

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

**GOVERNANCE COMMITTEE MEETING
October 6, 2020
9:00 a.m.**

Members of the Committee

Shawn Dewane, Chair
Frank Eley, Vice Chair
Charles Packard
Roger Hilton

Pursuant to Executive Order N-29-20, certain provisions of the Brown Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Order, this meeting will be conducted by video/teleconference only. None of the locations from which the Committee members will participate will be open to the public.

Members of the public who wish to observe and/or participate in the meeting may do so via the Zoom app or via telephone. Members of the public who wish to provide comment during the meeting may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad.

OCERS Zoom Video/Teleconference information	
<p>Join Using the Zoom App (Video & Audio) https://ocers.zoom.us/j/94765172995</p> <p>Meeting ID: 947 6517 2995 Password: 021369</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting</p> <p>Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only) Dial by your location</p> <ul style="list-style-type: none"> +1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US (Tacoma) +1 929 436 2866 US (New York) +1 301 715 8592 US (Germantown) +1 312 626 6799 US (Chicago) <p>Meeting ID: 947 6517 2995 Password: 021369</p>

AGENDA

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

OPEN SESSION

CALL MEETING TO ORDER AND ROLL CALL

PUBLIC COMMENT

At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Committee; and (2) any matter appearing on the Consent Agenda. Members of the public who wish to provide comment at this time may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad. When addressing the Committee, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

In addition, public comment on matters listed on this agenda will be taken at the time the item is addressed.

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

August 4, 2020

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Committee’s discussion of the item. **Members of the public who wish to provide comment in connection with any matter listed in this agenda may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing *9, at the time the item is called.**

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

A-2 TRIENNIAL REVIEW OF THE RESERVES AND INTEREST-CREDITING POLICY

Presentation by Brenda Shott, Asst. CEO, Internal Operations

Recommendation: Approve and recommend that the Board approve proposed revisions to the Reserves and Interest-Crediting Policy as presented.

A-3 TRIENNIAL REVIEW OF THE OCERS BOARD POLICY ON ELECTION PROCEDURES

Presentation by Gina Ratto, General Counsel

Recommendation: Approve and recommend the Board adopt revisions to the Board Policy on Election Procedures as presented.

COMMITTEE MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT

NOTICE OF NEXT MEETINGS

AUDIT COMMITTEE MEETING

October 13, 2020

9:00 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

DISABILITY COMMITTEE MEETING

October 19, 2020

8:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

REGULAR BOARD MEETING

October 19, 2020

9:30 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.

Governance Committee Meeting
August 4, 2020

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

**GOVERNANCE COMMITTEE MEETING
August 4, 2020
9:00 a.m.**

MINUTES

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

Present via Zoom Video conference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Shawn Dewane, Chair; Frank Eley, Vice Chair; Charles Packard, Roger Hilton

Also present via Zoom:

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

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes June 9, 2020

MOTION by Hilton, **seconded** by Packard, to approve the Minutes.

The motion passed **unanimously**.

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

A-2 TRIENNIAL REVIEW OF THE ACTUARIAL VALUATION POLICY

Presentation by Brenda Shott, Assistant CEO, Finance and Internal Operations

Recommendation: Approve and recommend the Board adopt the proposed revisions to the Actuarial Valuation Policy.

MOTION by Packard, **seconded** by Hilton, to approve and recommend the Board adopt the proposed revisions to the Actuarial Valuation Policy.

Governance Committee Meeting
August 4, 2020

The motion passed **unanimously**.

A-3 TRIENNIAL REVIEW OF THE SECURITIES LITIGATION POLICY

Presentation by Gina M. Ratto, General Counsel

Recommendation: Approve and recommend the Board adopt the proposed revisions to the Securities Litigation Policy.

MOTION by Packard, **seconded** by Hilton, to approve and recommend the Board adopt the proposed revisions to the Securities Litigation Policy.

The motion passed **unanimously**.

A-4 BIENNIAL REVIEW OF OCERS' CONFLICT OF INTEREST CODE

Presentation by Gina M. Ratto, General Counsel

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

MOTION by Packard, **seconded** by Eley, to approve and recommend the Board adopt the proposed revisions to OCERS' Conflict of Interest Code.

The motion passed **unanimously**.

A-5 SECOND READING OF ADMINISTRATIVE REVIEW AND HEARING POLICY

Presentation by Gina M. Ratto, General Counsel

Recommendation: Staff recommends the Governance Committee:

- (1) Approve, on a second reading, the proposed revisions to the Adjudication Policy and Administrative Hearing Rules (including renaming the policy as the Administrative Review and Hearing Policy); and
- (2) Recommend the Board adopt the Administrative Review and Hearing Policy as revised and as approved by the Committee.

MOTION by Eley, **seconded** by Packard, to approve and recommend the Board adopt the recommendations above.

The motion passed **unanimously**.

COMMITTEE MEMBER COMMENTS

None.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

None.

COUNSEL COMMENTS

None.

Governance Committee Meeting
August 4, 2020

ADJOURNMENT

The meeting adjourned at 9:36a.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane, Chair



Memorandum

DATE: October 6, 2020
TO: Members of the Governance Committee
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: **TRIENNIAL REVIEW OF THE RESERVES AND INTEREST-CREDITING POLICY**

Recommendation

Approve, and recommend that the Board approve proposed revisions to the Reserves and Interest-Crediting Policy as presented.

Background/Discussion

The Board of Retirement (including the Investment Committee) has formally adopted over 40 charters and policies and has established a review schedule that requires review of every charter and policy every three years. At its February and June 2015 meetings, on recommendation of the Governance Committee, the Board approved a streamlined procedure to more efficiently manage the scheduled review of the charters and policies. Pursuant to this process, certain of the charters and policies are to be first reviewed by the Governance Committee before presentation to the Board for approval.

The Reserves and Interest-Crediting Policy (Policy) is scheduled for review and approval by the Board, after review by the Governance Committee, in 2020. The Policy documents the existing reserve structure created and maintained by OCERS and the distribution of available earnings and interest crediting to the reserve accounts consistent with Government Code §§31592 and 31592.2. The previous review of this policy included significant changes to the Policy, whereby the objectives of the Policy were streamlined, definitions of the various reserves were clarified and flow charts of the interest crediting process were inserted.

Staff has reviewed the Policy and has recommended several changes that, although not substantive, are aimed at making the document easier to understand and to reflect actual practice. Staff does intend to bring this back to the Committee in 2021, out of the next regular triennial cycle, with recommendations for changing the rates used for crediting the various reserves. The current rates used in the policy are the default rates included in the CERL. However, the Board of Retirement has the authority to adjust those rates. Staff will be doing research over the next several months and will develop a set of recommendations for the Committee and the Board to consider. Concurrently, staff will review and propose changes to other policies and practices that reference the Reserves and Interest-Crediting Policy, specifically as it relates to the rates used in calculating interest (e.g. Over and Under Payment of Benefits Policy, Over and Under Payment of Contributions Policy and the calculation of Service Credit Purchases) to ensure consistency in the various applicable policies and procedures.

A copy of the Policy, with proposed changes indicated in underlined/strikeout text, is attached.

Attachment

Submitted by:



Brenda Shott
Assistant CEO, Finance and Internal Operations



OCERS Board Policy

Reserves and Interest-Crediting Policy

Purpose and Background

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

Policy Objectives

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

Definitions

The System's reserves are book-keeping accounts and do not represent an actual separation of funds; the sum of all reserves equals the net position restricted for pension—and, other ~~post-employment~~postemployment benefits and OPEB 115 and fall into these categories: Valuation, Non-Valuation—and, Health Care and OPEB 115.

