickets to a friend because I could not attend the concert, do I have any reporting obligations?

A. Yes. Since you accepted the gift and exercised discretion and control of the use of the tickets, you must disclose the gift on Schedule D.

Questions and Answers Continued

- Q. Mary and Joe Benson, a married couple, want to give a piece of artwork to a county supervisor. Is each spouse considered a separate source for purposes of the gift limit and disclosure?
- A. Yes, each spouse may make a gift valued at the gift limit during a calendar year. For example, during 2017 the gift limit was \$470, so the Bensons may have given the supervisor artwork valued at no more than \$940. The supervisor must identify Joe and Mary Benson as the sources of the gift.
- Q. I am a Form 700 with full disclosure. Our agency holds a holiday to raise funds for a local charity. I bought \$10 worth of tickets and won a gift basket valued at \$120. The gift basket was donated by Doug Brewer, a citizen in our city. At the same event, I bought tickets for, and won a quilt valued at \$70. The quilt was donated by a coworker. Are these reportable gifts?
- A. Because the gift basket was donated by an outside source (not an agency employee), you have received a reportable gift valued at \$110 (the value of the basket less the consideration paid). The source of the gift is Doug Brewer and the agency is disclosed as the intermediary. Because the quilt was donated by an employee of your agency, it is not a reportable gift.
- Q. My agency is responsible for disbursing grants. An applicant (501(c)(3) organization) met with agency employees to present its application. At this meeting, the applicant provided food and beverages. Would the food and beverages be considered gifts to the employees? These employees are designated in our agency's of interest code and the applicant is a reportable source of income under the code.
- A. Yes. If the value of the food and beverages consumed by any one, plus any other gifts received from the same source during the reporting period total \$50 or more, the food and beverages would be reported using the fair market value and would be subject to the gift limit.
- Q. I received free admission to an educational conference related to my duties. Part of the conference fees included a round of golf. Is the value of the golf considered informational material?
- A. No. The value of personal such as golf, attendance at a concert, or sporting event, are gifts subject to reporting and limits.

Instructions – Schedules A-1 and A-2 Investments

“Investment” means a _____ interest in any business entity (including a consulting business or other independent contracting business) that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency’s jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or _____ interest totaling \$2,000 or more at any time during the reporting period. See Reference Pamphlet, page 13.

Reportable investments include:

- Stocks, bonds, warrants, and options, including those held in margin or brokerage accounts and managed investment funds (See Reference Pamphlet, page 13.)
- Sole proprietorships
- Your own business or your spouse’s or registered domestic partner’s business (See Reference Pamphlet, page 8, for the _____ of “business entity.”)
- Your spouse’s or registered domestic partner’s investments even if they are legally separate property
- Partnerships (e.g., a law _____ or family farm)
- Investments in reportable business entities held in a retirement account (See Reference Pamphlet, page 15.)
- If you, your spouse or registered domestic partner, and dependent children together had a 10% or greater ownership interest in a business entity or trust (including a living trust), you must disclose investments held by the business entity or trust. See Reference Pamphlet, page 15, for more information on disclosing trusts.
- Business trusts

You are not required to disclose:

- Government bonds, _____ mutual funds, certain funds similar to _____ mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 13, for detailed information. (Regulation 18237)
- Bank accounts, savings accounts, money market accounts and _____ of deposits
- Insurance policies
- Annuities
- Commodities
- Shares in a credit union
- Government bonds (including municipal bonds)
- Retirement accounts invested in non-reportable interests (e.g., insurance policies, mutual funds, or government bonds) (See Reference Pamphlet, page 15.)

- Government _____ pension plans (such as CalPERS and CalSTRS plans)
- Certain interests held in a blind trust (See Reference Pamphlet, page 16.)

use Schedule A-1 to report ownership of less than 10% (e.g., stock). Schedule C (Income) may also be required if the investment is not a stock or corporate bond. See second example below.

use Schedule A-2 to report ownership of 10% or greater (e.g., a sole proprietorship).

To Complete Schedule A-1:

Do not attach brokerage or _____ statements.

- Disclose the name of the business entity.
- Provide a general description of the business activity of the entity (e.g., pharmaceuticals, computers, automobile manufacturing, or communications).
- Check the box indicating the highest fair market value of your investment during the reporting period. If you are _____ a candidate or an assuming _____ statement, indicate the fair market value on the _____ date or the date you took _____ respectively.
- Identify the nature of your investment (e.g., stocks, warrants, options, or bonds).
- An acquired or disposed of date is only required if you initially acquired or entirely disposed of the investment interest during the reporting period. The date of a stock dividend reinvestment or partial disposal is not required. Generally, these dates will not apply if you are _____ a candidate or an assuming _____ statement.

Examples:

John Smith holds a state agency position. His _____ of interest code requires full disclosure of investments. John must disclose his stock holdings of \$2,000 or more in any company that is located in or does business in California, as well as those stocks held by his spouse or registered domestic partner and dependent children.

Susan Jones is a city council member. She has a 4% interest, worth \$5,000, in a limited partnership located in the city. Susan must disclose the partnership on Schedule A-1 and income of \$500 or more received from the partnership on Schedule C.

Reminders

- Do you know your agency’s jurisdiction?
- Did you hold investments at any time during the period covered by this statement?
- Code _____ – your disclosure categories may only require disclosure of _____ investments.

SchEDuLE A-1 Investments

Stocks, Bonds, and Other Interests (Ownership Interest is Less Than 10%)

Do not attach brokerage or financial statements.

CALIFORNIA FORM 700

FAIR POLITICAL PRACTICES COMMISSION

Name _____

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

▶ NAME OF BUSINESS ENTITY _____

GENERAL DESCRIPTION OF THIS BUSINESS _____

FAIR MARKET VALUE

\$2,000 - \$10,000 \$10,001 - \$100,000

\$100,001 - \$1,000,000 Over \$1,000,000

NATURE OF INVESTMENT

Stock Other _____ (Describe)

Partnership Income Received of \$0 - \$499

Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:

____/____/17 ____/____/17

ACQUIRED DISPOSED

Comments: _____

Instructions – Schedule A-2

Investments, Income, and Assets of Business Entities/Trusts

Use Schedule A-2 to report investments in a business entity (including a consulting business or other independent contracting business) or trust (including a living trust) in which you, your spouse or registered domestic partner, and your dependent children, together or separately, had a 10% or greater interest, totaling \$2,000 or more, during the reporting period and which is located in, doing business in, planning to do business in, or which has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13. A trust located outside your agency's jurisdiction is reportable if it holds assets that are located in or doing business in the jurisdiction. Do not report a trust that contains non-reportable interests. For example, a trust containing only your personal residence not used in whole or in part as a business, your savings account, and some municipal bonds, is not reportable.

Also report on Schedule A-2 investments and real property held by that entity or trust if your pro rata share of the investment or real property interest was \$2,000 or more during the reporting period.

To Complete Schedule A-2:

Part 1. Disclose the name and address of the business entity or trust. If you are reporting an interest in a business entity, check "Business Entity" and complete the box as follows:

- Provide a general description of the business activity of the entity.
- Check the box indicating the highest fair market value of your investment during the reporting period.
- If you initially acquired or entirely disposed of this interest during the reporting period, enter the date acquired or disposed.
- Identify the nature of your investment.
- Disclose the job title or business position you held with the entity, if any (i.e., if you were a director, partner, trustee, employee, or held any position of management). A business position held by your spouse is not reportable.

Part 2. Check the box indicating **your pro rata** share of the **gross** income received **by** the business entity or trust. This amount includes your pro rata share of the **gross** income **from** the business entity or trust, as well as your community property interest in your spouse's or registered domestic partner's share. Gross income is the total amount of income before deducting expenses, losses, or taxes.

Part 3. Disclose the name of each source of income that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency's jurisdiction, as follows:

- Disclose each source of income and outstanding loan **to the business entity or trust** in Part 1 if your pro rata share of the **gross** income (including your community property interest in your spouse's or registered domestic partner's share) to the business entity or trust from that source was \$10,000 or more during the reporting

period. See Reference Pamphlet, page 11, for examples. Income from governmental sources may be reportable if not considered salary. See Regulation 18232. Loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your status are not reportable.

- Disclose each individual or entity that was a source of commission income of \$10,000 or more during the reporting period through the business entity in Part 1. See Reference Pamphlet, page 8, for an explanation of commission income.

You may be required to disclose sources of income located outside your jurisdiction. For example, you may have a client who resides outside your jurisdiction who does business on a regular basis with you. Such a client, if a reportable source of \$10,000 or more, must be disclosed.

Mark "None" if you do not have any reportable \$10,000 sources of income to disclose. Using phrases such as "various clients" or "not disclosing sources pursuant to attorney-client privilege" may trigger a request for an amendment to your statement. See Reference Pamphlet, page 14, for details about requesting an exemption from disclosing privileged information.

Part 4. Report any investments or interests in real property held or leased **by the entity or trust** in Part 1 if your pro rata share of the interest held was \$2,000 or more during the reporting period. Attach additional schedules or use FPPC's Form 700 Excel spreadsheet if needed.

- Check the applicable box identifying the interest held as real property or an investment.
- If investment, provide the name and description of the business entity.
- If real property, report the precise location (e.g., an assessor's parcel number or address).
- Check the box indicating the highest fair market value of your interest in the real property or investment during the reporting period. (Report the fair market value of the portion of your residence claimed as a tax deduction if you are utilizing your residence for business purposes.)
- Identify the nature of your interest.
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property or investment during the reporting period.

SchEDuLE A-2

Investments, Income, and Assets of Business Entities/Trusts

(Ownership Interest is 10% or Greater)

CALIFORNIA FORM 700

FAIR POLITICAL Pr ACTICES COMMISSION

Name _____

▶ 1. BuSINESS ENTITy Or Tru ST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF THIS BuSINESS

<p>FAIR MARKET vAluE</p> <input type="checkbox"/> \$0 - \$1,999 <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	<p>IF APPLICABLE, LIST DATE:</p> <p style="text-align: center;">____/____/17 ____/____/17</p> <p style="text-align: center;">ACQu IRED DISPOSED</p>
--	---

NATuRE OF INvESTMENT

 Partnership Sole Proprietorship _____ Other

YOuR BuSINESS POSITiON _____

▶ 1. BuSINESS ENTITy Or Tru ST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF THIS BuSINESS

<p>FAIR MARKET vAluE</p> <input type="checkbox"/> \$0 - \$1,999 <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	<p>IF APPLICABLE, LIST DATE:</p> <p style="text-align: center;">____/____/17 ____/____/17</p> <p style="text-align: center;">ACQu IRED DISPOSED</p>
--	---

NATuRE OF INvESTMENT

 Partnership Sole Proprietorship _____ Other

YOuR BuSINESS POSITiON _____

▶ 2. IDENTIFY ThE Gr OSS INCOME rECEIVED (INCLuDE YOuR Pr O r ATA ShAr E OF ThE Gr OSS INCOME tO ThE ENTITy/Tru ST)

<input type="checkbox"/> \$0 - \$499	<input type="checkbox"/> \$10,001 - \$100,000
<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> OvER \$100,000
<input type="checkbox"/> \$1,001 - \$10,000	

▶ 2. IDENTIFY ThE Gr OSS INCOME rECEIVED (INCLuDE YOuR Pr O r ATA ShAr E OF ThE Gr OSS INCOME tO ThE ENTITy/Tru ST)

<input type="checkbox"/> \$0 - \$499	<input type="checkbox"/> \$10,001 - \$100,000
<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> OvER \$100,000
<input type="checkbox"/> \$1,001 - \$10,000	

▶ 3. LIST ThE NAME OF EACH rEPOr TABLE SINGLE SOur CE OF INCOME OF \$10,000 Or MOre (Attach a separate sheet if necessary.)

None or Names listed below

▶ 3. LIST ThE NAME OF EACH rEPOr TABLE SINGLE SOur CE OF INCOME OF \$10,000 Or MOre (Attach a separate sheet if necessary.)

None or Names listed below

▶ 4. INVESTMENTS AND INTERESTS IN rEAL Pr OPER Ty hELD Or LEASed By ThE BuSINESS ENTITy Or Tru ST

Check one box:
 INvESTMENT REAL PrOPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

<p>FAIR MARKET vAluE</p> <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	<p>IF APPLICABLE, LIST DATE:</p> <p style="text-align: center;">____/____/17 ____/____/17</p> <p style="text-align: center;">ACQu IRED DISPOSED</p>
--	---

NATuRE OF INTEREST

 Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

▶ 4. INVESTMENTS AND INTERESTS IN rEAL Pr OPER Ty hELD Or LEASed By ThE BuSINESS ENTITy Or Tru ST

Check one box:
 INvESTMENT REAL PrOPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

<p>FAIR MARKET vAluE</p> <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	<p>IF APPLICABLE, LIST DATE:</p> <p style="text-align: center;">____/____/17 ____/____/17</p> <p style="text-align: center;">ACQu IRED DISPOSED</p>
--	---

NATuRE OF INTEREST

 Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

Comments: _____

Instructions – Schedule B Interests in Real Property

Report interests in real property located in your agency's jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or interest totaling \$2,000 or more any time during the reporting period. Real property is also considered to be "within the jurisdiction" of a local government agency if the property or any part of it is located within two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency. See Reference Pamphlet, page 13.

Interests in real property include:

- An ownership interest (including a _____ ownership interest)
- A deed of trust, easement, or option to acquire property
- A leasehold interest (See Reference Pamphlet, page 14.)
- A mining lease
- An interest in real property held in a retirement account (See Reference Pamphlet, page 15.)
- An interest in real property held by a business entity or trust in which you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater ownership interest (Report on Schedule A-2.)
- Your spouse's or registered domestic partner's interests in real property that are legally held separately by him or her

you are not required to report:

- A residence, such as a home or vacation cabin, used exclusively as a personal residence (However, a residence in which you rent out a room or for which you claim a business deduction may be reportable. If reportable, report the fair market value of the portion claimed as a tax deduction.)

Please note: A non-reportable residence can still be grounds for a _____ of interest and may be disqualifying.

- Interests in real property held through a blind trust (See Reference Pamphlet, page 16, for exceptions.)

To Complete Schedule B:

- Report the precise location (e.g., an assessor's parcel number or address) of the real property.
- Check the box indicating the fair market value of your interest in the property (regardless of what you owe on the property).
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property during the reporting period.
- Identify the nature of your interest. If it is a leasehold, disclose the number of years remaining on the lease.

Reminders

- Income and loans already reported on Schedule B are not also required to be reported on Schedule C.
- Real property already reported on Schedule A-2, Part 4 is not also required to be reported on Schedule B.
- Code _____ – do your disclosure categories require disclosure of real property?

- If you received rental income, check the box indicating the gross amount you received.
- If you had a 10% or greater interest in real property and received rental income, list the name of the source(s) if your pro rata share of the gross income from any single tenant was \$10,000 or more during the reporting period. If you received a total of \$10,000 or more from two or more tenants acting in concert (in most cases, this will apply to married couples), disclose the name of each tenant. Otherwise, mark "None."
- Loans from a private lender that total \$500 or more and are secured by real property may be reportable. **Loans from commercial lending institutions made in the lender's regular course of business on terms available**

status are not reportable.

When reporting a loan:

- Provide the name and address of the lender.
- Describe the lender's business activity.
- Disclose the interest rate and term of the loan. For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period. The term of a loan is the total number of months or years given for repayment of the loan at the time the loan was established.
- Check the box indicating the highest balance of the loan during the reporting period.
- Identify a guarantor, if applicable.

If you have more than one reportable loan on a single piece of real property, report the additional loan(s) on Schedule C.

Example:

Joe Nelson is a city planning commissioner. Joe received rental income of \$12,000 during the reporting period from a single tenant who rented property Joe owned in the city's jurisdiction. If Joe had received the \$12,000 from two or more tenants, the tenants' names would not be required as long as no single tenant paid \$10,000 or more. A married couple would be considered a single tenant.

ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS 4600 24th Street	
CITY Sacramento	
FAIR MARKET VALUE <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input checked="" type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	IF APPLICABLE, LIST DATE: ACQUIRED _____ / _____ / 17 DISPOSED _____ / _____ / 17
NATURE OF INTEREST <input type="checkbox"/> Ownership/Deed of Trust <input type="checkbox"/> Leasehold <input type="checkbox"/> Easement <input type="checkbox"/> Other	
IF RENTAL PROPERTY, GROSS INCOME RECEIVED <input type="checkbox"/> \$0 - \$499 <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input checked="" type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> Over \$100,000	
SOURCES OF RENTAL INCOME: If you own a 10% or greater interest, list the name of each tenant that is a single source of income of \$10,000 or more. <input type="checkbox"/> None Henry Wells	
NAME OF LENDER* Sophia Petroillo	
ADDRESS (Business Address Acceptable) 2121 Blue Sky Parkway, Sacramento	
BUSINESS ACTIVITY, IF ANY, OF LENDER Restaurant Owner	
INTEREST RATE 8 % <input type="checkbox"/> None	TERM (Months/Years) 15 Years
HIGHEST BALANCE DURING REPORTING PERIOD <input type="checkbox"/> \$500 - \$1,000 <input checked="" type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> Over \$100,000	
<input type="checkbox"/> Guarantor, if applicable	
Comments:	

FPPC Form 700 (2017/2018)

FPPC Advice Email: advice@fppc.ca.gov

FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

Instructions – 12

SCHEDULE B
Interests in real Property
 (Including Rental Income)

Name _____

▶ ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS _____

CITY _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____/_____/17 _____/_____/17

\$10,001 - \$100,000 ACQUIRED DISPOSED

\$100,001 - \$1,000,000

Over \$1,000,000

NATURE OF INTEREST

Ownership/Deed of Trust Easement

Leasehold _____ _____

Yrs. remaining Other

IF RENTAL PROPERTY, GROSS INCOME RECEIVED

\$0 - \$499 \$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 Over \$100,000

SOURCES OF RENTAL INCOME: If you own a 10% or greater interest, list the name of each tenant that is a single source of income of \$10,000 or more.

None

▶ ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS _____

CITY _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____/_____/17 _____/_____/17

\$10,001 - \$100,000 ACQUIRED DISPOSED

\$100,001 - \$1,000,000

Over \$1,000,000

NATURE OF INTEREST

Ownership/Deed of Trust Easement

Leasehold _____ _____

Yrs. remaining Other

IF RENTAL PROPERTY, GROSS INCOME RECEIVED

\$0 - \$499 \$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 Over \$100,000

SOURCES OF RENTAL INCOME: If you own a 10% or greater interest, list the name of each tenant that is a single source of income of \$10,000 or more.

None

* You are not required to report loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER* _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF LENDER _____

INTEREST RATE TERM (Months/Years)

_____ % None _____

HIGHEST BALANCE DURING REPORTING PERIOD

\$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 Over \$100,000

Guarantor, if applicable

NAME OF LENDER* _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF LENDER _____

INTEREST RATE TERM (Months/Years)

_____ % None _____

HIGHEST BALANCE DURING REPORTING PERIOD

\$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 Over \$100,000

Guarantor, if applicable

Comments: _____

Instructions – Schedule C

Income, Loans, & Business Positions

(Income Other Than Gifts and Travel Payments)

Reporting Income:

Report the source and amount of gross income of \$500 or more you received during the reporting period. Gross income is the total amount of income before deducting expenses, losses, or taxes and includes loans other than loans from a commercial lending institution. See Reference Pamphlet, page 11. You must also report the source of income to your spouse or registered domestic partner if your community property share was \$500 or more during the reporting period.

The source and income must be reported only if the source is located in, doing business in, planning to do business in, or has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13, for more information about doing business in the jurisdiction. Reportable sources of income may be further limited by your disclosure category located in your agency's interest code.

Reporting Business Positions:

You must report your job title with each reportable business entity even if you received no income during the reporting period. Use the comments section to indicate that no income was received.

Commonly reportable income and loans include:

- Salary/wages, per diem, and reimbursement for expenses including travel payments provided by your employer
- Community property interest (50%) in your spouse's or registered domestic partner's income - **report the employer's name and all other required information**
- Income from investment interests, such as partnerships, reported on Schedule A-1
- Commission income not required to be reported on Schedule A-2 (See Reference Pamphlet, page 8.)
- Gross income from any sale, including the sale of a house or car (Report your pro rata share of the total sale price.)
- Rental income not required to be reported on Schedule B
- Prizes or awards not disclosed as gifts
- Payments received on loans you made to others
- An honorarium received prior to becoming a public (See Reference Pamphlet, page 10, concerning your ability to receive future honoraria.)
- Incentive compensation (See Reference Pamphlet, page 12.)

Reminders

- Code – your disclosure categories may not require disclosure of all sources of income.
- If you or your spouse or registered domestic partner are self-employed, report the business entity on Schedule A-2.
- Do not disclose on Schedule C income, loans, or business positions already reported on Schedules A-2 or B.

you are not required to report:

- Salary, reimbursement for expenses or per diem, or social security, disability, or other similar payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency.
- Stock dividends and income from the sale of stock unless the source can be
- Income from a PERS retirement account.

See Reference Pamphlet, page 11, for more exceptions to income reporting.

To Complete Schedule C:

Part 1. Income Received/Business Position Disclosure

- Disclose the name and address of each source of income or each business entity with which you held a business position.
- Provide a general description of the business activity if the source is a business entity.
- Check the box indicating the amount of gross income received.
- Identify the consideration for which the income was received.
- For income from commission sales, check the box indicating the gross income received and list the name of each source of commission income of \$10,000 or more. See Reference Pamphlet, page 8. **Note: If you receive commission income on a regular basis or have an ownership interest of 10% or more, you must disclose the business entity and the income on Schedule A-2.**
- Disclose the job title or business position, if any, that you held with the business entity, even if you did not receive income during the reporting period.

Part 2. Loans Received or Outstanding During the Reporting Period

- Provide the name and address of the lender.
- Provide a general description of the business activity if the lender is a business entity.
- Check the box indicating the highest balance of the loan during the reporting period.
- Disclose the interest rate and the term of the loan.
 - For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period.
 - The term of the loan is the total number of months or years given for repayment of the loan at the time the loan was entered into.
- Identify the security, if any, for the loan.

SchEDuLE C

Income, Loans, & Business Positions

(Other than Gifts and Travel Payments)

CALIFORNIA FORM 700
FAIR POLITICAL PRACTICES COMMISSION

Name

▶ 1. INCOME RECEIVED	▶ 1. INCOME RECEIVED
NAME OF SOURCE OF INCOME <hr/> ADDRESS (<i>Business Address Acceptable</i>) <hr/> BUSINESS ACTIVITY, IF ANY, OF SOURCE <hr/> YOUR BUSINESS POSITION <hr/> GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> Over \$100,000 CONSIDERATION FOR WHICH INCOME WAS RECEIVED <input type="checkbox"/> Salary <input type="checkbox"/> Spouse's or registered domestic partner's income (For self-employed use Schedule A-2.) <input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.) <input type="checkbox"/> Sale of _____ <small>(Real property, car, boat, etc.)</small> <input type="checkbox"/> Loan repayment <input type="checkbox"/> Commission or <input type="checkbox"/> Rental Income, list each source of \$10,000 or more <hr/> <small>(Describe)</small> <input type="checkbox"/> Other _____ <small>(Describe)</small>	NAME OF SOURCE OF INCOME <hr/> ADDRESS (<i>Business Address Acceptable</i>) <hr/> BUSINESS ACTIVITY, IF ANY, OF SOURCE <hr/> YOUR BUSINESS POSITION <hr/> GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> Over \$100,000 CONSIDERATION FOR WHICH INCOME WAS RECEIVED <input type="checkbox"/> Salary <input type="checkbox"/> Spouse's or registered domestic partner's income (For self-employed use Schedule A-2.) <input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.) <input type="checkbox"/> Sale of _____ <small>(Real property, car, boat, etc.)</small> <input type="checkbox"/> Loan repayment <input type="checkbox"/> Commission or <input type="checkbox"/> Rental Income, list each source of \$10,000 or more <hr/> <small>(Describe)</small> <input type="checkbox"/> Other _____ <small>(Describe)</small>

▶ 2. LOANS RECEIVED Or Outstanding During The Reporting Period

* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER* <hr/> ADDRESS (<i>Business Address Acceptable</i>) <hr/> BUSINESS ACTIVITY, IF ANY, OF LENDER <hr/> HIGHEST BALANCE DURING REPORTING PERIOD <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> Over \$100,000	INTEREST RATE TERM (Months/Years) _____ % <input type="checkbox"/> None _____ SECURITy FOR LOAN <input type="checkbox"/> None <input type="checkbox"/> Personal residence <input type="checkbox"/> Real Property _____ <small>Street address</small> _____ <small>City</small> <input type="checkbox"/> Guarantor _____ <input type="checkbox"/> Other _____ <small>(Describe)</small>
---	---

Comments: _____

Instructions – Schedule D Income – Gifts

A gift is anything of value for which you have not provided equal or greater consideration to the donor. A gift is reportable if its fair market value is \$50 or more. In addition, multiple gifts totaling \$50 or more received during the reporting period from a single source must be reported.

It is the acceptance of a gift, not the ultimate use to which it is put, that imposes your reporting obligation. Except as noted below, you must report a gift even if you never used it or if you gave it away to another person.

If the exact amount of a gift is unknown, you must make a good faith estimate of the item's fair market value. Listing the value of a gift as "over \$50" or "value unknown" is not adequate disclosure. In addition, if you received a gift through an intermediary, you must disclose the name, address, and business activity of both the donor and the intermediary. You may indicate an intermediary either in the "source" after the name or in the "comments" section at the bottom of Schedule D.

Commonly reportable gifts include:

- Tickets/passes to sporting or entertainment events
- Tickets/passes to amusement parks
- Parking passes not used for agency business
- Food, beverages, and accommodations, including those provided in direct connection with your attendance at a convention, conference, meeting, social event, meal, or like gathering
- Rebates/discounts not made in the regular course of business to members of the public without regard to status
- Wedding gifts (See Reference Pamphlet, page 16)
- An honorarium received prior to assuming (You may report an honorarium as income on Schedule C, rather than as a gift on Schedule D, if you provided services of equal or greater value than the payment received. See Reference Pamphlet, page 10, regarding your ability to receive future honoraria.)
- Transportation and lodging (See Schedule E.)
- Forgiveness of a loan received by you

you are not required to disclose:

- Gifts that were not used and that, within 30 days after receipt, were returned to the donor or delivered to a charitable organization or government agency without

Reminders

- Gifts from a single source are subject to a \$470 limit during 2017. See Reference Pamphlet, page 10.
- Code – you only need to report gifts from reportable sources.

Gift Tracking Mobile Application

- FPPC has created a gift tracking app for mobile devices that helps track gifts and provides a quick and easy way to upload the information to the Form 700. Visit FPPC's website to download the app.

being claimed by you as a charitable contribution for tax purposes

- Gifts from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, and certain other family members (See Regulation 18942 for a complete list.). The exception does not apply if the donor was acting as an agent or intermediary for a reportable source who was the true donor.
- Gifts of similar value exchanged between you and an individual, other than a lobbyist registered to lobby your state agency, on holidays, birthdays, or similar occasions
- Gifts of informational material provided to assist you in the performance of your duties (e.g., books, pamphlets, reports, calendars, periodicals, or educational seminars)
- A monetary bequest or inheritance (However, inherited investments or real property may be reportable on other schedules.)
- Personalized plaques or trophies with an individual value of less than \$250
- Campaign contributions
- Up to two tickets, for your own use, 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 must be received from the organization or committee holding the fundraiser.
- Gifts given to members of your immediate family if the source has an established relationship with the family member and there is no evidence to suggest the donor had a purpose to you. (See Regulation 18943.)
- Free admission, 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 makes a speech (as in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event.
- Any other payment not above, that would otherwise meet the of gift, where the payment is made by an individual who is not a lobbyist registered to lobby the s state agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the s position and there is no evidence whatsoever at the time the gift is made to suggest the donor had a purpose to you.

To Complete Schedule D:

- Disclose the full name (not an acronym), address, and, if a business entity, the business activity of the source.
- Provide the date (month, day, and year) of receipt, and disclose the fair market value and description of the gift.

FPPC Form 700 (2017/2018)
FPPC Advice Email: advice@fppc.ca.gov
FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov
Instructions – 16

**SCHEDULE D
 Income – Gifts**

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

Comments: _____

Instructions – Schedule E Travel Payments, Advances, and Reimbursements

Travel payments reportable on Schedule E include advances and reimbursements for travel and related expenses, including lodging and meals.

Gifts of travel may be subject to the gift limit. In addition, certain travel payments are reportable gifts, but are not subject to the gift limit. To avoid possible misinterpretation or the perception that you have received a gift in excess of the gift limit, you may wish to provide a description of the purpose of your travel. See the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans" at www.fppc.ca.gov.

you are not required to disclose:

- Travel payments received from any state, local, or federal government agency for which you provided services equal or greater in value than the payments received, such as reimbursement for travel on agency business from your government agency employer.
- 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.
- Travel payments received from your employer in the normal course of your employment that are included in the income reported on Schedule C.
- A travel payment that was received from a entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration, such as reimbursement for travel on business for a 501(c)(3) organization for which you are a board member.

Note: Certain travel payments may not be reportable if reported on Form 801 by your agency.

To Complete Schedule E:

- Disclose the full name (not an acronym) and address of the source of the travel payment.
- Identify the business activity if the source is a business entity.
- Check the box to identify the payment as a gift or income, report the amount, and disclose the date(s).
 - **Travel payments are gifts** if you did not provide services that were equal to or greater in value than the payments received. You must disclose gifts totaling \$50 or more from a single source during the period covered by the statement.

When reporting travel payments that are gifts, you must provide a description of the gift, the **date(s)** received, and the **travel destination**.

- **Travel payments are income** if you provided services that were equal to or greater in value than the payments received. You must disclose income totaling \$500 or more from a single source during the period covered by the statement. You have the burden of proving the payments are income rather than gifts. When reporting travel payments as income, you must describe the services you provided in exchange for the payment. You are not required to disclose the date(s) for travel payments that are income.

Example:

City council member Rick Chandler is the chairman of a 501 (c)(6) trade association and the association pays for Rick’s travel to attend its meetings. Because Rick is deemed to be providing equal or greater consideration for the travel payment by virtue of serving on the board, this payment may be reported as income. Payments for Rick to attend other events for which he is not providing services are likely considered gifts.

<small>▶ NAME OF SOURCE (Not an Acronym)</small>	
Health Services Trade Association	
<small>ADDRESS (Business Address Acceptable)</small>	
1230 K Street, Suite 610	
<small>CITY AND STATE</small>	
Sacramento, CA	
<input type="checkbox"/> 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE	
Association of Healthcare Workers	
<small>DATE(S):</small> ____/____/____	<small>AMT: \$</small> 150.00
<small>(if gift)</small>	
<small>▶ MUST CHECK ONE:</small> <input type="checkbox"/> Gift -or- <input checked="" type="checkbox"/> Income	
<input type="radio"/> Made a Speech/Participated in a Panel	
<input checked="" type="radio"/> Other - Provide Description <u>Travel reimbursement for board meeting</u>	

SCHEDULE E
Income – Gifts
Travel Payments, Advances,
and Reimbursements

- Mark either the gift or income box.
- or the “Speech” box if you made a speech or participated in a panel. These payments are not
- For gifts of travel, provide the travel destination.

