

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

**REGULAR MEETING
Monday, December 13, 2021
9:30 A.M.**

Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation; Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect; and Board of Retirement Resolution 2021-02 adopted November 15, 2021, this meeting will be conducted by video/teleconference only, in compliance with Government Code section 54953 as amended by Assembly Bill 361. None of the locations from which the Board 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 Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/98642754502</p> <p>Meeting ID: 986 4275 4502 Passcode: 110086</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only)</p> <p>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 +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York) <p>Meeting ID: 986 4275 4502 Passcode: 110086</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA

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

CALL MEETING TO ORDER AND ROLL CALL

PUBLIC COMMENTS

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 Board; 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 Board, 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

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

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

Σ None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

November 15, 2021

Recommendation: Approve Minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-03

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

- a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- b. The Board has determined that the following circumstances exist:

- i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
- ii. State or local officials continue to impose or recommend measures to promote social distancing.

and

(2) Adopt Board of Retirement Resolution 2021-03 to reflect such findings.

C-4 2022 OCERS BOARD ANNUAL WORK PLAN

Recommendation: Approve 2022 OCERS Board Annual Work plan.

DISABILITY/MEMBER BENEFITS AGENDA

9:30 AM

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

OPEN SESSION

CONSENT ITEMS

All matters on the Consent Agenda are to be approved by one action unless a Board member requires separate action on a specific item. If separate action is requested, the item will be discussed in closed session during agenda item DA-1.

DC-1: EDWARD CORTEZ

Journeyman Mechanic, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-2: MINEA GRACIA

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-3: MONICA RANGEL-SANTOS

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-4: MICHAEL SCHROEDER

Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- ∑ Grant service connected disability retirement.
- ∑ Set the effective date as March 26, 2021.

DC-5: STEVE TEAL

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

Recommendation: The Disability Committee recommends that the Board of Retirement:

- ∑ Grant service connected disability retirement.
- ∑ Set the effective date as August 13, 2021.

CLOSED SESSION

Government Code section 54957

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

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS CONSENT AGENDA

DA-2: APPLICATION OF JAMES B. MORELL FOR A RECALCULATED RETIREMENT ALLOWANCE -- ON REMAND FROM THE LOS ANGELES COUNTY SUPERIOR COURT AFTER JUDGMENT ON PEREMPTORY WRIT OF MANDATE

Recommendation: Staff recommends that the Board: (1) set aside its prior administrative decision of October 18, 2018 in this matter, and (2) reconsider the Application of James B. Morell for a Recalculated Retirement Allowance in light of the Superior Court’s Judgment and Writ, wherein the Board is directed by the Court to decide the Applicant’s contentions that OCERS improperly excluded Optional Benefit Plan payments from the calculation of his final compensation separate and apart from the 2002 Settlement Agreement in *In re Retirement Cases*, Judicial Council Coordination Proceeding No. 4049 in San Francisco County Superior Court.

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Board’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 ELECTION OF OCERS BOARD VICE CHAIR

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

- (1) Appoint the current Chair of the Board to serve a second term as Chair of the Board in 2022;
and
- (2) Elect an elected member of the Board to serve as Vice Chair of the OCERS Board of Retirement in 2022.

A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

Recommendation: Take appropriate action.

INFORMATIONAL ITEMS

Each of the following informational items will be presented to the Board for discussion.

Presentations

I-1 RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY – ISSUES UPDATE

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

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

WRITTEN REPORTS

The following are written reports that will not be discussed unless a member of the Board requests discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

December 13, 2021

Death Notices

December 13, 2021

R-2 COMMITTEE MEETING MINUTES

- None

R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 REVIEW OF NEW PAY ITEMS ADDED BETWEEN DECEMBER 31, 2009 AND SEPTEMBER 30, 2021 AS PRESENTED TO THE GOVERNANCE COMMITTEE ON OCTOBER 28, 2021

Written Report

R-7 GENERAL MEMBER ELECTION UPDATE

Written Report

CLOSED SESSION

E-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957

Adjourn to closed session pursuant to Government Code Section 54957

Position to be evaluated: Chief Executive Officer

Recommendation: Take appropriate action.

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

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

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING

December 13, 2021

1:00 P.M.

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

AUDIT COMMITTEE MEETING

December 15, 2021

9:30 A.M.

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

DISABILITY COMMITTEE MEETING

January 18, 2022

8:30 A.M.

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

REGULAR BOARD MEETING
January 18, 2022
9:30 A.M.

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

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. Please also advise us if you plan to attend meetings on a regular basis.

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

**REGULAR MEETING
Monday, November 15, 2021
9:30 a.m.**

MINUTES

Mr. Delaney announced that due to Chair Dewane and Vice Chair Eley’s absence from the board meeting, and at their request, that immediate past Chair Packard lead the meeting.

Pro-tem Chair Mr. Packard called the meeting to order at 9:33 a.m.

Cammy Torres administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom Video conference pursuant to Government Code § 54953, as amended by AB 361:

Richard Oates, Adele Tagaloa, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Shari Freidenrich, and Wayne Lindholm

Also Present via Zoom:

Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Jenny Sadoski, Director of Information Technology, Anthony Beltran, Audio-Visual Technician; Cammy Torres; Recording Secretary

CONSENT AGENDA

MOTION by Mr. Lindholm, **seconded** by Mr. Oates to approve recommendations on all of the following items on the Consent Agenda:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

- None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

October 18, 2021

Recommendation: Approve minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-02

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

- a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

and

(2) Adopt Board of Retirement Resolution 2021-02 to reflect such findings.

C-4 GOVERNANCE COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON OCTOBER 28, 2021

Recommendation: The Governance Committee recommends the Board adopt all of the following as presented:

- (1) Revisions to the Procurement and Contracting Policy
- (2) Revisions to the Write Off Policy
- (3) Revisions to the Overpaid and Underpaid Plan Benefits Policy
- (4) Revisions to the Overpaid and Underpaid Plan Contributions Policy
- (5) A new Records Management Policy to replace the existing Records Retention Policy
- (6) A new OCERS Administrative Procedure – Years of Service Credit Calculation

C-5 2021 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN OCERS AND THE COUNTY OF ORANGE REGARDING INTERNAL REVENUE CODE SECTION 415(M) REPLACEMENT BENEFIT PLAN

Recommendation: Adopt an updated Memorandum of Understanding between OCERS and the County of Orange governing the County Replacement Benefit Plan applicable to OCERS members /payees that are otherwise capped by Internal Revenue Code section 415(b).

C-6 PROPOSED 2022 REGULAR BOARD AND OTHER MEETING SCHEDULE

Recommendation: Approve the Proposed 2022 Regular Board and Other Meeting Schedule.

The motion passed **unanimously**.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

Ms. Jenike announced that item DC-8 was pulled from the agenda.

MOTION by Lindholm, **seconded** by Tagaloa, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda excluding item DC-8:

DC-1: CHRISTOPHER BROWN
Communications Coordinator II, Orange County Sheriff’s Department (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-2: LIDIA CARMONA
Social Worker II, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement.
- Set the effective as October 22, 2010.

DC-3: MANUEL DeBACA
Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 26, 2021.

DC-4: TIMOTHY DUFFY
Emergency Transport Technician, Orange County Fire Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as February 2, 2018.

DC-5: CASEY GONZALES
Operations and Maintenance, Orange County Sanitation District (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-6: JOHN LAMB
Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as November 6, 2020.

DC-7: CHARLES LEGG
Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-8: MINH TAM LUONG
Senior Public Health Nurse, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

This item has been **pulled** from the agenda.

DC-9: KELLY LUPRO
Administrative Manager II, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

DC-10: WILLIAM MATTERN
Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 26, 2021.

DC-11: CHRISTINA WATSON
Deputy Sheriff II, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

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

The motion passed **unanimously**.

CLOSED SESSION

The Board adjourned into closed session at 9:40 a.m.

DA-2: VINCENT SARDELLA

Instrumentation Technician II, Orange County Sanitation District

Recommendation: The Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated October 4, 2021 (Recommendation) wherein the Hearing Officer recommended that the Board find the application for disability retirement filed by Applicant, Vincent Sardella was not timely, as he did not prove he was physically or mentally incapacitated to perform his job duties between January 8, 2015 and July 16, 2015, as required by Government Code section 31722.

OPEN SESSION

The Board reconvened into open session at 9:51 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

Mrs. Ratto reported that the Board unanimously approved staff recommendation for item DA-2.

DA-2: VINCENT SARDELLA

Instrumentation Technician II, Orange County Sanitation District

Recommendation: The Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated October 4, 2021 (Recommendation) wherein the Hearing Officer recommended that the Board find the application for disability retirement filed by Applicant, Vincent Sardella was not timely, as he did not prove he was physically or mentally incapacitated to perform his job duties between January 8, 2015 and July 16, 2015, as required by Government Code section 31722.

ACTION ITEMS:

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

N/A

A-2 OCERS’ PROPOSED ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2022

Presentation by Brenda Shott, Assistant CEO, Internal Operations

Recommendation: Adopt the Proposed Administrative Budget for Fiscal Year 2022 in the amount of \$33,100,984 which includes:

- a. Personnel costs in the amount of \$19,262,569
- b. Services and supplies in the amount of \$13,528,415
- c. Capital expenditures in the amount of \$310,000

Mr. Delaney provided brief opening remarks and turned the item over to Ms. Shott for an in-depth presentation on the Administrative Budget for Fiscal Year 2022.

MOTION by Packard, **seconded** by Oates, to approve and adopt the Proposed Administrative Budget for Fiscal Year 2022 in the amount of \$33,100,984.

The motion passed **unanimously**.

A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

Recommendation: Take appropriate action.

This item has been **pulled** from the agenda.

The Board recessed for break at 11:05 a.m.
The Board reconvened from break at 11:20 a.m.

INFORMATIONAL ITEMS

Each of the following informational items will be presented to the Board for discussion.

Presentations

I-1 ANNUAL EMPLOYER REPORT

Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS

Ms. Jenike presented the Annual Employer Report.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update. He informed the Board that OCERS staff continue to work remotely until the end of the year. Mr. Delaney mentioned that the plan is to have a hybrid schedule for OCERS staff beginning January 2022. Mr. Delaney further stated that OCERS remains closed to the public.