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



OCERS Board Policy

Reserves and Interest-Crediting Policy

- d. **Annuity Reserve**—represents funding ~~set aside originally~~ from employee contributions for retirement and disability benefit payments ~~for retired members~~. Additions include transfers from the Employee Contribution Reserve as current active members retire and interest credited ~~semi-annually~~. Deductions include benefit payments to retired and disabled members, and their beneficiaries.
 - e. **UAAL Contribution Reserve**—represents the cumulative additional employer contributions made for their unfunded actuarial accrued liability in excess of the required contribution. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include employer contributions to their UAAL, and interest credited semi-annually. Deductions will include transfers to the Pension Reserve to fund retirement benefits, disability benefits and death benefits if Employer Contribution Reserves are insufficient.
 - f. **STAR COLA ~~Reserve~~ (Supplemental Targeted Adjustment for Retirees Cost-of-living Adjustment) Reserve**—represents employer contributions for retirees whose retirement benefit has lost more than 20 percent of its purchasing power since retirement. Additions to this reserve include ~~bi-weekly~~ contributions received from ~~the employer/employers~~. Deductions include monthly benefit payments made to eligible retired members and transfers to the Pension Reserve for any differences between amounts contributed and benefits paid.
 - g. **ERI (Early Retirement Incentive) Contribution Reserve**—represents ~~the cumulative~~ employer contributions for future retirement payments to active employees who were offered an incentive for early retirement by their employer. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include annual employer contributions ~~to be paid over a 15 year period from 2002~~ through 2017 and interest credited semi-annually. Deductions include transfers to the Pension Reserve to fund the early retirement benefits for eligible members. There are currently no active early incentive retirement programs that require contributions to this reserve.
 - h. **Contra Account**—is an accounting informational mechanism, not a reserve. The balance in the account represents the accumulation of the interest crediting to the valuation reserves accounts which cannot be funded from available earnings.
 - i. **Contingency Reserve**—provides a buffer against deficiencies for payment of retirement benefits due to interest and earnings fluctuations, changes in assumptions or some other unforeseen contingency. The County Employees Retirement Law provides that when the Contingency Reserve exceeds one percent of total assets, the retirement board may transfer all or any part of the surplus as specified in Government Code § 31592.2. Additions to this reserve are transfers from the Undistributed Earnings. Deductions are transfers to other reserve funds as required by this policy. If no Undistributed Earnings are available, this reserve may be unfunded.
4. ~~Non-Valuation Reserves include the County Investment Reserve, Medicare/Medical Insurance Reserve, EPA Reserve, the OCSD UAAL Deferred Reserve, as well as the Actuarial Deferred Returns. These reserves~~Non-Valuation Reserves are special purpose reserves for specific employers and



OCERS Board Policy

Reserves and Interest-Crediting Policy

retirees and are not used by the actuary in determining current funding levels. The following are OCERS' Non-Valuation Reserves:

- a. **County Investment Reserve**—represents the remaining proceeds from the County of Orange's 1994 Pension Obligation Bond issuance. The remaining proceeds are utilized, in accordance with a long standing agreement between OCERS and the County of Orange, to offset a portion of the annual actuarially-determined ~~contribution rates~~ contributions for the County of Orange. Additions to this reserve include interest credited as stated in the agreement. Deductions represent transfers to the Employer Contribution Reserve as provided in the aforementioned agreement.
- b. **Medicare/Medical Insurance Reserve**—represents funds received from the County to subsidize Medicare benefits for a small group of retirees in settlement of a retiree healthcare lawsuit back in the 1970's. There are no additions to this reserve. Deductions to this reserve represent payments to the few remaining retirees who are entitled to this benefit. Once there are no longer any retirees entitled to this benefit, any remaining funds will be transferred to the Pension Reserve. For financial statement reporting purposes only, this reserve is currently included with the Pension Reserve.
- c. **EPA (Employee Purchased Annuity) Reserve**—represents additional after-tax contributions made by employees pursuant to Government Code §31627 for the purpose of providing additional benefits. Under this plan, active employees were given the choice of receiving a lump sum benefit upon retirement, or a monthly distribution for 60 to 120 months, then a lifetime additional retirement benefit. The plan was closed as of December 31, 2002 and only a few retirees are receiving this additional benefit. Interest had been credited at the assumed rate of return minus 0.5%, but the balance in this reserve has been exhausted. Activity in this reserve is limited to deductions for the monthly additional benefit for the remaining retirees. For financial reporting purposes, the negative balance in this reserve is offset against the Pension Reserve.
- d. **OCSD UAAL Deferred Reserve**—represents ~~the payment~~ payments by the Orange County Sanitation District (OCSD) ~~off~~or its deferred unfunded actuarial accrued liability (UAAL). This non-valuation reserve was established by a memorandum of understanding (MOU) adopted on January 17, 2017 to track the funding of the actuarial deferred losses ~~of OCSD's UAAL. Commencing December 31, 2016 and annually thereafter until there is no remaining balance of funds in this reserve, OCERS will transfer the amount necessary to satisfy the actual UAAL attributed to OCSD into OCERS' Employer Reserve Account, that is to be applied against their UAAL in future years.~~ Additions to this reserve include payments made by OCSD and interest credited annually at the actual rate of return ~~per~~. Deductions to this reserve are transfers made to the Employer Reserve Account to offset OCSD UAAL as calculated by the terms of actuary. As of December 18, 2018, the full balance of this reserve had been used to offset OCSD's UAAL and a new MOU was adopted on October 21, 2019 to track the funding of an additional payment by OCSD for its deferred UAAL.
- e. **Actuarial Deferred Returns**—represents the amount of deferred earnings created by a five-year smoothing of actual gains and losses compared to the assumed investment rate of return. A positive balance represents accumulated earnings above the assumed investment rate of return. A negative balance represents accumulated earnings below the assumed investment rate of



OCERS Board Policy

Reserves and Interest-Crediting Policy

return. Changes to this amount are determined based on the actuarial valuation completed at the end of the year. This amount may also be referred to as “Net Unrecognized Gains/ (Losses)” or “Reserve for Market Stabilization.”

5. **Health Care Reserves** include funds held for the special purpose to pay medical benefits for eligible recipients. The following are the Health Care Reserve accounts:
 - a. **Health Care Reserve—County**—represents assets held to pay retiree medical benefits for eligible retirees/participants of the County 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical premium payments and administrative expenses.
 - b. **Health Care Reserve—OCFA (Orange County Fire Authority)**—represents assets held to pay retiree medical benefits for eligible retirees/participants of the OCFA 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical premium payments and administrative expenses.
6. **OPEB 115 Plan Reserve** – represents custodial assets held by OCERS in an investment capacity for the Orange County Transportation Authority (OCTA) health care plan. Additions include other postemployment benefit contributions and investment earnings. Deductions include other postemployment benefits and administrative expenses.

6.7. Other Related Terms

- a. **Undistributed Earnings** are the most recent annual earnings of the fund.
- b. ~~Available Earnings are Undistributed Earnings, as defined above, plus any balance in the Unallocated Fund Balance and Contingency Reserves.~~
- c. **Unallocated Fund Balance** is the amount remaining after all the required reserves have been funded and interest has been credited to those reserves. An Unallocated Fund Balance will only occur when earnings have more than exceeded expectations and the required Contingency Reserve has been funded.
- d. Available Earnings are Undistributed Earnings, as defined above, plus any balance in the Unallocated Fund Balance and Contingency Reserves.

Policy Guidelines

7.8. Available Earnings of OCERS will be allocated in the following order:

- a. Payment of administrative and investment expenses
- b. Credit of regular interest compounded semi-annually on June 30 and December 31 to all contributions in the retirement fund which have been on deposit for six months prior to that date as specified in Government Code § 31591:
 1. Employee (EE) Contribution Reserve at an annual rate of 5%
 2. Employer (ER) Contribution Reserve at the annual assumed rate of return plus the excess between the annual assumed rate of return and 5% credited for employee interest
 3. Annuity Reserve at the annual assumed rate of return



OCERS Board Policy

Reserves and Interest-Crediting Policy

4. Pension Reserve at the annual assumed rate of return
5. Early Retirement Incentive (ERI) Reserve at the annual assumed rate of return
6. UAAL Contribution Reserve at the annual assumed rate of return
- c. Credit of interest per terms of applicable agreement to the following non-valuation reserves:
 - a. County Investment Reserve
 - b. OCSD UAAL Deferred Reserve
- ~~h. Credit the balance to Undistributed Earnings~~
9. The Board adopts the allocation of the remaining balance of Undistributed Earnings after making the allocations described in Section 8 in the following order:
 - a. Replenish the Contra Account until it is zero
 - b. ~~Replenishing~~ Replenish the Contingency Reserves to 1% of assets
 - c. Credit to Employer (ER) Contribution and Pension Reserves so as to reduce the unfunded accrued actuarial liability (UAAL) of the System
 - d. Credit the balance to the Unallocated Fund Balance

