

AMENDED

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

**DISABILITY COMMITTEE MEETING
October 18, 2021
8:30 a.m.**

Members of the Committee

Adele Tagaloa, Chair
Chuck Packard
Jeremy Vallone

Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, and Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect, this meeting will be conducted by video/teleconference only, in compliance with Government Code § 54953 as amended by Assembly Bill 361. 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	
Topic: Disability Committee Meeting Time: October 18, 2021 08:30 AM Pacific Time (US and Canada) Join Zoom Meeting https://ocers.zoom.us/j/91040640817 Meeting ID: 910 4064 0817 Passcode: 854662 One tap mobile +16699006833,,97654014490#,,,,*980223# US (San Jose) +12532158782,,97654014490#,,,,*980223# US (Tacoma)	Dial by your location +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) Meeting ID: 910 4064 0817 Passcode: 854662 Find your local number: https://ocers.zoom.us/u/aePFOqZTp

AMENDED 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

COMMITTEE FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB361

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: The Committee is asked to make the following findings (a majority vote is required):

- (1) The Committee has reconsidered the circumstances of the state of emergency; and
- (2) The Committee has determined that one or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members of the Committee to meet safely in person; and/or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

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: MANUEL DeBACA

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 26, 2021.

DC-2: TIMOTHY DUFFY

Emergency Transport Technician, Orange County Fire Authority (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 2, 2018.

DC-3: JOHN LAMB

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 November 6, 2020.

DC-4: CHARLES LEGG

Fire Apparatus Engineer, 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 January 15, 2021.

DC-5: WILLIAM MATTERN

Battalion Chief, 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 26, 2021.

DC-6: CHRISTINA WATSON

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:

- Grant service connected disability retirement.
- Set the effective date as January 15, 2021.

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: LIDIA CARMONA

Social Worker 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 non-service connected disability retirement.
- Set the effective as October 22, 2010.
- Deny service connected disability retirement due to insufficient evidence of job causation.

DA-3: KELLY LUPRO

Administrative Manager II, Orange County Health Care 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 as March 29. 2019.
- Deny service connected disability retirement due to insufficient evidence of job causation.

OPEN SESSION

A. REPORT OF ACTIONS TAKEN IN CLOSED SESSION

B. [MINUTES FROM THE SEPTEMBER 20, 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
October 18, 2021
9:30 A.M.

DISABILITY COMMITTEE MEETING
November 15, 2021
8:30 A.M.

INVESTMENT COMMITTEE MEETING
October 27, 2021
9:30 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 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.

Memorandum

DATE: October 18, 2021
TO: Members of the Disability Committee
FROM: Gina M. Ratto, General Counsel
SUBJECT: **COMMITTEE FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361**

Recommendation

The Committee is asked to make the following findings by the attached Resolution:

- (1) The Committee has reconsidered the circumstances of the state of emergency; and
- (2) The Committee has determined that one or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members of the Committee to meet safely in person; and/or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Background/Discussion

In March of 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the state, Governor Newsom declared a state of emergency and issued a series of Executive Orders that modified certain requirements of the Brown Act. The orders waived several requirements for meetings conducted by teleconference, including the requirement that each teleconference location be accessible to the public, that agendas are posted at all teleconference locations, and that each teleconference location be accessible to the public.

On June 11, 2021, the Governor issued Executive Order N-08-21, rescinding the aforementioned modifications of the Brown Act effective September 30, 2021. On September 16, 2021, Assembly Bill 361 was signed into law as urgency legislation. AB 361 provides local agencies with the ability to meet remotely during proclaimed states of emergency under modifications to the Brown Act that are similar in many ways to the rules and procedures established by the Governor's Executive Orders. On September 20, 2021, the Governor signed an executive order waiving the application of AB 361 until October 1, 2021.

AB 361 amended the Brown Act's teleconference rules and added new provisions for abbreviated teleconferencing procedures that deviate from the traditional teleconferencing procedures during a proclaimed state of emergency, subject to certain requirements specified in the statute.

More specifically, AB 361 amended the Brown Act to add subdivision (e) to Gov't Code § 54953. This subdivision describes the circumstances and procedures for adopting abbreviated teleconferencing procedures during a proclaimed state of emergency, such as the current continuing COVID-19 pandemic. Subdivision (e)(1) of the statute provides the circumstances and requirements under which a local legislative body may adopt the

abbreviated teleconferencing procedures. Once a local legislative body meets the requirements for adopting teleconferencing procedures, subdivision (e)(2) provides the requirements for the abbreviated teleconferencing procedures that the local legislative body must implement.

Adopting Abbreviated Teleconferencing Procedures Under AB 361

A local legislative body, such as OCERS and its standing committees, may elect to use the abbreviated teleconferencing procedures under AB 361 where a state of emergency has been formally proclaimed, **provided that**:

- State or local officials have imposed or recommended measures to promote social distancing at the time the legislative body holds the meeting (Gov't Code § 54953(e)(1)(A)); **or**
- The legislative body holds a meeting for the first time for the purpose of determining by majority vote whether, as a result of proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees (Gov't Code § 54953(e)(1)(B)), **or**
- The legislative body has determined (per previous bullet) that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees (Gov't Code § 54953(e)(1)(C)).