Written Reports

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Orange County Employees Retirement System
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Application Notices
Death Notices

November 15, 2021
November 15, 2021

R-2 COMMITTEE MEETING MINUTES

- Governance Committee Minutes – March 19, 2021

R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 THIRD QUARTER 2021 BUDGET TO ACTUALS REPORT

Written Report

**R-7 THIRD QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED
SEPTEMBER 30, 2021**

Written Report

R-8 GENERAL MEMBER ELECTION UPDATE

Written Report

**R-9 PUBLIC PENSION COORDINATING COUNCIL (PCC) STANDARDS AWARD FOR FUNDING AND
ADMINISTRATION 2021**

Written Report

BOARD MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Mr. Delaney updated the Board about Vision 2030 regarding Artificial Intelligence (AI).

Ms. Jenike announced the December Board materials associated to a member appeal will be shared on Friday, November 19 due to the voluminous nature of the agenda documents.

Harvey Leiderman gave an update on the *Alameda* court case.

COUNSEL COMMENTS

N/A

The meeting ADJOURNED at 11:46 am.

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Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Charles Packard
Pro-Tem Chairman



Memorandum

DATE: December 13, 2021
TO: Members of the Board
FROM: Gina M. Ratto, General Counsel
SUBJECT: **BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-03**

Recommendation

That the Board:

- (1) Make the following findings pursuant to Government Code section 54953, as amended by AB 361;
 - a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
 - b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.
- (2) Adopt Board of Retirement Resolution 2021-03 to reflect such findings.

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 teleconference rules of the Brown Act 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 the AB 361 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 Boards 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.)

On November 15, 2021, the Board adopted Resolution 2021-02 to reflect the findings made by the Board pursuant to AB 361. Resolution 2021-02 expires on December 14, 2021. **Staff recommends the Board renew its**

findings and adopt Resolution 2021-03 in order for the Board and its committees to continue to meet by teleconference.

Reconsideration of the State of Emergency and Requisite Findings

A state of emergency continues to directly impact the ability of the members of the Board and its committees to meet safely in person and, as more fully set forth below, 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 November 17, 2021) states at page 15 that, "[i]n general, the older a person is, the more health conditions a person has, and the more severe the conditions, the more important it is to take preventive measures for COVID-19 such as getting vaccinated, social distancing and wearing a mask when around people who don't live in the same household..." The Health Officer also recognizes, at pages 16 and 17 of the "Orders and Strong Recommendations", 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, staff recommends the Board find that the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person, and that state and local officials continue to impose or recommend measures to promote social distancing. Staff further recommends the Board adopt the attached Resolution 2021-03 to memorialize such findings.

Attachment

Submitted by:



Gina M. Ratto
General Counsel

OCERS BOARD OF RETIREMENT RESOLUTION NO. 2021-03

RESOLUTION OF THE BOARD OF THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM:

- Σ RATIFYING (1) THE PROCLAMATION OF A LOCAL HEALTH EMERGENCY BY THE COUNTY OF ORANGE HEALTH OFFICER ON FEBRUARY 26, 2020; (2) THE PROCLAMATION OF A LOCAL EMERGENCY BY THE CHAIRWOMAN OF THE ORANGE COUNTY BOARD OF SUPERVISORS ON FEBRUARY 26, 2020; (3) RESOLUTIONS NO. 20-011 AND 20-012 OF THE ORANGE COUNTY BOARD OF SUPERVISORS RATIFYING THE LOCAL HEALTH EMERGENCY AND THE LOCAL EMERGENCY; AND (4) THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020; AND**
- Σ AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD AND ITS COMMITTEES THROUGH JANUARY 18, 2022, PURSUANT TO BROWN ACT PROVISIONS.**

WHEREAS, the Board of the Orange County Employees Retirement System (OCERS Board) is a legislative body under Government Code section 54952; and

WHEREAS, OCERS is committed to preserving and nurturing public access and participation in meetings of the OCERS Board and its committees; and

WHEREAS, all meetings of the OCERS Board and its committees are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the OCERS Board and its committees conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a State of Emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the geographical boundaries within which the OCERS Board and its committees hold their meetings, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in Orange County, specifically, a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County

was declared by the County of Orange Health Officer on February 26, 2020; a Local Emergency based on the imminent and proximate threat to public health from the introduction of COVID-19 that created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange County was proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; Resolutions No. 20-011 and No. 20-012 of the Orange County Board of Supervisors were adopted on March 2, 2020, ratifying the Local Health Emergency and Local Emergency; and a State of Emergency was proclaimed by Governor Newsom for the State of California on March 4, 2020 based on an outbreak of respiratory illness due to COVID-19; and

WHEREAS, the California Division of Occupational Safety and Health has issued COVID-19 prevention Emergency Temporary Standards requiring any employee 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; and

WHEREAS, the County of Orange Health Officer's Orders and Strong Recommendations, last revised on November 17, 2021, state 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; and

WHEREAS, the CDC currently recommends that organizations prioritize COVID-19 prevention strategies for indoor settings, and that multiple interventions, including maintaining physical distance and avoiding crowds, should be used concurrently to reduce the spread of disease; and

WHEREAS, the OCERS Board does hereby find that the COVID-19 pandemic has caused, and will continue to cause, conditions of peril to the safety of persons that are likely to be beyond the control of services, personnel, equipment, and facilities of OCERS; and

WHEREAS, in making the aforementioned finding, the OCERS Board acknowledges the proclamation of State of Emergency by the Governor of the State of California; the proclamation of Local Health Emergency by the County of Orange Health Officer; the proclamation of a Local Emergency by the Chairwoman of the Orange County Board of Supervisors; and the ratification of the Local Health Emergency and Local Emergency by the Orange County Board of Supervisors; as well as CalOSHA's prevention Emergency Temporary Standards requiring any employee 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; the County of Orange Health Officer's Orders and Strong Recommendations for unvaccinated persons to avoid gathering and practice social distancing; and the CDC's recommendation for maintaining physical distance and avoiding crowds; and

WHEREAS, as a consequence of the State of Emergency, Local Health Emergency and Local Emergency, the OCERS Board does hereby find that conditions exist to enable the OCERS Board and its committees to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the OCERS Board and its committees will comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, members of the public who wish to observe or participate in the meeting may do so via the Zoom application or via telephone, as explained in the agenda for the meeting posted on the OCERS' website and at its business office location at least 72 hours prior to the meeting.

NOW, THEREFORE, THE OCERS BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Acknowledgement of Proclamation of State and Local Emergency. The OCERS Board hereby acknowledges that a State of Emergency has been proclaimed by the Governor of the State of California effective March 4, 2020; that a Local Health Emergency has been proclaimed by the Orange County Health Officer on February 26, 2020; that a Local Emergency has been proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; and that the Local Health Emergency and Local Emergency were ratified by the Orange County Board of Supervisors on March 2, 2020, all of which continue to exist within the geographical boundaries of the territory within which the OCERS Board and its committees hold meetings to conduct business.

Section 3. Determination Regarding Health and Safety Need to Continue Teleconferencing. The OCERS Board finds that the State of Emergency directly impacts the ability of the OCERS Board, its committees, members and staff to meet safely in person, and that state or local officials continue to impose or recommend measures to promote social distancing.

Section 4. Remote Teleconference Meetings. The staff and the OCERS Board and each of its committees are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution will take effect immediately upon its adoption and shall be effective until the earlier of January 18, 2022, or such time the OCERS Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the OCERS Board and its committees may continue to meet by teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of the Orange County Employees Retirement System this 13th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020 that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, based on the Centers for Disease Control and Prevention statements, there is an ongoing risk and likelihood of COVID-19 positive patients being identified in Orange County;

WHEREAS, based on the foregoing, there is an imminent and proximate threat of the introduction of COVID-19 in the County of Orange and a threat to the public health of the County residents;

THEREFORE, the County Health Officer hereby declares a health emergency.



Nichole Quick, MD, MPH
Health Officer

2/26/2020

Date

COUNTY OF ORANGE
STATE OF CALIFORNIA
PROCLAMATION OF A LOCAL EMERGENCY

REQUEST FOR GOVERNOR TO DECLARE A STATE OF EMERGENCY*

WHEREAS, in accordance with Government Code Section 8630, a local emergency may be proclaimed by the Board of Supervisors of the County of Orange or by an official so designated by ordinance adopted by the Board of Supervisors; and

WHEREAS, Section 3-1-6(a) of the Codified Ordinances of the County of Orange provides that the Director of Emergency Services shall request the Board of Supervisors to proclaim a local emergency when the Board of Supervisors is in session and the Chair of the Emergency Management Council to so proclaim when the Board of Supervisors is not in session; and

WHEREAS, the Board of Supervisors is not currently in session, and the Director of Emergency Services has requested that the Chair of the Emergency Management Council proclaim a local emergency; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant

destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

WHEREAS, the above described events are creating a condition of extreme peril to the safety of persons and property within the territorial limits of the County of Orange which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the County of Orange, and require the combined forces of other political subdivisions to combat;

IT IS HEREBY PROCLAIMED that a local emergency exists within the geographic area of Orange County;

IT IS FURTHER PROCLAIMED AND ORDERED that as of this date all County departments and agencies take those actions, measures and steps deemed necessary to assure the safety and welfare of Orange County residents and property, including requesting mutual aid to the extent such aid is necessary and utilizing EOC/ Cal Cards and any other available funding stream to acquire resources determined by the DES or an authorized emergency purchaser as necessary to respond to this declared emergency.

ACCORDINGLY, THE CHAIR OF THE BOARD OF SUPERVISORS ACTING AS THE CHAIR OF THE EMERGENCY MANAGEMENT COUNCIL HEREBY REQUESTS that the Governor declare a State of Emergency and make all relevant funds available to the County of Orange and all eligible community members and businesses, including but not limited to, California Disaster Assistance Act funds and State Private Nonprofit Organizations Assistance Program funds, and that the Governor request that the President of the United States make a Presidential Declaration of Emergency in and for the County of Orange and make all relevant funds available to the County of Orange and all eligible community members and businesses, including, but not limited to, aid provided by the Small Business Administration.