Policy Review

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

Policy History

11. The Board adopted the Undistributed Earnings policy on November 23, 2009.
12. The Undistributed Earnings Policy was last reviewed on January 21, 2014.
- ~~13. This~~ The Reserves and Interest-Crediting Policy ~~supersedessuperseded~~ the prior Undistributed Earnings Policy and was approved by the Board on December 18, 2017.
- ~~13-14.~~ The Reserves and Interest Crediting Policy was last reviewed on December 18, 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	<u>12/18/170</u> _____ Date
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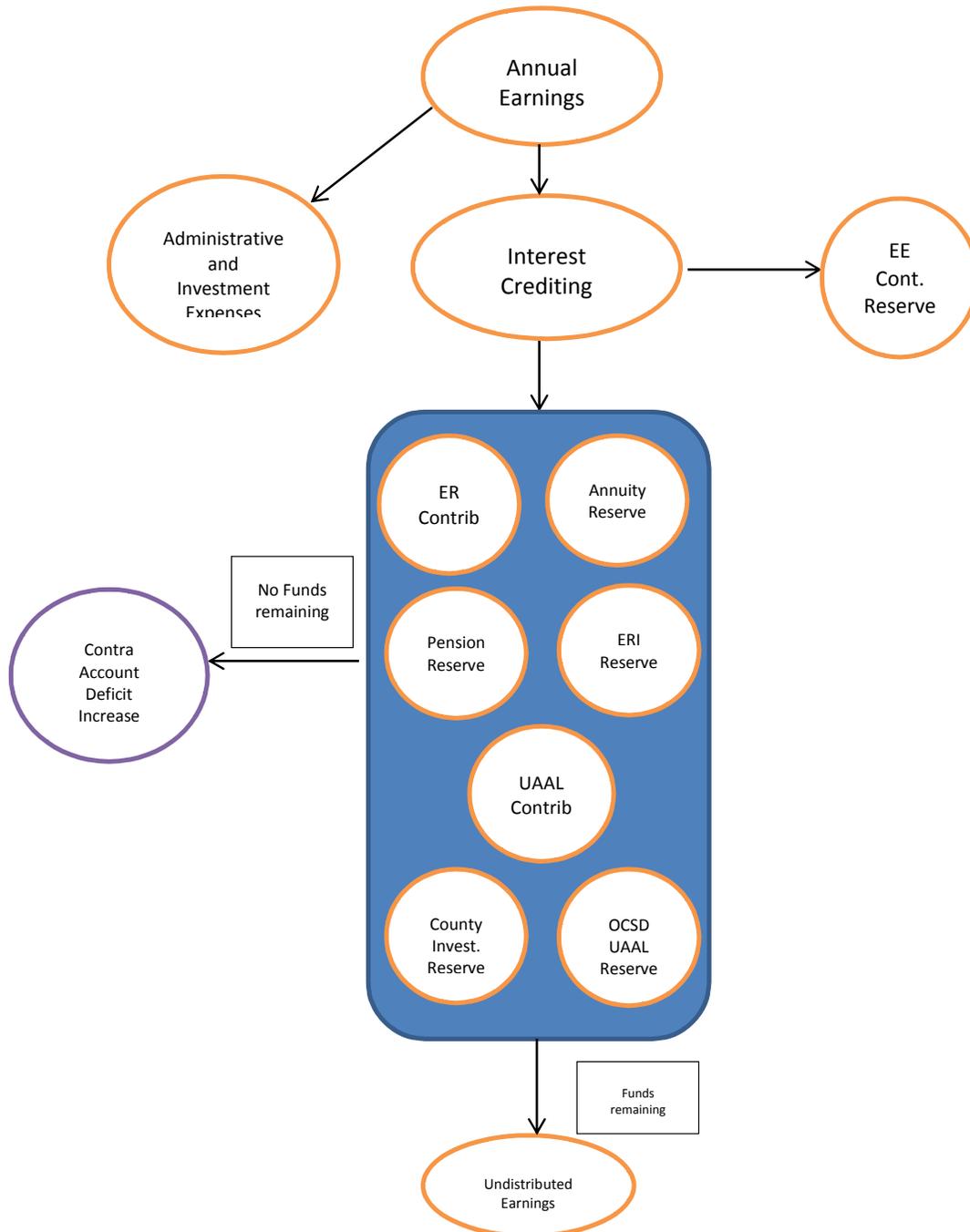
OCERS Board Policy Reserves and Interest-Crediting Policy

	12/18/170



OCERS Board Policy Reserves and Interest-Crediting Policy

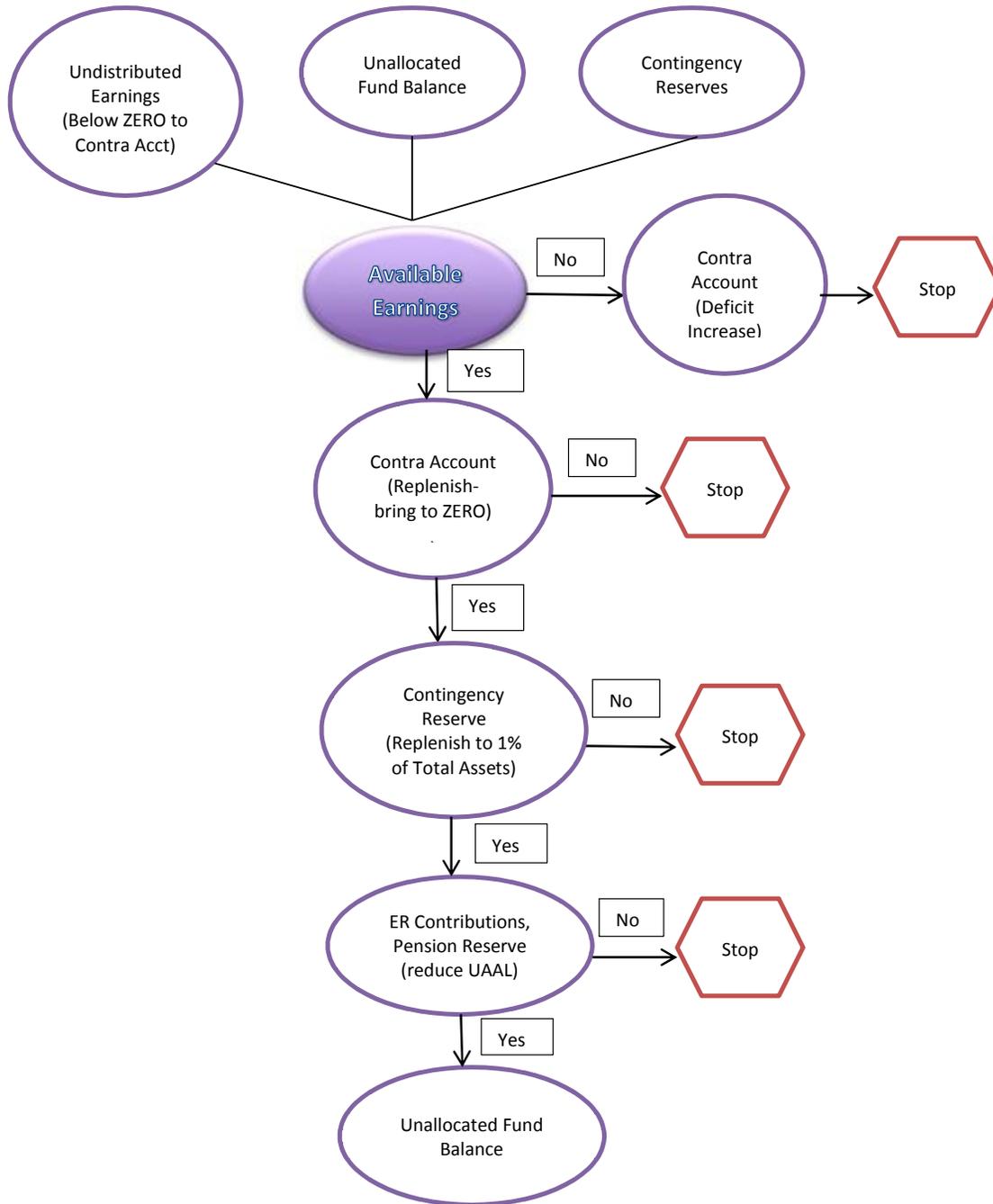
Distribution of Annual Earnings to Expenses and Interest-Crediting





OCERS Board Policy Reserves and Interest-Crediting Policy

Allocation of Undistributed Earnings and Available Earnings





OCERS Board Policy

Reserves and Interest-Crediting Policy

Purpose and Background

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

Policy Objectives

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

Definitions

The System's reserves are book-keeping accounts and do not represent an actual separation of funds; the sum of all reserves equals the net position restricted for pension, other postemployment benefits and OPEB 115 and fall into these categories: Valuation, Non-Valuation, Health Care and OPEB 115.

