

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

**DISABILITY COMMITTEE MEETING  
March 15, 2021  
8:30 a.m.**

**Members of the Committee**

Adele Tagaloa, Chair  
Roger Hilton  
Chuck Packard  
Jeremy Vallone (Alternate Member)

**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>Topic: Disability Committee Meeting Time: March 15, 2021 08:30 AM Pacific Time (US and Canada)</p> <p>Join Zoom Meeting <a href="https://ocers.zoom.us/j/97654014490">https://ocers.zoom.us/j/97654014490</a></p> <p>Meeting ID: 976 5401 4490 Passcode: 980223</p> <p>One tap mobile +16699006833,,97654014490#,,,,*980223# US (San Jose) +12532158782,,97654014490#,,,,*980223# US (Tacoma)</p>	<p>Dial by your location</p> <p>+1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston) +1 929 436 2866 US (New York) +1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago)</p> <p>Meeting ID: 976 5401 4490 Passcode: 980223</p> <p>Find your local number: <a href="https://ocers.zoom.us/u/abJip6TjyC">https://ocers.zoom.us/u/abJip6TjyC</a></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 ITEMS**

All matters on the Consent Agenda are to be approved by one action unless a Committee member requests separate action on a specific item.

#### **DC-1: CHRISTINE ALFORD**

Attorney IV, Orange County Public Defender’s Office (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as November 23, 2018.

#### **DC-2: TAMARA JIMENEZ**

Group Counselor II, Orange County Social Services Agency (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as May 10, 2019, the day after the last day of regular compensation for the Group Counselor II position.
- 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 May 10, 2019, the date of the position change until the day Ms. Jimenez wishes to retire from the new position.

**DC-3: PRESTON KNOWLES**

Deputy Sheriff I, Orange County Sheriff's Department (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate.

**DC-4: JUAN OCEGUEDA**

Senior Institutional Cook, Orange County Sheriff's Department (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as March 29, 2019.

**DC-5: RANDY RIPKEN**

Firefighter, Orange County Fire Authority (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as March 27, 2020.

**DC-6: RICARDO ZAMORA**

Sheriff's Special Officer II, Orange County Sheriff's Department (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as September 25, 2020.

**CLOSED SESSION**  
**Government Code section 54957**

Adjourn to Closed Session under Government Code section 54957 to consider disability applications and to discuss member medical records submitted in connection therewith. The member may waive confidentiality and request his or her disability application to be considered in Open Session.

**ACTION ITEMS:**

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

**DA-2: MARY NEGRON**

Office Technician, Orange County Social Services Agency (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant non-service connected disability retirement.
- Set the effective date as June 7, 2019.
- Deny service connected disability retirement due to insufficient evidence of job causation.

**DA-3: SHERI PAK**

Eligibility Technician, Orange County Social Services Agency (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Deny service connected disability retirement due to insufficient evidence of job causation.

**DA-4: ROBERT SZEWCZYK-PULLED PER MEMBER'S REQUEST**

Deputy Sheriff II, Orange County Sheriff's Department (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Deny service connected disability due to insufficient evidence of permanent incapacity.
- Deny the application as it was untimely filed per Government Code Section 31722.

**OPEN SESSION**

**A. REPORT OF ACTIONS TAKEN IN CLOSED SESSION**

**B. REVIEW OF THE DISABILITY RETIREMENT REEMPLOYMENT POLICY**

**Recommendation:** Approve, and recommend that the Board approve, the Disability Retirement Reemployment Policy, with revisions, including changing the name of the Policy.

**C. REVIEW OF THE HEARING OFFICER SELECTION AND RETENTION POLICY**

**Recommendation:** Approve, and recommend that the Board approve, the Hearing Officer Selection and Retention Policy, with revisions.