Date: 2/24/2021

Signal: 

Michelle Steel,
Chairwoman of the Board of Supervisors Acting as
the Chair of the Emergency Management Council
County of Orange

Attachment A

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious infections, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, on February 26, 2020, the County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named "COVID-19") in Orange County;

WHEREAS, under Health and Safety Code Section 101080, the local health emergency shall not remain in effect for more than seven days unless ratified by the Board of Supervisors;

WHEREAS, the Board of Supervisors hereby finds that there continues to exist an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County for reasons set forth in the declaration of local health emergency by County's Health Officer, dated February 26, 2020;

NOW, THEREFORE, BE IT RESOLVED by the Orange County Board of Supervisors that:

1. The local health emergency declared by the County's Health Officer on February 26, 2020 is hereby ratified. Under Health and Safety Code Section 101080, the local health emergency may remain in effect for no more than 30 days from the date of this Resolution.
2. The County's Health Officer is directed to bring for review by the Board of Supervisors the need for continuing the local health emergency no later than the date

considering with the expiration of this Resolution

- 3. The Board of Supervisors delegates authority to the County's Health Officer to terminate the local health emergency, pursuant to Health and Safety Code Section 101080, "at the earliest possible date that conditions warrant the terminations."
- 4. All County departments and agencies take those actions, measures, and steps deemed necessary to assure the health, safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

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APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By *[Signature]*
Deputy

Date 2/27/20

Attachment C

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Government Code section 8630 and section 3-1-6(a) of the Codified Ordinances of the County of Orange empower the Director of Emergency Services to request the Chair of the Emergency Management Council to proclaim the existence or threatened existence of a local emergency, subject to ratification by the Board of Supervisors within seven days; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

Resolution No. _____ Item No. _____
Proclamation of a Local Emergency

Page 1 of 2

Attachment C

WHEREAS, the above described events are creating conditions of extreme peril and such conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the County, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, at the request of the Director of Emergency Services, the Chair of the Emergency Management Council, on February 26, 2020, did proclaim the existence of local emergency within the County of Orange; and

WHEREAS, the Board of Supervisors does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency; and

WHEREAS, the Board of Supervisors also finds a local emergency does exist and shall be deemed to continue to exist until its termination is proclaimed by the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors does hereby ratify the Chair of the Emergency Management Council's February 26, 2020, Proclamation of a Local Emergency.

BE IT FURTHER RESOLVED that all powers, functions, and duties of the emergency organization of the County of Orange shall be vested in such persons as prescribed by federal and state law, by County ordinances and resolutions, and by the Orange County Emergency Plan now in effect.

BE IT FURTHER RESOLVED that all County departments and agencies take those actions, measures, and steps deemed necessary to assure the safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

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Resolution No. _____ Item No. _____
Proclamation of a Local Emergency

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By _____
Deputy
Date 2/27/20

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the National Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventive measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, maintaining, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8389. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2022.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health condition, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

certification requirement) of Civil Code section 177B.24, subdivision (j), is suspended;

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waiver granted pursuant to this paragraph shall be posted on the Department's website.

I **FURTHER DIRECT** that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

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Subchapter 7. General Industry Safety Orders Introduction

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§3205. COVID-19 Prevention.

NOTE: See Executive Order N-84-20 (2019 CA EO 84-20), issued in response to the COVID-19 pandemic, which suspends certain provisions relating to the exclusion of COVID-19 cases from the workplace.

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) “Close contact” means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the high-risk exposure period.

(2) “COVID-19” means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(3) “COVID-19 case” means a person who:

(A) Has a positive “COVID-19 test” as defined in this section; or

(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or

(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or

(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) “COVID-19 hazard” means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from procedures performed on persons which may aerosolize saliva or respiratory tract fluids. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or

diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) "COVID-19 test" means a viral test for SARS-CoV-2 that is:

(A) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

(B) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

(7) "Exposed group" means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the high-risk exposure period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the high-risk exposure period, and the COVID-19 case was wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

NOTE: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.

(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(9) “Fully vaccinated” means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Vaccines must be FDA approved; have an emergency use authorization from the FDA; or, for persons fully vaccinated outside the United States, be listed for emergency use by the World Health Organization (WHO).

(10) “High-risk exposure period” means the following time period:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(11) “Respirator” means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(12) “Worksite,” for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

NOTE: The term worksite is used for the purpose of notice requirements in subsections (c)(3)(B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased

risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5) (I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees who are not fully vaccinated and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including

coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

NOTE: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

a. All employees at the worksite during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers at the worksite during the high-risk exposure period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative of any employee at the worksite during the high-risk exposure period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C), with the following exceptions:

a. Employees who were fully vaccinated before the close contact and do not have COVID-19 symptoms.

b. COVID-19 cases who returned to work pursuant to subsection 3205(c)(10) (A) or (B) and have remained free of COVID-19 symptoms, for 90 days after

the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for 90 days after the first positive test.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4:

1. How to properly wear the respirator provided;
2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that face coverings are additionally recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained. Employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) For all employees who are not fully vaccinated, employers shall provide face coverings

and ensure they are worn when indoors or in vehicles.

(B) Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.

(C) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(D) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.
2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.
3. Employees wearing respirators required by the employer and used in compliance with section 5144.
4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.
5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(E) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.

(F) Any employee not wearing a face covering, pursuant to the exceptions in subsections (c)(6)(D)4. or 5., and not wearing a non-restrictive alternative when allowed by subsection (c)(6)(E), shall 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 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(F) as an alternative to face coverings when face coverings are otherwise required by this section.

(G) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(H) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(I) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) Employers shall implement cleaning and disinfecting procedures, which require:

1. Identifying and regularly cleaning frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, phones, headsets, bathroom surfaces, and steering wheels. The employer shall inform employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of cleaning and disinfection.
2. Cleaning of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period, and disinfection if the area, material, or equipment is indoors and will be used by another employee within 24 hours of the COVID-19 case.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

(C) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer.

Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(D) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.
2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.
3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.
4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(D)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(E) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms who are not fully vaccinated, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.

(B) The employer shall maintain records of the steps taken to implement the written

COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall exclude from the workplace employees who had a close contact until the return to work requirements of subsection (c)(10) are met, with the following exceptions:

1. Employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms; and
2. COVID-19 cases who returned to work pursuant to subsection (c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed COVID-19 symptoms, for 90 days after the first positive test.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

EXCEPTION 1: Subsection (c)(9)(C) does not apply where the employee received disability

payments or was covered by workers' compensation and received temporary disability.

EXCEPTION 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria.

(A) COVID-19 cases with COVID-19 symptoms shall not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medications; and
2. COVID-19 symptoms have improved; and
3. At least 10 days have passed since COVID-19 symptoms first appeared.

(B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

(C) Once a COVID-19 case has met the requirements of subsection (c)(10)(A) or (B), as applicable, a negative COVID-19 test shall not be required for an employee to return to work.

(D) Persons who had a close contact may return to work as follows:

1. Persons who had a close contact but never developed any COVID-19 symptoms may return to work when 10 days have passed since the last known close contact.
2. Persons who had a close contact and developed any COVID-19 symptom cannot return to work until the requirements of subsection (c)(10)(A) have been met, unless all of the following are true:
 - a. The person tested negative for COVID-19 using a polymerase chain reaction (PCR) COVID-19 test with specimen taken after the onset of

symptoms; and

b. At least 10 days have passed since the last known close contact; and

c. The person has been symptom-free for at least 24 hours, without using fever-reducing medications.

3. During critical staffing shortages, when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the following categories may return after Day 7 from the date of last exposure if they have received a negative PCR COVID-19 test result from a specimen collected after Day 5:

a. Health care workers who did not develop COVID-19 symptoms;

b. Emergency response workers who did not develop COVID-19 symptoms; and

c. Social service workers who did not develop COVID-19 symptoms and who work face to face with clients in child welfare or assisted living.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10)(A), (c)(10)(B), or (c)(10)(D), as applicable.

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3, 144.6 and 6409.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.

2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.

3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).

4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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Introduction

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§3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period at any time during a 14-day period.

(2) This section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period.

(b) COVID-19 testing.

(1) The employer shall make COVID-19 testing available at no cost to its employees within the exposed group, during employees' paid time, except:

(A) Employees who were not present at the workplace during the relevant 14-day period(s) under subsection (a).

(B) Employees who were fully vaccinated before section 3205.1 became applicable to the workplace and who do not have COVID-19 symptoms.

(C) For COVID-19 cases who did not develop COVID-19 symptoms after returning to work pursuant to subsections 3205(c)(10)(A) or (B), no testing is required for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, 90 days after the first positive test.

(2) COVID-19 testing shall consist of the following:

(A) Immediately upon being covered by this section, testing shall be made available to all employees in the exposed group and then again one week later. Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine, isolation, or exclusion period required by, or orders issued by, the local health department.

(B) After the first two COVID-19 tests required by subsection (b)(2)(A), employers shall make COVID-19 testing available once a week at no cost, during paid time, to all employees in the exposed group who remain at the workplace, or more frequently if recommended by the local health department, until this section no longer applies pursuant to subsection (a)(2).

(c) Employers shall make additional testing available at no cost to employees, during employees' paid time, when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

(d) The employer shall continue to comply with all applicable provisions of section 3205, and shall also do the following:

(1) Employees in the exposed group shall wear face coverings when indoors, or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(c)(6)(D) applies.

(2) Employers shall give notice to employees in the exposed group of their right to request a respirator for voluntary use under subsection 3205(c)(7)(D)2., if they are not fully vaccinated.

(3) Employers shall evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not feasible, the use of cleanable solid partitions of sufficient size to reduce COVID-19 transmission.

(e) COVID-19 Investigation, review and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and

implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and include:

(1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient outdoor air; insufficient air filtration; and lack of physical distancing.

(2) The review shall be updated every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.

(3) The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as feasible, requiring respiratory protection in compliance with section 5144, and other applicable controls.

(f) In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units or other air cleaning systems would reduce the risk of transmission and, if so, shall implement their use to the degree feasible.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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§3205.2. Major COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to any workplace covered by section 3205 if 20 or more employee COVID-19 cases in an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period within a 30-day period.

(2) This section shall apply until there are fewer than three COVID-19 cases detected in the exposed group for a 14-day period.

(b) Employers shall continue to comply with section 3205.1, except that the COVID-19 testing described in section 3205.1(b) shall be made available to all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department.