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



OCERS Board Policy

Reserves and Interest-Crediting Policy

- e. **UAAL Contribution Reserve**—represents the cumulative additional employer contributions made for their unfunded actuarial accrued liability in excess of the required contribution. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include employer contributions to their UAAL, and interest credited semi-annually. Deductions will include transfers to the Pension Reserve to fund retirement benefits, disability benefits and death benefits if Employer Contribution Reserves are insufficient.
 - f. **STAR COLA (Supplemental Targeted Adjustment for Retirees Cost-of-living Adjustment) Reserve**—represents employer contributions for retirees whose retirement benefit has lost more than 20 percent of its purchasing power since retirement. Additions to this reserve include contributions received from employers. Deductions include monthly benefit payments made to eligible retired members and transfers to the Pension Reserve for any differences between amounts contributed and benefits paid.
 - g. **ERI (Early Retirement Incentive) Contribution Reserve**—represents employer contributions for future retirement payments to active employees who were offered an incentive for early retirement by their employer. This reserve is included as part of the Employer Contribution Reserve in the financial statements of the System. Additions include annual employer contributions paid from 2002 through 2017 and interest credited semi-annually. Deductions include transfers to the Pension Reserve to fund the early retirement benefits for eligible members. There are currently no active early incentive retirement programs that require contributions to this reserve.
 - h. **Contra Account**—is an accounting informational mechanism, not a reserve. The balance in the account represents the accumulation of the interest crediting to the valuation reserves accounts which cannot be funded from available earnings.
 - i. **Contingency Reserve**—provides a buffer against deficiencies for payment of retirement benefits due to interest and earnings fluctuations, changes in assumptions or some other unforeseen contingency. The County Employees Retirement Law provides that when the Contingency Reserve exceeds one percent of total assets, the retirement board may transfer all or any part of the surplus as specified in Government Code § 31592.2. Additions to this reserve are transfers from the Undistributed Earnings. Deductions are transfers to other reserve funds as required by this policy. If no Undistributed Earnings are available, this reserve may be unfunded.
4. **Non-Valuation Reserves** are special purpose reserves for specific employers and retirees and are not used by the actuary in determining current funding levels. The following are OCERS' Non-Valuation Reserves:
- a. **County Investment Reserve**—represents the remaining proceeds from the County of Orange's 1994 Pension Obligation Bond issuance. The remaining proceeds are utilized, in accordance with a long standing agreement between OCERS and the County of Orange, to offset a portion of the annual actuarially-determined contributions for the County of Orange. Additions to this reserve include interest credited as stated in the agreement. Deductions represent transfers to the Employer Contribution Reserve as provided in the aforementioned agreement.



OCERS Board Policy

Reserves and Interest-Crediting Policy

- b. **Medicare/Medical Insurance Reserve**—represents funds received from the County to subsidize Medicare benefits for a small group of retirees in settlement of a retiree healthcare lawsuit back in the 1970’s. There are no additions to this reserve. Deductions to this reserve represent payments to the few remaining retirees who are entitled to this benefit. Once there are no longer any retirees entitled to this benefit, any remaining funds will be transferred to the Pension Reserve. For financial statement reporting purposes only, this reserve is currently included with the Pension Reserve.
 - c. **EPA (Employee Purchased Annuity) Reserve**—represents additional after-tax contributions made by employees pursuant to Government Code §31627 for the purpose of providing additional benefits. Under this plan, active employees were given the choice of receiving a lump sum benefit upon retirement, or a monthly distribution for 60 to 120 months, then a lifetime additional retirement benefit. The plan was closed as of December 31, 2002 and only a few retirees are receiving this additional benefit. Interest had been credited at the assumed rate of return minus 0.5%, but the balance in this reserve has been exhausted. Activity in this reserve is limited to deductions for the monthly additional benefit for the remaining retirees. For financial reporting purposes, the negative balance in this reserve is offset against the Pension Reserve.
 - d. **OCSD UAAL Deferred Reserve**—represents payments by the Orange County Sanitation District (OCSD) for its deferred unfunded actuarial accrued liability (UAAL). This non-valuation reserve was established by a memorandum of understanding (MOU) adopted on January 17, 2017 to track the funding of the actuarial deferred losses attributed to OCSD that is to be applied against their UAAL in future years. Additions to this reserve include payments made by OCSD and interest credited annually at the actual rate of return. Deductions to this reserve are transfers made to the Employer Reserve Account to offset OCSD UAAL as calculated by the actuary. As of December 18, 2018, the full balance of this reserve had been used to offset OCSD’s UAAL and a new MOU was adopted on October 21, 2019 to track the funding of an additional payment by OCSD for its deferred UAAL.
 - e. **Actuarial Deferred Returns**—represents the amount of deferred earnings created by a five-year smoothing of actual gains and losses compared to the assumed investment rate of return. A positive balance represents accumulated earnings above the assumed investment rate of return. A negative balance represents accumulated earnings below the assumed investment rate of return. Changes to this amount are determined based on the actuarial valuation completed at the end of the year. This amount may also be referred to as “Net Unrecognized Gains/ (Losses)” or “Reserve for Market Stabilization.”
5. **Health Care Reserves** include funds held for the special purpose to pay medical benefits for eligible recipients. The following are the Health Care Reserve accounts:
- a. **Health Care Reserve—County**—represents assets held to pay retiree medical benefits for eligible participants of the County 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical premium payments and administrative expenses.



OCERS Board Policy

Reserves and Interest-Crediting Policy

- b. **Health Care Reserve—OCFA (Orange County Fire Authority)** —represents assets held to pay retiree medical benefits for eligible participants of the OCFA 401(h) health care plans. Additions include employer contributions and investment earnings. Deductions include medical premium payments and administrative expenses.
- 6. OPEB 115 Plan Reserve** – represents custodial assets held by OCERS in an investment capacity for the Orange County Transportation Authority (OCTA) health care plan. Additions include other postemployment benefit contributions and investment earnings. Deductions include other postemployment benefits and administrative expenses.
- 7. Other Related Terms**
- a. **Undistributed Earnings** are the most recent annual earnings of the fund.
 - b. **Unallocated Fund Balance** is the amount remaining after all the required reserves have been funded and interest has been credited to those reserves. An Unallocated Fund Balance will only occur when earnings have more than exceeded expectations and the required Contingency Reserve has been funded.
 - c. **Available Earnings** are Undistributed Earnings, as defined above, plus any balance in the Unallocated Fund Balance and Contingency Reserves.

Policy Guidelines

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



OCERS Board Policy Reserves and Interest-Crediting Policy

- a. Replenish the Contra Account until it is zero
- b. Replenish the Contingency Reserves to 1% of assets
- c. Credit to Employer (ER) Contribution and Pension Reserves so as to reduce the unfunded accrued actuarial liability (UAAL) of the System
- d. Credit the balance to the Unallocated Fund Balance

Policy Review

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

Policy History

- 11. The Board adopted the Undistributed Earnings policy on November 23, 2009.
- 12. The Undistributed Earnings Policy was last reviewed on January 21, 2014.
- 13. The Reserves and Interest-Crediting Policy superseded the prior Undistributed Earnings Policy and was approved by the Board on December 18, 2017.
- 14. The Reserves and Interest Crediting Policy was last reviewed on December 18, 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.