**D. MINUTES FROM THE FEBRUARY 16, 2021 DISABILITY COMMITTEE MEETING**

**Recommendation:** Approve the Minutes.

**COMMITTEE MEMBER COMMENTS**

**CHIEF EXECUTIVE OFFICER/STAFF**

**COMMENTS COUNSEL COMMENTS**

**NOTICE OF NEXT MEETINGS**

**REGULAR BOARD MEETING**

**March 15, 2021**

**9:30 A.M.**

**INVESTMENT COMMITTEE MEETING**

**March 24, 2021**

**9:30 A.M.**

**DISABILITY COMMITTEE MEETING**

**April 19, 2021**

**8:30 a.m.**

*AVAILABILITY OF AGENDA MATERIALS - Documents and other materials that are non-exempt public records distributed to all or a majority of the members of the OCERS Board or Committee of the Board in connection with a matter subject to discussion or consideration at an open meeting of the Board or Committee of the Board are available at the OCERS' website: <https://www.ocers.org/board-committee-meetings>. If such materials are distributed to members of the Board or Committee of the Board less than 72 hours prior to the meeting, they will be made available on the OCERS' website at the same time as they are distributed to the Board or Committee members. Non-exempt materials distributed during an open meeting of the Board or Committee of the Board will be made available on the OCERS' website as soon as practicable and will be available promptly upon request.*

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

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

**DISABILITY COMMITTEE MEETING  
February 16, 2021  
8:30 a.m.**

**MINUTES**

**OPEN SESSION**

The Chair called the meeting to order at 8:30 a.m.

Attendance was as follows:

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

Adele Tagaloa, Chair; Charles Packard; Roger Hilton

Also Present via Zoom:

Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Megan Cortez, Disability Manager; David Acuña, Disability Investigator; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician

**PUBLIC COMMENT**

None.

**CONSENT ITEMS**

**MOTION** by Packard, **seconded** by Hilton, to approve staff's recommendation on all of the following items on the Consent Agenda.

The motion passed **unanimously**.

**DC-1: KATHERINE KLUG**

Eligibility Supervisor, Orange County Social Services Agency (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as February 1, 2017.

**DC-2: MEGAN MEIER**

Deputy Coroner, Orange County Sheriff's Department (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as the day after the last date of regular compensation.

**DC-3: EDWARD MOSQUEDA**

Firefighter, Orange County Fire Authority (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as August 3, 2018.

**DC-4: GABRIELLE PELOQUIN**

Lieutenant, Orange County Sheriff's Department (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as January 3, 2020.

**DC-5: STEVE ROVANO**

Fire Captain/Paramedic, Orange County Fire Authority (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as March 27, 2020.

**DC-6: FERNANDO SALAS**

Fire Captain, Orange County Fire Authority (Safety Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant service connected disability retirement.
- Set the effective date as April 15, 2020.

*The Disability Committee adjourned into closed session at 8:34 a.m.  
The Disability Committee reconvened into open session at 8:40 a.m.*

**OPEN SESSION**

**A. REPORT OF ACTIONS TAKEN IN CLOSED SESSION**

**DA-2: MINH TAM LUONG – PULLED PER APPLICANT’S REQUEST.**

**DA-3: SHERI PAK – PULLED PER APPLICANT’S REQUEST.**

**DA-4: SOU PHOMMASA**

Office Technician, Orange County Community Resources/Housing Authority (General Member)

**Recommendation:** Staff recommends that the Disability Committee forward to the Board of Retirement a recommendation to:

- Grant non-service connected disability retirement
- Set the effective date as June 12, 2015
- Deny service connected disability due to insufficient evidence of job causation.

**MOTION** by Packard, **seconded** by Hilton to approve staff recommendation.

The motion passed **unanimously**.

**B. MINUTES FROM THE JANUARY 19, 2021 DISABILITY COMMITTEE MEETING**

**Recommendation:** Approve the Minutes.

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

The motion passed **unanimously**.

**COMMITTEE MEMBER COMMENTS**

None.

**CHIEF EXECUTIVE OFFICER/STAFF**

Ms. Jenike advised that two policies will be brought to the March Disability Committee Meeting.

**COMMENTS COUNSEL COMMENTS**

None.

**ADJOURNMENT**

The meeting adjourned at 8:42 a.m.