(c) In addition to the requirements of sections 3205 and 3205.1, the employer shall take the following actions:

(1) The employer shall provide a respirator for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group and shall determine the need for a respiratory

protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards.

(2) Any employees in the exposed group who are not wearing respirators required by the employer and used in compliance with section 5144 shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not feasible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees. When it is not feasible to maintain a distance of at least six feet, individuals shall be as far apart as feasible.

(3) At work stations where an employee in the exposed group is assigned to work for an extended period of time, such as cash registers, desks, and production line stations, and where the physical distancing requirement in subsection (c)(2) is not maintained at all times, the employer shall install cleanable solid partitions that effectively reduce transmission between the employee and other persons.

(4) The employer shall evaluate whether to halt some or all operations at the workplace until COVID-19 hazards have been corrected.

(5) Any other control measures deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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How to Protect Yourself and Others

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

Know how it spreads



- **The best way to prevent COVID-19 is to avoid being exposed to this virus.**
- The virus is thought to spread mainly from person-to-person.
 - » Between people who are in close contact with one another (within about 6 feet).
 - » Through respiratory droplets produced when an infected person coughs, sneezes or talks.
 - » These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
 - » COVID-19 may be spread by people who are not showing symptoms.

Everyone should

Clean your hands often



- **Wash your hands** often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, **use a hand sanitizer that contains at least 60% alcohol.** Cover all surfaces of your hands and rub them together until they feel dry.
- **Avoid touching your eyes, nose, and mouth** with unwashed hands.

Avoid close contact



- **Limit contact with people who don't live in your household as much as possible.**
- **Avoid close contact** with people who are sick.
- **Put distance between yourself and other people.**
 - » Remember that some people without symptoms may be able to spread virus.
 - » This is especially important for **people who are at increased risk for severe illness.** <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.



Cover your mouth and nose with a mask when around others



- **You could spread COVID-19 to others** even if you do not feel sick.
- **Everyone should wear a mask in public settings** and when around people not living in their household, especially when social distancing is difficult to maintain.
 - » Masks should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- **A mask helps prevent a person who is sick** from spreading the virus to others, and offers some protection to the wearer as well.
- Do **NOT** use a facemask meant for a healthcare worker.
- Continue to **keep at least 6 feet between yourself and others**. The mask is not a substitute for social distancing.

Cover coughs and sneezes



- **Always cover your mouth and nose** with a tissue when you cough or sneeze or use the inside of your elbow.
- **Throw used tissues** in the trash.
- Immediately **wash your hands** with soap and water for at least 20 seconds. If soap and water are not readily available, clean your hands with a hand sanitizer that contains at least 60% alcohol.

Clean and disinfect



- **Clean AND disinfect frequently touched surfaces** daily. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks. www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/disinfecting-your-home.html
- **If surfaces are dirty, clean them:** Use detergent or soap and water prior to disinfection.
- **Then, use a household disinfectant.** You can see a list of [EPA-registered household disinfectants here](#).



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COUNTY OF ORANGE HEALTH OFFICER'S ORDERS AND STRONG RECOMMENDATIONS

(Revised November 17, 2021)

In light of the new and recent guidance on COVID-19 isolation and quarantine issued by California Department of Public Health (CDPH), the following Orders and Strong Recommendations shall revise and replace the prior Orders and Strong Recommendations of the County Health Officer that were issued on October 12, 2021. The Orders and Strong Recommendations issued on October 12, 2021, are no longer in effect as of November 17, 2021.

Pursuant to California Health and Safety Code sections 101030, 101040, 101470, 120175, and 120130, the County Health Officer for County of Orange orders and strongly recommends the following:

ORDERS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories of Orange County, California:

I. Self-Isolation and Self-Quarantine Orders

o Self-isolation of Persons with COVID-19.

Persons with COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are symptomatic* (as defined below) shall immediately isolate themselves in their home or another residence. They may discontinue self-isolation under the following conditions:

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- At least 10 days have passed since symptom onset; AND
- At least 24 hours have passed since resolution of fever without the use of fever-reducing medications; AND
- Other symptoms have improved (except that loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation).

Persons without COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are asymptomatic* (i.e., they do not have any symptom(s), as defined below) shall isolate themselves immediately in their home or another residence. They may discontinue self-isolation under the following conditions:

- At least 10 days have passed since the first positive COVID-19 PCR or rapid antigen laboratory test.

Additional Considerations.

- A Person who is self-isolated may not leave his or her place of isolation except to receive necessary medical care.
- If a more specific and individualized isolation order is issued by the County Health Officer for any county resident, the resident shall follow the specific order instead of the order herein.
- People who are severely ill with COVID-19 might need to stay in self-isolation longer than 10 days and up to 20 days after symptoms first appeared. People with weakened immune systems may require testing to determine when they can be around others. Talk to your healthcare provider for more information. Your healthcare provider will let you know if you can resume being around other people based on the results of your testing.

This self-isolation order DOES NOT in any way restrict access by first responders to an isolation site during an emergency.

Definition.

- A person is considered to “*with COVID-19*” if the person has:
 - Received a positive COVID-19 PCR or rapid antigen laboratory test result; and/or

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- Exhibits symptoms (as defined below).
- People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. Anyone can have mild to severe symptoms. People with these symptoms may have COVID-19:
 - Fever or chills
 - Cough
 - Shortness of breath or difficulty breathing
 - Fatigue
 - Muscle or body aches
 - Headache
 - New loss of taste or smell
 - Sore throat
 - Congestion or runny nose
 - Nausea or vomiting
 - Diarrhea

The list above does not include all possible symptoms.

○ **Self-Quarantine of Persons Exposed to COVID-19 and Exemptions.**

All Orange County residents and visitors who know that they have been in close contact (within 6 feet of someone for a cumulative total of 15 minutes or more over a 24-hour period) with a person who has, or is suspected to have, COVID-19 and who do not have any symptoms (as defined above) shall take the following actions:

Not Fully Vaccinated Persons

- Stay in their home or another place of residence:

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- For at least 10 days from the date of last contact with a person who has COVID-19 without testing; OR
- For at least 7 days with a negative COVID-19 diagnostic test result. Diagnostic specimen shall be collected on Day 5 or later from the date of last contact with person with COVID-19.
- The following persons shall quarantine themselves in their home or another place of residence for 14 days from the from the date of last contact with a person who has COVID-19:
 - All persons who reside or work in a high-risk congregate living setting (e.g., skilled nursing facilities, prisons, jails, shelters).
 - All persons who reside or work with severely immunosuppressed persons (e.g., Bone marrow or solid organ transplants, chemotherapy)

All persons quarantined as required above shall also take the following additional actions:

- Self-monitor for COVID-19 symptoms through Day 14 from the date of last contact with a person who has COVID-19 and if any symptoms develop during 14 days after the last date of close contact with a person with COVID-19, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.
- Wear face coverings at all times through Day 14 and adhere to the face covering order specified in Section II, below, after Day 14;
- Perform frequent hand hygiene; and
- May not leave their place of quarantine during their quarantine period except to receive necessary medical care or to obtain such other goods or services necessary for their basic subsistence.

Exemptions

- **Asymptomatic Fully Vaccinated Persons**. Persons who are fully vaccinated for COVID-19 prior to their close contact with a person with COVID-19 and have not developed any symptoms (as defined above) since their exposure are not required to quarantine.
 - People are considered fully vaccinated for COVID-19:

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- 14 days or more after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna); or
- 14 days or more after they have received a single-dose vaccine (Johnson and Johnson/Janssen).
- **Asymptomatic Persons Previously Infected.** If an exposed person tested positive for COVID-19 before their new, recent close contact with a person with COVID-19 and it has been less than 3 months since they started having symptoms from that previous infection (or since their first positive COVID-19 test if asymptomatic), they do not need to quarantine, as long as they have not had any new symptoms since their recent exposure to COVID-19.

All individuals who fall under any of the Exemptions, above, should also take the following additional actions:

- Test for COVID-19 5-7 days after last date of exposure (note: this recommendation does not apply to *Asymptomatic Previously Infected Individuals*).
 - If they test positive, they shall immediately self-isolate, as ordered above, and contact their healthcare provider with any questions regarding their care.
 - If they test negative, they shall continue monitoring their symptoms.
- Self-monitor for COVID-19 symptoms through Day 14 and if symptoms occur, immediately isolate as ordered above, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.
- **Quarantine Exemption for Students in both Private and Public Transitional Kindergarten through Grade 12.**

Quarantine Duration for *Unvaccinated* Students:

- The following students shall quarantine, as stated under (2), below, if any of the following occur EITHER in the community OR in any indoor or at outdoor school settings, including on buses operated by public and private school systems:

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- Either the student or person with COVID-19 (or both) was (were) NOT wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period.
- Both student and person with COVID-19 were wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period.
- If the student (as defined in Paragraph (A), above) remains asymptomatic (meaning they have NOT had any COVID-19 symptoms, as defined in this Order, above), the student may discontinue self-quarantine under the following conditions:
 - Quarantine can end after Day 10 from the date of last exposure without testing for COVID-19; OR
 - Quarantine can end after Day 7 if a test specimen (i.e., antigen diagnostic test, PCR/molecular diagnostic test, or pooled PCR/molecular test) is collected on or after Day 5 from the date of last exposure and the result is negative.
- All quarantined students from Day 1 through Day 14 shall:
 - Continue daily self-monitoring for symptoms through Day 14 from last known exposure; AND
 - Follow all recommended non-pharmaceutical interventions (e.g., wearing a mask when around others, hand washing) through Day 14 from the Day of last known exposure.
 - If any symptoms develop during this 14-day period, the exposed student shall immediately isolate as stated in this Order, above, get tested, and contact his or her healthcare provider with any questions regarding their care.
- **Exemption for Attending In-Person Instruction for Quarantined Unvaccinated Students – i.e., Modified Quarantine**

If unvaccinated student and person with COVID-19 were wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period, the exposed student may continue to attend school for in-person instruction during the duration of his or her quarantine period as

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specified in Paragraph (B), above, if the following conditions are met:

- The exposed student is asymptomatic; and
 - The exposed student continues to appropriately wear face covering; and
 - The exposed student undergoes at least twice weekly testing during his or her quarantine period (as specified in Paragraph (B), above); and
 - The exposed student refrains from participation in all extracurricular activities at school, including sports, and activities within the community setting for the duration of his or her quarantine period (as stated in (B), above). The exposed student may participate in all required instructional components of the school day, except activities where a mask cannot be worn, such as while playing certain musical instruments. The exposed student may also eat meals on campus; and
 - The exposed student complies with the conditions specified in Paragraph C, above
- **Acute Care Hospital Staff Shortage.** Acute care hospitals in collaboration with human resources and occupational health services that determine they are experiencing staff shortage and therefore are unable to provide safe patient care at their facilities may allow the following health care providers to continue to work onsite at their facilities throughout their 14-day exposure period: Asymptomatic health care providers, who are not fully vaccinated for COVID-19 and who have had a higher-risk exposure to COVID-19 but are not known to be infected. These health care providers shall be monitored for symptoms for COVID-19 and shall immediately isolate as consistent with the isolation order above if any symptoms develop (as defined above).