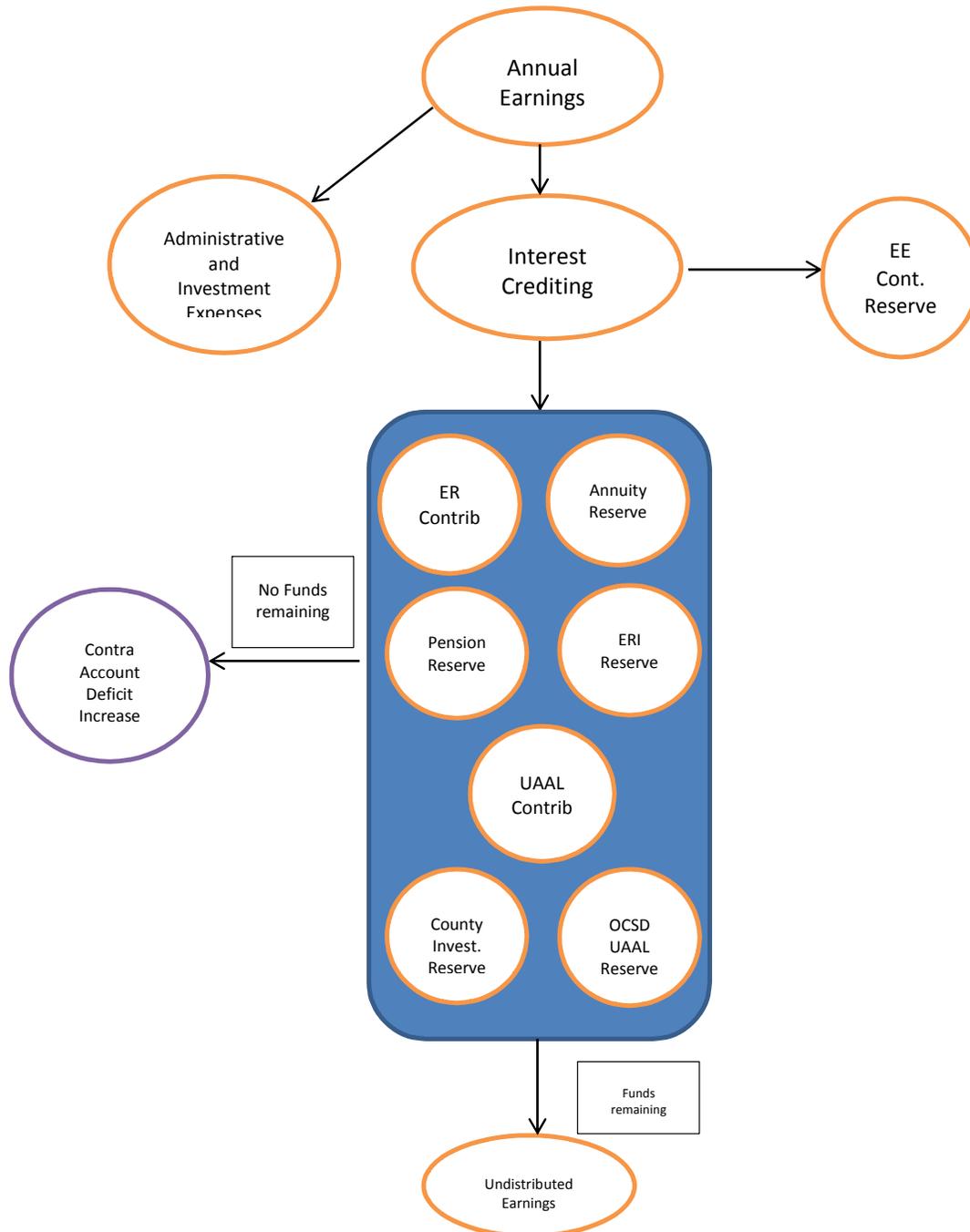
Steve Delaney
Secretary of the Board

Date



OCERS Board Policy Reserves and Interest-Crediting Policy

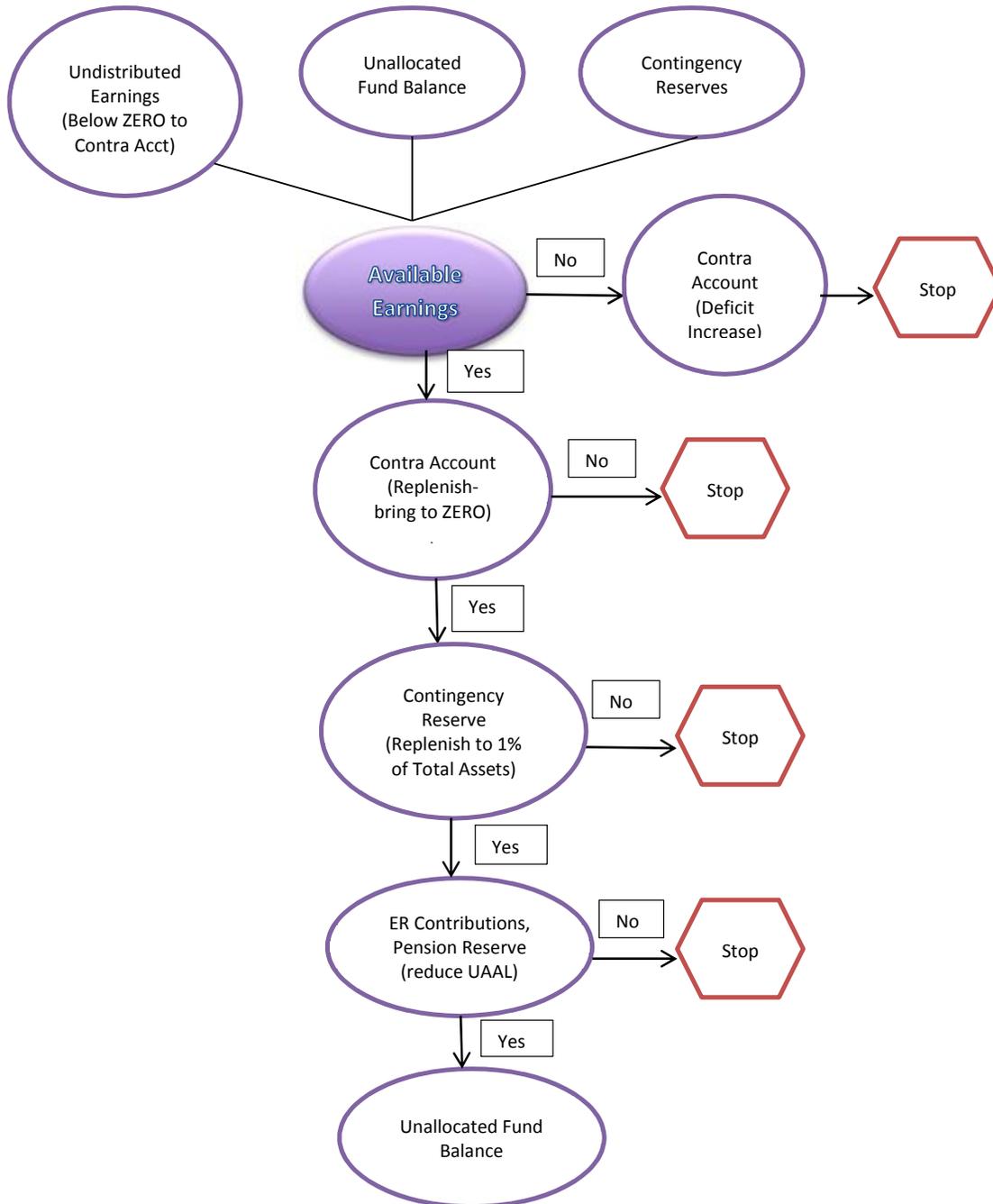
Distribution of Annual Earnings to Expenses and Interest-Crediting





OCERS Board Policy Reserves and Interest-Crediting Policy

Allocation of Undistributed Earnings and Available Earnings





Memorandum

DATE: October 6, 2020
TO: Members of the Governance Committee
FROM: Gina M. Ratto, General Counsel
SUBJECT: **TRIENNIAL REVIEW OF THE OCERS BOARD POLICY ON ELECTION PROCEDURES**

Recommendation

Approve and recommend the Board adopt revisions to the Board Policy on Election Procedures as presented.

Background/Discussion

The Board of Retirement (including the Investment Committee) has formally adopted over 40 charters and policies and established a review schedule that requires review of every charter and policy every three years. At its February and June 2015 meetings, on recommendation of the Governance Committee, the Board approved a streamlined procedure to more efficiently manage the scheduled review of the charters and policies. Pursuant to this process, certain of the charters and policies are to be first reviewed by the Governance Committee before presentation to the Board for approval.