▶ NAME OF SOURCE (Not an Acronym) _____
 ADDRESS (Business Address Acceptable) _____
 CITY AND STATE _____
 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____
 DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

▶ NAME OF SOURCE (Not an Acronym) _____
 ADDRESS (Business Address Acceptable) _____
 CITY AND STATE _____
 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____
 DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

▶ NAME OF SOURCE (Not an Acronym) _____
 ADDRESS (Business Address Acceptable) _____
 CITY AND STATE _____
 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____
 DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

▶ NAME OF SOURCE (Not an Acronym) _____
 ADDRESS (Business Address Acceptable) _____
 CITY AND STATE _____
 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____
 DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

Comments: _____

**2017/2018
Form 700
Statement of
Economic Interests**



**Reference
Pamphlet**

California Fair Political Practices Commission

Email Advice: advice@fppc.ca.gov

Toll-free advice line: 1 (866) ASK-FPPC • (866) 275-3772

Telephone: (916) 322-5660 • Website: www.fppc.ca.gov

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Who Must File

1. Code Section 87200 and Members of Boards and Commissions of Newly Created Agencies

The Act requires the following individuals to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests:

- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Members of the State Legislature
- Superintendent of Public Instruction
- State Board of Equalization Members
- Public Utilities Commissioners
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- consultants) who manage public investments
- Elected members of and candidates for the Board of Administration of the California Public Employees' Retirement System
- Elected members of and candidates for the Teachers' Retirement Board
- Members of the High Speed Rail Authority

described in Part 2 on this page.

- Supreme, Appellate, and Superior Court Judges
- Court Commissioners
- Retired Judges, Pro-Tem Judges, and part-time Court Commissioners who serve or expect to serve 30 days or more in a calendar year

- Members of Boards of Supervisors
- Mayors and Members of City Councils
- Chief
- District Attorneys
- County Counsels
- City Attorneys
- City Managers
- Planning Commissioners
- County and City Treasurers
- and consultants) who manage public investments

Members of Boards and Commissions of Newly Created Agencies

Members must fully disclose their investments, interests in real property, business positions, and income (including loans, gifts, and travel payments) until the positions are

2.

Code ("Code Filers")

The Act requires every state and local government agency
The code lists

make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding those positions

economic interests as determined by the code's "disclosure categories." These individuals are called "designated

Obtain your disclosure categories from your agency – they are not contained in the Form 700. Persons with broad decisionmaking authority must disclose more interests than those in positions with limited discretion. For example, you may be required to disclose only investments and business positions in or income (including loans, gifts, and travel payments) from businesses of the type that contract with your agency, or you may not be required to disclose real property interests.

In addition, certain consultants to public agencies may

in making, or act in a staff capacity for governmental decisions. Agencies determine who is a consultant and the level of disclosure and may use Form 805.

Note:

has the same or a smaller jurisdiction (for example, a state legislator who also sits on a state or local board or commission).

Employees in Newly Created Positions of Existing Agencies

An individual hired for a position not yet covered under an agency' individual serves in a position that makes or participates in making governmental decisions. These individuals must s broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. The Form 804 may be used to satisfy this requirement.

Types of Form 700 Filings

in a position designated, or that will be designated, in a state or local agency'

otherwise authorized to serve in the position. If you are a you were sworn in.

- Investments, interests in real property, and business or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the

or the Commission on Judicial Performance, your nominated to the position.

Example:

Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate

nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

the effective date of the code or amendment, whichever is applicable.

- Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment is reportable.

Annual Statement:

Generally, the period covered is January 1, 2017, through December 31, 2017. If the period covered by the statement is different than January 1, 2017, through December 31, 2017, between October 1, 2016, and December 31, 2016, or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2017.

- If your disclosure category changes during a reporting period, disclose under the old category until the ef amendment and disclose under the new disclosure category through the end of the reporting period.

Generally, the period covered is January 1, 2017, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2017, through the date you stopped performing the

between October 1, 2016, and December 31, 2016, or you are combining statements), the period covered must The reporting period can cover parts of two calendar years.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2017.

Candidate Statement:

in real property, and business positions held on the date

In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date

change the preprinted dates on Schedules A-1, A-2, and B.

sheriffs, city clerks, school board trustees, or water

position. The code may be obtained from the agency of the elected position.

Amendments:

an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not

schedules from the FPPC website at www.fppc.ca.gov.

Where to File

1. Code Section 87200
(See Reference Pamphlet, page 3):

a copy of your statement and forward the original to the FPPC.

Filers	Where to File
87200 Filers	
Retired Judges	Your agency The clerk of your court Directly with FPPC Y Your city clerk Your agency
87200 Candidates	
Public Employees' Retirement System (CalPERS)	of candidacy City Clerk CalPERS
State Teachers' Retirement Board (CalSTRS)	CalSTRS

Note: Individuals that invest public funds for a city or . Unlike **not be** forwarded to the FPPC pursuant to Regulation 18753.

2. Employees, Candidates, and Consultants Designated

File with your agency, board, or commission unless code. In most cases, the agency, board, or commission will retain the statements.

declaration of candidacy or other nomination documents

3. Members of Boards and Commissions of Newly Created Agencies:

File with your newly created agency or with your agency's code reviewing body as provided by your code reviewing body.

State Senate and Assembly staff directly with the FPPC.

Exceptions:

- under any agency'
- statements under any agency' code in the same jurisdiction. For example, a county supervisor who is appointed to serve in an agency with obligations.

4. Positions Not Y interest Code

An individual hired for a position not yet covered under an agency' individual serves in a position that makes or participates in making governmental decisions. These individuals must is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for this disclosure.

Regulation 18734.

When to File

Filer	Deadline
	30 days
in Gov. Code Section 87200 or Newly created board and commission members not interest code	30 days or 10 days after appointment or nomination if subject to Senate or judicial
Other appointed positions (including those held by newly-hired employees) that are or of interest code	30 days (30 days after appointment or nomination if subject to Senate
Positions newly added to a interest code	30 days after the effective date of the code or code amendment

Exceptions:

-
-
- are reelected or reappointed), you are not required to
- . Code Section 87200 and, within 45 days, you assume another the same jurisdiction (for example, a city planning commissioner elected as mayor), you are not required
- If you transfer from one designated position to another designated position within the same agency, contact obligations.

\$10 per day per position up to \$100 for each day the statement is late.

Annual Statements:

1. state legislature, members elected to the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board);
Judges and court commissioners; and

Gov. Code Section 87200:
File no later than **Thursday, March 1, 2018.**
2. . Code Section 87200:
File no later than **Monday, April 2, 2018.**
3. File no later than **Monday, April 2, 2018.**
4. File on the date prescribed in the code (April 1 for most

Exception:

December 31, 2017, and 2017, and until March 1, 2019, or April 1, 2019, whichever is applicable. The annual statement will cover the day after 2018.

deadlines.

When to File - (continued)

Candidate Statements:

in Gov

Exceptions:

- are reelected or reappointed), you are not required to
- . Code Section
or position in Section 87200 that has the same jurisdiction (for example, a city planning commissioner
annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact obligations.

for the declaration of candidacy or other nomination documents.

Exception:

A

same jurisdiction **within 60 days** of candidacy or other nomination documents.

T

The instructions located on the back of each schedule describe the types of interests that must be reported. The purpose of this section is to explain other terms used in

schedules or elsewhere.

Blind Trust: See Trusts, Reference Pamphlet, page 16.

Business Entity: Any organization or enterprise operated

business trust, joint venture, syndicate, corporation, or association. This would include a business for which you take business deductions for tax purposes (for example, a small business operated in your home).

Code Filer: An individual who has been designated in a state or local agency' statements of economic interests.

An individual hired on or after January 1, 2010 for a position not yet covered under an agency'

in a position that makes or participates in making governmental decisions.

the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for such disclosure. See Regulation 18734.

Commission Income: "Commission income" means gross payments of \$500 or more received during the period covered by the statement as a broker, agent, or salesperson, including insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons, among others.

In addition, you may be required to disclose the names of sources of commission income if your pro rata share of the gross income was \$10,000 or more from a single source during the reporting period. If your spouse or registered domestic partner received commission income, you would disclose your community property share (50%) of that income (that is, the names of sources of \$20,000 or more in gross commission income received by your spouse or registered domestic partner).

Report commission income as follows:

- If the income was received through a business entity in which you and your spouse or registered domestic partner had a 10% or greater ownership interest (or if you receive commission income on a regular basis as an independent contractor or agent), use Schedule A-2.
- If the income was received through a business entity in which you or your spouse or registered domestic partner **did not receive commission income on a regular basis** or you had a less than 10% ownership interest, use Schedule C.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission.

Examples:

- You are a partner in Smith and Jones Insurance Company and have a 50% ownership interest in the company. You sold two Businessmen's Insurance Company policies to XYZ Company during the reporting period. You received commission income of \$5,000

On Schedule A-2, report your partnership interest in and income received from Smith and Jones Insurance Company in Parts 1 and 2. In Part 3, list both Businessmen's Insurance Company and XYZ Company as sources of \$10,000 or more in commission income.

- You are a stockbroker for Prince Investments, but you receive commission income on a regular basis through the sale of stock to clients. Your total gross income from your employment with Prince Investments was over \$100,000 during the reporting period. On Schedule A-2, report your name as the name of the business entity in Part 1 and the gross income you have received in Part 2. (Because you are an employee of Prince Investments, you do not need to complete the information in the box in Part 1 indicating the general description of business activity, fair market value, or nature of investment.) In Part 3, list Prince Investments and the names of any clients who were sources of \$10,000 or more in commission income to you.
- You are a real estate agent and an independent contractor under Super Realty. On Schedule A-2, Part 1, in addition to your name or business name, complete the business entity description box. In Part 2, identify your gross income. In Part 3, for each transaction that resulted in commission income to you of \$10,000 or more, you must identify the brokerage entity, each person you represented, and any person's or other referral fee for referring a party to the transaction to the broker.

Note: If your pro rata share of commission income from a single source is \$500 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report the income. *For information regarding disclosure of "incentive compensation," see Reference Pamphlet, page 12.*

A

Act when all of the following occur:

- decision;
- It is reasonably foreseeable that the decision will affect s economic interest;
- The ef s economic interest will be material; and
- The ef s economic interest will be different than its effect on the public generally.

The Act requires every state

code. The code may be contained in a regulation, policy statement, or a city or county ordinance, resolution, or other document.

An agency'

who make or participate in making governmental decisions These individuals

interest occur.

only the kinds of personal economic interests he or she fect through the exercise of his or her

are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency should be required to report only those interests he or she holds that are likely to be affected by the agency's contracts for supplies, equipment, materials, or services.

Consultant: An individual who contracts with or whose employer contracts with state or local government agencies and who makes, participates in making, or acts in a staff capacity for making governmental decisions. The agency determines who is a consultant. Consultants may

under full disclosure unless the agency provides in writing a limited disclosure requirement. Agencies may use FPPC Form 805 to assign such disclosure. The obligation to

providing services to the agency, not on the business or

individual who makes a governmental decision whether to:

- Approve a rate, rule, or regulation
- Adopt or enforce a law
- Issue, deny, suspend, or revoke any permit, license, , or similar authorization or entitlement
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or
- Grant agency approval to a plan, design, report, study, or similar item
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any of its subdivisions

A consultant also is an individual who serves in a staff capacity with the agency and:

- participates in making a governmental decision; or
- performs the same or substantially all the same duties for the agency that would otherwise be performed by an s

Designated Employee:

or local government agency whose position has been designated in the agency' statements of economic interests or whose position has not yet been listed in the code but makes or participates in making governmental decisions. Individuals who contract with government agencies (consultants) may also be

A

capacity on a state or local government agency is not a designated employee.

Disclosure Categories: The section of an agency's

must disclose on their statements of economic interests. Disclosure categories are usually contained in an appendix agency to obtain a copy of your disclosure categories.

bonds, or money market instruments that are managed by investment companies whose business is pooling the money of many individuals and investing it to seek a common investment goal. Mutual funds are managed by trained professionals who buy and sell securities. A typical mutual fund will own between 75 to 100 separate securities at any given time so they also provide instant

Only diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure. In addition, Regulation 18237 provides an exception from reporting other funds that are similar to

13.

the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, State Controller, Secretary of State, State Treasurer, Superintendent of Public Instruction, members of the State Legislature, members of the State Board of Equalization, elected members of the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board.

Enforcement: The FPPC investigates suspected violations of the Act. Other law enforcement agencies (the Attorney General or district attorney) also may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement

violation.

Instead of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General, or district attorney), or a private party residing within the jurisdiction. In civil actions, the measure of damages is up to the amount or value not properly reported.

provisions of the Act also may be subject to agency discipline, including dismissal.

Finally, a knowing or willful violation of any provision of the Act is a misdemeanor. Persons convicted of a

date of the conviction from serving as a lobbyist or running

be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

Expanded Statement:

council member who also holds a designated position with a county agency
or employees may complete one expanded statement covering the disclosure requirements for all positions and

Fair Market Value: When reporting the value of an investment, interest in real property, or gift, you must disclose the fair market value – the price at which the item would sell for on the open market. This is particularly important when valuing gifts, because the fair market value of a gift may be different from the amount it cost the donor to provide the gift. For example, the wholesale cost of a

may be \$25 or more. In addition, there are special rules for valuing free tickets and passes. Call or email the FPPC for assistance.

Gift and Honoraria Prohibitions

Gifts:

. Code
Section 87200 (except judges – see below), candidates

are prohibited from accepting a gift or gifts totaling more than \$470 in a calendar year from a single source.

In addition, elected state
state state agencies
are subject to a \$10 per calendar month limit on gifts from

of State.

Honoraria:

. Code
Section 87200 (except judges – see below), candidates

and employees of state and local government agencies

prohibited from accepting honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

Exceptions:

- Some gifts are not reportable or subject to the gift and honoraria prohibitions, and other gifts may not be subject to the prohibitions, but are reportable. For detailed information, see the FPPC fact sheet entitled “Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans,” which can be obtained from your www.fppc.ca.gov).
- The \$470 gift limit and the honorarium prohibition do not apply to a part-time member of the governing board of a public institution of higher education, unless the
- If you are designated in a state or local government agency’ \$470 gift limit and honorarium prohibition are applicable only to sources you would otherwise be required to report on your statement of economic interests. However, this exception is not applicable if you also hold a position listed in Gov. Code Section 87200 (See Reference Pamphlet, page 3.)
- agency. This exception is not applicable if you are an State Legislature.
- Payments for articles published as part of the practice teaching, are not considered honoraria. A payment for an “article published” that is customarily provided in connection with teaching includes text book royalties and payments for academic tenure review letters. An profession of teaching if he or she is employed to teach at an accredited university.

Judges:

Section 170.9 of the Code of Civil Procedure imposes gift limits on judges and prohibits judges from accepting any honorarium. Section 170.9 is enforced by the Commission on Judicial Performance. The FPPC has no authority to interpret or enforce the Code of Civil Procedure. Court commissioners are subject to the gift limit under the Political Reform Act.

Income Reporting: Reporting income under the Act is different than reporting income for tax purposes. The Act requires **gross** income (the amount received before deducting losses, expenses, or taxes, as well as income reinvested in a business entity) to be reported.

Pro Rata Share: The instructions for reporting income refer to your pro rata share of the income received. Your pro rata share is normally based on your ownership interest in the entity or property. For example, if you are a sole proprietor, you must disclose 100% of the gross income to the business entity on Schedule A-2. If you own 25% of a piece of rental property, you must report 25% of the gross rental income received. When reporting your community property interest in your spouse’s or registered domestic partner’s income, your pro rata share is 50% of his or her income.

Separate Property Agreement: Generally is required to disclose his or her community property share of his or her spouse’ and his or her spouse have a legally separate property

not required to report the spouse’s community property share of income, unless the funds are commingled with community funds or used to pay for community expenses or to produce or enhance the separate income of the

Note: This reporting exception does not apply to investments and interests in real property. Even if a public agreement, the spouse’s investments and interests in real of reportable investments and interests in real property s immediate family (spouse, registered domestic partner, and dependent children). community property law.

Income to a Business Entity: When you are required to report sources of income to a business entity, sources of rental income, or sources of commission income, you are only required to disclose individual sources of income of \$10,000 or more. However, you may be required to **disqualify** yourself from decisions affecting sources of \$500 or more in income, even though you are not required to report them.

Examples:

- Alice Ruiz is a partner in a business entity. She has a 25% interest. On Schedule A-2, she must disclose 25% of the fair market value of the business entity; 25% of the gross income to the business entity (even though all of the income received was reinvested in the business and she did not personally receive any income from the business); and the name of each source of \$40,000 or more to the business.

- Cynthia and Mark Johnson, a married couple, own Classic Autos. Income to this business was \$200,000. In determining the amount to report for income on Schedule A-2, Part 2, Mark must include his 50% share (\$100,000) and 50% of his spouse's share (\$50,000). Thus, his reportable income would be \$150,000 and he will check the box indicating \$100,001-\$1,000,000. (Also see Reference Pamphlet, page 13, for an example of how to calculate the value of this investment.)

You are not required to report:

- Salary, reimbursement for expenses or per diem, social security, disability received by you or your spouse or registered domestic partner from a federal, state, or local government agency
- A entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration, such as reimbursement for travel on business for a 501(c)(3) organization for which you are a board member.
- Campaign contributions
- A cash bequest or cash inheritance
- Returns on a security registered with the Securities and Exchange Commission, including dividends, interest, or proceeds from a sale of stocks or bonds unless the
- Redemption of a mutual fund
- Payments received under an insurance policy, including an annuity
- Interest, dividends, or premiums on a time or demand an insurance policy, or a bond or other debt instrument issued by a government agency
- Your spouse's or registered domestic partner's income that is legally "separate" income so long as the funds are not commingled with community funds or used to pay community expenses
- Income of dependent children
- Automobile trade-in allowances from dealers
- Loans and loan repayments received from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, intermediary or agent for any person not covered by this provision
- Alimony or child support payments
-

- Any loan from a commercial lending institution made in the lender's regular course of business on terms status
- Any retail installment or credit card debts incurred in the creditor's regular course of business on terms available
- Loans made to others. However, repayments may be reportable on Schedule C
- A loan you co-signed for another person unless you made payments on the loan during the reporting period

Incentive Compensation: "Incentive compensation" means income over and above salary that is either ongoing or cumulative, or both, as sales or purchases of goods or services accumulate. Incentive compensation is s employer which correlates to the conduct of the purchaser in direct response to the ef

Incentive compensation does not include:

- Salary
- Commission income (*For information regarding disclosure of "commission income," see Reference Pamphlet, page 8.*)
- Bonuses for activity not related to sales or marketing, the amount of which is based solely on merit or hours worked over and above a predetermined minimum
- Executive incentive plans based on company performance, provided that the formula for determining the amount of the executive's incentive income does not include a correlation between that amount and company
- Payments for personal services which are not marketing or sales

three of the following apply:

- s employment responsibilities include directing sales or marketing activity toward the purchaser; and
- or business; and
- there is a direct relationship between the purchasing activity of the purchaser and the amount of the

Report incentive compensation as follows:

- In addition to salary, reimbursement of expenses, and other income received from your employer, separately report on Schedule C the name of each person who purchased products or services sold, marketed or represented by you if you received incentive compensation of \$500 or more attributable to the purchaser during the period covered by the statement.
- If incentive compensation is paid by your employer in

customers, you must determine the amount of incentive compensation attributable to each of your customers. This may be based on the volume of sales to those customers.

(See Regulations 18700.1 and 18728.5 for more information.)

Investment Funds: The term “investment” no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business (“sector funds”). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of his or her agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (Regulation 18237)

Investments and Interests in Real Property: When disclosing investments on Schedules A-1 or A-2 and interests in real property on Schedules A-2 or B, you must include investments and interests in real property held by your spouse or registered domestic partner, and those held by your dependent children, as if you held them directly.

Examples:

- Terry Pearson, her husband, and two dependent children each own \$600 in stock in General Motors. Because the total value of their holdings is \$2,400, Terry must disclose the stock as an investment on Schedule A-1.
- Cynthia and Mark Johnson, a married couple, jointly own Classic Autos. Mark must disclose Classic Autos as an investment on Schedule A-2. To determine the reportable value of the investment, Mark will aggregate the value of his 50% interest and Cynthia’s 50% interest. Thus, if the total value of the business entity is \$150,000, he will check the box \$100,001 - \$1,000,000 in Part 1 of Schedule A-2. (Also see Reference Pamphlet, page 11, for an example of how to calculate reportable income.)

The Johnsons also own the property where Classic Autos is located. To determine the reportable value of the real property, Mark will again aggregate the value of his 50% interest and Cynthia’s 50% interest to determine the amount to report in Part 4 of Schedule A-2.

- Katie Smith rents out a room in her home. She receives \$6,000 a year in rental income. Katie will report the fair market value of the rental portion of her residence and the income received on Schedule B.

Jurisdiction: Report discloseable investments and sources of income (including loans, gifts, and travel payments) that are either located in or doing business in your agency’s jurisdiction, are planning to do business in your agency’s jurisdiction, or have done business during the previous two years in your agency’s jurisdiction, and interests in real property located in your agency’s jurisdiction.

A business entity is doing business in your agency’s jurisdiction if the entity has business contacts on a regular or substantial basis with a person who maintains a physical presence in your jurisdiction.

Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the Internet, telephone, television, radio, or printed media.

The same criteria are used to determine whether an individual, organization, or other entity is doing business in your jurisdiction.

Exception:

Gifts are reportable regardless of the location of the donor. must report gifts from sources located outside of California.

disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)

When reporting interests in real property, if your jurisdiction is the state, you must disclose real property located within the state of California unless your agency’

For local agencies, an interest in real property is located in your jurisdiction if any part of the property is located in, or within two miles of, the region, city, county, district, or other geographical area in which the agency has jurisdiction, or if the property is located within two miles of any land owned or used by the agency.

T

(continued)

See the following explanations to determine what your jurisdiction is:

_____ All Courts: Your jurisdiction is the state _____, a state legislator, or

candidates, and court commissioners also have statewide jurisdiction. (*In re Baty* (1979) 5 FPPC Ops. 10) If you

board, commission, or agency, or of any court or the State Legislature, your jurisdiction is the state.

_____ : Your jurisdiction is the county if you are

county agency or any agency with jurisdiction solely within a single county.

_____ : Your jurisdiction is the city if you are an

any agency with jurisdiction solely within a single city.

_____ ,
a multi-county agency, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. (Example: A water district has jurisdiction in a portion of two counties. Members of the board are only required to report interests located or doing business in that portion of each county in which the agency has jurisdiction.)

Other (for example, school districts, special districts and JPAs)

employee of, or a consultant to an agency not covered above, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. See the multi-county example above.

Leasehold Interest: The term "interest in real property" includes leasehold interests. An interest in a lease on real property is reportable if the value of the leasehold interest is \$2,000 or more. The value of the interest is the total amount of rent owed by you during the reporting period or, prior 12 months.

You are not required to disclose a leasehold interest with a value of less than \$2,000 or a month-to-month tenancy.

Loan Reporting: Filers are not required to report loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender's regular course

available to members of the public.

Loan Restrictions: State and local elected and appointed

consultant of their government agencies or any government agency has direction or control. In addition, loans of more than \$250 _____s control are

prohibited unless the loan is from a commercial lending institution or part of a retail installment or credit card transaction made in the regular course of business on terms available to members of the public.

receiving any personal loan of \$500 or more unless the loan agreement is in writing and clearly states the terms of the loan, including the parties to the loan agreement, the date, amount, and term of the loan, the date or dates when payments are due, the amount of the payments, and the interest rate on the loan.

Campaign loans and loans from family members are not subject to the \$250 and \$500 loan prohibitions.

A repaid or is being repaid below certain amounts will

Contact the FPPC for further information, or see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from _____ (www.fppc.ca.gov).

Privileged Information: FPPC Regulation 18740 sets out specific procedures that must be followed in order to withhold the name of a source of income. Under this regulation, you are not required to disclose on Schedule A-2, Part 3, the name of a person who paid fees or made payments to a business entity if disclosure of the name would violate a legally recognized privilege under California or Federal law. However, you must provide an explanation for nondisclosure separately stating, for each undisclosed person, the legal basis for the assertion of the privilege, facts demonstrating why the privilege is applicable, and that to the best of your knowledge you have not and will not make, participate in making, or use your official position to influence a governmental decision affecting the undisclosed person in violation of Government Code Section 87100. This explanation may be included with, or attached to, the public official's Form 700.

We note that the name of a source of income is privileged only to a limited extent under California law. For example, a name is protected by attorney-client privilege only when facts concerning an attorney's representation of an anonymous client are publicly known and those facts,

when coupled with disclosure of the client's identity,

civil or criminal liability. A patient's name is protected by physician-patient privilege only when disclosure of the patient's name would also reveal the nature of the treatment received by the patient. A patient's name is also protected if the disclosure of the patient's name would constitute a violation by an entity covered under the Federal Health Insurance Portability and Accountability Act (also known as HIPAA).

Individuals who invest public funds in revenue-producing
This includes individuals
who direct or approve investment transactions, formulate
or approve investment policies, and establish guidelines

the following:

- Members of boards and commissions, including pension and retirement boards or commissions, and committees thereof, who exercise responsibility for the management of public investments;
- who exercise primary responsibility for the management of public investments (for example, chief or principal
- Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions described above.

Registered Domestic Partners: Filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. (See Regulation 18229.)

Retirement Accounts (for example, deferred compensation and individual retirement accounts (IRAs)):

Assets held in retirement accounts must be disclosed if the assets are reportable items, such as common stock (investments) or real estate (interests in real property). For help in determining whether your investments and real property are reportable, see the instructions to Schedules A-1, A-2, and B.

If your retirement account holds reportable assets, disclose only the assets held in the account, not the account itself. You may have to contact your account manager to determine the assets contained in your account.

Schedule A-1: Report any business entity in which the value of your investment interest was \$2,000 or more during the reporting period. (Use Schedule A-2 if you have a 10% or greater ownership interest in the business entity.)

Schedule B: Report any piece of real property in which the value of your interest was \$2,000 or more during the reporting period.

Examples:

- Alice McSherry deposits \$500 per month into her employer's deferred compensation program. She has funds registered with the Securities and Exchange Commission. Because her funds are invested solely in non-reportable mutual funds (see Schedule A-1 instructions), Alice has no disclosure requirements with regard to the deferred compensation program.
- Bob Allison has \$6,000 in an individual retirement account. The account contains stock in several companies doing business in his jurisdiction. One of his stock holdings, Misac Computers, reached a value of \$2,500 during the reporting period. The value of his investment in each of the other companies was less than \$2,000. Bob must report Misac Computers as an investment on Schedule A-1 because the value of his stock in that company was \$2,000 or more.
- Adriane Fisher has \$5,000 in a retirement fund that invests in real property located in her jurisdiction. The value of her interest in each piece of real property held in the fund was less than \$2,000 during the reporting period. Although her retirement fund holds reportable assets, she has no disclosure requirement because she did not have a \$2,000 or greater interest in any single piece of real property. If, in the future, the value of her interest in a single piece of real property reaches or exceeds \$2,000, she will be required to disclose the real property on Schedule B for that reporting period.

Trusts: Investments and interests in real property held and income received by a trust (including a living trust) are reported on Schedule A-2 if you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater interest in the trust and your pro rata share of a single investment or interest in real property was \$2,000 or more.

You have an interest in a trust if you are a trustor and:

- Can revoke or terminate the trust;
- Have retained or reserved any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
- Have retained any power of appointment, including the

Or you are a _____ and:

- Presently receive income; or
- Have an irrevocable future right to receive income or principal. (See FPPC Regulation 18234 for more information.)

Examples:

- Sarah Murphy has set up a living trust that holds her principal residence, stock in several companies that do business in her jurisdiction, and a rental home in her agency's jurisdiction. Since Sarah is the trustor and can revoke or terminate the trust, she must disclose any stock worth \$2,000 or more and the rental home on Schedule A-2. Sarah's residence is not reportable because it is used exclusively as her personal residence.
- Ben Y trust. However, Ben does not presently receive income from the trust, nor does he have an irrevocable future right to receive income or principal. Therefore, Ben is not required to disclose any assets contained in his grandparents' trust.

Blind Trusts:

A blind trust is a trust managed by a disinterested trustee who has complete discretion to purchase and sell assets

interest in a blind trust, you may not be required to disclose your pro rata share of the trust's assets or income.

However, the trust must meet the standards set out in FPPC Regulation 18235, and you must disclose reportable assets originally transferred into the blind trust and income from those original assets on Schedule A-2 until they have been disposed of by the trustee.

Trustees:

If you are only a trustee, you do not have a reportable interest in the trust. However, you may be required to report the income you received from the trust for performing trustee services.

Wedding Gifts: Wedding gifts must be disclosed if they were received from a reportable source during the period covered by the statement. Gifts valued at \$50 or more are reportable; however, a wedding gift is considered a gift to both spouses equally. Therefore, you would count one-half of the value of a wedding gift to determine if it is reportable and need only report individual gifts with a total value of \$100 or more.

For example, you receive a place setting of china valued at \$150 from a reportable source as a wedding gift. Because the value to you is \$50 or more, you must report the gift on Schedule D, but may state its value as \$75.

Wedding gifts are not subject to the \$470 gift limit, but they

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Gov. Code Sections 81000-91014 and California Code of Regulations Sections 18110-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice or how to access your personal information, please contact the FPPC at:

General Counsel
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811
(916) 322-5660
(866) 275-3772

Frequently Asked Questions: Form 700 Disclosure

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The FAQs listed below are selected from questions often asked about the Statement of Economic Interests (Form 700). Because it is not possible to address all of the unique variables and circumstances related to disclosure, individuals are encouraged to contact the FPPC with specific facts. Most officials must also consult their agency’s conflict of interest code to determine their disclosure level and their reportable interests. The Form 700 is a public document. Form 700s filed by State Legislators and Judges, members of the FPPC, County Supervisors, and City Council Members are available on the FPPC’s website.

General Questions

1. Q. Do officials have to complete all schedules of the Form 700?
 - A. Not necessarily. The majority of individuals who file the Form 700 must do so by following the rules set forth in their agency’s conflict of interest code (“designated employees”). Before completing the Form 700, an official should be familiar with the disclosure category for his or her position. For example, since job duties differ from agency to agency and even unit to unit within the same agency, an analyst for one agency, or unit of that agency, may not have the same reporting requirements as an analyst from another agency, or even another unit of the same agency. **Designated employees should obtain a copy of their agency’s conflict of interest code from the agency.**

Officials listed in Government Code Section 87200 (e.g., boards of supervisors, city council members, planning commissioners, elected state officials, etc.) must report investments, business positions, and sources of income, including receipt of gifts, loans, and travel payments, from sources located in or doing business in their agency’s jurisdiction. All interests in real property within the agency’s jurisdiction must also be reported. For local officials, real property located within two miles of the boundaries of the jurisdiction or any real property that the agency has an interest in is deemed to be “within the jurisdiction.”