AB 361 further imposes on local legislative bodies a duty to make factual findings to justify the election to continue to use the abbreviated teleconferencing procedures. (Gov't Code § 54953(e)(3). Local legislative bodies who wish to consider using AB 361's abbreviated teleconferencing procedures must make the following factual findings within 30 days after teleconferencing for the first time after the expiration of Executive Order N-29-20, and every 30 days thereafter:

- 1) The legislative body has reconsidered the circumstances of the state of emergency; and
- 2) One or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Until January 1, 2024, public retirement boards and their committees must reconsider the aforementioned circumstances and make factual findings by majority vote that the circumstances continue to exist in order for the local legislative body to elect and continue to use the abbreviated teleconferencing procedures. (Note that AB 361 was designed not only to deal with COVID-19 but also with other types of states of emergency, as defined in Gov't Code § 8625 of the California Emergency State Services Act.) A standing committee of the board is also considered a "legislative body" under Gov't Code § 54952 and, therefore, we recommend that the Disability Committee make the requisite findings to proceed with a meeting by teleconference.

Requisite Findings

A state of emergency continues to directly impact the ability of the members of the Committee to meet safely in person and both state and local officials continue to impose or recommend measures to promote social distancing. The COVID-19 Prevention Emergency Temporary Standards issued by the California Division of Occupational Safety and Health (Cal/OSHA) (codified at 8 C.C.R. § 3205) recommends physical distancing and requires it under certain circumstances. For example, the regulations require employees not wearing a face

covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19. In addition, six feet of distance between people is recommended even when outdoors for those who are unmasked and unvaccinated.

In addition, OSHA has issued guidance on mitigating and preventing the spread of COVID-19 in the workplace that recommends physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers: "[a] key way to protect such workers is to physically distance them from other such people (workers or customers) – generally at least 6 feet of distance is recommended, although this is not a guarantee of safety, especially in enclosed or poorly ventilated spaces."

Moreover, the County of Orange Health Officer's "Orders and Strong Recommendations" (revised August 20, 2021) states that, in general, the older a person is the more important it is to take preventive measures for COVID-19 such as getting vaccinated, practicing social distancing, and wearing a mask when around people who don't live in the same household. The Health Officer recognizes the Center for Disease Control's admonition that anyone infected with COVID-19 can spread it even if they do not have symptoms, and that the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap, wearing face covering and get vaccinated.

Based on the foregoing, I recommend that the Committee find that the state of emergency continues to directly impact the ability of the members of the Committee to meet safely in person and that state and local officials continue to impose or recommend measures to promote social distancing, and further recommend that the Committee adopt the attached Resolution to memorialize such findings.

Attachment

Submitted by:

Gina M. Ratto
General Counsel

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

**DISABILITY COMMITTEE MEETING
September 20, 2021
8:30 a.m.**

MINUTES

OPEN SESSION

The Chair called the meeting to order at 8:31 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; Jeremy Vallone

Also Present via Zoom:

Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations;
Megan Cortez, Disability Manager; David Acuna, Disability Investigator; Sonal Sharma-
Beeson, Recording Secretary; Anthony Beltran, Audio Visual Technician

PUBLIC COMMENT

None.

CONSENT ITEMS

MOTION by Vallone, **seconded** by Packard, to approve staff's recommendation on all of the following items on the Consent Agenda, with the exception of DC-2 and DC-3:

The motion passed **unanimously**.

DC-1: WILLIAM BAKER

Assistant Sheriff Orange 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 17, 2020.

DC-2: EDWARD CORTEZ – PULLED PER MEMBER'S REQUEST.

DC-3: ROBERT DAVIDSON – PULLED PER MEMBER’S REQUEST.

DC-4: SUSAN DOMINGUEZ

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 July 17, 2020.

DC-5: BRUCE FERM

Plumber, 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 8, 2021.

DC-6: JUAN FLORES

Deputy Juvenile Correctional Officer II, Orange County Probation 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 July 31, 2020.

DC-7: NICHOLAS FREELAND

Deputy Juvenile Correctional Officer II, Orange County Probation 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 August 28, 2020.

DC-8: DANNY MOORHOUSE

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 July 30, 2021

The Committee recessed into Closed Session at 8:36am.

The Committee resumed into Open Session at 8:55am.

ACTION ITEMS

DA-2: KENNETH BLOCK

Investigator, Orange County District Attorney's Office (Safety 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.

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

The motion passed **unanimously**.

DA-3: MINEA GRACIA

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 and non-service connected disability retirement due to insufficient evidence of permanent incapacity.

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

The motion passed **unanimously**.

DA-4: KELLY LUPRO – PULLED PER MEMBER'S REQUEST.

DA-5: MONICA RANGEL-SANTOS

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 and non-service connected disability retirement due to insufficient evidence of permanent incapacity.

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

The motion passed **unanimously**.

B. MINUTES FROM THE AUGUST 16, 2021 DISABILITY COMMITTEE MEETING

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

The motion passed **unanimously**.

COMMITTEE MEMBER COMMENTS

None.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Ms. Jenike thanked the Board Members for attending the Disability Committee Meeting despite there not being a Board Meeting this month.

COUNSEL COMMENTS

None.

ADJOURNMENT

The meeting adjourned at 8:58 a.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Adele Tagaloa
Chair