The OCERS Board Policy on Election Procedures (“Election Procedures”) was adopted on October 15, 2001 and was last reviewed and revised on July 20, 2015. It is past due for its triennial review.

Proposed Revisions

The Election Procedures presented for the Committee’s review are a complete re-write of the existing Election Procedures in order reorganize the material to enhance clarity and readability, better define the roles and responsibilities of OCERS and the Registrar of Voters (“ROV”), and delete redundant provisions and several inconsistencies in the prior version. Although almost completely non-substantive, the revisions are too widespread for a redlined document to be useful. Accordingly, both the prior and new versions of the Election Procedures are attached.

The ROV, a principal participant in the OCERS Board election process, was consulted and offered an opportunity to suggest revisions to the Election Procedures. All of the revisions suggested by the ROV have been incorporated. The only substantive revision to the Election Procedures is to increase the amount of notice to the ROV of the need for a regular election; the notice period was increased to 140 days (from 120 days previously).

Submitted by:



Gina M. Ratto
General Counsel



OCERS Board Policy Election Procedures

Purpose

To provide for the lawful and orderly election of the Second, Third, Seventh, Eighth, and Alternate Members of the OCERS Board of Retirement (“Board”), consistent with the County Employees Retirement Law of 1937 (Govt. Code, § 31450, et seq.). Government Code § 31520.1 designates these Board Member positions to be filled as follows:

Second (General Member)	Elected by OCERS General Membership
Third (General Member)	Elected by OCERS General Membership
Seventh (Safety Member)	Elected by OCERS Safety Membership
Eighth (Retired Member)	Elected by OCERS Retired Membership
Alternate Member	The candidate in the election for the Seventh Member from the safety group under Section 31470.2 or 31470.4 other than the safety group of the successful candidate who received the most votes.

Elections Process

The Orange County Registrar of Voters (“Registrar”) will serve as the elections official for Board Member elections. The Registrar’s office and OCERS will agree on the process and procedures for the conduct of elections. Such process may be modified from time to time, and all candidates must comply with the Registrar’s then-existing elections process. OCERS staff will cooperate with the Registrar’s office to ensure that elections are held in a timely and efficient manner. OCERS will reimburse the Registrar for its actual costs in conducting Board Member elections.

The failure of a candidate or potential candidate to comply with the Registrar’s requirements or deadlines will result in their disqualification from that election.

Election Schedule

An election upon the expiration of a Board Member term of office is a “regular election.” An election necessary to fill a vacancy that occurs for a reason other than term expiration is referred to as a “special election.”

At least 140 days before the expiration of the term of office of a Safety Member, General Member, or Retired Member, the OCERS Chief Executive Officer (“CEO”) or their designee will notify the Registrar of the date of expiration and the need for a regular election. In addition, the CEO or their designee will notify the Registrar of the need for a special election promptly following a vacancy on the Board. The special election will be held as soon as practicable after the vacancy unless the Board determines that exigent circumstances make it impractical to effectively conduct an election.

The Registrar will develop an election schedule for each regular or special election which will include all relevant deadlines and timeframes. The schedule will be posted on the OCERS’ web site.



OCERS Board Policy Election Procedures

Candidate Requirements

Any current member of the respective election group (General, Safety, or Retired) who wishes to be considered for certification as a Board Member candidate must file all the required nomination documents with the Registrar's Office no later than 5:00 p.m. on the deadline date as stated on the Registrar's schedule for that election. The required nominations documents are as follows:

1. Nomination Petition for Election
2. Statement of Willingness to Serve

A potential candidate may also file a Biographical Statement.

Nomination Petition for Election

The Nomination Petition for Election must contain:

1. The name, address, and signature of the candidate.
2. The designation of the seat on the Board to which the candidate seeks election.
3. A ballot designation selected by the candidate that contains no more than than 40 characters.
4. All individuals signing the Nomination Petition for Election must be members of the election group at the time of signature. The printed name and last four digits of the signer's social security number must accompany the signature. The Registrar will not accept electronic signatures.
5. The Nomination Petition for Election filed by a candidate for a General Member or Safety Member position must include at least seventy-five (75) signatures of current active employee members of OCERS from the same election group as the candidate for election.
6. The Nomination Petition for Election filed by a candidate for the Retired Member position must include at least twenty-five (25) signatures of retired members of OCERS.

Statement of Willingness to Serve

Each candidate is required to file a Statement of Willingness to Serve, which consists of the following signed statement:

I do hereby state that if I am elected, I am willing to faithfully serve the position of Board of Retirement Member and will execute the position of this office by attending meetings, and fulfilling my fiduciary duties. I understand that additional time will be required for Committee assignments, which will be made by the Chairman of the Board.

Executed this _____ day of, [year] in [county], [state].

Signature of Candidate

Biographical Statement

Candidates may *at their option* submit to the Registrar a biographical statement consisting of no more than four hundred (400) words, and provided on a single sheet of 8 ½ by 11 inch paper of camera ready quality.



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The deadline for the biographical statement is the same as that for the required nomination documents above.

Preparation of Ballots

The Registrar will determine the order in which candidates' names will appear on the ballot by random drawing. The Registrar will notify all candidates of the time and place of the drawing at least one (1) day in advance.

The Registrar will print the ballots and envelopes that voters must use to return their completed ballots. OCERS will provide the Registrar with voter addresses based on OCERS' current member information. An active employee's work address will be provided if the personal address is unknown. The Registrar will mail a ballot, voter's pamphlet, and a postage paid return envelope to each eligible member no less than thirty-five (35) calendar days before the date the Registrar will tally the votes as indicated on the election schedule.

If there is only one qualified candidate for an office, no ballot will be printed, and no election will be held. The Registrar will notify the CEO and then prepare an Agenda Item Transmittal for the Orange County Board of Supervisors, and the Board of Supervisors will declare that candidate to be appointed to the Board for the term specified. If no eligible candidate is certified by the Registrar, the Registrar will notify the CEO and reschedule the election.

Campaign Materials

If a qualified candidate or other interested third-party wishes to request that OCERS send campaign material in support of or in opposition to a candidate, they must:

- Notify OCERS, and submit the materials in the format required by OCERS before the scheduled deadline.
- Include in the campaign materials the following disclaimer:
These election materials are provided by [insert name of candidate or third party] and are not endorsed by the Orange County Employees Retirement System (OCERS). Neither OCERS, its Board, nor their agents are responsible for the content, format, or timeliness of these materials.
- Deposit with the mailing service designated by OCERS an amount of money sufficient to cover the processing and postage costs of the campaign material.

OCERS will employ a mailing service that has entered into a confidentiality agreement with OCERS to send the campaign materials to members voting in an election. The mailing service will use the information provided to it only for the purpose of distributing campaign material.

Voting Procedures

1. After making their ballot selection(s), the voter must sign the outside of the provided envelope and return it to the Registrar with the completed ballot inside.
2. Ballots must be returned by the individual member either in person, via County of Orange "pony" mail, or by mail in the envelope provided by the Registrar.



OCERS Board Policy Election Procedures

3. Ballots must be returned to the Registrar on or before 9:00 a.m. on the date of the election.

Election Certification

The Registrar will notify the CEO and each candidate at least five (5) days in advance of the time and place of the tallying of ballots. The Registrar will prepare an election certification, certifying the candidate with the highest number of votes, and submit the certification to the Orange County Board of Supervisors on an Agenda Item Transmittal before the beginning of the term of the newly elected Board Member. A copy of the certification will be sent to the CEO and the OCERS' Administrator.

The candidate certified by the Registrar as winning the election will take office the day after the expiration of the term of their predecessor. In the event of a tie vote and the need for a runoff election, or a delay due to a request for a recount, the incumbent will continue to serve in office until their successor is certified.

Recount

A candidate may request a recount of ballots to be performed by the Registrar. A recount request must be in writing and filed with the Registrar within five (5) days of the Registrar's certification of the election.

The candidate making the request will pay the cost of the recount. The Registrar will provide the requestor an estimate of the cost, and a deposit of the estimated amount must be provided before the recount will be commenced. The recount will commence no more than seven (7) days following the receipt of the request for recount and continued on each following business day until concluded. The Registrar will notify the CEO and all candidates for the office being recounted and post a Notice of Recount at least one (1) day before the recount at the office of the Registrar.