The above self-quarantine orders and exemptions DO NOT in any way restrict access by first responders to a quarantine site during an emergency.

Face-Covering Order:

1. **Wear a Cloth Face-Covering.** To help prevent the spread of droplets containing COVID-19, all County residents and visitors shall wear face coverings in accordance with and as required by the Guidance for the Use of Face Coverings issued by CDPH, effective July 28, 2021. The Guidance is attached herein as Attachment “A” and can be found

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at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>. The Guidance orders, as follows:

Masking Requirements.

Masks are required for **all individuals** in the following indoor settings, regardless of vaccination status:

- On public transit (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- Indoors in K-12 schools, childcare
- Emergency shelters [4] and cooling centers

Masks are required for **all individuals**, in the following indoor settings, regardless of vaccination status (and surgical masks are recommended):

- Healthcare settings
- State and local correctional facilities and detention centers
- Homeless shelters
- Long Term Care Settings & Adult and Senior Care Facilities

Additionally, masks are required for unvaccinated individuals in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state, and local government offices serving the public).

Guidance for Businesses, Venue Operators or Hosts.

In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.

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- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements.

The following individuals are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

Face shields may be considered for members of the public who cannot wear a face covering due to a medical condition or other exemption, although they may not work as well as face coverings in their ability to prevent the spread of COVID-19 to others. A cloth “drape” should be attached to the bottom edge of the face shield and tucked into the shirt to minimize gaps between the face and face shield.

Vaccination and Testing for COVID-19 Orders:

0. **COVID-19 Vaccination for Workers and Service Providers of Certain Facilities.** To help prevent transmission of COVID-19, all workers who provide services or work in facilities described below shall comply with the vaccination requirements as set forth in the August 5, 2021, State Health Officer Order. A copy of the State Health Officer Order is attached herein as Attachment “B” and can be found at the following link:

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<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>

The State Health Officer Order orders, as follows:

All workers who provide services or work in facilities described below shall have their first dose of a one-dose regimen or their second dose of a two-dose regimen by September 30, 2021:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities
- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

Two-dose vaccines include Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization. The one-dose vaccine is Johnson and Johnson [J&J]/Janssen.

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"Worker" refers to all paid and unpaid individuals who work in indoor settings where (1) care is provided to patients, or (2) patients have access for any purpose. This includes workers serving in health care or other health care settings who have the potential for direct or indirect exposure to patients or SARS-CoV-2 airborne aerosols. Workers include, but are not limited to, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual staff not employed by the health care facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the health care setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).

Exemption from Vaccination. Workers may be exempt from the vaccination requirements under only upon providing the operator of the facility a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on Religious Beliefs, or (2) the worker is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.

Eligibility for Qualified Medical Reasons Exemption. To be eligible for a Qualified Medical Reasons exemption, the worker must also provide to their employer a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate).

Condition of Entry into Facility for Exempted Workers. If an operator of facility deems a worker to have met the requirements of an exemption, the unvaccinated exempt worker must meet the following requirements when entering or working in such facility:

- Test for COVID-19 with either PCR or antigen test that either has Emergency Use Authorization by the U.S. Food and Drug Administration

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or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur twice weekly for unvaccinated exempt workers in acute health care and long-term care settings, and once weekly for such workers in other health care settings.

- Wear a surgical mask or higher-level respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering facepiece respirator, at all times while in the facility.

1. **Requirements for COVID-19 Vaccination Status Verification, COVID-19 Testing, and Masking for Certain Facilities.** To help prevent transmission of COVID-19, all facilities described below shall comply with the State Health Officer Order, effective August 9, 2021. A copy of the State Health Officer Order is attached herein as Attachment “C” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>

Acute Health Care and Long-Term Care Settings:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities

High-Risk Congregate Settings:

- Adult and Senior Care Facilities
- Homeless Shelters
- State and Local Correctional Facilities and Detention Centers

Other Health Care Settings:

- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Adult Day Programs Licensed by the California Department of Social Services

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- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dental Offices
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

2. **Requirements for COVID-19 Vaccine Status Verification and COVID-19 Testing for School Workers in Transitional Kindergarten through Grade 12.**

To prevent the further spread of COVID-19 in K-12 school settings, all public and private schools serving students in transitional kindergarten through grade 12 shall comply with the State Health Officer Order, effective August 12, 2021, regarding verification of COVID-19 vaccination status and COVID-19 testing of all workers. A copy of the State Health Officer Order is attached herein as Attachment “D” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Vaccine-Verification-for-Workers-in-Schools.aspx>

This Order does not apply to (i) home schools, (ii) child care settings, or (iii) higher education.

3. **Local Correctional Facilities and Detention Centers Health Care Worker Vaccination Requirement.** To prevent the further spread of COVID-19 in local correctional facilities and detention centers, all individuals identified in the State Health Officer Order, effective August 19, 2021, regarding obtaining COVID-19 vaccination shall comply with the State Health Officer’s Order. A copy of the State Health Officer Order is attached herein as Attachment “E” and can be found at the following link:

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<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-Vaccination-Order.aspx>

Visiting Acute Health Care and Long-Term Care Setting Order:

- **Requirements for Visiting Acute Health Care and Long-Term Care Settings.** To help prevent transmission of COVID-19, all acute health care and long-term care settings shall comply with the indoor visitation requirements set forth in the State Health Officer, effective August 11, 2021. A copy of the State Health Officer Order is attached herein as Attachment “F” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Requirements-for-Visitors-in-Acute-Health-Care-and-Long-Term-Care-Settings.aspx>

Seasonal Flu Vaccination Order:

- 0. **Seasonal Flu Vaccination for Certain County Residents.** All individuals who reside or work in Orange County and fall under one of the following categories, shall obtain the seasonal flu vaccination unless a medical or religious exemption applies: (i) current providers for congregate settings; (ii) current health care providers; and (iii) current emergency responders. However, nothing herein shall be construed as an obligation, on the part of employers, public or private, to require employees obtain the seasonal flu vaccination as a term or condition of employment.
 - *Emergency responder* shall mean military or national guard; law enforcement officers; correctional institution personnel; fire fighters; emergency medical services personnel; physicians; nurses; public health personnel; emergency medical technicians; paramedics; emergency management personnel; 911 operators; child welfare workers and service providers; public works personnel; and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency; as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
 - *Health care provider* shall mean physicians; psychiatrists; nurses; nurse practitioners; nurse assistants; medical technicians; any other person who is employed to provide diagnostic services, preventive services, treatment

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services or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care; and employees who directly assist or are supervised by a direct provider of diagnostic, preventive, treatment, or other patient care services; and employees who do not provide direct health care services to a patient but are otherwise integrated into and necessary to the provision those services – for example, a laboratory technician who processes medical test results to aid in the diagnosis and treatment of a health condition. A person is not a health care provider merely because his or her employer provides health care services or because he or she provides a service that affects the provision of health care services. For example, IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers are not health care providers, even if they work at a hospital of a similar health care facility.

STRONG RECOMMENDATIONS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories in Orange County, California:

1. **For Vulnerable Population**. In general, the older a person is, the more health conditions a person has, and the more severe the conditions, the more important it is to take preventive measures for COVID-19 such as getting vaccinated, social distancing and wearing a mask when around people who don't live in the same household, and practicing hand hygiene. For more information, see <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.
2. **COVID-19 Vaccination for County Residents**. All Orange County residents should receive COVID-19 vaccination in accordance with the Federal Food and Drug Administration (FDA) and CDC guidance unless a medical contraindication applies. Minors, who are eligible to receive COVID-19 vaccination in accordance with the applicable CDC guidelines, should be vaccinated in the presence of their parent or legal guardian.
3. **Seasonal Flu Vaccination for County Residents**. All County residents who are six months of age or older should obtain the seasonal flu vaccination unless a medical or religious exemption applies.
4. **COVID-19 Vaccination and Testing for Emergency Medical Technicians, Paramedics and Home Healthcare Providers**. To help prevent transmission of COVID-19, it is strongly recommended that all Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home Supportive Services Program workers) are fully vaccinated by September 30, 2021.

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Furthermore, it is strongly recommended that all unvaccinated Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home Supportive Services Program workers) undergo at least twice weekly testing for COVID-19 until such time they are fully vaccinated.

GENERAL PROVISIONS

1. The Orders and Strong Recommendations, above, shall not supersede any conflicting or more restrictive orders issued by the State of California or federal government. If any portion of this document or the application thereof to any person or circumstance is held to be invalid, the remainder of the document, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of the orders and strong recommendations are severable.
2. The Orders contained in this document may be enforced by the Orange County Sheriff or Chiefs of Police pursuant to California Health and Safety Code section 101029, and California Government Code sections 26602 and 41601. A violation of a health order is subject to fine, imprisonment, or both (California Health and Safety Code section 120295).

REASONS FOR THE ORDERS AND STRONG RECOMMENDATIONS

1. On February 26, 2020, the County of Orange Health Officer declared a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County.
2. On February 26, 2020, the Chairwoman of the Board of Supervisors, acting as the Chair of Emergency Management Council, proclaimed a Local Emergency in that the imminent and proximate threat to public health from the introduction of COVID-19 created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange County.
3. On March 2, 2020, the Orange County Board of Supervisors adopted Resolutions No. 20-011 and No. 20-012 ratifying the Local Health Emergency and Local Emergency, referenced above.
4. On March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of COVID-19.
5. As of November 16, 2021, the County has reported a total of 309,428 recorded confirmed COVID-19 cases and 5,652 of COVID-19 related deaths.
6. Safe and effective authorized COVID-19 vaccines are recommended by the CDC. According to CDC, anyone infected with COVID-19 can spread it, even if they do NOT

Order and Strong Recommendations of the County of Orange Health Officer

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have symptoms. The novel coronavirus is spread in 3 ways: 1) Breathing in air when close to an infected person who is exhaling small droplets and particles that contain the virus. 2) Having these small droplets and particles that contain virus land on the eyes, nose, or mouth, especially through splashes and sprays like a cough or sneeze.