Submitted by:

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Steve Delaney  
Secretary to the Board

Approved by:

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Adele Tagaloa  
Chair



## Memorandum

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**DATE:** March 15, 2021  
**TO:** Members of the Disability Committee  
**FROM:** Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT:** **TRIENNIAL REVIEW OF THE DISABILITY REEMPLOYMENT POLICY**

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### Recommendation

Review, approve, and recommend that the Board approve the Disability Reemployment Policy, including changing the name to the Disability Reassignment Policy, as presented.

### Background

Staff reviewed the Disability Reemployment Policy with the Board and/or Governance Committee in 2006, 2009, 2012, 2017 and today with the Disability Committee as part of the required triennial review. We recommend clarifying changes as well as changing to name of the policy to better reflect the purpose of the policy.

A copy of the Policy as well as a redlined version is attached.

### Submitted by:



SJ-Approved

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Suzanne Jenike  
Assistant Chief Executive Officer  
External Operations

## OCERS Board Policy

# Disability Retirement Reassignment Policy

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### Purpose and Background

1. The purpose of this policy is to encourage the reassignment of disability retirement recipients in alternate positions under Sections 31725.5, 31725.6 and 31725.65 of the California Government Code, to provide staff with a method for delivering benefits and related services to those members and their beneficiaries and to manage the assets of the system in a prudent manner.

### Policy Objectives

2. The objectives of this policy are to:
  - a. Provide a method by which the Board of Retirement (Board) can establish that a member who is permanently incapacitated from performing the duties of their position may be medically qualified to perform the duties required of an alternate position with an OCERS' employer;
  - b. Facilitate communication between OCERS, permanently incapacitated members and employers to identify those members who will engage in a reassignment plan and to identify available positions meeting the member's medical criteria;
  - c. Provide guidance to OCERS' staff and the employer to ensure appropriate treatment during the reassignment period and upon subsequent retirement.

### Policy Guidelines

3. The Board adopts the following approach for all disability retirement recipients who are reassigned under Sections 31725.5, 31725.6 or 31725.65 of the California Government Code:
  - a. Reassigned members will be considered active members of the retirement system for all purposes except death benefit entitlement;
  - b. Reassigned members will not be entitled to a second disability retirement;
  - c. Reassigned members will receive a supplemental disability retirement allowance, which will be the difference between the job salary for the position that the member is permanently incapacitated from performing and the job salary for the alternate position. The supplemental disability allowance will not exceed the amount of the member's original disability retirement allowance, as adjusted by Cost of Living increases;
  - d. Reassigned members will pay contributions to OCERS and earn service credit;
  - e. Reassigned members will have their disability retirement allowances recalculated at the time of retirement from the alternate position.

### Policy Review

4. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate. In the event of legislative changes to the pertinent sections addressed in this policy, the Board will review the policy as appropriate.



# OCERS Board Policy Disability Retirement Reassignment Policy

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## Policy History

5. The Board adopted this policy on April 17, 2006. The Board reviewed this policy on August 24, 2009, November 19, 2012 and July 17, 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.

A rectangular box containing a handwritten signature in cursive that reads "Steve Delaney".

7/17/17

Steve Delaney  
Secretary of the Board

Date

# OCERS Board Policy Disability Retirement Reemployment Reassignment Policy

## Purpose and Background

1. The purpose of this policy is to encourage the reassignment reemployment of disability retirement recipients in—alternate positions under Sections 31725.5, 31725.6 and 31725.65 of the California Government Code, to—and provide staff with a method for delivering benefits and related services to those members and their beneficiaries and to for managing the assets of the system in a prudent manner.

## Policy Objectives

2. The objectives of this policy are to:
  - a. Provide a method by which the Board of Retirement (Board) can establish that a disabled member who is permanently incapacitated from performing the duties of their position member—may be medically qualified to perform the duties required of another alternate position with an OCERS' plan sponsor employer;
  - b. Facilitate communication between OCERS, permanently incapacitated disabled members and plan sponsor employers to identify those members who will engage in a reassignment reemployment plan and to identify available positions meeting the member's medical criteria;
  - c. Provide guidance to OCERS' staff and the reemploying plan sponsor employer to ensure appropriate treatment during the reassignment reemployment period and upon subsequent retirement.