2. Q. Is it necessary to read all of the information before completing the Form 700?
 - A. Each individual must verify the Form 700’s content under penalty of perjury. Therefore, every effort must be made to understand what is required by the form. When necessary, you may contact the FPPC for specific, personal guidance. You may only obtain immunity from an enforcement action when you receive formal written advice.
3. Q. Where are the Form 700s filed?
 - A. Most state and local officials file with their agency. In most instances, the agency is required to forward the originals for specified high-level officials to the FPPC. Only retired judges serving on assignment and legislative staff file the Form 700 *directly* with the FPPC.

4. Q. If the Form 700 is postmarked by the due date, is it considered filed on time?
- A. Yes.
5. Q. If an official holds various positions for which the Form 700 is required, is a statement required for each position?
- A. Yes. However, one expanded statement covering the disclosure requirements for all positions may be completed as long as an originally signed statement is filed with each filing officer.
6. Q. Do individuals need to file a complete Form 700 when they leave office?
- A. Yes. The same requirements apply for the assuming office, the annual, and the leaving office filings.
7. Q. An individual is hired into a newly created management position in her agency's Information Technology Department. How does she complete the Form 700?
- A. Because it is a newly created position, the law requires that economic interests are reported under the broadest disclosure category in the agency's conflict of interest code unless the agency sets interim disclosure that is tailored to the limited range of duties of the position. Generally, the Form 700 must be filed with the agency within 30 days of the date of hire. An individual may request that the agency complete the Form 804 (Agency Report of New Positions) to tailor the disclosure category to the job duties of the new position.
8. Q. Must board members of a non-profit public benefit corporation that operates California charter schools file Form 700?
- A. Yes. Members of charter schools are public officials and must file the Form 700.

Income Questions

9. Q. Must an official report a spouse's or registered domestic partner's salary?
- A. Generally an official is required to report his or her community property share (50%) of his or her spouse's or registered domestic partner's salary. The disclosure lists the employer's name as the source of income on Schedule C of the Form 700. If the spouse or registered domestic partner is self-employed, the business entity is reported on Schedule A-2. Officials should check their disclosure category, if applicable, to determine if the income is reportable. A spouse or registered domestic partner's government salary is not reportable (e.g., spouse is a teacher at a public school).
10. Q. If an official and his or her spouse have a legally separate property agreement (e.g., prenuptial), must the official still report his or her community property share (50%) in his or her spouse's income?
- A. No. If there is a legally separate property agreement, the official is not required to report his or her community property share in his or her spouse's income so long as the funds are not commingled with community funds or used to pay for community expenses or to produce or enhance the official's separate income. This reporting exception does not apply to investments and interests in real property. Even if a public official and his or her spouse have a separate property agreement, the spouse's investments and interests in real property must still be disclosed because the definitions of reportable investments and interests in real property

include those held by the official's immediate family (spouse, registered domestic partner, and dependent children). These definitions are not dependent on community property law.

11. Q. If an official owns a business in which he has received income of \$10,000 or more from a client, is the official required to disclose the client's name on Schedule A-2, Part 3?
- A. Yes, except for under rare circumstances where disclosure of the identity would violate a legally recognized privilege under California or federal law. In these cases, the FPPC may authorize an exemption. (Regulation 18740)
12. Q. When an official purchases a new car and trades in the old car as credit toward the purchase price, is the trade-in allowance considered reportable income on the Form 700?
- A. No. A trade-in allowance is not considered income and is not reportable on an official's Form 700. However, income received from the sale of an auto may be reportable.
13. Q. An official owns a rental property that he or she is required to report. The renter/tenant pays a property management company and the company deposits the funds into the official's checking account. Would the source of rental income be listed as the property management company or the person living at the residence who is paying the property management company?
- A. The source of the rental income is the person living at the residence (renter/tenant). The property management company does not need to be disclosed.

Investment Questions

14. Q. An official holds various stocks through an account managed by an investment firm. The account manager decides which stocks to purchase with no input from the official. Are the stocks subject to disclosure?
- A. Yes. Unless the stocks are in a diversified mutual fund registered with the SEC or in a fund similar to a diversified mutual fund (e.g., exchange traded fund (ETF)) if the similar fund meets the specific criteria outlined in Regulation 18237. Any investments worth \$2,000 or more in a business entity located in or doing business in the jurisdiction must be disclosed on Schedule A-1 or A-2 if the official's disclosure category requires that the investments be reported.
15. Q. Are funds invested in a retirement account required to be disclosed?
- A. Investments held in a government defined-benefit pension program plan (i.e., CalPERS) are not reportable. Investments held in a fund such as a defined contribution plan 401(k) or exchange traded fund (ETF) are not required to be disclosed if the fund meets the specific criteria outlined in Regulation 18237. An official may need to contact his or her account manager for assistance in determining what assets are held in the account.
16. Q. If an official reported stocks that were acquired last year on his or her annual Form 700, must the stocks be listed again on the official's next Form 700?
- A. Yes. Stocks that are worth \$2,000 or more during the reporting period must be reported every year that they are held. The "acquired" and "disposed" dates are only required if the stocks were acquired or disposed of during the period covered by the Form 700.

17. Q. How are interests in a living trust reported if the trust includes: (1) rental property in the official's jurisdiction; (2) a primary residence; and (3) investments in diversified mutual funds? Are there different disclosure rules?
- A. The name of the trust is reported, along with the rental property and its income, on Schedule A-2. The official's primary residence, if used exclusively as a personal residence, and investments in diversified mutual funds registered with the SEC, are not reportable. Although the official's primary residence is not required to be disclosed on the Form 700, it is still considered an economic interest for conflict of interest purposes. (See Question 18.) A secondary residence not used exclusively for personal purposes may be reportable. (See Question 19.)

Real Property Questions

18. Q. Is an official's personal residence reportable?
- A. Generally, any personal residence occupied by an official or his or her family is not reportable if used exclusively as a personal residence. However, a residence for which a business deduction is claimed is reportable if the portion claimed as a tax deduction is valued at \$2,000 or more. In addition, any residence for which an official receives rental income is reportable if it is located in the jurisdiction.
19. Q. When an official is required to report interests in real property, is a secondary residence reportable?
- A. It depends. First, the residence must be located in the official's jurisdiction. If the secondary residence is located in the official's jurisdiction and rental income is received (including from a family member), the residence is reportable. However, if the residence is used exclusively for personal purposes and no rental income is received, it is not reportable. Although the secondary residence may not be reportable, it is still considered an economic interest for conflict of interest purposes.
20. Q. If a primary or secondary personal residence is required to be reported, is the street address required to be disclosed?
- A. No. The assessor's parcel number may be listed instead of the street address.

Enforcement Question

21. Q. What is the penalty for not filing the Form 700 on time or not reporting all required economic interests?
- A. A late fine of \$10 per day up to a maximum of \$100 may be assessed. In addition, if a matter is referred to the FPPC's Enforcement Division for failure to file or failure to include all required economic interests, the fine may be substantially higher. If an individual does not pay a fine, the matter may be referred to the Franchise Tax Board for collection.

Gift/Travel Questions

22. Q. What is the gift limit for 2017-2018?
- A. **\$470:** This means that gifts from a single, reportable source, other than a lobbyist or lobbying firm (see below), may not exceed \$470 in a calendar year. For officials and employees who file

the Form 700 under an agency's conflict of interest code ("designated employees"), this limit applies only if the official or 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 agency's conflict of interest code. For conflict of interest purposes, the gift must be under \$470 to avoid consideration under the conflict rules. The gift limit for 2015 – 2016 was \$460.

State Lobbyist & Lobbying Firm Limit:

\$10: State candidates, state elected officers, and state legislative officials may not accept gifts aggregating more than **\$10 in a calendar month that are made or arranged by a registered state lobbyist or lobbying firm.** The same rule applies to state agency officials, including members of state boards and commissions, if the lobbyist or firm is registered to lobby, or should be registered to lobby, the official's or employee's agency.

23. Q. During the year, an official received several gifts of meals from the same reportable source. Each meal was approximately \$35. Is the source reportable?
- A. Yes. Gifts from the same reportable source are aggregated, and the official must disclose the source when the total value of all meals reaches or exceeds \$50.
24. Q. How does an individual return a gift so that it is not reportable?
- A. Unused gifts that are returned to the donor or reimbursed within 30 days of receipt are not reportable. The recipient may also donate the unused item to a charity or governmental agency within 30 days of receipt or acceptance so long as the donation is not claimed as a tax deduction. An individual may not, however, reimburse a charity for the value (or partial value) of a gift from another source, in order to not report the gift, unless the charity was the original source of the gift.
25. Q. Two people typically exchange gifts of similar value on birthdays. Are these items reportable?
- A. No. Gift exchanges with individuals, other than lobbyists, on birthdays, holidays, or similar occasions, are not reportable or subject to gift limits. The gifts exchanged must be similar in value.
26. Q. Must an official report gifts received from an individual whom the official is dating?
- A. No. Gifts of a personal nature exchanged because the individuals are in a bona fide dating relationship are not reportable or subject to gift limits. However, the official remains subject to the conflict of interest rules and some matters may require recusal from voting.
27. Q. If an official makes a speech related to national public policy and his or her spouse attends the dinner at the event, is the spouse's meal considered a gift to the official?
- Yes. The official's meal is not a reportable gift; however, his or her spouse's meal is a gift and reportable on the official's Form 700 if the value is \$50 or more.
28. Q. A vendor that does business with the agency provided entertainment tickets to the spouse of one of the agency members. Must the member report the tickets as gifts?

- A. Yes. Unless an exception applies, the tickets are a reportable gift. A gift to an official's spouse is a gift to the official when there is no established working, social, or similar relationship between the donor/vendor and the spouse or there is evidence to suggest that the donor had a purpose to influence the official.
29. Q. An agency received two free tickets to a concert from a local vendor. The agency has a policy governing the reporting of tickets and passes distributed to persons for use in ceremonial roles or other agency related activities. The agency had discretion to determine who in the agency received the tickets. Each ticket was valued at \$140. If the agency director used the tickets, how are they reported?
- A. Assuming the tickets meet the agency's policy as an appropriate use of public funds, the agency may report the tickets (worth \$280) on the Form 802 (Agency Report of Ceremonial Role Events and Ticket/Pass Distributions), which is a public record. The director does not need to report the tickets on the Form 700.
30. Q. An agency received a large box of chocolates as a holiday gift from a local merchant. It was addressed to the agency and not to a particular employee. Is there a reporting requirement?
- A. No. There is no reporting requirement if the value received by each agency employee is less than \$50.
31. Q. An agency official receives a gift basket specifically addressed to the official worth more than \$50 from a local merchant. Is there a reporting requirement?
- A. If the source of the gift basket is reportable by the official, the official must report the gift, even if he or she shares the gift with other agency employees.
32. Q. Do prizes donated to a governmental agency by an outside source constitute gifts under the Act if they were received by city employees in a drawing conducted by the city for all city employees participating in the city's charitable food drive?
- A. Yes. The prizes are gifts if donated by an outside source and subject to the Act's limits and reporting requirements.
33. Q. An official won a scholarship in a raffle at a software update training class. The scholarship covered the cost of the class. All attendees, including other public officials and members of the public, were eligible to apply for the scholarship. Is the official required to report the scholarship as a gift?
- A. A scholarship received in a "bona fide" competition may be reported as income instead of a gift. Whether or not a competition or contest is "bona fide" depends on specific facts, such as the nature of the pool of contestants. Contact the FPPC for assistance.
34. Q. Is a ticket provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of his or her agency reportable on the official's Form 700?

- A. No, so long as the organization holding the event provides the ticket and so long as the official's agency completes the Form 802 (Agency Report of Ceremonial Role Events and Ticket/Pass Distributions). The form will identify the official's name and explain the ceremonial function. (See Regulation 18942.3 for the definition of "ceremonial role.")
35. Q. An official makes an annual donation to an educational organization that has a 501(c)(3) tax-exempt status. The organization is holding a two-hour donor appreciation event, which will include wine, appetizers, and music. Free access to the event is being provided to all donors to the organization. Must the official report the event as a gift from the organization?
- A. Because free access to the event is offered to all of the organization's donors, without regard to official status, access to the event is not a reportable gift.
36. Q. Are frequent flyer miles reportable?
- A. No. Discounts received under an airline's frequent flyer program that are available to all members of the public are not required to be disclosed.

IMPORTANT NOTE: See Regulation 18950.1 for additional information on reporting travel payments. In some circumstances the agency may report the travel in lieu of the official reporting the travel.

37. Q. If a non-profit organization pays for an official to travel to a conference after receiving the funds to pay for the travel from corporate sponsors, specifically for the purpose of paying for the official's travel, is the non-profit organization or the corporate sponsors the source of the gift?
- A. The corporate sponsors are the source of the gift if the corporate sponsors donated funds specifically for the purpose of the official's travel. Thus, the benefit of the gift received by the official would be pro-rated among the donors. Each reportable donor would be subject to the gift limit and identified on the official's Form 700. The FPPC should be contacted for specific guidance to determine the true source of the travel payment.
38. Q. May an official accept travel, lodging and subsistence from a foreign sister city while representing the official's home city?
- A. Yes. If the travel and related lodging and subsistence is paid by a foreign government and is reasonably related to a legislative or governmental purpose, it is not subject to the gift limit. However, the payments must be disclosed as gifts on the Form 700 for this exception to apply. While in the foreign country, any personal excursions not paid for by the official must also be disclosed and are subject to the gift limit. If private entities make payments to the foreign government to cover the travel expenses, the gift limit will apply and travel payments will likely be prohibited. Please contact the FPPC for more information.
39. Q. An analyst for a state or local agency attends a training seminar on the new federal standards related to the agency's regulatory authority. If the analyst's travel payments are paid by the federal agency, must the analyst report the payment on the Form 700?

- A. No. A payment for travel and related per diem received from a government agency for education, training, or other inter-agency programs or purposes, is not considered a gift or income to the official who uses the payment.
40. Q. A state legislator and a planning commissioner were guest speakers at an association's event. Travel expenses were paid by the association, and the event was held in the United States. Is this reportable?
- A. Yes. The payment is reportable, but not subject to the gift limits. In general, an exception applies to payments for travel within the United States that are provided to attend a function where the official makes a speech. These payments are not limited, but are reportable as gifts. The rules require that the speech be reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy; and the travel payment must be limited to actual transportation and related lodging and subsistence the day immediately preceding, the day of, and the day immediately following the speech. (See Government Code Section 89506. Other rules may be applicable if this exception is not used.)
41. Q. An official serves as a board member for two organizations – one has a 501(c)(3) tax-exempt status and the other has a 501(c)(6) tax-exempt status. The organizations pay the official's travel expenses to attend board meetings. Must the official report these travel payments?
- A. Under the Act, travel payments provided to an official by a 501(c)(3) organization are exempt from the definition of "income" and therefore, not reportable. However, travel payments from other organizations, including a 501(c)(6) organization, are likely required to be reported. Designated employees must report such travel payment if the organization is reportable pursuant to the official's disclosure category in his or her agency's conflict of interest code.
42. Q. The local airport authority issues a certain number of airport parking cards to the County to allow the cardholders to use the parking facilities at the airport at no charge, provided the cardholder is on official business. Must the officials who use the parking cards report a gift on the Form 700?
- A. No. As long as the parking cards are used for official business only, the parking cards do not provide a personal benefit, so no gift is received. If a parking card is used for *personal* purposes, a gift must be reported.

Tickets to Non-Profit and Political Fundraisers Questions

43. Q. An official is offered a ticket from a 501(c)(3) organization to attend its fundraising event. The face value (price) of the ticket is \$500, and the ticket states that the tax deductible portion is \$350. If the official accepts the ticket, what must be reported?
- A. Nothing is required to be reported on the Form 700 so long as the ticket is provided directly by the 501(c)(3) organization for its own fundraising event and is used for the official's own attendance at the fundraiser. In this case, the ticket is deemed to have no value. The official may also accept a second ticket provided directly by the 501(c)(3) organization for his or her guest attending the event, without a reporting obligation by either the official or the guest.

44. Q. What if someone purchases a table at a non-profit fundraiser and offers an official a seat at the table?
- A. If another person or entity provides a ticket, it is a gift and subject to the gift limit. The value is the non-deductible portion on the ticket. If there is no declared face value, then the value is the pro-rata share of the food, catering service, entertainment, and any additional item provided as part of the event. The “no value” exception only applies if the official receives no more than two tickets for his or her own use directly from the 501(c)(3) organization and it is for the organization’s fundraising event.
45. Q. A 501(c)(3) organization provides a ticket to an official for its fundraising event. The organization seats the official at a table purchased by a business entity. Does the official have to report the ticket?
- A. No. So long as the ticket is provided directly by the 501(c)(3) organization and is used for the official’s own attendance at the fundraiser, the ticket is not reportable regardless of where the official is seated.
46. Q. An agency employee who holds a position designated in the conflict of interest code receives a ticket to a fundraiser from a person not “of the type” listed in the agency’s code. Is the agency employee required to report the value?
- A. No. A ticket or any other gift may be accepted under these circumstances without limit or reporting obligations. Agencies must ensure the conflict of interest code adequately addresses potential conflicts of interests but not be so overbroad as to include sources that are not related to the employee’s official duties.
47. Q. An official receives a ticket to attend a political fundraiser held in Washington D.C. from a federal committee. Is the official required to disclose the ticket as a gift, and is it subject to the gift limit?
- A. No. The value of the ticket is not a gift so long as the ticket is provided to the official directly by the committee holding the fundraiser and the official personally uses the ticket. (Regulation 18946.4.) Separate rules apply for travel provided to attend the fundraiser. Regulation 18950.3 covers issues on travel paid by or for a campaign committee.
48. Q. A political party committee is holding a political fundraiser at a golf course and a round of golf is included. If the committee provides an elected official a ticket, is the ticket reportable by the official?
- A. No, so long as the official uses the ticket for his or her own use. If someone other than the political party provides a ticket, the full cost of the ticket is a gift. The political party must report the total amount spent on the fundraiser on its campaign statement.
49. Q. If a business entity offers an official a ticket or a seat at a table that was purchased for a political fundraiser, what is the value?
- A. Because the ticket was not offered by the campaign committee holding the fundraiser, it is a gift to the official. The value is either the face value of the ticket or the pro-rata share of the food, catering services, entertainment, and any additional benefits provided to attendees.

50. Q. If an official attends an event that serves only appetizers and drinks, does the “drop-in” exception apply no matter how long the official stays or how many appetizers or drinks are consumed?
- A. No. The focus of the food and beverages “drop-in” exception is not on the nature of the event as a whole, but rather on the particular official’s brief attendance and limited consumption. If an official attends an event that serves only appetizers and drinks, the “drop-in” exception would only apply if the official just “drops in” for a few minutes and consumes only a “de minimis” amount of appetizers and drinks. However, the “drop-in” exception does not automatically apply just because the event does not serve more than appetizers and drinks.
51. Q. An organization, which is not a 501(c)(3) organization, is holding a fundraiser at a professional sporting event. Tickets to this sporting event are sold out and it appears that tickets are only available at a substantially higher price than the stated face value amount of the ticket provided to the official by the organization. If the official attends the event, what is the value of the gift?
- A. The value is the face value amount stated on the ticket to the sporting event. This valuation rule applies to all tickets to such events that are not covered by a separate valuation exception, such as non-profit and political party fundraisers.
52. Q. An official receives a ticket to a fundraiser, and if accepted, the ticket will result in a reportable gift or a gift over the current gift limit. What are the options?
- A. The official may reimburse the entity or organization that provided the ticket for the amount over the gift limit (or pay down the value to under the \$50 gift reporting threshold if the official does not want to disclose the ticket). Reimbursement must occur within 30 days of receipt of the ticket. A candidate or elected official may use campaign funds to make the reimbursement if the official’s attendance at the event is directly related to a political, legislative, or governmental purpose for the payment. A ticket that is not used and not given to another person is not considered a gift to the official.

Purpose

1. The Board of Retirement adopts this Annual Disclosure Policy to assure the independence of the Board's deliberations and votes on matters of fiduciary responsibility, free from undisclosed interests and influences; to inform the Board and staff of all potential conflicts of interest that may arise in the course of the Board's activities so that appropriate action may be taken in a timely fashion; and to assure the members, plan sponsors and the public that OCERS' processes are free from inappropriate influence.

Principles

2. In order to achieve the Purpose of this Policy, OCERS' Board members and executive staff shall publicly disclose, annually and prior to the time that a related Board or System action item arises, any and all financial interests they or their immediate family members may have that may affect the Board's deliberations and votes, OCERS' operations and other matters affecting OCERS' interests.

Board members and executive staff are encouraged to err on the side of over-disclosure of matters that might be called for by this Policy.

Roles

3. The General Counsel shall be responsible for implementing and monitoring compliance with this Policy, and shall report to the Board, as requested, on the status of disclosures under this Policy.

Policy Guidelines

4. Board members and executive staff shall disclose in writing to the Board, by April 1st of each year, the following matters on an annual basis, and more frequently as changes occur:
 - a. All matters required to be disclosed on FPPC Form 700.
 - b. All family and business relationships with, and value received from, any investment manager, placement agent, registered lobbyist, vendor, consultant, actuary, counsel or other persons (i) providing or actively seeking to provide services or products to, or (ii) seeking to influence the deliberations of, OCERS' Board of Retirement.
 - c. Any other matters required to be disclosed under California law.
 - d. All matters required to be disclosed under OCERS' Conflict of Interest Code.
5. OCERS shall maintain all disclosures and writings made pursuant to this Policy as public records subject to disclosure under the provisions of the Public Records Act, Government Code sections 6250, et seq.

Policy Review

6. The Board of Retirement will review this Policy at least once every three years to ensure that it remains relevant and appropriate.

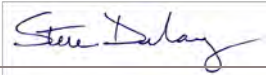
OCERS Board Policy
Annual Disclosure Policy

Policy History

7. The Board of Retirement adopted this policy on June 21, 2010. This policy was revised on February 21, 2012, March 17, 2014 and October 16, 2017.

Secretary's Certificate

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



Steve Delaney
Secretary of the Board

10/16/17

Date

Annual Disclosure Policy: Disclosure Form

I, _____, do hereby confirm for the annual disclosure period ending December 31, 20____:

1. **Disclosure Category 1.a:** All matters required to be disclosed on FPPC Form 700.

A copy of my most current Form 700 filing is attached to this form.

2. **Disclosure Category 1.b:** All family and business relationships with, and value received from, any investment manager, placement agent, vendor, consultant, actuary, counsel or other persons (i) providing or actively seeking to provide services or products to, or (ii) seeking to influence the deliberations of, OCERS' Board of Retirement.

I have no family or business relationships to disclose under this category.

or

I disclose the relationships with and value received from the persons listed on the attached page.

3. **Disclosure Category 1.c:** All family and business relationships with, and value received from, any investment manager, placement agent, vendor, consultant, actuary, counsel or other persons (i) providing or actively seeking to provide services or products to, or (ii) seeking to influence the deliberations of, any other public retirement system in California.

I have no family or business relationships to disclose under this category.

or

I disclose the relationships with and value received from the persons listed on the attached page.

4. **Disclosure Category 1.d:** All matters required to be disclosed under Government Code sections 1090, et seq. (Conflicts of Interest in Contracts); 1125, et seq. (Incompatible Offices); 82030 et seq. (Conflicts of Interest); 87100, et seq. (Conflicts of Interest); 89500, et seq. (Gifts and Honoraria); California Code of Regulations, Title 2, sections 18700 et seq. (Conflicts of Interest); and all California campaign disclosure laws.

Government Code Sections 1090 et seq.:

I confirm that I do not have any personal financial interests in any contract that OCERS considered or entered into during the disclosure period.

Government Code Sections 1099 (Board Members) and 1125 et seq. (Executive staff) Incompatible Offices:

I confirm that I do not hold an incompatible office as defined in the above referenced Government Code Sections.



Annual Disclosure Policy: Disclosure Form

Government Code Sections 82030 et seq. and 87100 et seq. and California Code of Regulations, Title 2, sections 18700 et seq. (Conflicts of Interest):

A copy of my most current Form 700 is attached to this form.

Government Code Sections 89500 et seq. (Gifts and Honoraria):

A copy of my most current Form 700, including Gift disclosure, is attached to this form.

I confirm that I did not accept any prohibited Honoraria in the disclosure period.

California campaign disclosure laws:

I confirm that I did not receive any campaign contributions during the disclosure period.

or

I disclose campaign contributions during the disclosure period, in accordance with the campaign disclosure laws, on the attached sheet.

5. **Disclosure Category 1.e:** All matters required to be disclosed under OCERS' Conflict of Interest Code.

A copy of my most current Form 700 is attached to this form.

Date

Signature

Print Name

Print Position with OCERS

1-10



Memorandum

DATE: December 28, 2017
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **PUBLIC PENSION COORDINATING COUNCIL (PPCC) STANDARDS AWARD FOR FUNDING AND ADMINISTRATION AWARD**

Written report only

Background/Discussion

The Public Pension Coordinating Council (PPCC) is a coalition of three associations that represent public pension funds who cover the vast majority of public employees in the United States. The associations are the National Association of State Retirement Administrators (NASRA), the National Conference of Public Employee Retirement Systems (NCPERS) and the National Council on Teacher Retirement (NCTR).

The Public Pension Standards are intended to reflect minimum expectations for public retirement system management and administration, as well as serve as a benchmark by which all defined benefit public plans should be measured. The Standards are separated into the Administrative Standards and Funding Standard. A retirement system may qualify and receive a Recognition Certificate for either the Administrative or Funding Standard. A system that qualifies for both certificates will be awarded the PPCC Standards Award.

To qualify for the Recognition Award for Administration, the retirement system is assessed on the following administrative standards:

- Comprehensive Benefit Program
- Audit
- Actuarial Valuation
- Investments
- Communications

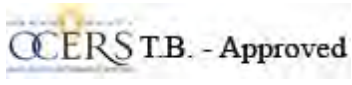
To qualify for the Recognition Award for Funding, the retirement system must meet the Funding Adequacy Standard by demonstrating that actual contribution rates are at a level equal or greater than 100% of the actuarially determined contribution (ADC).

PPCC has deemed OCERS to be proficient in both categories and has awarded OCERS with the Public Pension Standards Award for Funding and Administration in recognition of meeting professional standards for plan funding and administration as set forth in the Public Pension Standards as of December 31, 2016.

Attachment

Public Pension Standards Award for Funding and Administration 2017

Submitted by:



Tracy Bowman
Director of Finance



Public Pension Coordinating Council

***Public Pension Standards Award
For Funding and Administration
2017***

Presented to

Orange County Employees Retirement System

In recognition of meeting professional standards for
plan funding and administration as
set forth in the Public Pension Standards.

Presented by the Public Pension Coordinating Council, a confederation of

National Association of State Retirement Administrators (NASRA)
National Conference on Public Employee Retirement Systems (NCPERS)
National Council on Teacher Retirement (NCTR)

A handwritten signature in black ink that reads "Alan H. Winkle". The signature is fluid and cursive, with the first name "Alan" being more prominent.

Alan H. Winkle
Program Administrator

VIA E-MAIL AND USPS

December 18, 2017

Mr. Steve Delaney
Chief Executive Officer
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

Re: Illustrations of Retirement Costs, Unfunded Actuarial Accrued Liability and Funded Ratio under Alternative Investment Return Scenarios using the Assumptions Adopted by the Board for the December 31, 2017 Valuation

Dear Steve:

In our letter dated July 7, 2017 using results and assumptions used in the December 31, 2016 valuation, we provided 20-year illustrations of the employer contribution rates for OCERS under three sets of market investment return “scenarios” after December 31, 2016. In that letter, we also provided the Unfunded Actuarial Accrued Liability (UAAL) in dollars and the funded ratio associated with those projected employer contribution rates.

As requested by OCERS, we have updated those earlier illustrations to reflect the assumption changes adopted by the Board for the December 31, 2017 actuarial valuation.

The three market rate of return scenarios used in this letter are as follows:

- Scenario #1: 0.00% for 2017 and 7.00% thereafter.
- Scenario #2: 7.00% for all years.
- Scenario #3: 14.00% for 2017 and 7.00% thereafter.

Even though the financial impact is shown under only three hypothetical market investment return scenarios for 2017, the financial impact under other possible short-term market investment return scenarios may be approximated by interpolating or extrapolating using the results from the three scenarios shown.¹

¹ For example, a hypothetical market investment return of 3.50% (i.e., one-half of 7.00%) is expected to result in a change in employer’s contribution of about one-half of the difference between those shown for Scenarios #1 and #2, starting with the December 31, 2016 valuation.

The various projections included are as follows:

- The projected contribution rates for the aggregate plan are provided in Attachment A.
- The projected contribution rates for the eleven Rate Groups are provided in Attachment B.
- The projected UAAL and funded ratio for the aggregate plan are provided in Attachment C.
- The projected UAAL and funded ratio for the eleven Rate Groups are provided in Attachments D through N.
- Also, we have included in Attachment O the projected contribution rates for the different plans within the eleven Rate Groups.

This projection also reflects the potential employer savings as current members leave employment and are replaced by new members covered under the tiers required by the California Public Employees' Pension Reform Act of 2013 (CalPEPRA) starting at January 1, 2013 (or January 1, 2015 for Rate Group #5). Please note that some of the changes made by CalPEPRA, such as the sharing of the total Normal Cost on a 50:50 basis, may result in employer savings for current members under the legacy plans. As those changes have not been implemented by the employers and the bargaining parties at OCERS, we have not reflected them in this illustration.

METHODS AND ASSUMPTIONS

The methods and actuarial assumptions we used to prepare the employer contribution rates, the UAAL and the funded ratio are as summarized below:

- The illustrations are based on the census data used in our December 31, 2016 valuation report for the Retirement Plan and the actuarial assumptions adopted by the Board for the December 31, 2017 valuation. As a simplifying assumption, these illustrations assume the changes in assumptions were effective December 31, 2016 even though the contribution rates provided in our December 31, 2016 valuation that have previously been approved by the Board are not changed by these new actuarial assumptions. Furthermore, the actual effect of the changes in assumptions will be remeasured using the demographic data as of December 31, 2017 as part of that annual valuation. With the exception of the market rates of return specified above, it is assumed that all actuarial assumptions would be met in the future.
- The detailed amortization schedule for OCERS' UAAL as of December 31, 2016 is provided in the valuation report. For these illustrations, those bases were reamortized to take into account the reduction in the payroll growth assumption from 3.50% per year to 3.25% per year and the reduction in the investment return assumption from 7.25% per year to 7.00% per year. Any subsequent changes in the UAAL due to actuarial gains or losses (e.g., from investment returns on valuation value of assets greater or less than the assumed 7.00%) are amortized over separate 20-year periods.

- An adjustment has been made in the illustrations to reflect the long-term impact on OCERS of the three-year phase-in of the UAAL cost increase due to the changes in actuarial assumptions adopted by the Board. Similar to the simplifying assumption made above, we assume the first year of the three-year phased-in contribution rates would apply to fiscal year 2018-2019 even though the fiscal year 2018-2019 contribution rates that have previously been approved by the Board are not changed by the adoption of the new actuarial assumptions.
- CalPEPRA prescribes new benefit formulas for members with a membership date on or after January 1, 2013 (or January 1, 2015 for Rate Group #5). For Rate Groups #1, #3, #5, #9, #10, #11 and #12, we have estimated the Normal Cost savings² associated with the enrollment of those members under the new 2.5% at 67 formula.