3) Touching eyes, nose, or mouth with hands that have the virus on them.

See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.

7. CDC requires face coverings on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.
8. The CDPH issued a revised Guidance for the Use of Face Coverings, effective July 28, 2021, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>
9. According to the CDC and CDPH, older adults, individuals with medical conditions, and pregnant and recently pregnant persons are at higher risk of severe illness when they contract COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>; see also <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/PublicHealthGuidanceSelfIsolationforOlderAdultsandThoseWhoHaveElevatedRisk.aspx>.
10. The Orders and the Strong Recommendations contained in this document are based on the following facts, in addition to the facts stated under the foregoing paragraphs: (i) Safe and effective FDA authorized COVID-19 vaccines have become widely available, but many Orange County residents have not yet had the opportunity to be vaccinated, or have not completed their vaccination series to be fully vaccinated; (ii) there are currently limited therapeutic options proven effective that consistently prevents the severe illness associated with COVID-19; (iii) 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; (iv) some individuals who contract COVID-19 have no symptoms or have only mild symptoms and so are unaware that they carry the virus and are transmitting it to others; (v) current evidence shows that the novel coronavirus can survive on surfaces and can be indirectly transmitted between individuals; (vi) older adults and individuals with medical conditions are at higher risk of severe illness; (vii) sustained COVID-19 community transmission continues to occur; (viii) the age, condition, and health of a significant portion of Orange County's residents place them at risk for serious health complications, including hospitalization and death, from COVID-19; (ix) younger and otherwise healthy people are also at risk for serious negative health outcomes and for transmitting the novel coronavirus to others.
11. The orders and strong recommendations contained in this document are necessary and less restrictive preventive measures to control and reduce the spread of COVID-19 in

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Orange County, help preserve critical and limited healthcare capacity in Orange County and save the lives of Orange County residents.

12. The California Health and Safety Code section 120175 requires the County of Orange Health Officer knowing or having reason to believe that any case of a communicable disease exists or has recently existed within the County to take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.
13. The California Health and Safety Code sections 101030 and 101470 require the county health officer to enforce and observe in the unincorporated territory of the county and within the city boundaries located with a county all of the following: (a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters; (b) Orders, including quarantine and other regulations, prescribed by the department; and (c) Statutes relating to public health.
14. The California Health and Safety Code section 101040 authorizes the County of Orange Health Officer to take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any “state of war emergency,” “state of emergency,” or “local emergency,” as defined by Section 8558 of the Government Code, within his or her jurisdiction. “Preventive measure” means abatement, correction, removal, or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health.
15. The California Health and Safety Code section 120130 (d) authorizes the County of Orange Health Officer to require strict or modified isolation, or quarantine, for any case of contagious, infectious, or communicable disease, when such action is necessary for the protection of the public health.

IT IS SO ORDERED:

Date: November 17, 2021



Clayton Chau MD, PhD
County Health Officer
County of Orange



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: 2022 OCERS BOARD ANNUAL WORK PLAN

Recommendation

Approve 2022 OCERS Board Annual Work plan.

Background/Discussion

For more than half a decade, the OCERS Board has in the month of December adopted an annual work plan for the coming calendar year.

The attached 2022 Annual Work Plan outlines known and anticipated OCERS Board tasks in the coming year, allowing for better planning and support by your staff.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2022 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight	Receive Quality of Member Services Report (I)	STAR COLA Posting (I)	Approve 2022 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2023 Valuation (I)	Mid-Year Review of 2022 Business Plan Progress (I)	Alt. Invest. Return and Assumption Sensitivity 20-year Illustration (I)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2023 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
		Approve 2022 COLA (A)	Quarterly 2022-2024 Strategic Plan Review (A)			Approve December 31, 2021 Actuarial Valuation & Funded Status of OCERS (A)	Actual Risk Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2023-2025 Strategic Plan (A)	Approve 2023 Administrative (Operating) Budget (A)	
						Approve 2021 Comprehensive Annual Financial Report (A)	Approve Early Payment Rates for Fiscal Year 2022-24 (A)	Receive Evolution of the UALAL (I)		Approve 2023 Business Plan (A)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2022-2024 Strategic Plan Review (A)		Employer & Employee Pensions Cost Comparison (I)				Adopt 2023 Board Meeting Calendar (A)
Board Governance												Adopt Annual Work Plan for 2023 (A)
				Brown Act Training (biannual) (I)				Sexual Harassment Prevention Training (I)				
				Fiduciary Training (I)								Vice-Chair Election (A)
Regulation / Policies												Receive 2023 Board Committee Assignments (A)
	Communication Policy Fact Sheet (I)											
Compliance												
	Status of Board Education Hours for 2021 (I)			Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, CEO
SUBJECT: ELECTION OF OCERS BOARD VICE CHAIR

Recommendation

- (1) Appoint the current Chair of the Board to serve a second term as Chair of the Board in 2022; and
- (2) Elect an elected member of the Board to serve as Vice Chair of the OCERS Board of Retirement in 2022.

Background/Discussion

The Charter for the Board of Retirement provides, at Section 9.f., that “[t]he person holding the office of Vice Chair as of the last day of the calendar year will automatically succeed to the office of Chair effective the first day of the following calendar year.” Frank Eley, the current Vice Chair of the Board, has asked to **not** succeed to the office of Chair of the Board next year; and Shawn Dewane, the current Chair of the Board, has indicated that he is willing to serve a second term as Chair of the Board.

The Charter for the Board of Retirement also provides, at Section 9.f., that the Board will “[d]uring the last regularly scheduled meeting of the Board for each calendar year elect a Vice Chair for a term beginning on the first day of the following calendar year” and that the Board will “[i]n any election of the Vice Chair, strive to elect a Vice Chair that is (1) an elected Board member when the Chair is an appointed Board member; and (2) an appointed Board member when the Chair is an elected Board member.” (Section 9.g.)

At the Board’s December 13, 2021 meeting, the Board will elect a Vice Chair for the term beginning January 1, 2022. If Mr. Dewane is appointed to serve a second term as Chair of the Board in 2022, then the Charter for the Board of Retirement dictates that the Board should strive to elect a Vice Chair that is an elected Board member to serve in 2022.

Submitted by:

 SD - Approved

Steve Delaney
 Chief Executive Officer



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Sean Dewane, Board Chair
SUBJECT: **COMPENSATION OF THE CHIEF EXECUTIVE OFFICER**

OCERS' Chief Executive Officer Performance Evaluation Policy states that a formal evaluation will be conducted annually and the Board will consider compensation at the time the performance evaluation is conducted. The Brown Act code 54957 requires the Board to discuss the Chief Executive Officer's Compensation during an open session. In prior years, the Board has requested comparable CEO compensation data from other pension systems and organizations which are both close in proximity and size to OCERS, as well as base compensation history for Mr. Delaney. Attached are the CEO Compensation Performance Evaluation documents used to evaluate the CEO.

Attachments:

1. CEO Performance Evaluation Policy
2. CEO Charter
3. 2021 Business Plan
4. Blank CEO Evaluation Form
5. Steve Delaney Compensation History
6. CEO Salary Comparison 2021



OCERS Board Policy Chief Executive Officer Performance Evaluation Policy

Background and Objectives

1. The Board of Retirement supervises the Chief Executive Officer. Formal evaluation procedures and practices are required. This process shall be performed on an annual basis.
2. The objectives of this policy are to:
 - a. Assist the Board in arriving at and communicating clear and meaningful goals and performance targets for the Chief Executive Officer;
 - b. Ensure that the Chief Executive Officer receives meaningful, objective, and timely feedback that will allow the Chief Executive Officer to perform, over time, at the highest levels possible; and
 - c. Enable the Board to hold the Chief Executive Officer accountable for performance.

Roles

3. The Board will be responsible for evaluating the performance of the Chief Executive Officer.
4. The Chair and Vice Chair will be responsible for coordinating the evaluation process. The Board may use a third party to facilitate the process.

Policy Guidelines

Process and Timelines

5. The Chief Executive Officer will discuss the following items with the Chair during November each year:
 - a. Proposed CEO evaluation criteria for the coming calendar year;
 - b. Proposed weights for each of the above criteria; and
 - c. Proposed CEO Evaluation Form for the coming calendar year.
6. In addition, the CEO's performance for the prior twelve months may be based on the six categories below:
 - a. Achievement of performance targets established for the System as a whole;
 - b. Implementation of the annual Business Plan;
 - c. Implementation of Board policies and associated reporting to the Board;
 - d. Leadership and related qualities;
 - e. Ability to address special developments or situations that may arise; and
 - f. Other criteria that the Board may determine to be appropriate.



OCERS Board Policy

Chief Executive Officer Performance Evaluation Policy

7. The Board will attempt to ensure that the criteria:
 - a. Are objective and measurable; and
 - b. Pertain only to outcomes over which the Chief Executive Officer has a reasonable degree of control.
8. The Chair shall distribute the CEO Evaluation Package to each member of the Board in October of each year. The Evaluation Package will include copies of the Evaluation Form to be completed by each Board member, Business Plan, and the CEO's self-evaluation. The Chief Executive Officer's self-evaluation report is designed to assist the Board in the evaluation process. It should describe the extent to which the CEO believes the evaluation criteria were met over the past year, as well as all relevant supporting data. Supporting data may be confirmed by internal audit material where appropriate. The report may also describe any additional accomplishments during the year.
9. The Board shall treat this material as confidential. Completed individual Evaluation Forms will be returned to the Chair or the designated third party with a copy to the Vice Chair within the time frame specified. The Chair will ensure that all data is tabulated and summarized in a Master CEO Evaluation Form and treated as confidential until released to the Board.
10. Evaluation of the Chief Executive Officer will be completed by November each year. The evaluation process itself will be conducted in executive session. The Chair will distribute a copy of the Master CEO Evaluation Form and invite discussion by the Board. At the conclusion of discussion, the Chief Executive Officer will join the Board for review and discussion of his/her performance along with any suggestions for improvement. The Board may have preliminary discussions in October, but will complete the process by November.
11. Upon completion of the Master CEO Evaluation Form, the Chair and the Chief Executive Officer will sign the Master CEO Evaluation Form and cause it to be placed in the Chief Executive Officer's personnel file.