## Policy Guidelines

3. The Board adopts the following approach for all disability retirement recipients who become are reassigned reemployed under Sections 31725.5, 31725.6 or 31725.65 of the California Government Code:
  - a. Reassigned Reemployed members will be considered active members of the retirement system for all purposes except death benefit entitlement;
  - b. Reassigned Reemployed members will not be entitled to a second disability retirement;
  - c. Reassigned Reemployed members will receive a supplemental disability retirement allowance, which will be the difference between the disabled job salary for the position that the member is permanently incapacitated from performing and the alternate job salary for the alternate position. The supplemental disability allowance will not exceed the amount of the member's original disability retirement allowance, as adjusted by Cost of Living increases;
  - d. Reassigned Reemployed members will pay contributions to OCERS and earn service credit;
  - e. Reassigned Reemployed members will have their disability retirement allowances recalculated at the time of retirement from the alternate job position.



**OCERS Board Policy**

# **Disability Retirement Reemployment Reassignment Policy**

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## **Policy Review**

4. 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**

5. The Board adopted this policy on April 17, 2006. The Board reviewed this policy on August 24, 2009, November 19, 2012 and July 17, 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.

A rectangular box containing a handwritten signature in cursive that reads "Steve Delaney".

7/17/17

Steve Delaney  
Secretary of the Board

Date



## Memorandum

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**DATE:** March 15, 2021  
**TO:** Members of the Disability Committee  
**FROM:** Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT:** TRIENNIAL REVIEW OF THE HEARING OFFICER SELECTION AND RETENTION POLICY

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### Recommendation

Review, approve, and recommend that the Board approve the Hearing Officer Selection and Retention Policy, as presented.

### Background

The Hearing Officer Selection and Retention Policy was adopted in 2000 and has been reviewed and revised as needed with the Board and/or Governance Committee every three (3) years. We present the Policy to the Disability Committee as part of the required triennial review.

We recommend clarifying non-substantive changes today.

A copy of the Policy as well as a redlined version is attached.

### Submitted by:



SJ-Approved

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Suzanne Jenike  
Assistant Chief Executive Officer  
External Operations



# OCERS Board Policy Hearing Officer Selection and Retention Policy

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## Purpose and Background

1. The purpose of the Hearing Officer Selection and Retention Policy (Policy) is to provide OCERS with procedures for the selection and retention of Hearing Officers who will conduct administrative hearings. The Board of Retirement (Board) is charged with the responsibility of administering the System in a manner to assure prompt delivery of benefits to plan participants and their beneficiaries. Selection of competent Hearing Officers must be made in a manner that ensures the due process rights of plan participants and their beneficiaries are met.
2. Pursuant to Government Code Section 31533, the Board may appoint either a member of the Board or a member of the State Bar of California to serve as a Hearing Officer in an administrative hearing. This Policy apply only to the appointment of members of the State Bar of California as 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 ensures only qualified, competent and impartial Hearing Officers are appointed;
  - c. Establish a procedure for monitoring and evaluating Hearing Officers' performance so 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 ensures 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 (Panel), the appointment of qualified Hearing Officers.
5. The role of the Disability Committee with respect to the selection of Hearing Officers is to:
  - a. Monitor compliance with this Policy.
6. A Panel will consist 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 and will be responsible for:
  - a. Interviewing and recommending to the Board for its approval competent and qualified Hearing Officers in conformity with the Selection Process set forth in this Policy;

## OCERS Board Policy

# Hearing Officer Selection and Retention Policy

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- b. Evaluating the performance of Hearing Officers in accordance with the process for conducting performance evaluations of Hearing Officers 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 Qualifications

- 7. A Hearing Officers must be a member of the State Bar of California (Government Code Section 31533).
- 8. Factors for consideration when selecting Hearing Officers will include the following:
  - a. Past experience as an adjudicator (e.g. judge, judge pro-tem, arbitrator etc.); and
  - b. Past experience in disability retirement, workers' compensation law and all relevant provisions of the County Employees Retirement Law, as amended.