For new members within Rate Group #2, only the County's attorneys, San Juan Capistrano members³ and OCERS Management members will receive the 2.5% at 67 formula while all other new members in Rate Group #2 will receive the "new" 1.62% at 65 formulas.⁴ We assumed that the proportion of the payrolls for members who will receive the 2.5% at 67 formula, the Plan T "new" 1.62% at 65 formula and the Plan W "new" 1.62% at 65 formula in the future would remain unchanged from that observed at the December 31, 2016 valuation. As of December 31, 2016, payroll for active members in Rate Group #2 under these three formulas represented about 7.4%, 92.6% and 0.0% of the combined payroll for members under the 2.5% at 67 formula, the Plan T "new" 1.62% at 65 formula and the Plan W "new" 1.62% at 65 formula, respectively. We have estimated the Normal Cost savings² associated with the enrollment of new members under the three new formulas.⁵

For Rate Group #6, #7 and #8 members with a membership date on and after January 1, 2013, we have estimated the Normal Cost savings² associated with the enrollment of those members under the new 2.7% at 57 formula.

² We have estimated the potential employer Normal Cost savings assuming that the payroll for new members who would be covered after the December 31, 2016 valuation under the CalPEPRA tiers could be modeled by: (1) projecting the total December 31, 2016 payroll within each Rate Group using the 3.25% assumption to predict annual wage growth for amortizing the UAAL and (2) subtracting the projected closed group payroll from the current members in the December 31, 2016 valuation using the assumptions to anticipate salary increases as well as termination, retirement (both service and disability) and other exits from active employment.

³ For San Juan Capistrano members with membership dates on or after January 1, 2016, they will be allowed to elect Plan W (1.62% at 65) in lieu of Plan U (2.5% at 67). As of December 31, 2016, there were no members enrolled in Plan W. We estimated the Normal Cost for Plan W under the new assumptions by ratioing the current Normal Cost rate up by the proportional increase in the Plan T (1.62% at 65) Normal Cost under the new assumptions.

⁴ The "new" 1.62% at 65 formula is the CalPEPRA Plan T for non-City of San Juan Capistrano members and the CalPEPRA Plan W for City of San Juan Capistrano members.

⁵ The payroll for new members is split between the 2.5% at 67 formula, the Plan T 1.62% at 65 formula and the Plan W 1.62% at 65 formula based on the proportion of payrolls under those formulas as of December 31, 2016.

- We understand that, with the exception of new members who would be covered under the “new” 1.62% at 65 formulas, in the determination of pension benefits under the CalPEPRA formulas the maximum compensation that can be taken into account for new members on and after January 1, 2017 is equal to \$142,530 in 2017. To the extent this provision will limit compensation of the new members, our assumption that the total payroll will increase by 3.25% each year over the projection period (for use in determining the contribution rate for the UAAL) may be overstated somewhat. If so, then there would be an increase in the UAAL contribution rate as the amount required to amortize the UAAL will have to be spread over a somewhat smaller total payroll base.
- Other than the above adjustments to the Normal Costs from the new CalPEPRA formulas, we have not included any other adjustments for the pre-CalPEPRA members such as the anticipated reduction in proportion (and hence in the associated Normal Cost) of existing Tier 1 active members (with pension benefits based on final one year average formula) relative to the increase in proportion of existing Tier 2 active members (with pension benefits based on final three year average formula) for members in any Rate Group.

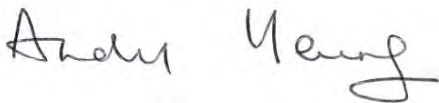
OTHER CONSIDERATIONS

Projections, by their nature, are not a guarantee of future results. The modeling projections are intended to serve as illustrations of future financial outcomes that are based on the information available to us at the time the modeling is undertaken and completed, and the agreed-upon assumptions and methodologies described herein. Emerging results may differ significantly if the actual experience proves to be different from these assumptions or if alternative methodologies are used. Actual experience may differ due to such variables as demographic experience, the economy, stock market performance and the regulatory environment.

This study was prepared under my supervision and I am a member of the American Academy of Actuaries and meet the qualification requirements to provide the opinion contained herein.

Please let us know if you have any questions.

Sincerely,

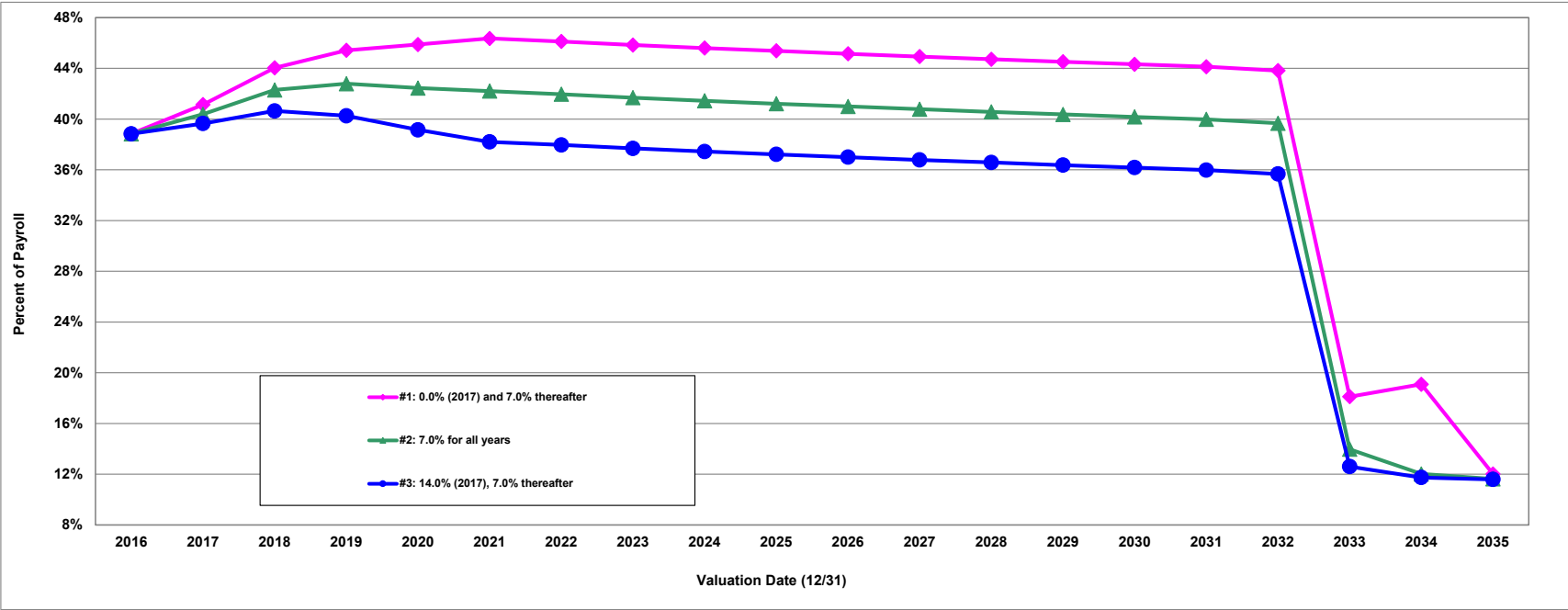


Andy Yeung

MYM/hy
Enclosures

cc: Suzanne Jenike
Brenda Shott

Attachment A Projected Employer Rates Aggregate Plan



Valuation Date (12/31)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	38.8%	41.1%	44.0%	45.4%	45.9%	46.4%	46.1%	45.8%	45.6%	45.4%	45.2%	44.9%	44.7%	44.5%	44.3%	44.1%	43.8%	18.1%	19.1%	12.0%
#2: 7.0% for all years	38.8%	40.4%	42.3%	42.8%	42.5%	42.2%	42.0%	41.7%	41.4%	41.2%	41.0%	40.8%	40.6%	40.4%	40.2%	40.0%	39.7%	14.0%	12.0%	11.6%
#3: 14.0% (2017), 7.0% thereafter	38.8%	39.7%	40.6%	40.3%	39.2%	38.2%	38.0%	37.7%	37.4%	37.2%	37.0%	36.8%	36.6%	36.4%	36.2%	36.0%	35.7%	12.6%	11.7%	11.6%

Attachment B
Projected Employer Rates by Rate Group
Scenario 1: 0.0% for 2017 and 7.0% thereafter

	Valuation Date (12/31)																			
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
General																				
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	20.0%	21.9%	22.8%	23.2%	23.6%	23.6%	23.5%	23.5%	23.5%	23.5%	23.5%	23.4%	23.4%	23.4%	23.4%	23.3%	12.4%	13.9%	13.8%
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	37.9%	40.6%	41.7%	42.1%	42.5%	42.2%	41.9%	41.7%	41.4%	41.2%	41.0%	40.7%	40.5%	40.3%	40.1%	39.8%	13.0%	15.2%	8.6%
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.8%	15.0%	16.7%	17.4%	18.1%	18.0%	17.8%	17.7%	17.6%	17.5%	17.4%	17.3%	17.2%	17.1%	17.0%	17.0%	16.9%	16.9%	16.8%
RG #5 - Plans A, B and U (OCTA)	27.9%	30.0%	32.7%	34.0%	34.5%	35.1%	35.0%	35.0%	34.9%	34.9%	34.8%	34.8%	34.8%	34.7%	34.7%	34.7%	34.6%	16.3%	17.4%	11.4%
RG #9 - Plans M, N and U (TCA)	25.4%	26.7%	28.4%	29.2%	29.5%	29.9%	29.8%	29.6%	29.5%	29.4%	29.3%	29.2%	29.1%	29.1%	29.0%	29.0%	28.8%	14.5%	15.1%	11.5%
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	34.2%	36.4%	37.4%	37.8%	38.2%	38.1%	37.9%	37.7%	37.6%	37.4%	37.3%	37.1%	37.0%	36.9%	36.8%	36.5%	13.7%	16.1%	10.7%
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	13.7%	15.7%	16.9%	17.5%	18.0%	17.9%	17.8%	17.7%	17.7%	17.6%	17.5%	17.4%	17.4%	17.4%	17.3%	17.3%	17.3%	17.2%	17.2%
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	24.8%	27.0%	28.1%	28.4%	28.8%	28.5%	28.2%	28.0%	27.8%	27.5%	27.3%	27.2%	27.0%	26.8%	26.7%	26.4%	14.8%	14.6%	14.4%
Safety																				
RG #6 - Plans E, F and V (Probation)	51.7%	55.2%	59.3%	61.1%	61.8%	62.5%	62.3%	62.1%	61.8%	61.5%	61.3%	61.0%	60.6%	60.3%	59.9%	59.5%	59.0%	34.6%	29.7%	18.2%
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	69.8%	74.4%	76.6%	77.4%	78.3%	78.0%	77.8%	77.5%	77.3%	77.1%	76.9%	76.6%	76.5%	76.3%	76.1%	75.7%	38.4%	35.5%	21.8%
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	52.1%	55.3%	56.9%	57.4%	58.0%	57.6%	56.8%	56.2%	55.8%	55.3%	54.9%	54.5%	54.1%	53.7%	53.3%	52.8%	25.2%	24.7%	17.8%

Under this scenario, Rate Group #3 would be expected to use up the entire amount in the O.C. Sanitation District UAAL Deferred Account by the December 31, 2017 valuation. (That account has a balance of \$34,067,000 as of December 31, 2016 before reducing that balance by \$20,787,000 to maintain 100% funding after the new assumptions are assumed to be implemented as of December 31, 2016.)

Rates shown throughout these projections for Rate Group #12 have been adjusted for the future service only benefit enhancement. They have not been adjusted for the additional UAAL payment that Law Library has indicated they will make on December 15, 2017.

Similar to prior projections, we have not taken into account the County Investment Account (that account has a balance of \$117,723,000 as of December 31, 2016) in these projections.

Attachment B
Projected Employer Rates by Rate Group
Scenario 2: 7.0% for all years

	Valuation Date (12/31)																			
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
General																				
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	19.6%	20.9%	21.3%	21.3%	21.2%	21.2%	21.2%	21.2%	21.1%	21.1%	21.1%	21.1%	21.1%	21.1%	21.0%	21.0%	10.1%	10.0%	10.0%
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	37.2%	39.0%	39.4%	39.0%	38.8%	38.5%	38.2%	38.0%	37.7%	37.5%	37.3%	37.0%	36.8%	36.6%	36.4%	36.1%	9.3%	8.8%	8.6%
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.4%	12.7%	13.3%	13.0%	12.8%	12.7%	12.5%	12.4%	12.3%	12.2%	12.1%	12.0%	11.9%	11.8%	11.8%	11.7%	11.6%	11.6%	11.5%
RG #5 - Plans A, B and U (OCTA)	27.9%	29.4%	31.3%	31.9%	31.7%	31.7%	31.6%	31.6%	31.5%	31.5%	31.4%	31.4%	31.4%	31.3%	31.3%	31.3%	31.2%	12.8%	11.4%	11.4%
RG #9 - Plans M, N and U (TCA)	25.4%	26.2%	27.4%	27.7%	27.4%	27.3%	27.2%	27.0%	26.9%	26.8%	26.7%	26.7%	26.6%	26.5%	26.4%	26.4%	26.2%	11.9%	11.5%	11.5%
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	33.6%	35.1%	35.5%	35.3%	35.1%	34.9%	34.8%	34.6%	34.4%	34.3%	34.1%	34.0%	33.9%	33.7%	33.6%	33.4%	10.8%	10.8%	10.7%
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	13.1%	14.2%	14.6%	14.3%	14.2%	14.1%	14.0%	13.9%	13.9%	13.8%	13.8%	13.7%	13.7%	13.6%	13.6%	13.6%	13.6%	13.5%	13.5%
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	24.1%	25.5%	25.6%	25.1%	24.7%	24.4%	24.2%	23.9%	23.7%	23.5%	23.2%	23.1%	23.0%	22.8%	22.7%	22.5%	10.8%	9.2%	9.1%
Safety																				
RG #6 - Plans E, F and V (Probation)	51.7%	54.4%	57.4%	58.2%	57.9%	57.7%	57.5%	57.3%	57.0%	56.8%	56.5%	56.2%	55.8%	55.5%	55.1%	54.7%	54.2%	29.8%	24.9%	18.2%
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	68.6%	71.8%	72.7%	72.2%	72.0%	71.7%	71.4%	71.2%	71.0%	70.8%	70.5%	70.3%	70.1%	70.0%	69.8%	69.4%	32.1%	21.9%	21.8%
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	51.1%	53.0%	53.5%	52.9%	52.5%	52.1%	51.3%	50.7%	50.3%	49.8%	49.4%	49.0%	48.6%	48.2%	47.8%	47.3%	19.7%	18.2%	17.8%

Under this scenario, Rate Group #3 would be expected to use up the entire amount in the O.C. Sanitation District UAAL Deferred Account by the December 31, 2018 valuation. (That account has a balance of \$34,067,000 as of December 31, 2016 before reducing that balance by \$20,787,000 to maintain 100% funding after the new assumptions are assumed to be implemented as of December 31, 2016.)

Rates shown throughout these projections for Rate Group #12 have been adjusted for the future service only benefit enhancement. They have not been adjusted for the additional UAAL payment that Law Library has indicated they will make on December 15, 2017.

Similar to prior projections, we have not taken into account the County Investment Account (that account has a balance of \$117,723,000 as of December 31, 2016) in these projections.

Attachment B
Projected Employer Rates by Rate Group
Scenario 3: 14.0% for 2017 and 7.0% thereafter

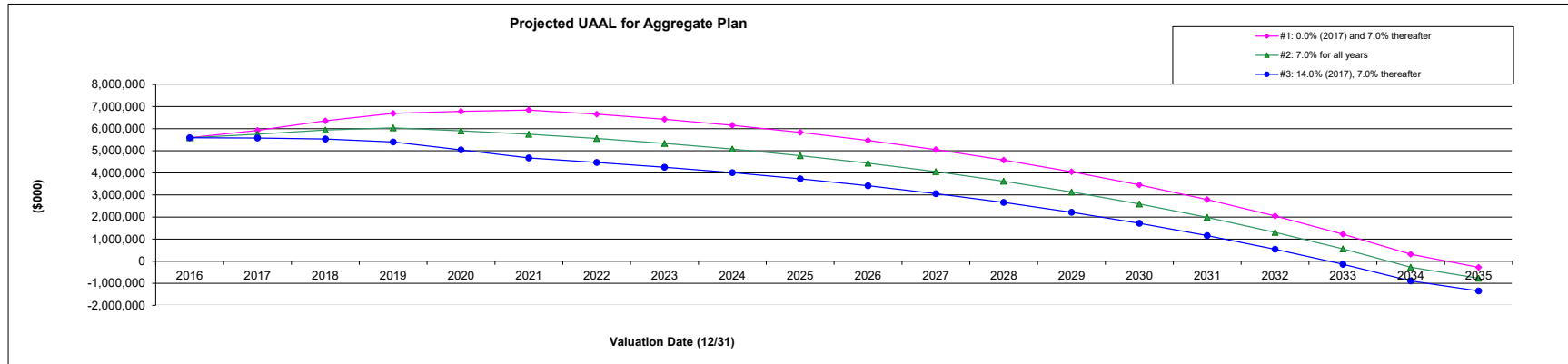
	Valuation Date (12/31)																			
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
General																				
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	19.1%	19.9%	19.8%	19.3%	18.9%	18.9%	18.8%	18.8%	18.8%	18.8%	18.7%	18.7%	18.7%	18.7%	18.7%	18.6%	10.0%	10.0%	10.0%
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	36.5%	37.4%	37.0%	36.0%	35.0%	34.8%	34.5%	34.3%	34.0%	33.8%	33.6%	33.3%	33.1%	32.9%	32.7%	32.4%	8.9%	8.8%	8.6%
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.4%	12.3%	12.1%	12.0%	11.8%	11.7%	11.6%	11.4%	11.3%	11.2%	11.1%	11.0%	10.9%	10.9%	10.8%	10.7%	10.6%	10.6%	10.5%
RG #5 - Plans A, B and U (OCTA)	27.9%	28.7%	29.8%	29.7%	28.9%	28.3%	28.2%	28.1%	28.1%	28.0%	28.0%	27.9%	27.9%	27.9%	27.9%	27.8%	27.7%	11.4%	11.4%	11.4%
RG #9 - Plans M, N and U (TCA)	25.4%	25.7%	26.3%	26.1%	25.3%	24.7%	24.6%	24.5%	24.4%	24.3%	24.2%	24.2%	24.1%	24.0%	24.0%	23.9%	23.7%	11.6%	11.5%	11.5%
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	33.1%	33.8%	33.5%	32.7%	32.0%	31.8%	31.6%	31.5%	31.3%	31.1%	31.0%	30.9%	30.7%	30.6%	30.5%	30.3%	10.8%	10.8%	10.7%
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	12.4%	12.7%	12.4%	11.8%	11.7%	11.7%	11.6%	11.6%	11.5%	11.5%	11.5%	11.5%	11.4%	11.4%	11.4%	11.4%	11.4%	11.3%	11.3%
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	23.4%	23.9%	23.3%	22.1%	21.2%	20.9%	20.7%	20.6%	20.4%	20.2%	20.1%	20.0%	19.8%	19.8%	19.7%	9.3%	9.3%	9.2%	9.1%
Safety																				
RG #6 - Plans E, F and V (Probation)	51.7%	53.5%	55.5%	55.3%	54.0%	53.0%	52.8%	52.5%	52.3%	52.0%	51.7%	51.4%	51.1%	50.7%	50.3%	49.9%	49.4%	25.0%	18.6%	18.2%
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	67.5%	69.2%	68.7%	67.0%	65.7%	65.4%	65.1%	64.9%	64.7%	64.4%	64.2%	64.0%	63.8%	63.7%	63.5%	63.1%	25.8%	21.9%	21.8%
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	50.1%	50.7%	50.1%	48.4%	47.0%	46.6%	45.8%	45.2%	44.7%	44.3%	43.9%	43.5%	43.1%	42.7%	42.3%	41.8%	18.5%	18.2%	17.8%

Under this scenario, Rate Group #3 would be expected to use up the entire amount in the O.C. Sanitation District UAAL Deferred Account by the December 31, 2035 valuation. (That account has a balance of \$34,067,000 as of December 31, 2016 before reducing that balance by \$20,787,000 to maintain 100% funding after the new assumptions are assumed to be implemented as of December 31, 2016.)

Rates shown throughout these projections for Rate Group #12 have been adjusted for the future service only benefit enhancement. They have not been adjusted for the additional UAAL payment that Law Library has indicated they will make on December 15, 2017.

Similar to prior projections, we have not taken into account the County Investment Account (that account has a balance of \$117,723,000 as of December 31, 2016) in these projections.

Attachment C Projected UAAL and Funded Ratio for Aggregate Plan

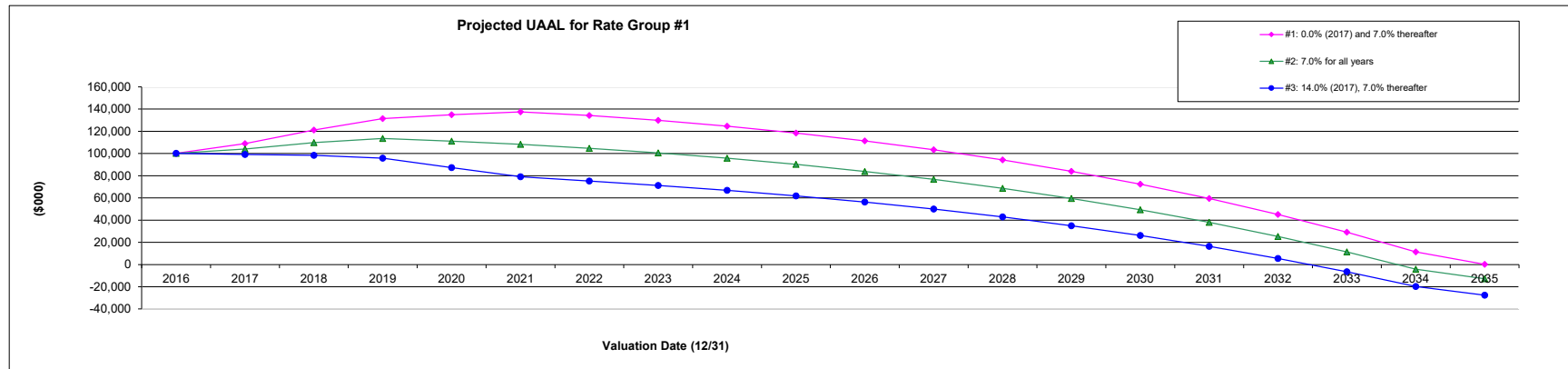


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	5,593,067	5,919,705	6,359,333	6,697,913	6,787,541	6,840,003	6,660,218	6,430,630	6,154,189	5,834,983	5,469,221	5,052,846	4,581,592	4,050,800	3,455,439	2,790,007	2,048,700	1,225,338	315,049	-276,329
#2: 7.0% for all years	5,593,067	5,746,986	5,938,899	6,039,341	5,904,338	5,749,075	5,557,545	5,334,413	5,075,824	4,778,804	4,440,027	4,055,887	3,622,415	3,135,455	2,590,590	1,982,897	1,307,193	557,973	-268,925	-767,034
#3: 14.0% (2017), 7.0% thereafter	5,593,067	5,576,284	5,534,853	5,398,155	5,038,960	4,675,662	4,471,212	4,252,491	4,009,286	3,731,624	3,416,587	3,060,918	2,661,168	2,213,614	1,714,269	1,158,943	542,947	-138,668	-889,165	-1,343,903

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	70.1%	70.0%	69.5%	69.5%	70.6%	71.8%	73.9%	75.9%	78.0%	80.1%	82.2%	84.2%	86.3%	88.4%	90.5%	92.6%	94.8%	97.0%	99.2%	100.6%
#2: 7.0% for all years	70.1%	70.9%	71.5%	72.5%	74.4%	76.3%	78.2%	80.0%	81.9%	83.7%	85.5%	87.3%	89.1%	91.0%	92.8%	94.7%	96.7%	98.6%	100.6%	101.8%
#3: 14.0% (2017), 7.0% thereafter	70.1%	71.8%	73.4%	75.4%	78.2%	80.7%	82.5%	84.1%	85.7%	87.3%	88.8%	90.4%	92.0%	93.6%	95.3%	96.9%	98.6%	100.3%	102.1%	103.1%

Attachment D

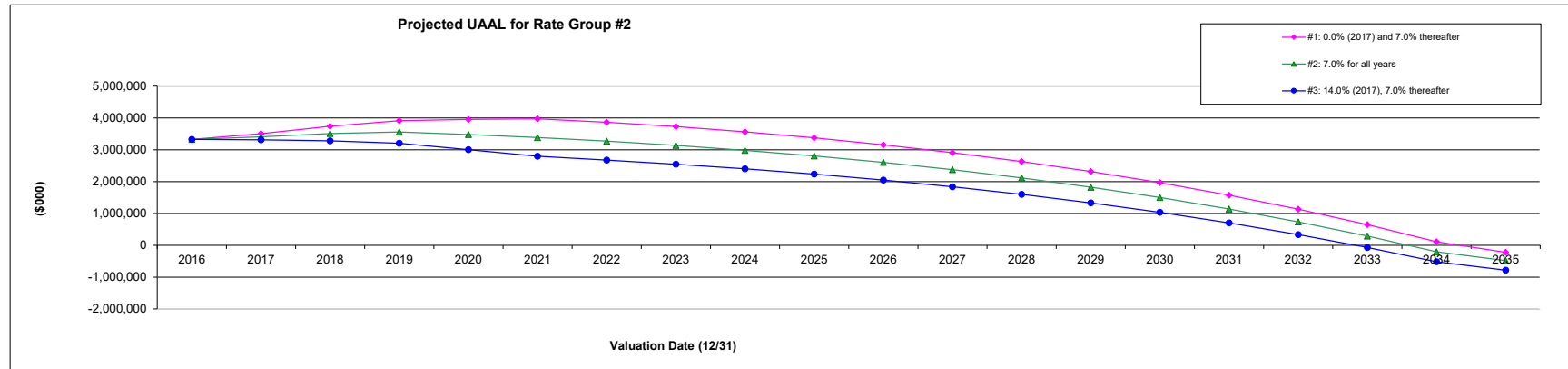
Projected UAAL and Funded Ratio for Rate Group #1 Plans A, B and U (non-OCTA, non-OCSD)



UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	100,146	108,925	121,163	131,349	134,855	137,469	134,196	129,854	124,551	118,415	111,367	103,327	94,216	83,942	72,407	59,506	45,117	29,118	11,421	198
#2: 7.0% for all years	100,146	104,038	109,741	113,546	111,103	108,271	104,700	100,542	95,720	90,181	83,861	76,689	68,597	59,507	49,330	37,974	25,342	11,336	-4,127	-12,846
#3: 14.0% (2017), 7.0% thereafter	100,146	99,152	98,318	95,737	87,325	79,019	75,134	71,151	66,809	61,866	56,270	49,966	42,893	34,982	26,162	16,365	5,512	-6,492	-19,693	-27,629
Funded Ratio																				
#1: 0.0% (2017) and 7.0% thereafter	78.3%	77.6%	76.3%	75.6%	76.1%	76.8%	78.4%	80.0%	81.7%	83.3%	84.9%	86.6%	88.2%	89.9%	91.6%	93.4%	95.1%	97.0%	98.8%	100.0%
#2: 7.0% for all years	78.3%	78.6%	78.5%	78.9%	80.3%	81.7%	83.1%	84.5%	85.9%	87.3%	88.7%	90.0%	91.4%	92.9%	94.3%	95.8%	97.3%	98.8%	100.4%	101.3%
#3: 14.0% (2017), 7.0% thereafter	78.3%	79.6%	80.8%	82.2%	84.5%	86.7%	87.9%	89.0%	90.2%	91.3%	92.4%	93.5%	94.6%	95.8%	97.0%	98.2%	99.4%	100.7%	102.0%	102.7%

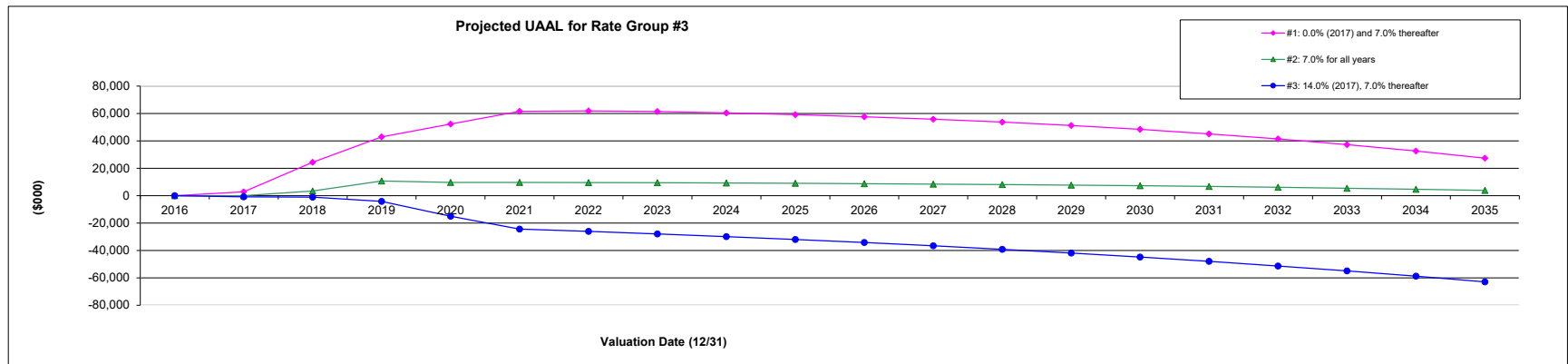
Attachment E

Projected UAAL and Funded Ratio for Rate Group #2 Plans I, J, O, P, S, T, U and W (County et al.)



UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	3,326,880	3,503,815	3,736,509	3,914,035	3,954,685	3,972,725	3,864,400	3,727,399	3,563,228	3,373,891	3,157,114	2,910,518	2,631,619	2,317,674	1,965,729	1,572,523	1,134,630	648,460	111,203	-220,414
#2: 7.0% for all years	3,326,880	3,406,907	3,509,099	3,558,244	3,478,235	3,384,984	3,270,452	3,137,013	2,982,456	2,805,062	2,602,848	2,373,676	2,115,171	1,824,850	1,500,126	1,138,053	735,543	289,370	-202,882	-484,162
#3: 14.0% (2017), 7.0% thereafter	3,326,880	3,310,000	3,281,680	3,202,356	3,001,505	2,796,794	2,675,894	2,545,974	2,401,193	2,235,851	2,048,245	1,836,399	1,598,257	1,331,609	1,034,076	703,190	336,123	-70,075	-517,347	-781,296
Funded Ratio																				
#1: 0.0% (2017) and 7.0% thereafter	68.2%	68.2%	67.7%	67.7%	68.9%	70.1%	72.2%	74.3%	76.4%	78.5%	80.7%	82.8%	85.0%	87.2%	89.5%	91.9%	94.3%	96.8%	99.5%	101.0%
#2: 7.0% for all years	68.2%	69.0%	69.6%	70.7%	72.6%	74.5%	76.5%	78.4%	80.3%	82.2%	84.1%	86.0%	88.0%	90.0%	92.0%	94.1%	96.3%	98.6%	101.0%	102.3%
#3: 14.0% (2017), 7.0% thereafter	68.2%	69.9%	71.6%	73.6%	76.4%	79.0%	80.7%	82.4%	84.1%	85.8%	87.5%	89.2%	90.9%	92.7%	94.5%	96.4%	98.3%	100.3%	102.5%	103.6%

Attachment F Projected UAAL and Funded Ratio for Rate Group #3 Plans B, G, H and U (OCSD)

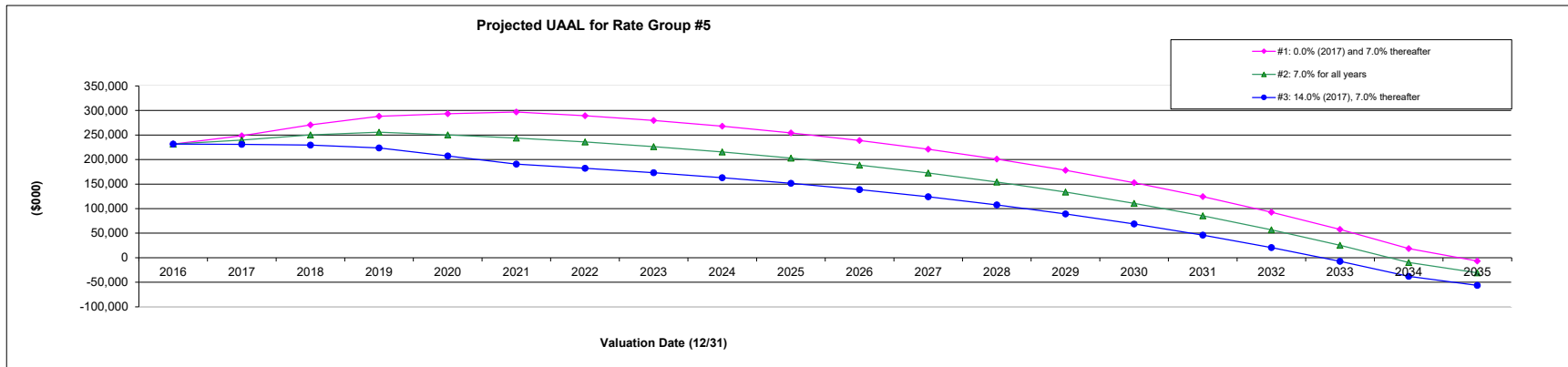


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	0	2,834	24,425	42,961	52,348	61,571	61,907	61,453	60,444	59,192	57,673	55,865	53,740	51,270	48,424	45,171	41,473	37,300	32,610	27,355
#2: 7.0% for all years	0	0	3,473	10,701	9,654	9,734	9,567	9,430	9,257	9,040	8,781	8,478	8,130	7,727	7,264	6,735	6,136	5,461	4,702	3,853
#3: 14.0% (2017), 7.0% thereafter	0	-817	-1,096	-4,128	-15,058	-24,398	-26,106	-27,934	-29,889	-31,981	-34,220	-36,616	-39,179	-41,921	-44,856	-47,995	-51,355	-54,950	-58,797	-62,912

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	100.0%	99.6%	96.5%	94.2%	93.3%	92.5%	92.8%	93.2%	93.6%	94.0%	94.4%	94.8%	95.2%	95.6%	96.1%	96.5%	96.9%	97.3%	97.7%	98.2%
#2: 7.0% for all years	100.0%	100.0%	99.5%	98.6%	98.8%	98.8%	98.9%	99.0%	99.0%	99.1%	99.2%	99.2%	99.3%	99.3%	99.4%	99.5%	99.5%	99.6%	99.7%	99.7%
#3: 14.0% (2017), 7.0% thereafter	100.0%	100.1%	100.2%	100.6%	101.9%	103.0%	103.0%	103.1%	103.2%	103.2%	103.3%	103.4%	103.5%	103.6%	103.7%	103.8%	103.9%	104.0%	104.1%	104.2%

Unlike most of the other Rate Groups, Rate Group #3 has a UAAL under Scenarios #1 and #2 due to the reemergence of their UAAL amortization layers starting with the December 31, 2017 and December 31, 2018 valuations, respectively. While Rate Group #3 is overfunded as of the December 31, 2016 valuation, they are anticipated to have a restart amortization layer starting with the 2018 and 2019 valuations under Scenarios #1 and #2, respectively, which will not drop off until 20 years after that restart amortization layer is established.

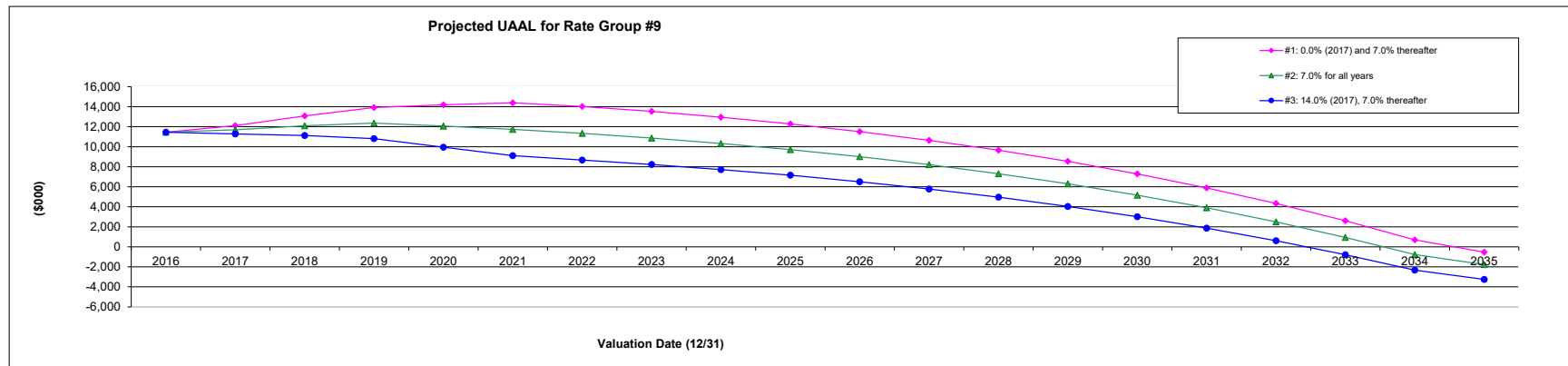
Attachment G Projected UAAL and Funded Ratio for Rate Group #5 Plans A, B and U (OCTA)



	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
UAAL (\$000)																				
#1: 0.0% (2017) and 7.0% thereafter	231,504	248,593	270,703	288,075	293,368	296,891	289,396	279,695	267,944	254,359	238,786	221,046	200,951	178,302	152,883	124,461	92,786	57,591	18,660	-6,794
#2: 7.0% for all years	231,504	239,793	250,103	255,898	250,332	243,858	235,804	226,421	215,541	203,044	188,782	172,605	154,347	133,833	110,874	85,265	56,788	25,198	-9,676	-30,584
#3: 14.0% (2017), 7.0% thereafter	231,504	230,994	229,501	223,713	207,278	190,799	182,177	173,104	163,098	151,686	138,741	124,131	107,715	89,334	68,833	46,035	20,745	-7,235	-38,036	-56,295
Funded Ratio																				
#1: 0.0% (2017) and 7.0% thereafter	73.7%	73.2%	72.3%	72.0%	72.8%	73.8%	75.7%	77.6%	79.5%	81.4%	83.3%	85.2%	87.1%	89.0%	91.0%	92.9%	94.9%	97.0%	99.1%	100.3%
#2: 7.0% for all years	73.7%	74.2%	74.4%	75.1%	76.8%	78.5%	80.2%	81.8%	83.5%	85.1%	86.8%	88.4%	90.1%	91.8%	93.4%	95.2%	96.9%	98.7%	100.5%	101.5%
#3: 14.0% (2017), 7.0% thereafter	73.7%	75.1%	76.5%	78.2%	80.8%	83.2%	84.7%	86.1%	87.5%	88.9%	90.3%	91.7%	93.1%	94.5%	95.9%	97.4%	98.9%	100.4%	101.9%	102.8%

Attachment H

Projected UAAL and Funded Ratio for Rate Group #9 Plans M, N and U (TCA)

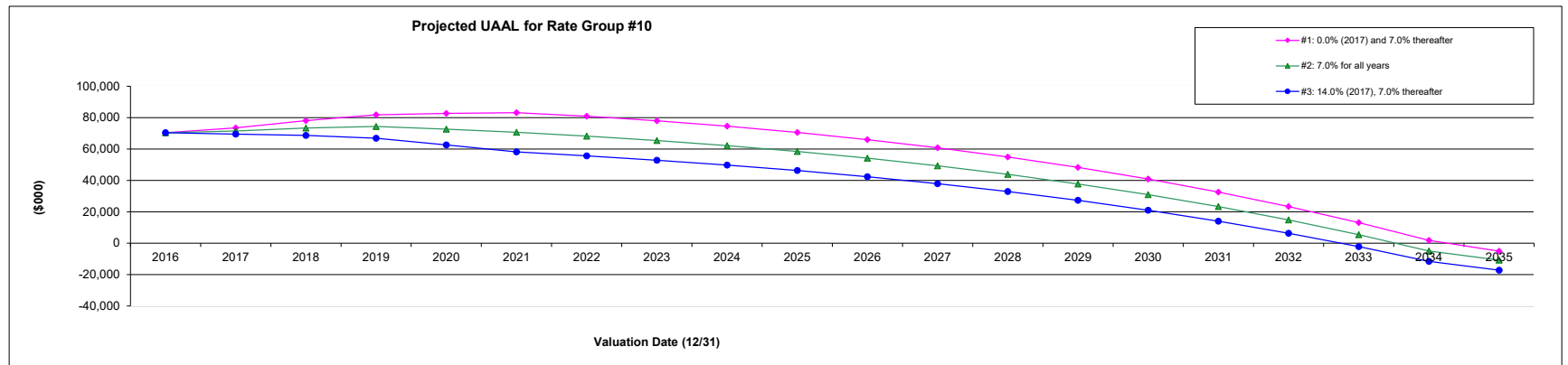


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	11,448	12,107	13,082	13,921	14,184	14,383	14,011	13,531	12,948	12,277	11,508	10,635	9,648	8,536	7,289	5,893	4,338	2,607	692	-525
#2: 7.0% for all years	11,448	11,695	12,099	12,362	12,069	11,741	11,338	10,870	10,330	9,711	9,006	8,208	7,307	6,295	5,162	3,899	2,495	941	-773	-1,764
#3: 14.0% (2017), 7.0% thereafter	11,448	11,282	11,116	10,804	9,958	9,109	8,674	8,220	7,721	7,151	6,505	5,776	4,955	4,037	3,011	1,870	605	-792	-2,326	-3,248

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	72.3%	72.8%	72.6%	72.9%	74.2%	75.6%	77.8%	79.9%	82.0%	84.0%	86.0%	87.8%	89.6%	91.4%	93.1%	94.7%	96.3%	97.9%	99.5%	100.4%
#2: 7.0% for all years	72.3%	73.7%	74.7%	75.9%	78.1%	80.1%	82.0%	83.9%	85.7%	87.4%	89.0%	90.6%	92.1%	93.6%	95.1%	96.5%	97.9%	99.3%	100.6%	101.2%
#3: 14.0% (2017), 7.0% thereafter	72.3%	74.6%	76.8%	78.9%	81.9%	84.5%	86.2%	87.8%	89.3%	90.7%	92.1%	93.4%	94.7%	95.9%	97.1%	98.3%	99.5%	100.6%	101.7%	102.3%

Attachment I

Projected UAAL and Funded Ratio for Rate Group #10 Plans I, J, M, N and U (OCFA)

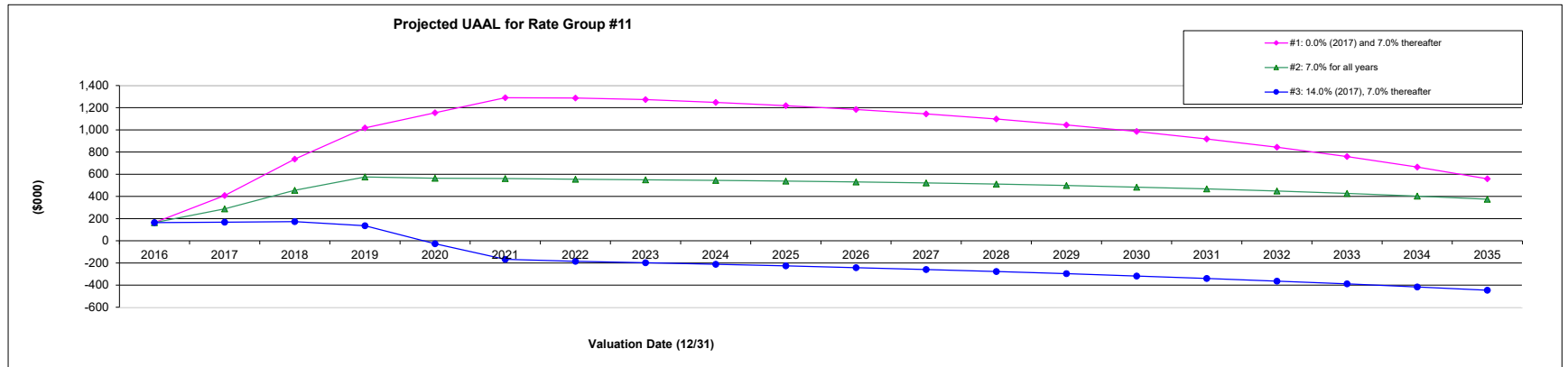


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	70,398	73,525	78,122	81,863	82,755	83,230	80,950	78,061	74,595	70,598	66,023	60,821	54,937	48,313	40,888	32,594	23,359	13,108	1,784	-5,103
#2: 7.0% for all years	70,398	71,529	73,389	74,394	72,674	70,698	68,274	65,453	62,189	58,446	54,181	49,348	43,897	37,774	30,926	23,294	14,813	5,411	-4,960	-10,843
#3: 14.0% (2017), 7.0% thereafter	70,398	69,532	68,656	66,928	62,600	58,183	55,619	52,873	49,819	46,334	42,380	37,916	32,900	27,285	21,022	14,057	6,332	-2,214	-11,622	-17,197

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	67.4%	68.0%	68.0%	68.3%	69.8%	71.3%	73.6%	75.9%	78.2%	80.4%	82.6%	84.8%	86.9%	89.1%	91.2%	93.3%	95.4%	97.5%	99.7%	100.9%
#2: 7.0% for all years	67.4%	68.8%	69.9%	71.2%	73.5%	75.6%	77.7%	79.8%	81.8%	83.8%	85.7%	87.7%	89.6%	91.4%	93.3%	95.2%	97.1%	99.0%	100.9%	101.9%
#3: 14.0% (2017), 7.0% thereafter	67.4%	69.7%	71.8%	74.1%	77.1%	79.9%	81.9%	83.7%	85.4%	87.1%	88.8%	90.5%	92.2%	93.8%	95.5%	97.1%	98.8%	100.4%	102.1%	102.9%

Attachment J

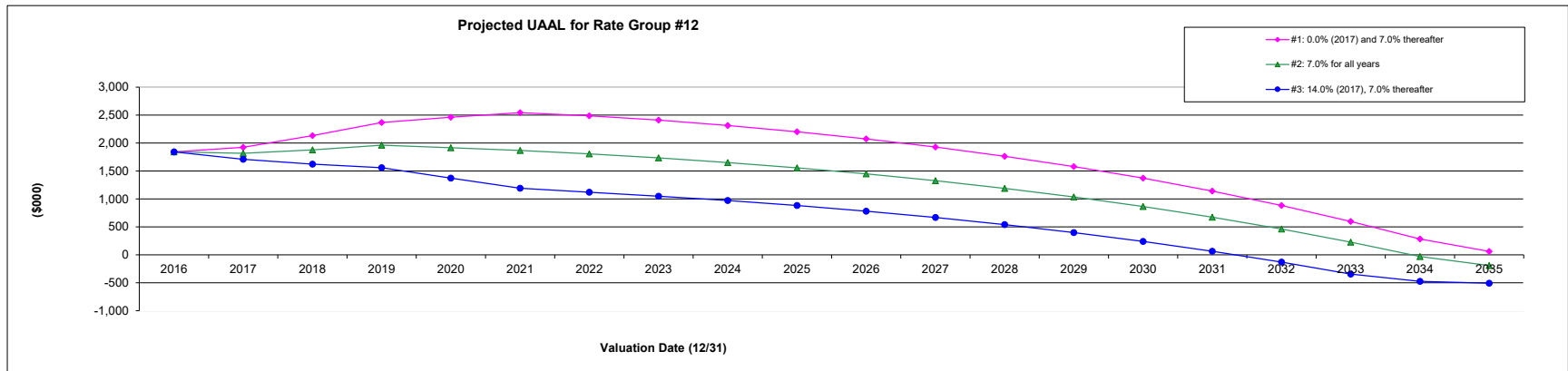
Projected UAAL and Funded Ratio for Rate Group #11 Plans M and N, future service, and U (Cemetery)



	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
UAAL (\$000)																				
#1: 0.0% (2017) and 7.0% thereafter	164	408	737	1,017	1,155	1,290	1,288	1,273	1,249	1,219	1,185	1,144	1,098	1,045	985	918	843	759	665	559
#2: 7.0% for all years	164	287	455	576	564	562	555	550	544	538	531	522	511	498	484	467	449	427	403	375
#3: 14.0% (2017), 7.0% thereafter	164	167	173	135	-26	-168	-185	-198	-212	-226	-242	-259	-277	-297	-318	-340	-364	-389	-416	-445
Funded Ratio																				
#1: 0.0% (2017) and 7.0% thereafter	98.2%	95.8%	92.9%	90.9%	90.4%	90.0%	90.7%	91.4%	92.1%	92.8%	93.4%	94.1%	94.7%	95.2%	95.8%	96.3%	96.8%	97.3%	97.8%	98.3%
#2: 7.0% for all years	98.2%	97.0%	95.6%	94.9%	95.3%	95.6%	96.0%	96.3%	96.6%	96.8%	97.1%	97.3%	97.5%	97.7%	97.9%	98.1%	98.3%	98.5%	98.7%	98.8%
#3: 14.0% (2017), 7.0% thereafter	98.2%	98.3%	98.3%	98.8%	100.2%	101.3%	101.3%	101.3%	101.3%	101.3%	101.3%	101.3%	101.3%	101.4%	101.4%	101.4%	101.4%	101.4%	101.4%	101.4%

Attachment K

Projected UAAL and Funded Ratio for Rate Group #12 Plans G, H and U (Law Library)

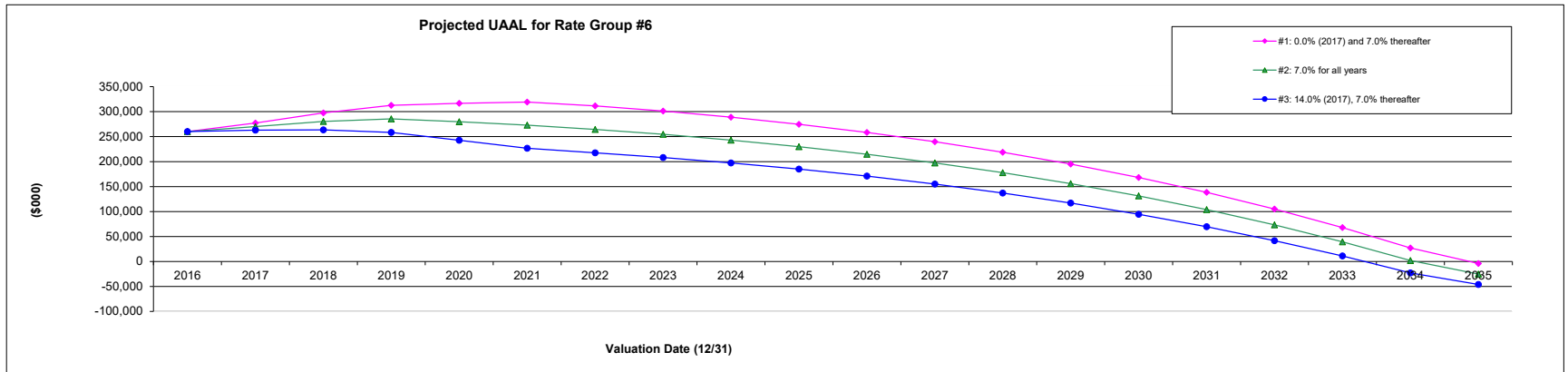


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	1,842	1,923	2,132	2,365	2,460	2,542	2,487	2,410	2,314	2,202	2,074	1,928	1,763	1,578	1,371	1,140	883	598	283	61
#2: 7.0% for all years	1,842	1,816	1,877	1,962	1,916	1,867	1,805	1,734	1,651	1,556	1,448	1,326	1,189	1,035	864	673	462	227	-30	-190
#3: 14.0% (2017), 7.0% thereafter	1,842	1,709	1,622	1,559	1,373	1,192	1,120	1,049	972	883	782	667	540	398	240	65	-129	-343	-473	-506

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	80.9%	81.4%	80.8%	80.1%	80.6%	81.2%	82.7%	84.3%	85.8%	87.3%	88.7%	90.1%	91.5%	92.8%	94.1%	95.3%	96.6%	97.8%	99.0%	99.8%
#2: 7.0% for all years	80.9%	82.5%	83.1%	83.5%	84.9%	86.2%	87.5%	88.7%	89.9%	91.0%	92.1%	93.2%	94.2%	95.3%	96.3%	97.3%	98.2%	99.2%	100.1%	100.6%
#3: 14.0% (2017), 7.0% thereafter	80.9%	83.5%	85.4%	86.9%	89.2%	91.2%	92.2%	93.2%	94.0%	94.9%	95.7%	96.6%	97.4%	98.2%	99.0%	99.7%	100.5%	101.3%	101.6%	101.7%

Attachment L

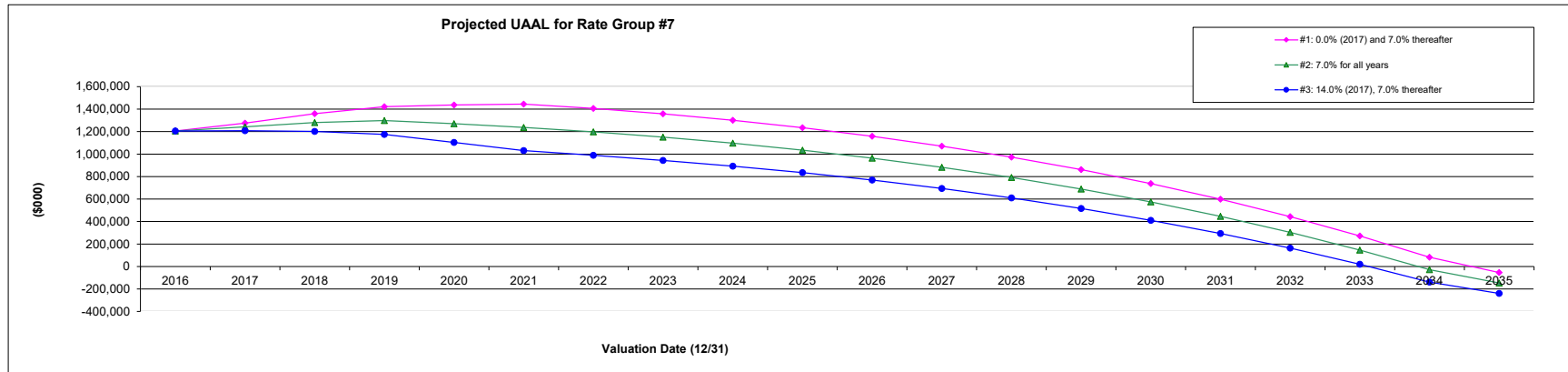
Projected UAAL and Funded Ratio for Rate Group #6 Plans E, F and V (Probation)



	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
UAAL (\$000)																				
#1: 0.0% (2017) and 7.0% thereafter	259,998	277,277	297,569	312,579	316,736	319,312	311,406	301,254	288,983	274,773	258,458	239,855	218,766	194,980	168,264	138,376	105,058	68,016	27,007	-3,977
#2: 7.0% for all years	259,998	270,123	280,488	285,412	279,761	272,958	264,490	254,579	243,057	229,785	214,608	197,362	177,864	155,925	131,341	103,894	73,346	39,441	1,970	-25,055
#3: 14.0% (2017), 7.0% thereafter	259,998	262,968	263,413	258,269	242,845	226,727	217,710	208,048	197,283	184,950	170,913	155,021	137,115	117,032	94,589	69,584	41,806	11,029	-22,929	-46,010
Funded Ratio																				
#1: 0.0% (2017) and 7.0% thereafter	66.6%	67.0%	67.0%	67.8%	69.6%	71.5%	74.0%	76.6%	79.0%	81.3%	83.6%	85.7%	87.8%	89.8%	91.7%	93.6%	95.5%	97.2%	99.0%	100.1%
#2: 7.0% for all years	66.6%	67.8%	68.9%	70.6%	73.2%	75.6%	77.9%	80.2%	82.3%	84.4%	86.3%	88.2%	90.1%	91.8%	93.6%	95.2%	96.8%	98.4%	99.9%	100.9%
#3: 14.0% (2017), 7.0% thereafter	66.6%	68.7%	70.8%	73.4%	76.7%	79.7%	81.8%	83.8%	85.7%	87.4%	89.1%	90.8%	92.3%	93.9%	95.4%	96.8%	98.2%	99.6%	100.9%	101.7%

Attachment M

Projected UAAL and Funded Ratio for Rate Group #7 Plans E, F, Q, R and V (Law Enforcement)

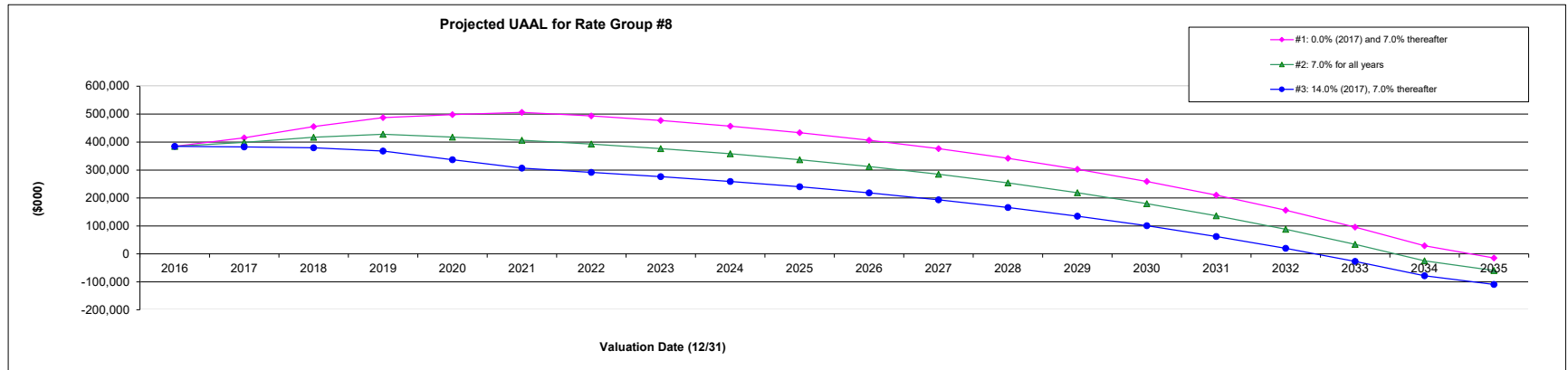


UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	1,205,935	1,275,275	1,359,401	1,422,058	1,436,800	1,444,141	1,406,428	1,358,556	1,300,991	1,234,464	1,158,204	1,071,365	973,038	862,246	737,936	598,957	444,109	272,083	81,825	-53,227
#2: 7.0% for all years	1,205,935	1,241,840	1,280,647	1,298,337	1,270,385	1,237,911	1,197,901	1,151,207	1,097,030	1,034,711	963,553	882,794	791,598	689,096	574,338	446,285	303,836	145,809	-28,716	-146,155
#3: 14.0% (2017), 7.0% thereafter	1,205,935	1,208,405	1,201,897	1,174,624	1,104,003	1,031,768	989,481	943,986	893,207	835,105	769,045	694,361	610,304	516,086	410,856	293,701	163,640	19,617	-139,150	-238,928

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	67.1%	67.1%	66.7%	67.0%	68.4%	69.9%	72.2%	74.4%	76.7%	79.0%	81.2%	83.4%	85.7%	87.9%	90.1%	92.3%	94.5%	96.8%	99.1%	100.6%
#2: 7.0% for all years	67.1%	67.9%	68.7%	69.9%	72.1%	74.2%	76.3%	78.3%	80.4%	82.4%	84.4%	86.4%	88.3%	90.3%	92.3%	94.3%	96.3%	98.3%	100.3%	101.6%
#3: 14.0% (2017), 7.0% thereafter	67.1%	68.8%	70.6%	72.8%	75.7%	78.5%	80.4%	82.2%	84.0%	85.8%	87.5%	89.3%	91.0%	92.7%	94.5%	96.2%	98.0%	99.8%	101.6%	102.6%

Attachment N

Projected UAAL and Funded Ratio for Rate Group #8 Plans E, F, Q, R and V (Fire Authority)



UAAL (\$000)	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	384,752	415,023	455,490	487,688	498,195	506,450	493,747	477,143	456,942	433,594	406,829	376,344	341,816	302,913	259,262	210,469	156,104	95,699	28,899	-14,461
#2: 7.0% for all years	384,752	398,958	417,529	427,910	417,645	406,490	392,659	376,615	358,048	336,730	312,429	284,879	253,804	218,914	179,880	136,357	87,984	34,353	-24,835	-59,662
#3: 14.0% (2017), 7.0% thereafter	384,752	382,893	379,572	368,159	337,159	306,638	291,692	276,216	259,285	240,006	218,170	193,558	165,945	135,070	100,654	62,412	20,032	-26,824	-78,377	-109,435

Funded Ratio	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
#1: 0.0% (2017) and 7.0% thereafter	75.3%	75.1%	74.4%	74.2%	75.3%	76.4%	78.3%	80.2%	82.1%	84.0%	85.8%	87.6%	89.3%	91.0%	92.7%	94.4%	96.1%	97.7%	99.3%	100.3%
#2: 7.0% for all years	75.3%	76.1%	76.5%	77.4%	79.3%	81.0%	82.7%	84.4%	86.0%	87.6%	89.1%	90.6%	92.1%	93.5%	95.0%	96.4%	97.8%	99.2%	100.6%	101.3%
#3: 14.0% (2017), 7.0% thereafter	75.3%	77.0%	78.6%	80.6%	83.3%	85.7%	87.2%	88.6%	89.9%	91.1%	92.4%	93.6%	94.8%	96.0%	97.2%	98.3%	99.5%	100.6%	101.8%	102.4%