Documentation

12. The Individual and Master CEO Evaluation Form(s) may take any format the Board deems appropriate, but must allow Board members an opportunity to provide general comments.

Compensation

13. The Board of Retirement will consider the Chief Executive Officer's compensation at the time the performance evaluation is conducted.



OCERS Board Policy Chief Executive Officer Performance Evaluation Policy

Policy Review

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

Policy History

15. This policy will be implemented in February 19, 2002. This policy was revised May 16, 2005, May 19, 2008, March 22, 2010, January 21, 2014 , November 14, 2016 and August 19, 2019.

Secretary's Certificate

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

08/19/19

Steve Delaney
Secretary of the Board

Date



OCERS Board Charter CEO Charter

Introduction

1. The Board of Retirement (Board) will appoint a Chief Executive Officer (CEO) who will serve at its pleasure. The CEO is the most senior executive of OCERS and is not subject to county civil service and merit system rules. This charter sets out the roles and responsibilities of the CEO.

Duties and Responsibilities

Leadership and Policy Analysis

2. The CEO will provide leadership for the OCERS staff in implementing the programs necessary to achieve the mission, goals and objectives established by the Board. The CEO will manage the day-to-day affairs of OCERS in accordance with policies established by the Board, and may delegate duties to senior management as necessary. In so doing, the CEO will solicit advice and counsel from the Board, the Board Chair, or individual Board members, as appropriate.
3. The CEO will provide support to the Board and its committees in establishing all policies of the Board including identifying and analyzing issues requiring Board policy, and providing well-supported policy recommendations for consideration by the Board or its committees.
4. The CEO will be responsible for ensuring that all policies of the Board and provisions of the County Employees Retirement Law, with the exception of governance policies pertaining to the conduct of the Board, are properly implemented.

Governance

5. The CEO will:
 - a. Recommend to the Governance Committee policies to help ensure appropriate governance practices;
 - b. Assist the Board in implementing its governance policies, charters, and By-Laws; and
 - c. Assist with Board member education and travel.
6. The CEO will serve as Secretary to the Board and, as such, will carry out the following duties:
 - a. Coordinate meetings, agendas, schedules and presentations for both Board and committee meetings in accordance with the Ralph M Brown Act (California Government Code §§54950, *et seq.*);
 - b. Maintain minutes of Board and committee meetings;
 - c. Sign minutes upon approval of the Board;
 - d. Sign subpoenas; and
 - e. Serve as OCERS' filing officer for purpose of compliance with the California Political Reform Act and regulations of the Fair Political Practices Commission.



OCERS Board Charter CEO Charter

Investments

7. The CEO will:
 - a. Employ a Chief Investment Officer (CIO) with appropriate education and experience in institutional investing;
 - b. Carry out the duties described in this section through the CIO and other professional investment staff;
 - c. Recommend to the Investment Committee an Investment Policy Statement which will include investment objectives;
 - d. Recommend to the Investment Committee strategies for achieving OCERS' investment objectives;
 - e. Ensure the implementation of the strategies approved by the Board by establishing manager structures for each asset class, which includes among other things determining:
 - i. The number of investment manager mandates to be established; and
 - ii. The size of each investment manager mandate.
 - f. Ensure execution of portfolio rebalancing and portfolio transitions;
 - g. Ensure that necessary research is performed into investment trends, issues and opportunities that may have implications for the OCERS investment program;
 - h. Ensure all necessary investment manager due diligence is performed in accordance with the Investment Policy Statement of the Board; and
 - i. Oversee the CIO's hiring and termination of investment managers.

Benefits Administration

8. The CEO will:
 - a. Recommend to the Board, as necessary, policies to ensure effective and efficient administration of member benefits;
 - b. Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
 - c. In consultation with medical evaluators and legal counsel, recommend disability applications to the Board and the Disability Committee for each of their consideration;
 - d. Maintain accurate records of member accounts;
 - e. Ensure delivery of high standards of service to members including calculations and counseling; and
 - f. Develop staff policies and procedures to ensure effective and efficient administration of member benefits.



OCERS Board Charter CEO Charter

Operations

9. The CEO will:
 - a. Recommend to the Board, as appropriate, Board policies designed to help ensure effective operations;
 - b. Develop and recommend to the Board a business plan and updates to the plan as necessary;
 - c. Recommend the annual Operating Budget to the Board;
 - d. Transfer funds within a category of expenditures (i.e., Salaries and Benefits; Services and Supplies; Capital Projects) within the approved Operating Budget;
 - e. Execute contractual agreements in accordance with the Procurement and Contracting Policy and authorize payments related to the administration of OCERS, consistent with the Operating Budget and OCERS' internal controls;
 - f. Account for and ensure appropriate collection, deposit and distribution of funds as required;
 - g. Implement internal operational control policies;
 - h. Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer OCERS;
 - i. Maintain the records of OCERS in a permanent and readily accessible format and in accordance with the Record Retention Policy and Guidelines;
 - j. Assist the Audit Committee in coordinating operational audits; and
 - k. Maintain an effective working relationship with the County and other plan sponsors of OCERS.

Finance, Actuarial and Accounting

10. The CEO will:
 - a. Recommend to the Audit Committee as appropriate, financial and accounting policies;
 - b. Implement appropriate internal financial controls to safeguard the assets of the OCERS;
 - c. Assist the Audit Committee in coordinating the annual financial audit;
 - d. Coordinate the actuarial valuation, actuarial experience studies, and actuarial audits;
 - e. Cause to be prepared a comprehensive annual financial report on the operations of OCERS for Board approval; and
 - f. File in the office of the County Auditor and with the Board of Supervisors a sworn statement which will exhibit the financial condition of the OCERS at the close of the preceding calendar year and its financial transactions for the year ending on that day as required by Government Code §31597.

Human Resources

11. The CEO will:
 - a. Recommend human resources and compensation policies to the Board;



OCERS Board Charter CEO Charter

- b. Assess the human resources needs of OCERS and establish and implement appropriate human resources programs and procedures, consistent with the human resources and compensation policies of the Board;
- c. Hire, manage and terminate senior management, and approve all personnel decisions concerning OCERS staff; and
- d. Implement and lead agency training, talent development and succession planning.

Legislation and Litigation

12. The CEO will:
- a. Recommend legislative proposals for approval by the Board;
 - b. Conduct and oversee the assigning, directing, and handling of litigation, claims, demands, disputes or legal proceedings involving OCERS and report material developments in these matters to the Board on a timely basis;
 - c. In consultation with legal counsel, provide recommendations to the Board concerning the initiation and settlement of litigation, including administrative appeals, involving OCERS; and
 - d. Oversee the development and implementation of plans to comply with newly enacted legislation and court rulings, as applicable.

Communications

13. The CEO will:
- a. Ensure effective and timely communications with stakeholders on matters relating to the administration of OCERS. Such communications may include press releases, newsletters, presentations, and internet communications; and
 - b. In situations that call for an official spokesperson to speak on behalf of OCERS, jointly determine with the Chair, on an issue-by-issue basis, who will act in such capacity.

Appointment of Service Providers

14. The CEO will cause the necessary due diligence to be performed for Named Service Providers, as listed in the Board Procurement and Contracting Policy, and will provide the Board with appropriate recommendations, in accordance with the Procurement and Contracting Policy and the Investment Policy Statement of the Board.
15. The CEO may hire other service providers, consistent with the Operating Budget and the Procurement and Contracting Policy and other policies of the Board, provided that the Board has not specifically retained the authority to hire such service providers.

Monitoring and Reporting

16. The CEO will provide the Board with relevant, appropriate and timely information to enable it to properly carry out its oversight and fiduciary responsibilities. Furthermore, the CEO will apprise the Board in a timely manner of all significant issues, problems, or



OCERS Board Charter CEO Charter

developments pertaining to OCERS and provide recommended courses of action as appropriate.

17. The CEO will:

- a. Oversee the regular review of all policies of OCERS to ensure they are being followed and continue to meet OCERS' needs;
- b. Oversee the activities of the Investment Division and report annually to the Board regarding the administrative oversight of the division, including identifying any issues that arose during the reporting period;
- c. Oversee the funded status of OCERS and all issues that may reasonably have a significant impact on such status;
- d. Oversee the investment performance of the Fund, the component asset classes, and the investment managers retained to manage the assets of the Fund;
- e. Oversee management's response to the findings of the annual financial audit, and of any internal audits that may be performed;
- f. Oversee employees and service providers of OCERS to ensure compliance with the OCERS policies;
- g. Oversee the activities and performance of key service providers including the actuary, financial auditor, investment consultant, legal counsel, and custodian on a regular basis;
- h. Oversee the activities and performance of senior management;
- i. Oversee the collection of all payments due to OCERS and the payment of all amounts due by OCERS to ensure accuracy and timeliness;
- j. Oversee OCERS' compliance with applicable laws and regulations; and
- k. In conjunction with legal counsel, oversee the status of all claims, demands, disputes and legal proceedings involving OCERS and report to the Board as appropriate.

Emergency Authority

18. In emergency situations, the CEO, after making reasonable attempts to contact the Board Chair and Vice Chair, will have the authority to act on matters not expressly stated within this charter provided that:
- a. The action is, in the CEO's judgment, necessary to protect the System, its employees, the Fund, or System assets from loss or harm that is reasonably likely to occur if action is delayed for the scheduling of a notices meeting of the Board or its committees; and



OCERS Board Charter CEO Charter

- b. The CEO promptly reports to the Board the emergency action taken, and the reasons why the CEO determined action was immediately necessary.

Charter Review

- 19. The Governance Committee will review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.
- 20. This charter was adopted by the Board on November 18, 2002, and amended on August 25, 2008, July 20, 2015, April 18, 2018, and March 18, 2019.