## 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 Panel will 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 and at other job related web sites. In addition, the RFP may be sent to potential candidates that are brought to the attention of the General Counsel.
- 10. Selection Process
  - a. The General Counsel or their designee will collect and review the responses to the RFP and select the qualified candidates for formal interviews.
  - b. The Panel will conduct formal interviews of the candidates selected by the General Counsel. The interviews may be conducted in person or virtually. The Panel will review writing samples, references, or other materials that would reflect upon the candidate's ability to competently perform the duties of a Hearing Officer. Based on the interviews and review of materials, the Panel will select the candidates to recommend to the Board for appointment as Hearing Officers.
  - c. Prior to submitting the list of recommended candidates to the Board, the list will be submitted to employers of OCERS and employee representation units. Those entities will be provided a brief outline of the qualifications of the candidates and be given fifteen (15) days to comment on the list of proposed Hearing Officers.
  - d. Employers, employee representation units may provide additional comments in writing or in person with respect to the proposed list of candidates at the time that the Board is to vote on the list of proposed Hearing Officers.



# OCERS Board Policy Hearing Officer Selection and Retention Policy

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## *Hearing Officer Contracts*

### 11. Term of Appointment

- a. Subsequent to appointment by the Board, each Hearing Officer will execute an Agreement for Hearing Officer Services agreement (Agreement). Among other terms, the Agreement will allow for the termination of the Agreement by either party with cause.

### 12. Expiration of Agreement for Hearing Officer Services

The Agreement shall terminate at the end of its seven year term, provided however, that the term may be extended by the Chief Executive Officer and General Counsel in order for the Hearing Officer to complete any appeals that are not yet final (as defined by the OCERS Administrative Review and Hearing Policy) as of the end of the seven year term. Upon expiration of the Agreement, the Hearing Officer is prohibited from reapplying to serve as a Hearing Officer for a period of two years after the expiration of the previous Agreement, and must participate in the Hearing Officer Selection Process again as a condition to being awarded a new contract.

### 13. Compliance with OCERS Administrative Review and Hearing Policy

- a. Each agreement will contain a provision whereby the Hearing Officer agrees that they will be bound by the OCERS Administrative Review and Hearing Policy, 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 Review and Hearing Policy.

### 14. Code of Judicial Ethics

- a. Each Agreement will contain a provision whereby the Hearing Officer agrees that they are 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 their 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 will be maintained of the number of times that a Hearing Officer's recommendation is tardy.
  - ii. The record shall also include the number of recommendations issued by the Hearing Officer during the contract term.



## OCERS Board Policy Hearing Officer Selection and Retention Policy

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### 16. Evaluation Process

- a. The Panel will evaluate each Hearing Officer based on the criteria listed in Section 15, above, within four (4) years of their appointment.
- b. In addition, the General Counsel will at any time during the term of the Agreement evaluate a particular Hearing Officer to determine whether cause exists to terminate the Agreement with that Hearing Officer. Cause for termination includes, but is not limited to, a finding by the General Counsel that the Hearing Officer has repeatedly failed to file their Proposed Findings of Fact and Recommended Decision in a timely manner, 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 will recommend to the Board that it terminate the Agreement prior to its normal expiration date or take other appropriate action as necessary.

## Miscellaneous

### *Assignment of Cases*

17. Pursuant to the OCERS Administrative Review and Hearing Policy, the OCERS Legal Division will review, maintain, and formalize a system that ensures that Hearing Officers are assigned cases on a rotational basis, while ensuring that, to the extent possible, each Hearing Officer is assigned an equal number of cases. The General Counsel or their designee shall oversee this process.

### *Number of Hearing Officers*

18. At all times, the General Counsel will make reasonable efforts to maintain a list of Hearing Officers sufficient in number to meet the needs of OCERS, and if the General Counsel concludes that the number of Hearing Officers is insufficient, recommend to the Panel that additional Hearing Officers are necessary. 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;
  - b. The number of hearings per month assigned to each Hearing Officer;

### *Remuneration*

19. To attract and retain the most qualified Hearing Officers, the General Counsel will 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 will 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.



## OCERS Board Policy

# Hearing Officer Selection and Retention Policy

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20. Based on this review, the General Counsel may recommend that the Board of Retirement consider modifications to the Hearing Officers' 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.