A recount is only valid if every vote received per the Registrar's election procedures is recounted. The results will be posted in the office of the Registrar and at the OCERS' office.

Safety Member Elections

When there is an election for the Safety Member, OCERS will advise the Registrar which of the eligible candidate(s) are engaged in active law enforcement (Law Enforcement Group); which are engaged in active fire suppression (Fire Suppression Group); and which are in any other safety group, e.g., probation (Other Safety Group). The candidate with the highest number of votes will be certified by the Registrar as the Safety Member regardless of their group.

The Safety Member candidate with the highest number of votes in a group other than that of the winner of the election will be certified as the Alternate Member of the Board, except that if there is a candidate from the Fire Suppression or Law Enforcement Group, a candidate from the Other Safety Group cannot be the Alternate Member, regardless of vote count.

The terms of office for the Safety Member and Alternate Member will be the same. In the event of an Alternate Member vacancy before the end of that member's term, a special election will be held to elect a successor to complete the unexpired term unless the Board determines that it is impractical to conduct an election during the remaining term period. Only safety members who are not members of the current Safety Member's group will be eligible candidates. If there is an eligible candidate from either the Law Enforcement Group or Fire Suppression Group to succeed as the Alternate Member, no member from the Other Safety Group may be candidates. If there are no eligible candidates, there will be no successor



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Alternate Member. The candidate receiving the most votes will become the successor and serve out the unexpired term of the Alternate Member.

Policy Review

The Board will review these procedures at least every three years to ensure that they remain relevant and appropriate.

Policy History

These procedures were adopted by the Board on October 15, 2001. These procedures were revised on May 17, 2011, February 17, 2015, July 20, 2015, and _____.

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 Elections Procedures

A. Notice and Date of Election

At least one hundred twenty (120) days prior to the expiration of the term of office of any Safety Member, General Member, or Retired Member of the Board of Retirement, the Retirement Administrator will notify the Registrar of Voters in writing that said member's term of office will expire, the date of such expiration, and the fact that an election must be scheduled. The date of the election shall be set prior to the expiration of the term of the member. However, no election of any Safety Member, General Member, or Retired Member of the Board of Retirement shall be set for or take place on the date set for any statewide primary or general election.

In the event of the need for a special election to fill the unexpired term caused by a vacancy in the office of one of the elected members, the Board of Retirement shall determine that the office is vacant and shall establish the date of the election, unless the Board determines that exigent circumstances make it impractical to effectively conduct an election. A special election shall be held as soon as practicable, following consultation with the Registrar of Voters. No such special election shall be set for or take place on the date set for any statewide primary or general election.

B. Candidate Requirements

Current members of the respective election groups: (1) General, (2) Safety, (3) Retired who wish to be placed on the ballot shall file a Petition of Election and a Statement of Willingness to Serve with the Registrar of Voters at least sixty (60) days prior to the date set for the election. Biographical statements shall be filed in OCERS' office at least sixty (60) days prior to the date set for the election. OCERS' office shall furnish a camera ready copy of each biographical statement to the Registrar of Voters, or provide the printed biographical statements in a manner acceptable to the Registrar of Voters.

The Petition for Election filed by any candidate for a General Member or Safety Member position on the Board of Retirement shall include at least seventy-five (75) signatures of current active employee members of OCERS from the same group (General or Safety) as the candidate for election. The printed name of each signer must also appear on the petition, next to the signature.

The Petition for Election filed by any candidate for the Retired Member position on the Board of Retirement shall include at least twenty-five (25) signatures of retired members of the OCERS. The printed name of each signer must also appear on the petition, next to the signature.

The individuals signing the nominating petitions must be members of the eligible electing group at the time they sign the petition. The Registrar of Voters shall review the nominating petitions to determine that the required number of eligible names is on each petition. Candidates who fail to furnish the required number of eligible signatures will be disqualified. OCERS shall furnish to the Registrar of Voters a list of eligible retirement members for the particular position as of the date the petitions are available for distribution.

Each candidate is required to file a Statement of Willingness to Serve and if not filed prior to the drawing of names for ballot position, the candidate shall be disqualified. Biographical Statements must be received in OCERS' office by the deadline, which shall be set no later than one (1) day prior to the drawing of names for positions. If the biographical statement is not received by that deadline, the candidate's biographical statement shall not be printed or included within the distribution of ballots. The biographical statement



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shall be no more than four hundred (400) words in length, and must be contained on single sheet of 8 ½ by 11 inch paper, and shall be of camera ready quality.

Each candidate may also furnish the Registrar of Voters with a short ballot designation, which shall be limited to the candidate's title, office, employment classification, or similar position held by the candidate. The designation shall not be more than forty (40) characters in length, including spaces. The ballot designation will be printed on the ballot, along with the candidate's name. If the ballot designation submitted by the candidate exceeds the foregoing space limitation, no ballot designation shall be printed for that candidate.

Neither the OCERS nor the Registrar of Voters shall be liable for printing or typographical errors.

C. Preparation and Mailing of Ballots

The Registrar of Voters will draw names in accordance with the California Secretary of State's current Randomized Alphabet process, from the list of qualified candidates, to determine the order in which candidates' names will appear on the ballot. The Registrar of Voters will notify all qualified candidates at least one (1) day in advance of the drawing of the time and place where such drawing will take place, and said candidates may attend the drawing. If there are at least two (2) qualified candidates for an office, the Registrar of Voters will prepare a ballot with the names of each qualified candidate, and the Registrar of Voters shall notify the Retirement Administrator of the names of the candidates and their respective positions on the ballot.

If there is only one (1) qualified candidate for an office, no ballots shall be printed and no election shall be held. In this event, the Registrar of Voters shall notify the Retirement Administrator that there was only one qualified candidate, and shall determine that there are no other qualified candidates for the position. The Registrar of Voters will then prepare an Agenda Item Transmittal for the Board of Supervisors, and the Board of Supervisors shall declare that candidate to be duly elected to the Board of Retirement for the term specified.

The Registrar of Voters shall be responsible for the printing of the ballots and identification envelopes in which voters shall return their voted ballots. The return identification envelopes that the Registrar of Voters provides to voters will include pre-paid U.S. first-class postage. OCERS shall be responsible for printing the biographical statements of the candidates; however, OCERS shall not print a biographical statement for any candidate who does not supply a camera ready copy of said biographical statement to OCERS in accordance with these procedures. OCERS will furnish the Registrar of Voters, on computer media, as specified by the Registrar of Voters, the names and mailing addresses of all OCERS members eligible to vote in the upcoming election, and the Registrar of Voters will mail the ballots and other election materials to such members. If the personal mailing address of any active employee member is unknown, the ballot will be mailed to the employee at his or her work address if available. OCERS will use its current records when supplying addresses to the Registrar of Voters, but OCERS in no way guarantees the accuracy of the addresses supplied.

D. Additional Campaign Material

This section D applies to you *only if* you are a candidate or interested third party who wants to use OCERS' mailing list and OCERS' qualified mailing service to mail additional campaign material to member voters. If



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you do not intend to send out additional campaign material, or if choose to use a different (i.e., non-OCERS) mailing list and mailing service to send out additional campaign material, this section D does not apply to you.

The purpose of this section D is to set forth a policy designed to allow a qualified candidate for a Board of Retirement position or other interested third parties to request that *OCERS send additional campaign material* in support of, or opposition to, a candidate, while protecting the privacy of the names and addresses of member-voters as required by the 1937 Act, laws protecting disclosure of law enforcement officers' names and addresses, and laws concerning privacy generally. This policy takes effect only after the candidate is qualified.

A qualified candidate (hereafter "candidate") or interested third party (hereafter "third party") shall notify OCERS in writing when he/she wants to send campaign materials in addition to or instead of those sent by the Registrar of Voters.

Campaign materials must be submitted to OCERS in advance so that OCERS can determine compliance with the requirements of this policy. OCERS will notify the candidate and third parties of the deadline to provide such campaign materials to OCERS and the designated Mailing Service in the format determined by that Mailing Service (e.g., electronic format, hard copy in sufficient numbers, etc.).

The designated Mailing Service is one which has entered into a confidentiality agreement with OCERS.