Attachment O
Projected Employer Rates by Plans within each Rate Group
Scenario 1: 0.0% for 2017 and 7.0% thereafter

	Valuation Date (12/31)																			
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
General																				
RG #1 - Plans A and B	18.7%	20.4%	22.4%	23.3%	23.7%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.1%	24.0%	13.1%	14.6%	14.5%
RG #1 - Plan U	17.8%	19.5%	21.4%	22.4%	22.8%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.2%	23.1%	12.2%	13.7%	13.6%
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	20.0%	21.9%	22.8%	23.2%	23.6%	23.6%	23.5%	23.5%	23.5%	23.5%	23.5%	23.4%	23.4%	23.4%	23.4%	23.3%	12.4%	13.9%	13.8%
RG #2 - Plans I and J	37.3%	39.6%	42.5%	44.0%	44.6%	45.3%	45.3%	45.3%	45.3%	45.3%	45.2%	45.2%	45.2%	45.2%	45.2%	45.2%	45.1%	18.4%	20.9%	14.4%
RG #2 - Plans O and P	29.1%	31.4%	34.3%	35.8%	36.4%	37.1%	37.1%	37.1%	37.1%	37.1%	37.0%	37.0%	37.0%	37.0%	37.0%	37.0%	36.9%	10.2%	12.7%	6.2%
RG #2 - Plan S	34.4%	36.7%	39.6%	41.1%	41.7%	42.4%	42.4%	42.4%	42.4%	42.4%	42.3%	42.3%	42.3%	42.3%	42.3%	42.3%	42.2%	15.5%	18.0%	11.5%
RG #2 - Plan T	30.0%	32.3%	35.2%	36.7%	37.3%	38.0%	38.0%	38.0%	38.0%	38.0%	37.9%	37.9%	37.9%	37.9%	37.9%	37.9%	37.8%	11.1%	13.6%	7.1%
RG #2 - Plan U	31.9%	34.3%	37.2%	38.7%	39.3%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.9%	39.7%	13.1%	15.5%	9.1%
RG #2 - Plan W	30.1%	32.4%	35.4%	36.8%	37.5%	38.1%	38.1%	38.1%	38.1%	38.1%	38.1%	38.0%	38.0%	38.0%	38.0%	38.0%	37.9%	11.2%	13.7%	7.2%
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	37.9%	40.6%	41.7%	42.1%	42.5%	42.2%	41.9%	41.7%	41.4%	41.2%	41.0%	40.7%	40.5%	40.3%	40.1%	39.8%	13.0%	15.2%	8.6%
RG #3 - Plans G and H	13.3%	13.6%	16.0%	17.9%	18.7%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%	19.5%
RG #3 - Plan B	11.3%	11.7%	14.1%	16.0%	16.8%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%
RG #3 - Plan U	10.1%	10.4%	12.9%	14.7%	15.5%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%	16.4%
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.8%	15.0%	16.7%	17.4%	18.1%	18.0%	17.8%	17.7%	17.6%	17.5%	17.4%	17.3%	17.2%	17.1%	17.0%	17.0%	16.9%	16.9%	16.8%
RG #5 - Plans A and B	28.0%	30.2%	32.9%	34.3%	34.8%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.4%	35.3%	17.0%	18.2%	12.2%
RG #5 - Plan U	27.1%	29.2%	32.0%	33.3%	33.9%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.5%	34.4%	16.1%	17.3%	11.2%
RG #5 - Plans A, B and U (OCTA)	27.9%	30.0%	32.7%	34.0%	34.5%	35.1%	35.0%	35.0%	34.9%	34.9%	34.8%	34.8%	34.8%	34.7%	34.7%	34.7%	34.6%	16.3%	17.4%	11.4%
RG #9 - Plans M and N	26.3%	27.8%	29.6%	30.6%	31.0%	31.5%	31.5%	31.5%	31.5%	31.5%	31.4%	31.4%	31.4%	31.4%	31.5%	31.5%	31.4%	17.2%	17.8%	14.2%
RG #9 - Plan U	23.3%	24.8%	26.6%	27.6%	28.0%	28.5%	28.5%	28.5%	28.5%	28.5%	28.4%	28.4%	28.4%	28.4%	28.5%	28.5%	28.4%	14.2%	14.8%	11.2%
RG #9 - Plans M, N and U (TCA)	25.4%	26.7%	28.4%	29.2%	29.5%	29.9%	29.8%	29.6%	29.5%	29.4%	29.3%	29.2%	29.1%	29.1%	29.0%	29.0%	28.8%	14.5%	15.1%	11.5%
RG #10 - Plans I and J	34.0%	35.8%	38.2%	39.4%	40.0%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.5%	40.4%	17.6%	20.1%	14.8%
RG #10 - Plans M and N	32.7%	34.6%	36.9%	38.2%	38.7%	39.3%	39.3%	39.3%	39.3%	39.3%	39.2%	39.2%	39.2%	39.2%	39.2%	39.2%	39.1%	16.4%	18.9%	13.5%
RG #10 - Plan U	29.2%	31.1%	33.4%	34.7%	35.2%	35.8%	35.8%	35.8%	35.8%	35.8%	35.7%	35.7%	35.7%	35.7%	35.7%	35.7%	35.6%	12.9%	15.4%	10.0%
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	34.2%	36.4%	37.4%	37.8%	38.2%	38.1%	37.9%	37.8%	37.6%	37.4%	37.3%	37.1%	37.0%	36.9%	36.8%	36.5%	13.7%	16.1%	10.7%
RG #11 - Plans M and N, future service	12.4%	13.9%	15.9%	17.2%	17.8%	18.4%	18.4%	18.3%	18.3%	18.2%	18.2%	18.2%	18.1%	18.1%	18.0%	18.0%	18.0%	18.0%	17.9%	17.9%
RG #11 - Plan U	11.5%	13.0%	15.0%	16.3%	16.9%	17.4%	17.4%	17.4%	17.4%	17.3%	17.3%	17.2%	17.2%	17.1%	17.1%	17.1%	17.1%	17.1%	17.0%	17.0%
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	13.7%	15.7%	16.9%	17.5%	18.0%	17.9%	17.8%	17.7%	17.7%	17.6%	17.5%	17.4%	17.4%	17.3%	17.3%	17.3%	17.3%	17.2%	17.2%
RG #12 - Plans G and H, future service	24.7%	25.9%	28.7%	30.2%	30.9%	31.7%	31.7%	31.7%	31.7%	31.6%	31.6%	31.5%	31.4%	31.4%	31.4%	31.3%	31.2%	19.6%	19.5%	19.4%
RG #12 - Plan U	19.3%	20.5%	23.3%	24.8%	25.5%	26.2%	26.3%	26.2%	26.2%	26.2%	26.1%	26.0%	26.0%	26.0%	25.9%	25.9%	25.8%	14.2%	14.1%	14.0%
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	24.8%	27.0%	28.1%	28.4%	28.8%	28.5%	28.2%	28.0%	27.8%	27.5%	27.3%	27.2%	27.0%	26.8%	26.7%	26.4%	14.8%	14.6%	14.4%
Safety																				
RG #6 - Plans E and F	51.8%	55.5%	59.8%	61.7%	62.6%	63.5%	63.5%	63.5%	63.5%	63.4%	63.4%	63.4%	63.4%	63.4%	63.4%	63.3%	39.3%	34.9%	23.8%	
RG #6 - Plan V	44.5%	48.2%	52.5%	54.4%	55.3%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	56.1%	55.9%	32.0%	27.6%	16.5%
RG #6 - Plans E, F and V (Probation)	51.7%	55.2%	59.3%	61.1%	61.8%	62.5%	62.3%	62.1%	61.8%	61.5%	61.3%	61.0%	60.6%	60.3%	59.9%	59.5%	59.0%	34.6%	29.7%	18.2%
RG #7 - Plans E and F	66.8%	71.1%	75.9%	78.4%	79.5%	80.6%	80.6%	80.6%	80.6%	80.6%	80.6%	80.5%	80.5%	80.5%	80.5%	80.5%	80.3%	43.1%	40.4%	26.8%
RG #7 - Plans Q and R	63.8%	68.1%	73.0%	75.5%	76.5%	77.7%	77.7%	77.6%	77.6%	77.6%	77.6%	77.6%	77.6%	77.6%	77.5%	77.5%	77.3%	40.2%	37.4%	23.8%
RG #7 - Plan V	61.0%	65.3%	70.1%	72.6%	73.7%	74.8%	74.8%	74.8%	74.8%	74.7%	74.7%	74.7%	74.7%	74.7%	74.7%	74.5%	74.5%	37.3%	34.5%	20.9%
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	69.8%	74.4%	76.6%	77.4%	78.3%	78.0%	77.8%	77.5%	77.3%	77.1%	76.9%	76.6%	76.5%	76.3%	76.1%	75.7%	38.4%	35.5%	21.8%
RG #8 - Plans E and F	50.7%	53.9%	57.5%	59.6%	60.5%	61.5%	61.5%	61.5%	61.5%	61.5%	61.5%	61.5%	61.5%	61.4%	61.4%	61.4%	61.3%	34.2%	34.0%	27.4%
RG #8 - Plans Q and R	45.6%	48.8%	52.4%	54.5%	55.4%	56.4%	56.4%	56.4%	56.4%	56.4%	56.4%	56.4%	56.4%	56.3%	56.3%	56.3%	56.2%	29.1%	28.9%	22.3%
RG #8 - Plan V	39.1%	42.2%	45.9%	48.0%	48.9%	49.9%	49.9%	49.9%	49.8%	49.8%	49.8%	49.8%	49.8%	49.8%	49.8%	49.8%	49.7%	22.5%	22.4%	15.8%
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	52.1%	55.3%	56.9%	57.4%	58.0%	57.6%	56.8%	56.2%	55.8%	55.3%	54.9%	54.5%	54.1%	53.7%	53.3%	52.8%	25.2%	24.7%	17.8%

Rates shown above have not been adjusted for employers with future service only benefit enhancement in Rate Group #2.

In the December 31, 2035 valuation, Rate Group #1 would be projected to have a UAAL rate due to the pattern of the UAAL balances. Under the old actuarial assumptions, the base established on December 31, 2016 was a gain layer while under the new actuarial assumptions the base established on December 31, 2016 becomes a loss layer.

Attachment O
Projected Employer Rates by Plans within each Rate Group
Scenario 2: 7.0% for all years

	Valuation Date (12/31)																				
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	
General																					
RG #1 - Plans A and B	18.7%	20.0%	21.4%	21.8%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	21.7%	10.8%	10.7%	10.7%
RG #1 - Plan U	17.8%	19.1%	20.4%	20.9%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	20.8%	9.9%	9.8%	9.8%
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	19.6%	20.9%	21.3%	21.3%	21.2%	21.2%	21.2%	21.2%	21.1%	21.1%	21.1%	21.1%	21.1%	21.1%	21.0%	21.0%	21.0%	10.1%	10.0%	10.0%
RG #2 - Plans I and J	37.3%	38.9%	41.0%	41.7%	41.6%	41.6%	41.6%	41.6%	41.6%	41.5%	41.5%	41.5%	41.5%	41.5%	41.5%	41.5%	41.5%	41.4%	14.7%	14.4%	14.4%
RG #2 - Plans O and P	29.1%	30.7%	32.8%	33.5%	33.4%	33.4%	33.4%	33.4%	33.4%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.3%	33.2%	6.5%	6.2%	6.2%
RG #2 - Plan S	34.4%	36.0%	38.1%	38.8%	38.7%	38.7%	38.7%	38.7%	38.7%	38.6%	38.6%	38.6%	38.6%	38.6%	38.6%	38.6%	38.6%	38.5%	11.8%	11.5%	11.5%
RG #2 - Plan T	30.0%	31.6%	33.7%	34.4%	34.3%	34.3%	34.3%	34.3%	34.3%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.1%	7.4%	7.1%	7.1%	
RG #2 - Plan U	31.9%	33.6%	35.6%	36.3%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.2%	36.0%	9.4%	9.1%	9.1%	
RG #2 - Plan W	30.1%	31.7%	33.8%	34.5%	34.4%	34.4%	34.4%	34.4%	34.4%	34.4%	34.4%	34.3%	34.3%	34.3%	34.3%	34.3%	34.2%	7.5%	7.2%	7.2%	
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	37.2%	39.0%	39.4%	39.0%	38.8%	38.5%	38.2%	38.0%	37.7%	37.5%	37.3%	37.0%	36.8%	36.6%	36.4%	36.1%	9.3%	8.8%	8.6%	
RG #3 - Plans G and H	13.3%	13.3%	13.7%	14.4%	14.3%	14.2%	14.3%	14.3%	14.3%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%
RG #3 - Plan B	11.3%	11.3%	11.7%	12.5%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%	12.3%
RG #3 - Plan U	10.1%	10.1%	10.5%	11.3%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.4%	12.7%	13.3%	13.0%	12.8%	12.7%	12.5%	12.4%	12.3%	12.2%	12.1%	12.0%	11.9%	11.8%	11.8%	11.7%	11.6%	11.6%	11.5%	11.5%
RG #5 - Plans A and B	28.0%	29.5%	31.5%	32.1%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	32.0%	31.9%	13.6%	12.2%	12.2%	12.2%
RG #5 - Plan U	27.1%	28.6%	30.5%	31.2%	31.1%	31.1%	31.1%	31.1%	31.1%	31.1%	31.1%	31.1%	31.1%	31.0%	31.0%	31.0%	31.0%	12.7%	11.2%	11.2%	11.2%
RG #5 - Plans A, B and U (OCTA)	27.9%	29.4%	31.3%	31.9%	31.7%	31.6%	31.6%	31.6%	31.5%	31.5%	31.4%	31.4%	31.3%	31.3%	31.3%	31.3%	31.2%	12.8%	11.4%	11.4%	11.4%
RG #9 - Plans M and N	26.3%	27.3%	28.6%	29.0%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.9%	28.8%	14.5%	14.2%	14.2%	14.2%
RG #9 - Plan U	23.3%	24.3%	25.6%	26.0%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.9%	25.8%	11.5%	11.2%	11.2%	11.2%	11.2%
RG #9 - Plans M, N and U (TCA)	25.4%	26.2%	27.4%	27.7%	27.4%	27.3%	27.2%	27.0%	26.9%	26.8%	26.7%	26.7%	26.6%	26.5%	26.4%	26.4%	26.2%	11.9%	11.5%	11.5%	11.5%
RG #10 - Plans I and J	34.0%	35.3%	36.9%	37.5%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.4%	37.3%	37.2%	14.8%	14.8%	14.8%	14.8%
RG #10 - Plans M and N	32.7%	34.0%	35.6%	36.2%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.1%	36.0%	13.5%	13.5%	13.5%	13.5%	13.5%
RG #10 - Plan U	29.2%	30.5%	32.1%	32.7%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.6%	32.5%	10.0%	10.0%	10.0%	10.0%
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	33.6%	35.1%	35.5%	35.3%	35.1%	34.9%	34.8%	34.6%	34.4%	34.3%	34.1%	34.0%	33.9%	33.7%	33.6%	33.4%	10.8%	10.8%	10.7%	10.7%
RG #11 - Plans M and N, future service	12.4%	13.3%	14.4%	14.9%	14.6%	14.5%	14.5%	14.4%	14.4%	14.4%	14.4%	14.3%	14.3%	14.3%	14.3%	14.2%	14.3%	14.3%	14.3%	14.3%	14.3%
RG #11 - Plan U	11.5%	12.4%	13.5%	13.9%	13.7%	13.6%	13.6%	13.5%	13.5%	13.5%	13.4%	13.4%	13.4%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.4%	13.4%
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	13.1%	14.2%	14.6%	14.3%	14.2%	14.1%	14.0%	13.9%	13.8%	13.8%	13.7%	13.7%	13.6%	13.6%	13.6%	13.6%	13.6%	13.6%	13.5%	13.5%
RG #12 - Plans G and H, future service	24.7%	25.3%	27.1%	27.8%	27.6%	27.6%	27.6%	27.6%	27.6%	27.6%	27.5%	27.4%	27.4%	27.4%	27.4%	27.3%	27.2%	15.7%	14.1%	14.1%	14.1%
RG #12 - Plan U	19.3%	19.8%	21.7%	22.3%	22.2%	22.2%	22.2%	22.2%	22.2%	22.1%	22.1%	22.0%	22.0%	22.0%	21.9%	21.9%	21.8%	10.2%	8.7%	8.7%	8.7%
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	24.1%	25.5%	25.6%	25.1%	24.7%	24.4%	24.2%	23.9%	23.7%	23.5%	23.2%	23.1%	23.0%	22.8%	22.7%	22.5%	10.8%	9.2%	9.1%	9.1%
Safety																					
RG #6 - Plans E and F	51.8%	54.7%	57.9%	58.8%	58.7%	58.7%	58.7%	58.7%	58.7%	58.7%	58.7%	58.7%	58.6%	58.6%	58.6%	58.6%	58.5%	34.6%	30.1%	23.8%	23.8%
RG #6 - Plan V	44.5%	47.4%	50.5%	51.5%	51.4%	51.4%	51.4%	51.4%	51.3%	51.3%	51.3%	51.3%	51.3%	51.3%	51.3%	51.2%	27.2%	22.8%	16.5%	16.5%	16.5%
RG #6 - Plans E, F and V (Probation)	51.7%	54.4%	57.4%	58.2%	57.9%	57.7%	57.5%	57.3%	57.0%	56.8%	56.5%	56.2%	55.8%	55.5%	55.1%	54.7%	54.2%	29.8%	24.9%	18.2%	18.2%
RG #7 - Plans E and F	66.8%	69.9%	73.3%	74.5%	74.3%	74.3%	74.3%	74.3%	74.3%	74.3%	74.3%	74.2%	74.2%	74.2%	74.2%	74.2%	74.0%	36.8%	26.8%	26.8%	26.8%
RG #7 - Plans Q and R	63.8%	67.0%	70.4%	71.5%	71.4%	71.4%	71.3%	71.3%	71.3%	71.3%	71.3%	71.3%	71.3%	71.3%	71.2%	71.2%	71.0%	33.9%	23.8%	23.8%	23.8%
RG #7 - Plan V	61.0%	64.1%	67.5%	68.7%	68.5%	68.5%	68.5%	68.5%	68.4%	68.4%	68.4%	68.4%	68.4%	68.4%	68.4%	68.2%	31.0%	20.9%	20.9%	20.9%	20.9%
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	68.6%	71.8%	72.7%	72.2%	72.0%	71.7%	71.4%	71.2%	71.0%	70.8%	70.5%	70.3%	70.1%	70.0%	69.8%	69.4%	32.1%	21.9%	21.8%	21.8%
RG #8 - Plans E and F	50.7%	52.9%	55.2%	56.2%	56.0%	56.0%	56.0%	56.0%	56.0%	56.0%	56.0%	56.0%	56.0%	55.9%	55.9%	55.9%	55.8%	28.7%	27.4%	27.4%	27.4%
RG #8 - Plans Q and R	45.6%	47.8%	50.1%	51.1%	50.9%	50.9%	50.9%	50.9%	50.9%	50.9%	50.9%	50.9%	50.9%	50.9%	50.8%	50.8%	50.7%	23.6%	22.3%	22.3%	22.3%
RG #8 - Plan V	39.1%	41.2%	43.6%	44.5%	44.4%	44.4%	44.4%	44.3%	44.3%	44.3%	44.3%	44.3%	44.3%	44.3%	44.3%	44.3%	44.2%	17.0%	15.8%	15.8%	15.8%
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	51.1%	53.0%	53.5%	52.9%	52.5%	52.1%	51.3%	50.7%	50.3%	49.8%	49.4%	49.0%	48.6%	48.2%	47.8%	47.3%	19.7%	18.2%	17.8%	17.8%

Rates shown above have not been adjusted for employers with future service only benefit enhancement in Rate Group #2.

Attachment O
Projected Employer Rates by Plans within each Rate Group
Scenario 3: 14.0% for 2017 and 7.0% thereafter

	Valuation Date (12/31)																				
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	
General																					
RG #1 - Plans A and B	18.7%	19.5%	20.4%	20.3%	19.8%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.4%	19.3%	10.7%	10.7%	10.7%	
RG #1 - Plan U	17.8%	18.6%	19.4%	19.4%	18.9%	18.5%	18.5%	18.5%	18.5%	18.4%	18.4%	18.4%	18.4%	18.4%	18.4%	18.4%	18.4%	9.8%	9.8%	9.8%	
RG #1 - Plans A, B and U (non-OCTA, non-OCSD)	18.3%	19.1%	19.9%	19.8%	19.3%	18.9%	18.9%	18.8%	18.8%	18.8%	18.8%	18.7%	18.7%	18.7%	18.7%	18.7%	18.6%	10.0%	10.0%	10.0%	
RG #2 - Plans I and J	37.3%	38.2%	39.4%	39.3%	38.5%	37.9%	37.9%	37.9%	37.8%	37.8%	37.8%	37.8%	37.8%	37.8%	37.8%	37.8%	37.8%	37.7%	14.4%	14.4%	14.4%
RG #2 - Plans O and P	29.1%	30.0%	31.2%	31.1%	30.3%	29.7%	29.7%	29.7%	29.6%	29.6%	29.6%	29.6%	29.6%	29.6%	29.6%	29.6%	29.6%	29.5%	6.2%	6.2%	6.2%
RG #2 - Plan S	34.4%	35.3%	36.5%	36.4%	35.6%	35.0%	35.0%	35.0%	34.9%	34.9%	34.9%	34.9%	34.9%	34.9%	34.9%	34.9%	34.8%	11.5%	11.5%	11.5%	
RG #2 - Plan T	30.0%	30.9%	32.1%	32.0%	31.2%	30.6%	30.6%	30.6%	30.5%	30.5%	30.5%	30.5%	30.5%	30.5%	30.5%	30.5%	30.4%	7.1%	7.1%	7.1%	
RG #2 - Plan U	31.9%	32.9%	34.1%	34.0%	33.2%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.5%	32.3%	9.1%	9.1%	9.1%	
RG #2 - Plan W	30.1%	31.0%	32.2%	32.1%	31.3%	30.7%	30.7%	30.7%	30.7%	30.7%	30.6%	30.6%	30.6%	30.6%	30.6%	30.6%	30.5%	7.2%	7.2%	7.2%	
RG #2 - Plans I, J, O, P, S, T, U and W (County et al.)	35.9%	36.5%	37.4%	37.0%	36.0%	35.0%	34.8%	34.5%	34.3%	34.0%	33.8%	33.6%	33.3%	33.1%	32.9%	32.7%	32.4%	8.9%	8.8%	8.6%	
RG #3 - Plans G and H	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	13.3%	
RG #3 - Plan B	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	
RG #3 - Plan U	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	10.1%	
RG #3 - Plans B, G, H and U (OCSD)	12.6%	12.4%	12.3%	12.1%	12.0%	11.8%	11.7%	11.6%	11.4%	11.3%	11.2%	11.1%	11.0%	10.9%	10.9%	10.8%	10.7%	10.6%	10.6%	10.5%	
RG #5 - Plans A and B	28.0%	28.9%	30.0%	29.9%	29.2%	28.6%	28.6%	28.6%	28.6%	28.6%	28.6%	28.6%	28.6%	28.6%	28.6%	28.5%	28.5%	12.2%	12.2%	12.2%	
RG #5 - Plan U	27.1%	28.0%	29.1%	29.0%	28.3%	27.7%	27.7%	27.7%	27.7%	27.6%	27.6%	27.6%	27.6%	27.6%	27.6%	27.6%	27.5%	11.2%	11.2%	11.2%	
RG #5 - Plans A, B and U (OCTA)	27.9%	28.7%	29.8%	29.7%	28.9%	28.3%	28.2%	28.1%	28.1%	28.1%	28.0%	28.0%	27.9%	27.9%	27.9%	27.9%	27.7%	11.4%	11.4%	11.4%	
RG #9 - Plans M and N	26.3%	26.8%	27.5%	27.4%	26.8%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.3%	14.2%	14.2%	14.2%	
RG #9 - Plan U	23.3%	23.8%	24.5%	24.4%	23.8%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.4%	23.3%	11.2%	11.2%	11.2%	
RG #9 - Plans M, N and U (TCA)	25.4%	25.7%	26.3%	26.1%	25.3%	24.7%	24.6%	24.5%	24.4%	24.3%	24.2%	24.2%	24.1%	24.0%	24.0%	23.9%	23.7%	11.6%	11.5%	11.5%	
RG #10 - Plans I and J	34.0%	34.7%	35.6%	35.5%	34.8%	34.3%	34.3%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.2%	34.1%	14.8%	14.8%	14.8%	
RG #10 - Plans M and N	32.7%	33.4%	34.4%	34.3%	33.6%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	32.8%	13.5%	13.5%	13.5%	
RG #10 - Plan U	29.2%	29.9%	30.9%	30.8%	30.1%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.5%	29.3%	10.0%	10.0%	10.0%	
RG #10 - Plans I, J, M, N and U (OCFA)	32.5%	33.1%	33.8%	33.5%	32.7%	32.0%	31.8%	31.6%	31.5%	31.3%	31.1%	31.0%	30.9%	30.7%	30.6%	30.5%	30.3%	10.8%	10.8%	10.7%	
RG #11 - Plans M and N, future service	12.4%	12.6%	12.9%	12.7%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	12.1%	
RG #11 - Plan U	11.5%	11.7%	12.0%	11.8%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	
RG #11 - Plans M and N, future service, and U (Cemetery)	12.2%	12.4%	12.7%	12.4%	11.8%	11.7%	11.7%	11.6%	11.6%	11.5%	11.5%	11.5%	11.4%	11.4%	11.4%	11.4%	11.4%	11.3%	11.3%	11.3%	
RG #12 - Plans G and H, future service	24.7%	24.6%	25.6%	25.5%	24.7%	24.1%	24.2%	24.2%	24.3%	24.3%	24.3%	24.3%	24.3%	24.3%	24.3%	24.3%	24.3%	14.1%	14.1%	14.1%	
RG #12 - Plan U	19.3%	19.1%	20.1%	20.0%	19.2%	18.6%	18.7%	18.8%	18.8%	18.8%	18.8%	18.8%	18.8%	18.9%	18.9%	18.9%	8.7%	8.7%	8.7%	8.7%	
RG #12 - Plans G and H, future service, and U (Law Library)	24.5%	23.4%	23.9%	23.3%	22.1%	21.2%	20.9%	20.7%	20.6%	20.4%	20.2%	20.1%	20.0%	19.8%	19.8%	19.7%	9.3%	9.3%	9.2%	9.1%	
Safety																					
RG #6 - Plans E and F	51.8%	53.9%	56.0%	55.9%	54.8%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.9%	53.7%	29.8%	23.8%	23.8%	
RG #6 - Plan V	44.5%	46.5%	48.6%	48.6%	47.5%	46.6%	46.6%	46.6%	46.6%	46.6%	46.6%	46.6%	46.6%	46.5%	46.5%	46.5%	46.4%	22.5%	16.5%	16.5%	
RG #6 - Plans E, F and V (Probation)	51.7%	53.5%	55.5%	55.3%	54.0%	53.0%	52.8%	52.5%	52.3%	52.0%	51.7%	51.4%	51.1%	50.7%	50.3%	49.9%	49.4%	25.0%	18.6%	18.2%	
RG #7 - Plans E and F	66.8%	68.8%	70.7%	70.5%	69.1%	68.0%	68.0%	68.0%	68.0%	68.0%	67.9%	67.9%	67.9%	67.9%	67.9%	67.9%	67.7%	30.5%	26.8%	26.8%	
RG #7 - Plans Q and R	63.8%	65.8%	67.8%	67.6%	66.2%	65.0%	65.0%	65.0%	65.0%	65.0%	65.0%	65.0%	65.0%	65.0%	64.9%	64.9%	64.7%	27.6%	23.8%	23.8%	
RG #7 - Plan V	61.0%	62.9%	64.9%	64.7%	63.3%	62.2%	62.2%	62.2%	62.1%	62.1%	62.1%	62.1%	62.1%	62.1%	62.1%	62.1%	61.9%	24.7%	20.9%	20.9%	
RG #7 - Plans E, F, Q, R and V (Law Enforcement)	65.8%	67.5%	69.2%	68.7%	67.0%	65.7%	65.4%	65.1%	64.9%	64.7%	64.4%	64.2%	64.0%	63.8%	63.7%	63.5%	63.1%	25.8%	21.9%	21.8%	
RG #8 - Plans E and F	50.7%	51.9%	53.0%	52.7%	51.5%	50.5%	50.5%	50.5%	50.5%	50.5%	50.5%	50.5%	50.4%	50.4%	50.4%	50.3%	27.4%	27.4%	27.4%	27.4%	
RG #8 - Plans Q and R	45.6%	46.8%	47.9%	47.6%	46.4%	45.4%	45.4%	45.4%	45.4%	45.4%	45.4%	45.4%	45.4%	45.3%	45.3%	45.3%	45.2%	22.3%	22.3%	22.3%	
RG #8 - Plan V	39.1%	40.2%	41.3%	41.1%	39.9%	38.9%	38.8%	38.8%	38.8%	38.8%	38.8%	38.8%	38.8%	38.8%	38.8%	38.8%	38.7%	15.8%	15.8%	15.8%	
RG #8 - Plans E, F, Q, R and V (Fire Authority)	49.5%	50.1%	50.7%	50.1%	48.4%	47.0%	46.6%	45.8%	45.2%	44.7%	44.3%	43.9%	43.5%	43.1%	42.7%	42.3%	41.8%	18.5%	18.2%	17.8%	

Rates shown above have not been adjusted for employers with future service only benefit enhancement in Rate Group #2.

1-11

Memorandum

DATE: January 16, 2018
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

- **Charles Skorina & Company Charles Skorina & Company**
[PDF attachment]
- **PIMCO in the Post-Gross Era**
<http://news.morningstar.com/articlenet/article.aspx?id=841884&SR=Yahoo&yptr=yahoo>

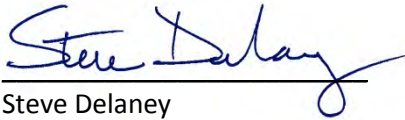
From Steve Delaney

- **October 2017 Newsletter the Economic Impact of Climate Change (attached document).**
- **US Without Pensions**
[PDF attachment]

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 November 2017.
2. January 12, 2018 Letter from Mr. Baldwin

Submitted by:

A handwritten signature in blue ink that reads "Steve Delaney". The signature is written in a cursive style with a horizontal line underneath the name.

Steve Delaney
Chief Executive Officer

Memorandum

DATE: December 15, 2017
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: OCERS ACTIVITIES AND UPDATES – NOVEMBER 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 NOVEMBER 2017.

CUSTOMER SERVICE

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

What is the withdrawal process?

Upon separation of OCERS covered employment, OCERS requires a written notice of separation from the employer. OCERS mails the member a letter notifying members of their options. If members wish to withdraw their contributions and interest from their OCERS account, we direct them to the OCERS website and instruct them to obtain the online form *Member Request to Withdraw Contributions/Elect Rollover* (or we mail it) which starts the process. Once the completed form is received at OCERS, we process the request within 8 to 10 weeks to allow for final salary records to post from their employer. When members withdraw their balance, they forfeit retirement, disability and survivor benefits.