### Policy Review

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

### Policy History

23. This Policy was adopted by the Board 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, December 19, 2016 and January 16, 2018.

### Secretary's Certificate

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

A handwritten signature in black ink that reads "Steve Delaney". The signature is written over a light gray rectangular background.

Steve Delaney, Secretary of the Board

01/16/18

Date



# OCERS Board Policy Hearing Officer Selection and Retention Policy

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## Purpose and Background

1. The purpose of the Hearing Officer Selection and Retention Policy (Policy) is to provide OCERS with procedures for the a framework for selection and retention of Hearing Officers who will conduct for administrative hearings. The Board of Retirement (Board) 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-ensures the due process rights of plan participants and their beneficiaries are met.
2. Pursuant to Government Code Section 31533, the Board of Retirement may has the right to appoint either a member of the Board or a member of the State Bar of California-one of its own members to serve as a Hearing Officer in an administrative hearing. The procedures delineated in this This Policy apply only to the appointment of members of the State Bar of California as 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-ensures only qualified, competent and impartial Hearing Officers are appointed;
  - c. Establish a procedure for monitoring and evaluating Hearing Officers' performance to assure that so 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-ensures 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 (Panel), the appointment of qualified 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 this Policy.
6. A Hearing Officer Selection-Panel will consist 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 and will 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;

## OCERS Board Policy Hearing Officer Selection and Retention Policy

- b. Evaluating the performance of Hearing Officers in accordance with the process for conducting performance evaluations of Hearing Officers ~~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 Qualifications

7. All Hearing Officers must be a ~~members~~ of the State Bar of California (Government Code Section 31533).
8. ~~Additional~~ Factors for consideration when selecting Hearing Officers will ~~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 and all relevant provisions of the County Employees Retirement Law, as amended.

### 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 ~~will~~ 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 and at as well as other job related web sites. ~~Further,~~ In addition, the RFP may be sent to potential candidates that are brought to the attention of the ~~Chief Executive Officer~~ General Counsel.
10. Selection Process
  - a. The ~~Hearing Officer Selection Panel~~ General Counsel or their designee will collect and ~~shall~~ review the responses to the RFP and select the qualified candidates for formal interviews.
  - b. The ~~Hearing Officer Selection~~ Panel shall ~~will~~ conduct formal interviews of the qualified candidates selected by the General Counsel. The interviews may be conducted in person or virtually. At the ~~Hearing Officer Selection~~ The Panel's ~~discretion,~~ will review writing samples, references, or other materials that would reflect upon ~~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 ~~will~~ select the ~~compile a list of~~ candidates that it ~~to~~ 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 ~~will~~ be submitted to plan sponsor employers of OCERS, and employee representation units. ~~of these plan sponsors, and attorneys who regularly represent OCERS members in administrative hearings.~~

## OCERS Board Policy Hearing Officer Selection and Retention Policy

~~These~~ Those entities ~~and individuals shall~~ will be provided a brief outline of the qualifications of the candidates and be given allowed a reasonable amount of time in which to fifteen (15) days to comment on the list of proposed Hearing Officers.

- d. ~~Plan sponsors~~ Employers, employee representation units, ~~attorneys or other interested individuals~~ may provide additional comments in writing or in person 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 Contracts

#### 11. Term of Appointment

- a. Subsequent to appointment by the Board ~~of Retirement~~, each Hearing Officer ~~shall~~ will execute an ~~independent contractor~~ Agreement for Hearing Officer Services agreement (Agreement) ~~(contract)~~ ~~to provide services as a Hearing Officer for OCERS.~~ Among other terms, the ~~contract~~ Agreement will ~~shall~~ allow for the termination of the Agreement services by either party with cause.
- b. ~~The contract shall provide for a term of seven years.~~

#### 12. Expiration of Contract Agreement for Hearing Officer Services

The ~~contract~~ Agreement shall terminate at the end of its seven year term, provided however, that the term may be extended by the Chief Executive Officer and General Counsel in order for the Hearing Officer to complete any appeals that are not yet final (as defined by the OCERS Administrative Review and Hearing Rules Policy) as of the end of the seven year term. Upon expiration of the ~~contract~~ Agreement, the Hearing Officer ~~cannot~~ is prohibited from reapplying ~~reapply~~ to serve as a Hearing Officer ~~until for a period of~~ two years after the expiration of the previous ~~contract~~ Agreement, and must participate in the Hearing Officer Selection Process again as a condition to being awarded a new contract.