OCERS shall provide the Mailing Service with the names and addresses of the member-voters who will receive the additional campaign materials. OCERS shall meet the required deadlines in order for the materials to be distributed in a timely manner. OCERS shall use its current records, but in no way guarantees the accuracy of the information provided to the mailing service.

The Mailing Service shall use the information provided to it only for the purpose of distributing such additional campaign mailing and for no other purpose. Except as required by law or document retention policies, at no time shall the Mailing Service copy and retain any part of the information provided to it or access such information after performing its service.

The materials distributed pursuant to this policy shall be used only for election purposes and for no other purpose.

It is the responsibility of the candidate or third party to provide, in a timely manner, all materials to be mailed out in a format acceptable to the Mailing Service. In addition, before any mailing will occur, the candidate or third party must deposit with the Mailing Service an amount of money sufficient to cover all costs of processing, copying, postage, and so forth. The identity of the candidate or third party making the request must be disclosed on the materials to be mailed out. Failure to provide all materials, failure to provide them in the acceptable format, failure to make the necessary deposit, or failure to meet deadlines will stop the distribution process.

The candidate or third party must disclose the identity of the sender of the materials by including the following *precise* disclaimer language with the materials to be mailed out:

"These election materials are provided by [*insert name of candidate or third party*]. They have not been sent, paid for, or in any manner endorsed by the Orange County Employees Retirement System (OCERS). Neither OCERS, the Board of Retirement, nor their agents are responsible for the



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content, format, or timeliness of these materials; nor is OCERS, the Board of Retirement, or their agents responsible for correcting any errors of any kind.”

E. Voting Procedures

The information distributed to members of the group(s) electing a Board Member must state the time and date when ballots must be returned to the Registrar of Voters’ office in order to be counted. Ballots distributed to members shall be returned by the individual member either in person or via County of Orange “pony” mail or U.S. mail in the envelope provided by the Registrar of Voters.

The Registrar of Voters shall also distribute to each eligible voter, in the manner prescribed above, an information notice explaining how to vote and the deadline for submission of ballots. In order to be counted, ballots must be received in the office of the Registrar of Voters on or before 9:00 a.m. on election day.

The information notice distributed with the ballots shall advise members of the method in which ballots must be returned, and advise members that ballots not returned in this fashion will be disqualified by the Registrar of Voters. Ballots must be returned in the identification envelope provided by the Registrar of Voters; provided, however, that voters shall be allowed to place the identification envelopes inside another envelope (e.g., to protect the security of the voter’s signature when mailing). Ballots returned in any other envelopes shall be disqualified. The outside of the envelope must be signed by the voter and returned, with the ballot inside, to the Registrar of Voters. Ballot envelopes without a signature and / or sent to any location other than the Registrar of Voters shall be disqualified.

The information distributed to members of the group(s) electing a Board Member shall also state that ballots containing any identifying or extraneous marks will be disqualified and will not be counted in the election. For purposes of this election policy, identifying or extraneous marks shall include, but not be limited to, names, signatures, telephone numbers, other handwritten words, typed or printed words or marks, stray marks, drawings, or any other marks made outside the boxes designated for selection of a candidate.

The Registrar of Voters shall notify the Retirement Administrator and each candidate, at least five (5) days in advance, of the date, time, and place of the opening and tallying of ballots.

In the event of a tie, the Registrar of Voters shall conduct a runoff election between the tied candidates as soon as practicable in a manner consistent with these procedures.

The Registrar of Voters shall prepare an election certification, certifying the candidate with the highest number of votes, and submit the certification to the Board of Supervisors on an Agenda Item Transmittal prior to the beginning of the term of the newly elected member(s). A copy of the certification shall be sent to the OCERS Administrator.

F. Contested Elections

Any voter or candidate may request a recount of ballots to be performed by the Registrar of Voters in order to confirm the number of votes cast for a Retirement Board Member. A request for recount must be received by the Registrar of Voters within five (5) days of the signing of the election certification by the Registrar of Voters. A request for recount must be made in writing and specify the contest to be recounted. The request for recount shall also specify on behalf of which candidate it is being filed and may specify



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other relevant material to be examined. All requests for recounts in elections for Retirement Board Members shall be filed with the Registrar of Voters for the County of Orange.

The Registrar of Voters shall post a Notice of Recount at least one (1) day prior to the recount. The Notice of Recount shall be posted at the Registrar of Voters and at OCERS' office. In addition, all candidates for the office being recounted and the Retirement Administrator shall be notified by the Registrar of Voters prior to the recount.

The recount shall commence no more than seven (7) days following the receipt of the request for recount and shall be continued daily, Saturdays, Sundays, and holidays excepted, based upon availability of Registrar of Voters staff until concluded.

Results of a recount are declared null and void unless every vote received in accordance with these election procedures is recounted. Upon completion of the recount, the results of the election will be changed only if a different candidate receives a higher number of votes than the candidate originally identified by the Registrar of Voters as the winner of the election. A copy of the results of any recount shall be posted conspicuously in the office of the Registrar of Voters and at OCERS' office.

The cost of a recount is based upon the amount of time required to prepare and perform the requested recount. If the request includes reviewing relevant material, the Registrar of Voters shall prepare an estimate of the cost. The Registrar of Voters shall then provide the requestor an estimate of the cost prior to commencing the recount.

The voter or candidate requesting the recount shall deposit, before the recount commences, the sum required by the Registrar of Voters to cover the cost of the recount. In no event shall the Board of Retirement, Office of Retirement, or Registrar of Voters be responsible for paying the cost of a recount.

G. Special Rules for Safety Member Elections

When there is an election for Safety Member of the Board of Retirement, OCERS will advise the Registrar of Voters which of the candidate(s) are in the "law enforcement" group (i.e., engaged in active law enforcement), which of the candidate(s) are in the "fire suppression" group (i.e., engaged in active fire suppression), and which of the candidates are in "any other safety group" (e.g. probation). The candidate for Safety Member with the highest number of votes will be certified by the Registrar of Voters as the elected Safety Member of the Board of Retirement.

The candidate from the other group (i.e., the group other than the one in which the person elected as Safety Member is employed), which has the highest number of votes of any candidate within said group, shall be certified as the Alternate Member of the Board of Retirement, except that if there is a candidate from the "fire suppression group" or a candidate from the "law enforcement group" a candidate from "any other safety group" cannot be the Alternate Member of the Board of Retirement, whether or not that candidate received the highest number of votes. The terms of office of the Safety Member and Alternate Member shall begin and end at the same time.

In the event of a vacancy in the position of the Alternate Member of the Board of Retirement prior to the end of that member's term, the Board of Retirement shall cause a special election to be held in accordance with these Election Procedures for the purpose of choosing a successor to fill out the unexpired term of the Alternate Member, unless the Board determines that exigent circumstances make it impractical to effectively conduct an election. Only safety members who are not members of the safety group then



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represented by the seventh member of the Board of Retirement shall be eligible to run as a candidates to succeed to the Alternate Member position.

If an eligible candidate from either the law enforcement or fire suppression groups is on the ballot to succeed as the Alternate Member, no member from any other safety group may be a candidate. If there are no eligible candidates, there shall be no successor Alternate Member of the Board of Retirement. The Board of Retirement may, but shall not be required to, establish more than one special election to fill the Alternate Member vacancy.

All safety members of the Retirement System are eligible to vote in the special election to fill the vacancy of the Alternate Member. If more than one eligible candidate appears on the ballot, the candidate receiving the most votes shall become the successor Alternate Member, to serve out the unexpired term of the Alternate Member.

H. Inauguration, Runoffs, Costs

The candidate certified by the Registrar of Voters as elected to the Board of Retirement shall take office effective on the day after the expiration of the term of office of his or her predecessor. In the event of a tie vote and the need for a runoff election or other delay due to a request for recount, the incumbent will continue to serve in office until his or her successor is duly elected and certified.

The Board of Retirement shall reimburse the Registrar of Voters for its actual costs associated with conducting elections for the Board of Retirement.

Policy Review

The Board shall review these procedures at least every three years to ensure that they remain relevant and appropriate.

Policy History

These procedures were adopted by the Board of Retirement on October 15, 2001.

These procedures were revised on May 17, 2011, February 17, 2015, and July 20, 2015.

Secretary's Certificate

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

7/20/15

Steve Delaney
Secretary of the Board

Date