I'm getting divorced, how much will my former spouse receive from my OCERS benefit payment?

Many factors are considered when an OCERS member gets divorced. OCERS requires a joinder from the court that makes us a party in the action as well as a valid Domestic Relations Order (DRO). The DRO stipulates how the marriage assets will be allocated. OCERS has sample DRO documents on our website as a guide. Staff encourages members to seek counsel from a qualified

**MEMBER SERVICE STATS FOR
 NOVEMBER 2017**

Member Approval 99%

Unplanned Recalcs 3

Retirement Apps Received

Nov 2017 75

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

family law attorney. We do not offer legal advice. Once OCERS receives the joinder and DRO, OCERS legal staff review and issue an opinion on how the benefit will be split, (or not) and if the DRO specifies how the benefit will be handled in the case of either party predeceasing each other. Each case is unique and reviewed separately. OCERS does not pay former spouses any benefits until our members are retired and in payment status.

How do I start the retirement process?

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. Once a retirement application has been submitted through the member self-service portal, a workflow is created and the Member Services Supervisor routes the task to the retirement specialist by agency distribution. The retirement specialist contacts the member by telephone to schedule a retirement appointment. 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 the member fully understands each option as once the first benefit payment is received the election is irrevocable.

TELEPHONE STATS (showing trending) FOR NOVEMBER

DATE/S	QUEUE	DIRECT TO EXTENSION	TOTAL CALLS TO MS (Queue + Direct)
November 2017	805	2893	3698
November 2016	807	2784	3591
November 2015	1856	1540	3396

ACTIVITIES

OCERS BUILDING PROPERTY MANAGER

Ms. Brenda Shott informed the Chair, Vice Chair and Immediate Past Chair during today’s pre-Board meeting conference call that we have completed the RFP and interview process for a property management firm to care for the OCERS’ headquarters building.

Jim Dozie, OCERS Contracts, Risk and Performance manager led the effort and provides a short summary report of the results of our search:

“An RFP for Property Management Services for the OCERS office was distributed on July 10th. We received six offers and selected three finalists whom were interviewed on September 28th and October 2nd. More detailed discussions were conducted with the finalists and a final decision was made to transition from CBRE to a new vendor - Avison Young, based on the following reasons:

- Pricing – We are estimating a 31% savings a year versus our current vendor. This equates to about \$13K a year in savings
- Project Management – Avison Young has proposed some innovative ideas for remodel projects
- Proactive Property Management – The Avison Young approach is to be proactive on break/fix items
- They come highly recommend from LACERA who transitioned to Avison Young 18 months prior

We are looking to schedule an official transition effective February 1st, 2018 once a contract is put into place.”

INVESTMENTS IN NOVEMBER

Mr. Beeson provides this report on the Investment Team’s November activities:

“At the November 29th Investment Committee meeting, staff presented the portfolio activity for the month of October. The portfolio year-to-date is up 12.2% net of fees, while the one-year return is up 14.0%. The fund value now stands at \$15.0 billion. PCA, OCERS’ risk consultant, discussed the importance of having many diversified drivers of risk during its 3rd Quarter 2017 Portfolio Risk Discussion. Meketa, OCERS’ general consultant, presented their 3rd Quarter 2017 Portfolio Evaluation Report for OCERS’ portfolio and 2nd Quarter 2017 Real Estate Performance Report. The Committee also voted to approve a \$100 million commitment to Waterton Residential Venture XIII, a re-up investment for OCERS with a multifamily value-add real estate manager.

In other activities, OCERS’ staff has been interviewing semifinalist candidates as part of its Illiquid Investments Advisory Services RFP.”

UPDATES

SECOVA BEGINS OPEN ENROLLMENT

In November Ms. Catherine Fairley attended the Retired Employees Association of Orange County (REAOC) Board meeting and provided a summary of activity regarding the health insurance open enrollment process as used by the County of Orange and Secova. The REAOC Board was frustrated the County had not included them in the process especially as there was some confusion due to the open enrollment packets being mailed after the open enrollment period began. In the meantime, OCERS worked with Secova and the County on test files that contained updated premium, health grant and Medicare rates. Secova's team included staff new to the process, so OCERS’ team members rolled up their sleeves and coached the developers on process and provided feedback. Testing of the final production file for the January 2018 retiree payroll commenced in December.

NOVEMBER STAFFING UPDATE

Ms. Hockless provides a report on November staffing activities:

“In November the Board approved the OCERS 2018 budget. This approval included adding headcount to the agency in the Member Services, Finance and Investment departments. In January 2018, the OCERS headcount will increase from 80 to 92 positions.

As the year comes to an end, the Admin team continues to partner with hiring managers to fill key positions in the agency. The Investments team completed the second round of interviews for the Investment Officer position. After careful consideration, the top candidate accepted a position and will join OCERS in early-February, 2018.

The Member Services department completed interviews for the Retirement Program Specialist positions; two of these positions became vacant due to recent internal promotions for the Senior Retirement Program Specialists. Two candidates were selected, one internal promotion and one external candidate. One candidate is scheduled to start in early December and the other will start in early January. Member Services also conducted interviews for their Retirement Analyst position and selected an internal candidate who will start early December. With the pending promotion of the Member Services Retirement Analyst, **all new positions added to headcount in January 2017, will be filled by the end of the year.**

Year-to-date, a total of eight (8) employees left OCERS employment (five (5) voluntary resignations, one (1) automatic resignation, one (1) transfer to the County and one (1) 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 (7) vacant positions with three (3) pending job offers. Of the 80 budgeted positions (28 OCERS Direct and 52 County positions), 73 positions are presently filled. This budgeted headcount will increase to 92 positions in 2018 (32 OCERS Direct and 60 county positions).”

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

Position Type	Position Title	Department	Comments
OCERS	Member Services Retirement Analyst – Filled	Member Services	Start Date December 8, 2017

OCERS	Investment Officer Pending Offer	Investments	Scheduled Start date February, 2018
County	Executive Secretary I Vacant	Legal	Open date TBD
County	(2) Retirement Program Specialist 1 Filled 1 Pending Offer	Member Services	Start date December 8, 2017 and January 5, 2018.
County	Sr. IT Retirement Programmer/Business Analyst Pending Offer	Information Technology	Start date: December 22, 2017
County	Retirement Investigator Vacant	Disability	Open date TBD
County	Office Specialist Vacant	Member Services	Vacant on December 8 with promotion of internal candidate
OCERS	Member Services Manager Vacant	Member Services Manager	Vacant on December 8 with promotion of internal candidate



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the consent agenda for the January 16 meeting of the OCERS Board of Retirement.

The Economic Impact of Climate Change

October 2017: Issue Twenty One

The earth's climate is changing. Few summers go by without breaking a wildfire or extreme heat record; few winters go by without breaking a flood or storm strength record. Scientific reports on the causes and impacts of climate change are piling up, leading to calls and commitments to limit this phenomenon, including the 2015 Paris agreement by which almost 200 countries committed to tackle climate change together. In this newsletter, we do not seek to opine on the causes of climate change, but rather review the main expected impacts of climate change on the global economy as well as the potential risks and opportunities it represents.

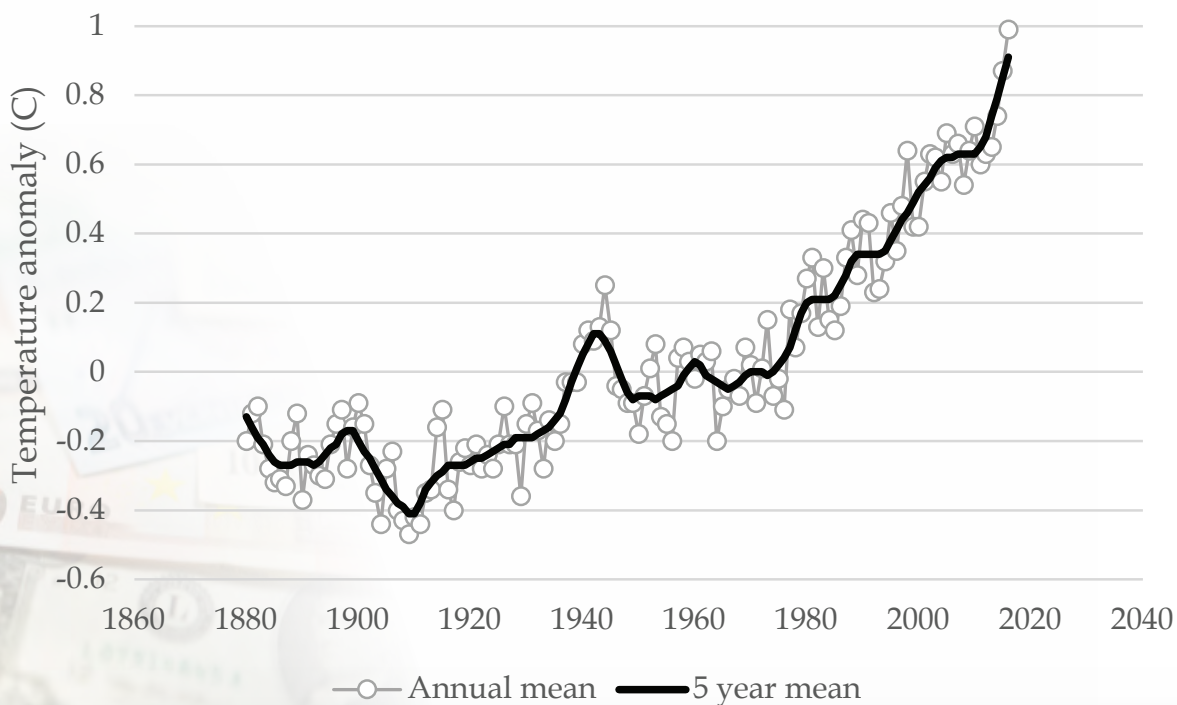
BACKGROUND: WHAT IS CLIMATE CHANGE

According to NASA¹, the earth's average temperature has increased by 1.1 degrees Celsius (or about 2.0 degrees Fahrenheit) since pre-industrial times, with most of the increase taking place during the past 35 years (Figure 1). Most scientists agree that this global warming has been mostly driven by the growing

concentration of greenhouse gases (especially carbon dioxide), which trap heat in the atmosphere. Climate change is already clearly visible with the melting of polar ice sheets and glacier retreats. It has also started to affect crops and animal life.

Warmer temperatures affect precipitation patterns, with wet regions getting wetter and dry regions drier. Warmer temperatures also come with more

Figure 1: Change in Global Temperature Relative to 1951-1980 Average Temperatures



Source: climate.nasa.gov

1 See: <https://climate.nasa.gov>



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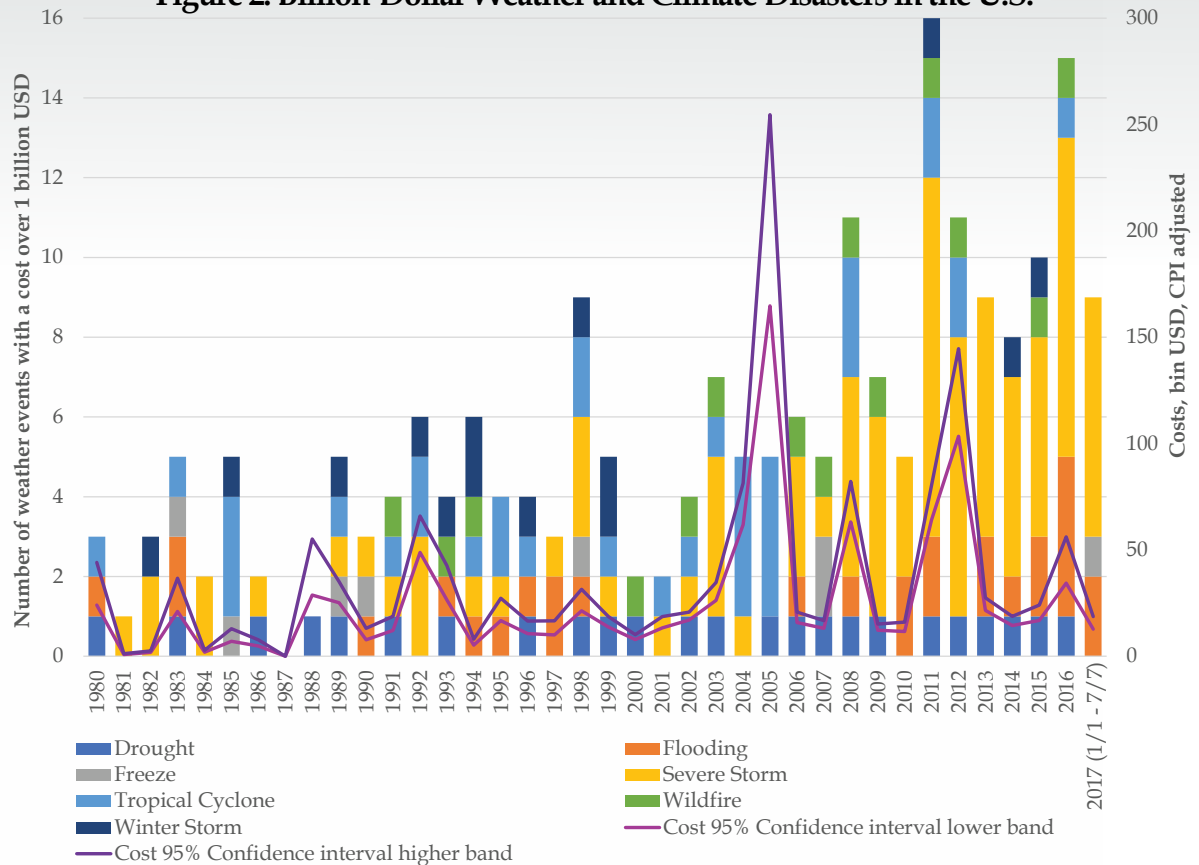
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Figure 2: Billion-Dollar Weather and Climate Disasters in the U.S.



Note: Costs estimates are based total losses (insured or not) from physical damages to buildings, material assets and infrastructure as well as business interruptions.

Source: NOAA's National Centers for Environmental Information, <https://www.ncdc.noaa.gov/billions/time-series>

frequent climate disasters, amplified by coastal development in recent decades, as illustrated by Figure 2 in the case of the U.S.

As oceans get warmer, and ice melts, another major manifestation of climate change is the rise in sea level. According to NASA¹, the global sea level has increased by 80 millimeters since 1995, with a current rate of increase of 3.4 millimeters per year. The Intergovernmental Panel on Climate Change (IPCC)² estimated that the average sea level could rise by between 0.2 and 1 meters by 2100, depending on by how much global temperature increases.

The accumulation of heat trapping gases so far implies that climate change will continue; there is a growing consensus that about 2° C of global average temperature

increase since the pre-industrial times is already locked in. Because greenhouse gases remain in the atmosphere for a long time, and emissions keep rising, additional global warming is likely. Most available estimates range from increases in average temperatures from preindustrial times between 2° and 6° C by 2100, depending on emission patterns, but higher increases are not ruled out.

Most scientists consider 2° C the threshold above which climate related catastrophic events become more likely.³ This is why the 2015 Paris agreement aims at containing global warming “well below” this threshold through a reduction in greenhouse gas emissions.

HOW IS CLIMATE CHANGE AFFECTING THE GLOBAL ECONOMY?

If not arrested, climate change will have major social and economic impacts. Quantifying these impacts is a difficult task. The magnitude of climate change going forward is still uncertain because

1 See: <https://climate.nasa.gov>

2 IPCC (2014) Climate Change 2014, Summary for Policy-makers

3 See for instance Bob Silberg (2016) Why a half-degree temperature rise is a big deal NASA's Jet Propulsion Laboratory.



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emissions depend partly on policies that are yet to be fully defined and because the link between gas concentration and temperature increase is complex. Moreover, identifying the different channels at work and quantifying them is not straightforward; the interaction between the different impacts, their indirect effects on the rest of the economy, including via trade and financial channels, the different local impacts, and possible non-linearity also complicate the task.

Since the 2007 Stern Review¹, there has been substantial progress in the modelling approaches leading to new quantifications. While these quantifications are surrounded by high uncertainty and sensitive to modelling approaches and assumptions, they are useful to illustrate the main channels by which global warming will potentially affect our economies.²

Direct sectoral effects: some sectors of the economy that are sensitive to the weather will be directly affected by climate change. This is especially the case in the agriculture, energy, and tourism sectors.

The agricultural sector will most likely be hit negatively by a warmer climate. Crop yields are expected to decline, except in the coldest climates where they may increase. According to some estimates, yields could decline by up to 19% on average by 2050 in the U.S. Midwest in the absence of adaptation to changing weather conditions.³ However, there is some evidence that a higher carbon concentration could increase crop yields, possibly counterbalancing part of this negative effect. Agriculture will also suffer from disruption to water supplies

(due to higher evaporation and increased rain variability) and losses in output due to more frequent extreme weather events. Climate change will also affect livestock health, while fisheries will face major changes in catch patterns due to ocean warming and acidification.

The likely impact on the energy and tourism sectors is more limited at the global level, despite important local and regional impacts. Climate change affects energy demand with increased demand for cooling and less demand for heating. The two effects may balance each other at the global level but local impacts could be significant. Climate change will also shift tourism activity within and across countries.

The other directly affected sectors include forestry (because of drought, more frequent wildfires, insect outbreaks and tree diseases), real estate markets in coastal regions, and insurance (see below).

Effects on capital stock, labor, and productivity: Climate change potentially leads to losses in the capital stock, and in labor force productivity.

First, land and physical capital, including key infrastructure, will be put at risk by rising sea levels as well as damages from more frequent extreme weather such as floods, with important consequences for the insurance sector. For instance, the damage of the 2013 floods in Europe is estimated at 12 billion euros across 9 countries.⁴

Second, warmer global temperatures increase the likelihood of diseases, malnutrition and heat stress that affect human health with implications on the size of the labor force and its productivity, as well as on healthcare expenditures. In currently very cold regions, a more temperate climate may increase productivity. However, land losses, health issues, competition for resources (e.g., water) could trigger population movements within and across national borders and associated social issues or even conflicts.

1 N. Stern (2007) The Economics of Climate Change: The Stern Review

2 See IPCC (2014) op. cit., OECD (2015) The Economic Consequences of Climate Change, OECD Publishing, Paris and J. Harris, B. Roach and A-M Codur (2017) The Economics of Global Climate Change, Global Development and Environment Institute, Tufts University.

3 Risky Business (2014) A climate risk assessment for the United States.

4 See: European Commission (2014) Overview of natural and man-made disaster risks in the EU, COMMISSION STAFF WORKING DOCUMENT.

HOW MUCH GLOBAL GDP COULD BE LOST?

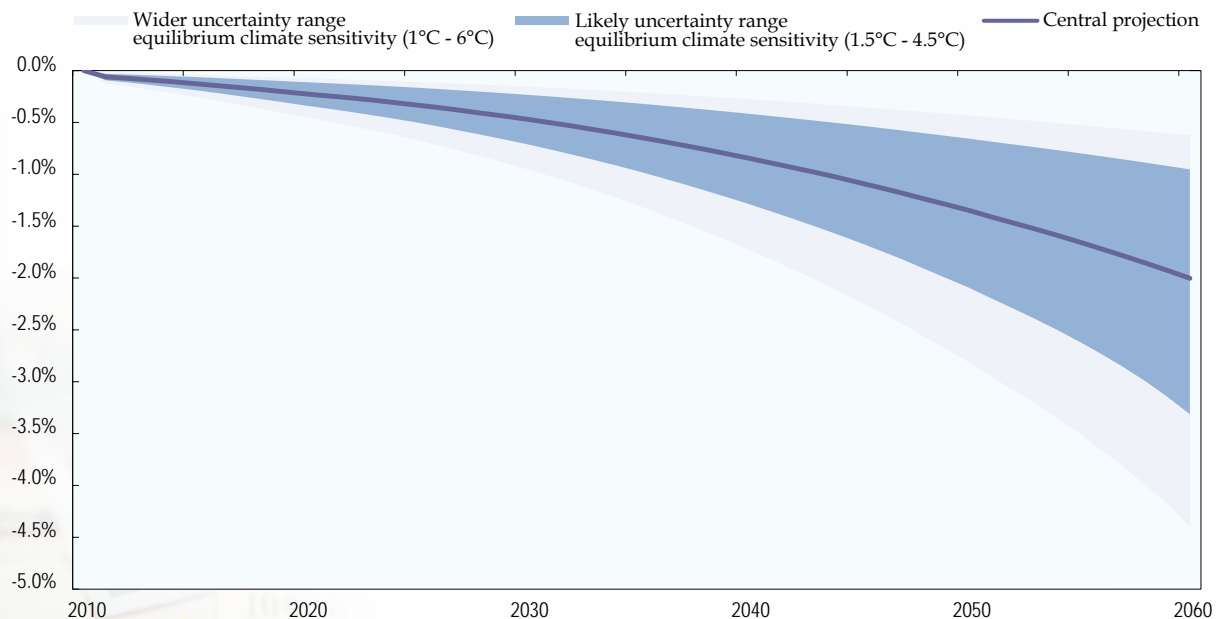
According to 2015 estimates by the OECD¹, an additional increase in global temperature by 1°-1.5° C (i.e., a total increase of 2° to 2.5° from preindustrial times) would reduce the level of world GDP by about 2% in 2060, compared with a baseline scenario where climate does not change (Figure 3). A recent literature review by the IMF² points to a 2% global GDP level loss for a slightly higher total temperature increase (3 degrees). While the impact on the annual growth rate of the world economy is very small (about 0.05 percentage points annually on average), it worsens the already expected long-term world economic slowdown due to demographics.

The longer the horizon, the wider the uncertainty both on the magnitude of global warming and its economic

impact. Damages are also expected to increase with time if gas concentration and climate change continue. For instance, with a temperature increase reaching 6 degrees by 2100, the cost could be over 10% of global GDP.³ There are also much more dramatic estimations: some American researchers estimate that global incomes could be 23 percent lower by 2100 than they would be in a world without climate change.⁴

The 2015 OECD estimates also illustrate the weight of the different impacts, with the impacts on crop yields, labor productivity, and damages due to the increase in sea level dominating the global impact (Figure 4, on the following page). On the other hand, extreme weather events are unlikely to have a significant global impact, despite important local impacts.

Figure 3: OECD Estimates of the Global Impact of Climate Change



Source: OECD (2015), *The Economic Consequences of Climate Change*, OECD Publishing, Paris



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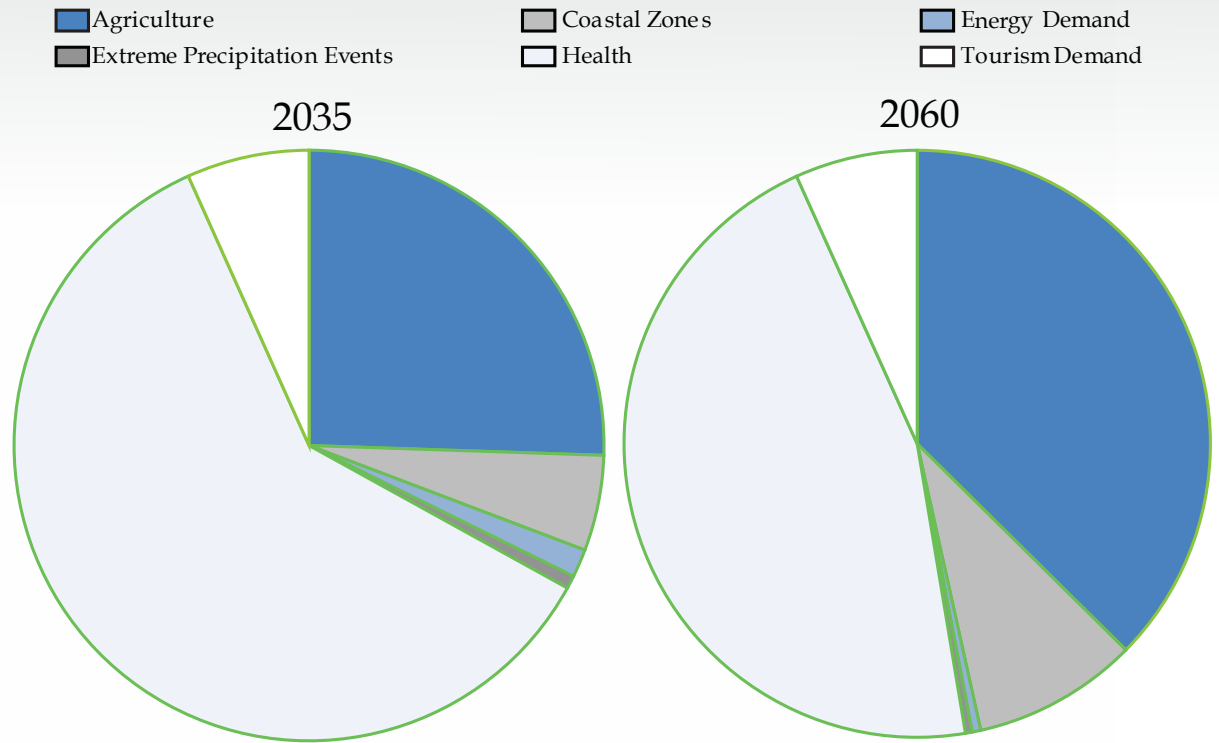
1 OECD (2015) *The Economic Consequences of Climate Change*, OECD Publishing, Paris.

2 IMF (2016) *After Paris: Fiscal, Macroeconomic, and Financial Implications of Climate Change* Prepared by Mai Farid, Michael Keen, Michael Papaioannou, Ian Parry, Catherine Pattillo, Anna Ter-Martirosyan, and other IMF Staff.

3 OECD (2015) *op. cit.*

4 Marshall Burke, Solomon M. Hsiang and Edward Miguel (2015) "Global non-linear effect of temperature on economic production" *Nature* 527.

Figure 4: Attribution of Damages to Selected Climate Change Impacts, OECD Central Projection



Source: OECD (2015), The Economic Consequences of Climate Change, OECD Publishing, Paris.

WHAT ARE THE UNKNOWNNS?

Some impacts of climate change cannot be properly evaluated with existing tools, especially at long horizons and when/if temperature increases above 4° C. First, climate related social unrest/conflicts are usually not considered in standard quantifications. This is also the case with feedback effects that could take place after a certain level of temperature increase and would accelerate global warming and magnify its consequences: examples include feedbacks due to increased release of CO₂ from warming arctic tundra or the reduction in carbon absorption due to forest loss.

Scientists have also identified potential damages that, while having a very low probability of taking place, could have a dramatic impact on human life and the global economy. For instance, a collapse of the Greenland and West Antarctic ice sheets could raise sea levels by over 12 meters, with devastating consequences

for coastal cities and infrastructure.¹ In the same way, a shift in the Atlantic Gulf Stream could dramatically change the climate of Europe.

In addition, existing modelling may not fully account for macroeconomic risks associated to the impact of climate change. These risks include the impact of extreme weather events on public finance and the insurance sector, and the financial consequences of a collapse of coastal real estate markets. While less predictable than sectoral impacts, financial crisis associated with climate change could have important medium-term consequences.

But the impact of climate change may also be less than expected if adaption moderates its negative impact and creates new opportunities for growth. As the recognition of climate risks increases, national and local actors have started to adapt to changing climate conditions. For instance, Californian food producers have



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¹ J. Harris, B. Roach and A-M Codur (2017) *op. cit.*



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started to adapt to drought by turning to less water dependent crop varieties; Southeast U.S. cities have started to respond to flooding threats with sea walls, pumps, desalination, relocation of infrastructure, etc. It is highly possible that the counterbalancing effect of adaptation is underestimated, especially if it leads to new disruptive technologies that boost productivity.

WHO WILL BE HIT THE MOST?

The impact of climate change is not uniform and varies across countries and within countries. A few may even benefit from climate change. The local impact of climate change will depend mostly on two types of factors:

- Sensitivity to climate change, which depends on the geographic situation, as well as the type of economic activity.
- Ability to adapt, which is shaped by several factors including the business environment, available skills, institutional capacity, and capital.

Therefore, low income countries will be the most affected by climate change as they often have geographical disadvantages and a limited ability to adapt. This will worsen poverty and population movements, and increase the risks of conflicts especially in fragile states. In high income countries, the impact of climate change will be less acute, as they benefit from better geographical situations as well as stronger adaptation capacity.

WHAT IS THE EXPECTED IMPACT ON THE U.S.?

The United States will not be spared by climate change. A good illustration is the Risky Business¹ estimate that the average number of days with

1 Risky Business (2014) *op.cit.*

2 For more details see Third National Climate Assessment Report of the US Global Change Research Program.

temperature above 95°F in many parts of the U.S. could increase to between 27 to 50 days each year by 2050 and could reach between 45 to 96 days in 2100.

However, compared with the rest of the world, the economic impact of climate change on the U.S. economy will be moderate, with a dent on the level of GDP of about 0.5% by 2060, according to the OECD estimates, but with major local differences.² The northern states would benefit from more bearable winters, a positive impact of tourism, and higher crop yields. This would partly compensate a negative impact in southern states, especially on the east coast, where temperatures would become unbearable part of the year with strong negative effects on productivity and where the rise in sea level could be particularly damaging.

WHAT ABOUT MITIGATION POLICIES AND CHANGES IN PREFERENCES?

Current climate change mitigation policies primarily seek to contain or reduce greenhouse gas emissions. These policies have a strong impact on the business environment with new regulations and taxes but also technological disruptions (for instance electric cars) that affect business models.

Overall, mitigation policies tend to favor low-emission businesses at the expense of high-emission ones, especially harming fossil fuel producers and traditional industrial sectors, but also affecting agriculture. Awareness of climate risks is also slowly shifting consumers' and investors' preferences towards greener products and technologies, adding to the potential difficulties in high-emission sectors. On the other hand, mitigation policies will drive new spending on infrastructure, and cleaner technologies.

CONCLUSION: RISKS AND OPPORTUNITIES ASSOCIATED
WITH CLIMATE CHANGE

Climate change is a source of risks but also opportunities for businesses and investors. Even if its global impact by 2050 seems small, especially in terms of the growth rate, it varies greatly across sectors, regions, and businesses.

Financial markets may have some way to go to price fully the impact on expected returns. For instance, according to the IMF¹, few investors are aware of the contribution to emissions of the companies in their portfolios and companies exposed to future regulatory risks could still be overvalued. The AODP Global Climate 500 Index 2017² shows nonetheless that an increasing number of asset owners and managers recognize the financial risks and opportunities of climate change and have started to act

accordingly, with Europe and Australia taking the lead. For instance, Aviva Investors has warned companies that it will vote against the annual reports and accounts of companies failing to publicly disclose the risks posed to their business models by climate change and will consider selling its shares in companies that repeatedly fail to provide such information.³

Going forward, as stock market valuations adjust to both research progress on the magnitude of climate change, and its impact, and to the implications of mitigation policies on companies' medium-term earning prospects, a somewhat heightened level of financial instability cannot be ruled out.