#### 13. Compliance with OCERS Rules Administrative Review and Hearing Policy

- a. Each ~~contract agreement will~~ shall contain a provision whereby the Hearing Officer agrees that ~~s/he~~ they will be bound by the OCERS Administrative Review and Hearing Policy 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 Review and Hearing Policy Rules.

#### 14. Code of Judicial Ethics

- a. Each ~~contract Agreement will~~ shall contain a provision whereby the Hearing Officer agrees that ~~he or she~~ they are ~~is~~ subject to and bound by the provisions of subdivision D of Canon 6 of the Code of Judicial Ethics.

## OCERS Board Policy Hearing Officer Selection and Retention Policy

### *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~~their 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~~will be maintained of the number of times that a Hearing Officer's recommendation is ~~issued after its due date~~tardy.
  - ii. The record shall also include the number of recommendations issued by the Hearing Officer during the contract term.

#### 16. Evaluation Process

- a. The ~~Hearing Officer Selection~~ Panel will evaluate each Hearing Officer based on the criteria listed in Section 15, above, within four ~~(4)~~ years of ~~his or her~~their appointment.
- b. In addition, the ~~Hearing Officer Selection Panel~~General Counsel will ~~shall~~ at any time during the term of the ~~contract Agreement~~ evaluate a particular Hearing Officers to determine whether cause exists to terminate the ~~contract Agreement~~ with ~~that the~~ Hearing Officer. Cause for termination includes, but is not limited to, a finding by the ~~Hearing Officer Selection Panel~~General Counsel that the Hearing Officer has repeatedly failed to ~~submit file their Proposed Findings of Fact and Recommended Decision, 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~~will recommend to the Board ~~of Retirement~~ that it terminate the ~~contract Agreement~~ prior to its normal expiration date or take other appropriate action as necessary.

## Miscellaneous

### *Assignment of Cases*

17. Pursuant to the OCERS Administrative Review and Hearing Policy, the OCERS Legal Division will ~~staff~~ ~~shall~~ review, maintain, and formalize a system that ensures that Hearing Officers are assigned cases on a ~~random rotational~~ basis, while ensuring that, to the extent possible, each Hearing Officer is assigned an equal number of cases. The General Counsel or ~~his or her~~their designee shall oversee this process.

## OCERS Board Policy Hearing Officer Selection and Retention Policy

### Number of Hearing Officers

18. At all times, the ~~Hearing Officer Selection Panel~~ General Counsel will shall make ~~all~~ reasonable efforts to maintain a list of Hearing Officers sufficient in number to meet the needs of ~~OCERS~~ OCERS, and if the General Counsel concludes that the number of Hearing Officers is insufficient, recommend to the Panel that additional Hearing Officers are necessary. The General Counsel will determine the number of Hearing Officers necessary to meet those needs based upon the following factors:
- The average number of hearings per month ~~during the calendar year;~~
  - The number of hearings per month assigned to each Hearing Officer;

### Remuneration

19. ~~In order to help~~ To attract and retain the most qualified Hearing Officers ~~possible~~, the General Counsel ~~shall will~~ 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 will~~ 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.

### Policy Review

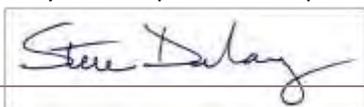
22. The Board ~~of Retirement~~ will review this ~~p~~Policy at least every three (3) years to ensure that it remains relevant and appropriate.

### Policy History

23. ~~The Hearing Officer Selection and Retention~~ This 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, December 19, 2016 and January 16, 2018.

### Secretary's Certificate

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



01/16/18



**OCERS Board Policy**  
**Hearing Officer Selection and**  
**Retention Policy**

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Steve Delaney, Secretary of the Board

Date