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¹ IMF (2016) *op.cit.*

² http://aodproject.net/wp-content/uploads/2017/04/AODP-GLOBAL-INDEX-REPORT-2017_FINAL_VIEW.pdf

³ Financial times, July 20, 2017.

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LATEST NEWSLETTER



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[Women in finance: Rukaiyah Adams](#)

Speaking of large US pensions, the \$75 billion dollar Oregon Pension ranks among the top fifteen in the US, but how many in the industry know the current board chair, Ms. Rukaiyah Adams?

Ms. Adams was born in Berkeley, CA, grew up in diverse, northeast Portland, and returned to her home city after a stellar legal and investment career in California and New York.

She splits her professional duties between the \$750 million AUM Meyer Memorial Trust, where she is chief investment officer and the \$75 billion Oregon state pension, where she is board chairperson.

Present day Portland is a little easier to reach than it was when President Thomas Jefferson sent Captain Lewis, Second Lieutenant Clark, and the ‘Corps of Discovery’ west to explore the vast uncharted American territories.

Still, Portland is not Wall Street and, at the west end of the Oregon Trail, just far enough off the beaten track to feel a bit isolated.

Yet, the state is home to the Oregon Investment Council, one of the nation’s largest pension funds, several well-run university endowments, three first-rate investment consulting firms, and the Meyer Memorial Trust, established with a behest from Mr. Fred G. Meyer, a twentieth century supermarket magnate.

When Mr. Meyer died in 1978 at the age of 92, he left two million shares of stock to the newly formed foundation. And thanks to a buy-out deal in the early days of private equity, the value of the trust’s holdings soared. KKR and the Oregon Investment Council, in one of their first joint buyout forays, purchased the Fred Meyer Co. in 1981, which did wonders for the stock.

Ms. Rukaiyah Adams joined the foundation as investment head about four years ago, after managing a \$7bn fixed income and derivatives fund for The Standard, a Portland-based financial services company.

We caught up with Ms. Adams earlier this year and wondered what the investment view looked like from her outpost on the Pacific rim.

Ironically, with only a handful of African-American chief investment officers in the entire US, the progressive northwest has two, Ms. Adams, a Portland native, and Joseph Boateng, from Ghana originally, and the long-serving investment head of Casey Family Programs in Seattle, the largest non-government provider of foster care in the country.

We wanted to know what drew her to the asset management industry, her views on investing, and what advice she might have to offer to encourage more women and minorities to get into the business.

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NEWS AND COMMENTARY



[Pay and Chief Investment Officers](#)

Last month in Part One of this report we focused on relative performance. We ranked 107 CIOs by trailing 5-year returns.

See: <http://www.charlesskorina.com/?p=4828>

Now, we focus on how much institutions pay these excellent people.

The bare comp numbers lead us to the tricky and perennial question of whether their pay is properly aligned to their performance (or vice-versa), and we offer some analysis and opinion from the point of view of working headhunters.

We also consider the cost of an OCIO firm relative to an in-house CIO-led investment office.

Now, on to the charts! (See full article for CIO comp charts.)

Size matters: bigger firms pay more ... way more!

In the larger corporate world CEO pay is an object of great interest and controversy for obvious reasons. But the relationship of size to compensation looks just like what we see in our set of endowment CIO data.

Kevin Hallock at Cornell University is one of the go-to experts in this field. He's chair of their department of Labor Economics and director of their Institute for Compensation Studies. In papers with his students and colleagues he's studied CEO pay for many years.

He says: "It doesn't matter whether company size is measured as assets, market value, sales revenue or number of employees — bigger firms pay more ... way more."

"We can isolate the impact of all kinds of other characteristics (e.g., industry, return on assets, profitability, research and development expense, etc.) and even use complicated statistical techniques to remove the influence of "unmeasurable" characteristics, and the size-to-pay link remains intact."

This isn't just crony capitalists taking care of their board-room buddies, either. The same relationships are found in non-profits (e.g., endowments and foundations) and labor unions.

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Suzanne Brenner's big trade, from the Met to Wall Street

Ms. Brenner, ex co-CIO, moves downtown to Brown Brothers Harriman as chief investment officer after an 18 year career at the Metropolitan Museum of Art. Ex Rockefeller Fdn, ex QCS, ex Ernst & Young. BA arts & music, CUNY Queens College



Larry Kochard heads west

Larry Kochard, CIO U Virginia joins Makena Cap Mgmt Menlo Park, CA Jan 2018. Ex CIO Georgetown U, ex Virginia Ret Sys, ex Goldman Sachs, MA/PhD U Virginia, MBA U Rochester, BA William & Mary.



Scott Wilson, from Grinnell to Wash U

Washington University, St Louis lands a prime Chief Investment Officer

See: <http://www.charlesskorina.com/?p=5094>



Christine Kelleher, new CIO at the National Gallery of Art

Ms. Kelleher, Avec Capital assumes chief investment officer role on Sept 5th. Prior: 13 yrs Georgetown U, 8 yrs consulting & management focused on central European studies. MA Georgetown, BA Bucknell.

SKORINA IN THE NEWS

9-19-17 **Bloomberg News:** *Harvard's Investment Chief Says 8.1% Return Signals 'Deep Structural Problems'*

<https://www.bloomberg.com/news/articles/2017-09-19/harvard-ceo-says-8-1-return-signals-deep-structural-problems>

9-18-17 **Harvard Crimson:** *Strong Public Markets May Bode Well for Harvard*

<http://www.thecrimson.com/article/2017/9/18/peer-institutions-post-results/>

1-26-17 **Boston Globe:** *MIT's endowment posts fourth-best returns*

<https://www.bostonglobe.com/business/2017/01/26/mit-endowment-posts-fourth-best-returns/YErVao2hVqwCSBR5wHIAFO/story.html>

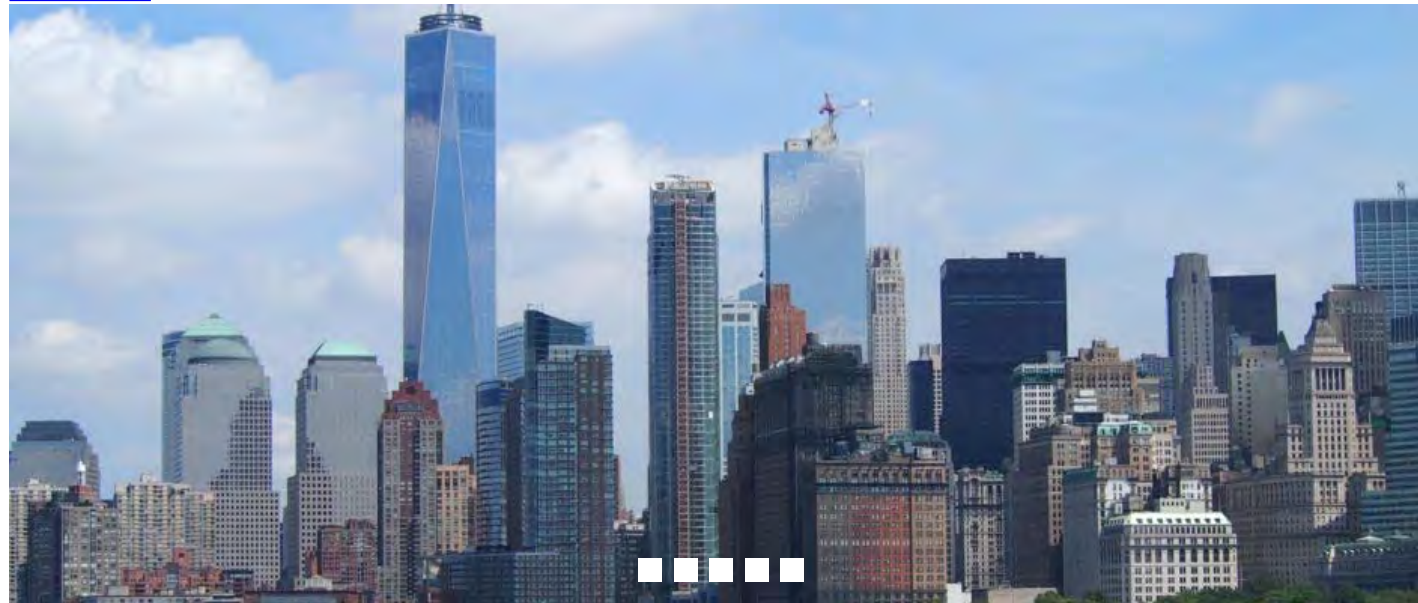
1-25-17 **The New York Times:** *Harvard Makes Changes in Managing a Lagging Endowment*

<https://www.nytimes.com/2017/01/25/business/harvard-endowment-management-changes.html>

1-25-17 **Financial Times:** *Harvard's \$36bn endowment to hire external managers*

<https://www.ft.com/content/64711864-e32d-11e6-8405-9e5580d6e5fb>

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- We share our research and insights in a widely-read professional newsletter – **THE SKORINA LETTER** – and website – www.charlesskorina.com.
- The New York Times, Wall Street Journal, Bloomberg, Thompson Reuters, Financial Times (Fundfire), Institutional Investor, Pensions & Investments, Private Equity International, and the institutional investment community use our research and analysis. Skorina has been interviewed on chief investment officer compensation issues on Bloomberg TV.
- Our work is regularly re-printed in Allaboutalpha.com and other industry magazines, blogs, and third-party web postings.
- We focus specifically and effectively on the world we know: Board members and Executive Officers, Chief

Investment Officers, and Senior Asset Managers at institutional investment firms and funds – including sovereign wealth funds, endowments, foundations, pension funds, banks, investment banks, outsourced chief investment officer firms (OCIO), and sell-side money managers.

Prior to founding CASCo, Mr. Skorina worked for JP MorganChase in New York City and Chicago and for Ernst & Young in Washington, D.C.


Mr. Skorina graduated from Culver Academies, attended Michigan State University and The Middlebury Institute of International Studies at Monterey where he graduated with a BA, and earned a MBA in Finance from the University of Chicago. He served in the US Army as a Russian Linguist stationed in Japan.

Charles A. Skorina & Co. is based in San Francisco.

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The Washington Post

Business

'I hope I can quit working in a few years': A preview of the U.S. without pensions

By [Peter Whoriskey](#) December 22 at 6:25 PM

TULSA — Tom Coomer has retired twice: once when he was 65, and then several years ago. Each time he realized that with just a Social Security check, “You can hardly make it these days.”

So here he is at 79, working full time at Walmart. During each eight-hour shift, he stands at the store entrance greeting customers, telling a joke and fetching a “buggy.” Or he is stationed at the exit, checking receipts and the shoppers that trip the theft alarm.

“As long as I sit down for about 10 minutes every hour or two, I’m fine,” he said during a break. Diagnosed with spinal stenosis in his back, he recently forwarded a doctor’s note to managers. “They got me a stool.”

The way major U.S. companies provide for retiring workers has been shifting for about three decades, with more dropping traditional pensions every year. The first full generation of workers to retire since this turn offers a sobering preview of a labor force more and more dependent on their own savings for retirement.

Years ago, Coomer and his co-workers at the Tulsa plant of McDonnell-Douglas, the famed airplane maker, were enrolled in the company pension, but in 1994, with an eye toward cutting retirement costs, the company closed the plant. Now, The Washington Post found in a review of those 998 workers, that even though most of them found new jobs, they could never replace their lost pension benefits and many are facing financial struggle in their old age: One in seven has in their retirement years filed for bankruptcy, faced liens for delinquent bills, or both, according to public records.

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Those affected are buried by debts incurred for credit cards, used cars, health care and sometimes, the college educations of their children.

Some have lost their homes.

And for many of them, even as they reach beyond 70, real retirement is elusive. Although they worked for decades at McDonnell-Douglas, many of the septuagenarians are still working, some full time.

Lavern Combs, 73, works the midnight shift loading trucks for a company that delivers for Amazon. Ruby Oakley, 74, is a crossing guard. Charles Glover, 70, is a cashier at Dollar General. Willie Sells, 74, is a barber. Leon Ray, 76, buys and sells junk.

"I planned to retire years ago," Sells says from behind his barber's chair, where he works five days a week. He once had a job in quality control at the aircraft maker and was employed there 29 years. "I thought McDonnell-Douglas was a blue-chip company — that's what I used to tell people. 'They're a hip company and they're not going to close.' But then they left town — and here I am still working. Thank God I had a couple of clippers."

Likewise, Oakley, a crossing guard at an elementary school, said she took the job to supplement her Social Security.

"It pays some chump change — \$7 an hour," Oakley said. She has told local officials they should pay better. "I use it for gas money. I like the people. But we have to get out there in the traffic, and the people at the city think they're doing the senior citizens a favor by letting them work like this."

Glover works the cash register and does stocking at a Dollar General store outside Tulsa to make ends meet. After working 27 years at McDonnell-Douglas, Glover found work at a Whirlpool factory, and then at another place that makes robots for inspecting welding, and also picked up some jobs doing AutoCAD drawing.

"I hope I can quit working in a few years, but the way it looks right now, I can't see being able to," Glover said recently between customers. "I had to refinance my home after McDonnell-Douglas closed. I still owe about 12 years of mortgage payments."

For some, financial shortfalls have grown acute enough that they have precipitated liens for delinquent bills or led people to file for bankruptcy. None were inclined to talk about their debts.

"It's a struggle, just say that," said one woman, 72, who filed for bankruptcy in 2013. "You just try to get by."

A perk that became too costly

The notion of pensions — and the idea that companies should set aside money for retirees — didn't last long. They really caught on in the mid-20th century, but today, except among government employers, the traditional pension now seems destined to be an artifact of U.S. labor history.

The first ones offered by a private company were those handed out by American Express, back when it was stagecoach delivery service. That was in 1875. The idea didn't exactly spread like wildfire, but under union pressure in the middle of the last century, many companies adopted a plan. By the 1980s, the trend had profoundly reshaped retirement for Americans, with a large majority of full-time workers at medium and large companies getting traditional pension coverage, according to Bureau of Labor Statistics data.

Then corporate America changed: Union membership waned. Executive boards, under pressure from financial raiders, focused more intently on maximizing stock prices. And Americans lived longer, making a pension much more expensive to provide.

The average life expectancy in 1950 was 68, meaning that a pension had to pay out only three years past the typical retirement age of 65. Today, average life expectancy is about 79, meaning that the same plan would have to pay out 13 years past typical retirement age.

Exactly what led corporate America away from pensions is a matter of debate among scholars, but there is little question that they seem destined for extinction, at least in the private sector.

Even as late as the early 1990s, about 60 percent of full-time workers at medium and large companies had pension coverage, according to the government figures. But today only about 24 percent of workers at midsize and large companies have pension coverage, according to the data, and that number is expected to continue to fall as older workers exit the workforce.

In place of pensions, companies and investment advisers urge employees to open retirement accounts. The basic idea is that workers will manage their own retirement funds, sometimes with a little help from their employers, sometimes not. Once they reach retirement age, those accounts are supposed to supplement whatever Social Security might pay. (Today, Social Security provides only enough for a bare-bones budget, about \$14,000 a year on average.)

The trouble with expecting workers to save on their own is that almost half of U.S. families have no such retirement account, according the Fed's 2016 Survey of Consumer Finances.

Of those who do have retirement accounts, moreover, their savings are far too scant to support a typical retirement. The median account, among workers at the median income level, is about \$25,000.

“The U.S. retirement system, and the workers and retirees it was designed to help, face major challenges,” according to an October report by the Government Accountability Office. “Traditional pensions have become much less common, and individuals are increasingly responsible for planning and managing their own retirement savings accounts.”

The GAO further warned that “many households are ill-equipped for this task and have little or no retirement savings.”

The GAO recommended that Congress consider creating an independent commission study the U.S. retirement system.

“If no action is taken, a retirement crisis could be looming,” it said.

‘We were stunned’

Employees at McDonnell-Douglas in the early '90s enjoyed one of the more generous types of pensions, those known as “30 and out.” Employees with 30 years on the job could retire with a full pension once they reached age 55.

But, as the employees would later learn, the generosity of those pensions made them, in lean times, an appealing target for cost-cutters.

Those lean times for McDonnell-Douglas began in earnest in the early '90s. Some plants closed. But for the remaining employees, including those at the Tulsa plant, executives said, there was hope: if Congress allowed the \$6 billion sale of 72 F-15s to Saudi Arabia, the new business would rescue the company. In fact, the company said in its 1991 annual report, it would save 7,000 jobs.

To help win approval for the sale, Tulsa employees wrote letters to politicians. They held a rally with local politicians and the governor of Oklahoma. And eventually, in September 1992, President George H.W. Bush approved the sale. It seemed that the Tulsa plant had weathered the storm.

The headline in the Oklahoman, one of the state’s largest newspapers, proclaimed: “F-15 Sale to Saudi Arabia Saves Jobs of Tulsa Workers.”

But it hadn't. Within months, executives at the company again turned to cost-cutting. They considered closing a plant in Florida, another in Mesa, Ariz., or the Tulsa facility. Tulsa, it was noted, had the oldest hourly employees — the average employee was 51 and had worked there for about 20 years. Many were close to getting a full pension, and that meant closing it would yield bigger savings in retirement costs.

“One day in December '93 they came on the loudspeaker and said, ‘Attention, employees,’ Coomer recalled. “We were going to close. We were stunned. Just ran around like a bunch of chickens.”

A few years later, McDonnell-Douglas, which continued to struggle, merged with Boeing. But the employees had taken their case to court, and in 2001, a federal judge agreed that McDonnell-Douglas had illegally considered the pensions in its decision to close the plant. The employees case, presented by attorneys Joe Farris and Mike Mulder, showed that the company had tracked pension savings in its plant closure decisions.

The judge found McDonnell-Douglas, moreover, had offered misleading testimony in its defense of the plant closing. The judge, Sven Erik Holmes, blasted the company for a “corporate culture of mendacity.”

Employees eventually won settlements — about \$30,000 was typical. It helped carry people over to find new jobs. But the amount was limited to cover the benefits of three years of employment — and it was far less than the loss in pension and retiree health benefits. Because their pension benefits accrued most quickly near retirement age, the pensions they receive are only a small fraction of what they would have had they worked until full eligibility.

“People went to work at these places thinking they’ll work there their whole lives,” Farris said, noting that the pensions held great appeal to the staff. “Their trust and loyalty, though, was not reciprocated.”

Dreaming of work

The economic effects were, of course, immediate.

The workers, most of them over 50, had to find jobs.

Some enrolled in classes for new skills, but then struggled to find jobs in their new fields. They wondered, amid rejections, whether younger workers were favored.

Several found jobs at other industrial plants. One started a chicken farm for Tyson. Another took a job on a ranch breaking horses.

The Post acquired a list of the 998 employees, reviewed public records for them, and interviewed more than 25.

Of those interviewed, all found work of one kind or another. Yet all but a handful said their new wages were only about half of what they had been making. Typically, their pay dropped in half, from about \$20 per hour to \$10 per hour.

The pay cut was tough, and it made saving for retirement close to impossible. In fact, it has made retirement itself near impossible for some — they must work to pay the bills.

A few said, though, they work because they detest idleness, and persist in jobs that would seem to require remarkable endurance.

Combs, for example, works the graveyard shift, begins each workday at 1:30 a.m. His days off are Thursday and Sunday. He worked 25 years at McDonnell-Douglas, and more than 20 loading trucks.

He shrugs off the difficulty.

“I don’t want to sit around and play checkers and get fat,” Combs says. “I used to pick cotton in 90-degree heat. This is easy.”

Coomer, too, even if he would have preferred to retire, seems to genuinely enjoy his work. At Walmart, his natural cheerfulness is put to good use.

“Hi, Tom, how *are* you?” a customer on a motorized scooter, one of many who greet him by name, asks on her way out.

“Doing good . . . beautiful day,” he says, smiling warmly.

Later he explains his geniality.

“I like to talk to people! I like to visit with them. I can talk to anyone. I’ve always been like that, since I was a kid.”

When he sees someone looking glum, he tells them a joke.

Why does Santa Claus have three gardens?

So he can hoe, hoe, hoe.

“People really like that one,” he says.

Coomer grew up on a farm in Broken Arrow, got married when he was 17 — his wife was 15 — and says he’s always liked work.

“I really loved working at McDonnell-Douglas,” he says. One time, he says, he worked 36 days straight: 11 hours on the weekdays and eight hours on Saturdays and Sundays. He joked that the factory was his home address. All along, for his 29 years there, he had his eye on the pension. And then, for the most part, it was gone.

After the plant closed, Coomer worked as a security guard. Then he worked for a friend who had a pest-control company. When that slowed down, he picked up seasonal work at the city, doing some mowing and chipping.

Then came Walmart.


Soon, he said, he expects to cut back from full time to about three days a week.

Along with his Walmart check, he gets \$300 a month from the McDonnell-Douglas pension. Had he been able to continue working at McDonnell-Douglas, he calculates that he would have gotten about five times that amount.

“After they shut the plant down, I would dream that I was back at McDonnell-Douglas and going to get my pension,” Coomer recalled. “In the dream, I would try to clock in but I couldn’t find my time card. And then I’d wake up.”

In the dream, he would have retired years ago.

 **2753 Comments**

Peter Whoriskey is a staff writer for The Washington Post handling projects in business, healthcare and health. You can email him at peter.whoriskey@washpost.com.  Follow @PeterWhoriskey

January 12, 2018

Dear colleagues,

To start the New Year out right, I would like to share my goals and objectives with all of you. During the previous meetings, I am sure you have noticed my focus on asking questions about environmental issues with respect to risk in particular investments. Now I want it on the record, as a trustee, that I feel it is consistent with my fiduciary duty to incorporate ESG factors into the investment direction of the fund. I have spent the last two plus years gathering data, reading studies and learning group human behavior. I am convinced beyond reasonable doubt that it is the best course of action.

In a thoughtful and measured manner, I would like to work with all trustees to add a directional tilt to the fund. It would be based on sound investment practice overlaid with a custom environmental, social and governance (ESG) theme. I firmly believe that not only is it the ethical thing to do; but it is the right thing from a fiduciary stand point as well. My opinion is not conjecture, but based on science and investment analysis.

“There is [very clear reporting from many highly respected sources](#) that shows challenges like climate change, resource scarcity, political instability and the like, will be very impactful to the future performance of long-term investments that are being made and debated today. ESG investing can actually be a primary part of the analysis because it can affect the actual performance, but this analysis must be objective and it must put participant’s financial benefit first.” George Michael Gerstein, ERISA council with Stradley Ronon (Dec. 21, 2017). We are not the only fund to move in this direction. Callan Associates started monitoring the incorporation of ESG factors by U.S. asset owners and has found it has increased every year since they started gathering data. They continue: *“Since the survey’s inception, large plans with \$20 billion or more in assets have been the highest adopters of ESG investing. In 2017, 78% of the largest plans reported incorporating ESG factors, up from 71% in 2016 and 33% in 2013. By comparison, 30% of funds with \$500 million or less in assets said they incorporated ESG factors, compared to 39% in 2015 and 20% in 2013.”**

I know that if you were in a position where you were directly in charge of a company whose business model caused direct harm to humanity and/or the environment without recourse, you would figure out a way to stop that harm. I would like to engage you all in steering the fund to reflect those authentic and admirable characteristics. Information is power, and I would like to collaborate with all trustees to learn as much as possible in this area in order to make the best decisions we can. I have already taken the first step in requesting that our fiduciary council, Harvey Leiderman, give a presentation regarding trustees, ESG and the fiduciary duty involved with institutional investing.

Sincerely,

Russell Baldwin
OCERS Trustee

* <http://www.pionline.com/article/20171214/ONLINE/171219862/callan-more-us-asset-owners-incorporating-esg-factors-into-investment-decisions>

1-12

Memorandum

DATE: January 5, 2018
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: OCERS INNOVATIONS AND EMPLOYEE STAFF AWARDS

Background/Discussion

Throughout 2017 OCERS management and staff alike have been on the watch for opportunities to innovate the way we do our work, or to at least improve existing processes in order to obtain a benefit – faster turnaround time, lower costs, greater accuracy, etc.

The Government Finance Officers Association (GFOA) has commented on the value of maintaining an innovative outlook in government with a word of caution:

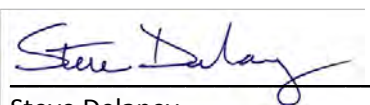
“Local governments need to worry more about creating and sustaining an innovation-friendly administrative environment than about attempting innovations because they are in vogue somewhere else. A new fad is not necessarily what will work well for your specific organization. When Peters and Waterman described how their organizations brought about innovations, they found that these companies created the right atmosphere and conditions to allow innovative thinking to flourish.”

When implementing innovation and improving processes at OCERS, it’s not about doing more with less; it’s about doing better with the resources we have. We are not looking for complex strategies, which often add confusion; instead we look to make straightforward simple change and improvement that creates better results.

On January 16, you will hear from several of our managers and staff members regarding innovations or process improvements their teams have helped undertake over the course of the past year, reflective of the innovative and creative thinking we seek to encourage at OCERS.

We will begin the presentation with an introduction of our 2018 winners of the Employee and Manager of the Year award, as well as the Innovator of the Year.

Submitted by:



Steve Delaney
Chief Executive Officer

2017 OCERS INNOVATIONS AND EMPLOYEE STAFF AWARDS



377/391
January 16, 2018

Employee of the Year



Melissa Wozniuk



Manager of the Year



Diane Dillard



Innovation Award Winner



Michael Persi



Communications Department



Pre-Retirement Sessions Online Registration Solution

Problem Statement

Pre-Retirement Sign-Ups

- Number of members attending daytime Pre-Retirement Sessions continues to grow
- OCERS has not historically mandated members to register to attend on-site daytime Pre-Retirement Sessions



Communications Department



Pre-Retirement Sessions Online Registration Solution

Solution: Online Registration

Eventbrite

- A platform that allows users to manage registration online
- Multiple class sizes are controlled by platform, with sign-ups for each date tracked
- Eventbrite's platform is free

Communications Department



Pre-Retirement Sessions Online Registration Solution

Conclusion

System a Success

- **Eventbrite** launched in December 2016
- Members may now sign-up to attend Pre-Retirement Sessions; members receive email confirmation and reminders
- Tool integrates smoothly with OCERS' current website



Finance Department



- Switched to an electronic method for initiating and processing capital calls and investment transfers utilizing State Street's web-based Electronic Cash Flow Module (eCFM), eliminating the need for faxed instructions, manual email notification and verbal confirmation for these transactions.
- Worked with IT to set up a workflow for purchases made via Amazon.com which provides the ability to setup a workflow for requesting and approving purchases made through Amazon, establish authorized users and approvers, monitor ordering activity and review monthly reports

Information Technology Department



ShoreTel Cloud Migration – along with implementing a fully integrated cloud based VOIP solution, all users now have instant messaging and audio/web conference capabilities. In addition our Business Continuity team members have soft phone functionality allowing them to use their laptops and mobile devices as phones in lieu of a desk phone in case of an emergency.



Workforce Analysis Survey – Facilitated the collection of information required by Management Partners, by creating an online survey to distribute to staff. Responses were recorded to a database and provided back to the vendor electronically. The effort allowed OCERS staff to be able to track the completion of the surveys, and allowed Management Partners to be able to shorten the turn around time to reconcile and analyze the responses quickly and provide metrics and their evaluation back to OCERS.



Emergency Contact Information – developed an automated process to synchronization staff emergency contact information with OCERS cloud based Business Continuity and Disaster Recovery software. We also enabled ticklers to remind staff to periodically review their contact information and keep it current.

Information Technology Department



Intranet Email Manager - Developed an email manager to allow OCERS IT staff to generate color coded (red, yellow, green and blue) email messages to alert staff of issues or provide information in a quick, concise manner.



SharePoint Updates - Leveraged SharePoint development and OCERS Intranet site to focus on programs and processes enabling our line staff and other departments to operate more efficiently effectively. Working with the various departments, some collaborative efforts in 2017 include:

Centralizing Member Services processing to allow multi user access to payroll, SCP, overpayment, reciprocity, death and disability logs, and provide centralized reports, dashboards and metrics to track work activities and volume.

Developing a workflow process to support hiring within Human Resources and cross departmental onboarding activities.

Developed Retiree Survey to allow the Executive Management team to touch base with recent retirees and get their feedback on the retirement process and what went well and where we can improve.

Automated the process for the Finance department to create post payroll Direct Bill and Health Grant reports for the County of Orange and their vendor Secova in support of our Payee Retiree Health Benefits.

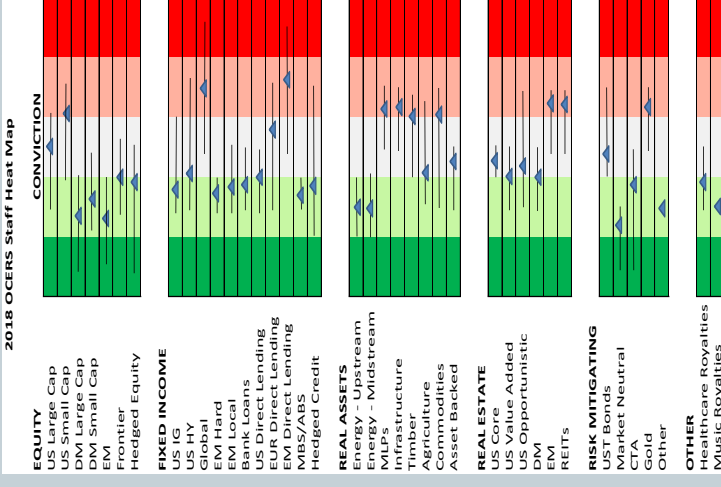
Investments Department



Investment Innovation

Investment Strategy Heat Map

- In December 2017, the Investment team held its first annual off-site investment strategy workshop where staff presented and debated investment opportunities and challenges for 2018
- With the conclusion of the workshop, staff members individually assessed areas of OCERS investment program and expressed their opinions in a heat map exercise, which were then consolidated into an official aggregate Investment Staff Heat Map.
- Investment Staff then hosted a discussion with Meketa staff to further enhance the discussion and confirm investment intention for the next 12 months.



Investments Department



Investment Innovation

Investment Strategy Heat Map

- **The Staff Heat Map will inform behaviors, education and transactions throughout the year in various ways:**
 - **Accountability**
 - **Confirmation Bias Avoidance**
 - **Rebalancing**
 - **Due Diligence**
 - **Education**
 - **Investment Manager Hiring/Termination**

Legal Department



2017 -- Legal Department Initiated Process Improvements:

- Expanded Quiet Period Policy to cover all contracts, not only investment contracts
- Recommended several process improvements to the disability and benefit determination adjudicatory processes, including creation of a new Disability Committee (pending approval by the Board in January)
- Created and implemented new template for legal services contracts
- Created and implemented new format for Board meeting agenda

Member Services Department



DISABILITY:

Streamlined the Disability agenda by instituting a consent calendar for disability applications that are being denied due to the member's failure to cooperate.

Member Services Department



MEMBER SERVICES:

- **Rolled out V3 functionality enhancements for Reciprocity (Rebill batch Report changes), Service Credit Purchases (Recalculating SCP), and Benefit Estimates**
- **Rolled out major MSS Changes to Members as a safeguard to ensure portal security, including new correspondence types, PIN re-assignment by staff**
- **Implemented a major change to State Tax Reporting deductions process in the department (including new workflow and correspondence in V3)**