Secretary's Certificate

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

03/18/19

Steve Delaney
Secretary of the Board

Date

Orange County Employees Retirement System
2223 East Wellington Avenue | Santa Ana | 92701

2021 BUSINESS PLAN



MISSION, VISION AND VALUES

MISSION STATEMENT:

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

VISION STATEMENT:

To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

VALUES:

- **O**pen and Transparent
- **C**ommitment to Superior Service
- **E**ngaged and Dedicated Workforce
- **R**eliable and Accurate
- **S**ecure and Sustainable

2021-2023 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

FUND SUSTAINABILITY

GOAL: STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Business Plan Initiatives

Objective A: Mitigate the Risk of Significant Investment Loss

Executive Lead – Molly Murphy

1. Investment Consultant Contract Reviews
2. Complete implementation of an investment/risk management system (year two)

Objective B: Prudent Use and Security of Resources

Executive Lead – Molly Murphy

1. Investigate Custodial Bank Services options

EXCELLENT SERVICE AND SUPPORT

GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND PLAN SPONSORS

Business Plan Initiatives

Objective A: Provide Accurate and Timely Benefits

Executive Lead – Suzanne Jenike

1. Streamline the retirement process by implementing:
 - a. LEAN action items
 - b. Review and improve paper forms
 - c. Investigate options to initiate Disability applications online
2. Improve customer service standards by enhancing V3 workflows, monitoring and reporting (multi-year)
3. Investigate phone system options to improve service and reporting
4. Investigate options on developing a Mobile App/Enhanced Self-Service Portal

Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update annual employer workshop to virtual format
2. Create videos and other online educational resources to enhance education to members and stakeholders about OCERS benefits, administrative operations and investments (multi-year)

Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective

Executive Leads – Brenda Shott and Suzanne Jenike

1. Explore the process of obtaining LEAN certifications
2. Identify additional business process to implement LEAN principles
3. Implement new Enterprise Resource Planning (ERP) system
4. Migrate to Microsoft 365 infrastructure

RISK MANAGEMENT

GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Business Plan Initiatives

Objective A: Enhance Governance of Technology Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Continue implementation plan for security and operational best practice controls (multi-year)
2. Develop and enhance information security policies
3. Implement project management tools and best practices for use throughout the organization

Objective B: Continuously Assess Technology Environment and Address Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement best practice security controls for Microsoft 365
2. Implement network access control to allow only authorized devices on the internal network
3. Implement network traffic analysis to observe internal network traffic and detect potential intrusions
4. Implement network/server/service monitoring to detect and alert on operational status of systems
5. Implement DNS security solution to protect computer endpoints
6. Evaluate alternative methods of exchanging member identification protocols

Objective C: Ensure Compliance with Industry Frameworks and Best Practices

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Conduct a data classification study
2. Implement automated inventories for tracking technology assets

Objective D: Provide a Robust Business Continuity Solution

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement new backup solutions to enhance recovery of on premise and cloud systems
2. Implement infrastructure to allow employees to work a hybrid in office and remote environment
3. Adopt policies to support a hybrid work environment

Objective E: Ensure a Safe and Secure Workplace and Public Service Facility

Executive Lead – Brenda Shott

1. Investigate and evaluate long term options for OCERS headquarters
2. Implement COVID-19 protocols and worksite plan
3. Upgrade the Board Room audio/visual equipment

TALENT MANAGEMENT

GOAL: RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Business Plan Initiatives

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

Executive Leads – Steve Delaney and Cynthia Hockless

1. Review and implement necessary changes onboarding and transitioning of new hires into the organization during remote work conditions
2. Expand advertising and outreach sources in order to continue to encourage diversity in recruitments (multi-year)
3. Complete compensation study and implement recommendations as appropriate

Objective B: Develop and empower every member of the team

Executive Lead – Steve Delaney

1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency
2. Develop a comprehensive standardized library of process and procedure manuals across the organization

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

Executive Lead – Steve Delaney

1. Continue to implement strategies that promote an inclusive workplace

EFFECTIVE GOVERNANCE

GOAL: IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a Governance Structure that Supports a Dynamic System

Executive Lead – Steve Delaney

1. Explore methods of focusing Board and staff time and effort on activities that support or advance OCERS' Strategic Goals

Objective B: Improve the Governance and Management of OCERS' Records (multi-year)

Executive Lead – Gina Ratto

1. Identify “best practices” in record retention
2. Develop and implement a records retention program that reflects best practices and identifies appropriate retention periods for each category of records
3. Establish storage protocols and automate destruction schedules for electronic mail
4. Establish an alternative “work space” and/or storage place for emails
5. Systematically bring each department within OCERS into compliance with the records retention program
6. Establish procedures to maintain and audit compliance with the record retention program



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
www.ocers.org

Chief Executive Officer 2021 Performance Evaluation

Please download and save this form to your computer prior to completing the form.

OCERS Mission, Vision & Values

Mission: We provide secure retirement and disability benefits with the highest standards of excellence.

Vision: To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

Values: Open and transparent; Commitment to superior service; Engaged and dedicated workforce; Reliable and accurate; Secure and sustainable

Criteria for 2021 Performance Evaluation

For the 2021 review period, the CEO's performance evaluation criteria will be based upon his progress towards achieving the 2021-2023 Strategic Goals as identified in the 2021 OCERS Business Plan.

- Fund Security and Sustainability
- Risk Management
- Talent Management

The CEO's performance evaluation will also cover the following areas:

- Direction and oversight of benefit administration
- Direction and oversight of the investment program
- Direction and oversight of internal operations
- Communications (membership, sponsors, Board, staff, public)
- Addressing exigent situations that arose during the year
- Addressing the opportunities to grow identified in this evaluation
- Overall leadership and development of the organization

1. Board Member Name (please select from dropdown):

Select Name

Please click on the below link to access OCERS Strategic Plan
[OCERS 2021-2023 Strategic Plan](#)

Check Spelling Save

Rating:	Definition
0. Does not Meet Performance Expectations	Performance improvement and/or skill development is needed to increase the overall effectiveness and meet performance expectations. Requires substantial direction from the supervisor or manager.
1. Meets Performance Expectations	Proficient in the performance of responsibilities. Normally meets performance expectations. Requires some guidance and direction to complete tasks effectively.
2. Exceeds Expectations	Fully proficient in the performance of responsibilities. Normally exceeds performance expectations. Does not require significant guidance and direction to complete tasks effectively.
3. Exceptional Performance	Exceptional overall performance. Consistently performs above the standards that are expected of the position. Accomplishments make notable contributions to the organization and represent OIGERS and the department in an exemplary fashion. Often functions as a model or mentor to others in this area.

For questions 2-11, please select the best rating and provide details to support your rating.

2. Fund Security and Sustainability

Performance Rating

Comments:

3. Risk Management

Performance Rating

Comments:

Check Spelling Save

4. Talent Management

Performance Rating

Comments:

[Empty comment box for Talent Management]

5. Direction and oversight of benefit administration.

Performance Rating

Comments:

[Empty comment box for benefit administration]

6. Direction and oversight of the investment program.

Performance Rating

Comments:

[Empty comment box for investment program]

7. Direction and oversight of internal operations.

Performance Rating

Comments:

8. Communications (membership, sponsors, Board, staff, public).

Performance Rating

Comments:

9. Addressing exigent situations that arose during the year.

Performance Rating

Comments:

10. Overall leadership and development of the organization (e.g., staff training and development, improvement of work processes, policy development, professionalism of the organization).

Performance Rating

Check Spelling Save

Comments:

11. Addressing the Opportunities to Grow identified in prior evaluation.

- a. Fine-tune CIO and Investment Team Delegation, and reporting of Investment Consultants to the Board - Balancing Board's oversight with CIO's delegation and giving the Board the ability to trust, but verify. Have investment consultants prepare reports specifically for the Board.
- b. Prepare to bring workforce back when it is safe to do so. Have a comprehensive strategy communicated to the Board on how you plan to assimilate the workforce back into the office.
- c. Future facilities - Recommend a facility adequate to deal with the future workforce as well as possible pandemics or disasters. Work with the building committee to develop a plan for a new building or alternative approach.

Performance Rating

Comments:

12. Overall Performance Rating Comments

13. Total Performance Rating (please add your total score from questions 2-11) 30 points possible.

_____ /30

14. Please add any performance evaluation criteria to focus on for the CEO's 2022 performance here.

Please remember to save your changes before closing this form.

Check Spelling Save

12-13-2021 REGULAR BOARD MEETING - A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

OCERS CEO Total Compensation Cost History

Name: Steve Delaney
Date of Hire: 1/2/2008

CEO Compensation										Total Base Salary Lump Sum Auto Allowance AL Cash Out, OBP
Year	Increase Effective Date	% Increase over prior year	Base Salary Increase	Base Salary	Lump Sum	Notes	Auto Allowance	Annual Leave (AL) Cash Out	Optional Benefit Plan (OBP)	Annualized
2021	1/1/2021	3%	\$8,660	\$297,335.18	\$5,773.50	3.0% Annual Salary Adjustment & 2.0% lump sum - 2020 Performance Evaluation	\$0	23,947.58	\$4,500	\$331,556
2020	1/3/2020	3%	\$8,408	\$288,675	\$5,605	3.0% Annual Salary Adjustment & 2.0% lump sum - 2019 Performance Evaluation	\$0	\$23,290	\$4,500	\$322,070
2019	1/4/2019	2.5%	\$6,836	\$280,267	\$6,836	2.5% Annual Salary Adjustment & 2.5% lump sum - 2018 Performance Evaluation	\$0	\$22,906	\$4,500	\$314,509
2018	1/5/2018	5%	\$12,006	\$273,437	\$0	5% Annual Salary Adjustment - 2017 Performance Evaluation	\$0	\$22,348	\$4,500	\$300,285
2017	1/6/2017	3%	\$7,614	\$261,431	\$0	3% Annual Salary Adjustment - 2016 Performance Evaluation	\$0	\$20,739	\$4,500	\$286,670
2016	None for 2016	0%	\$0	\$253,817	\$0	Last increase effective date 1/2/2015	\$0	\$10,982	\$4,500	\$269,299
2015	1/9/2015	0%	\$0	\$253,817	\$5,076	One time 2% non-base building performance award	\$0	\$20,745	\$4,500	\$284,138
2014	12/27/2013	2%	\$4,977	\$253,817	\$0	Annual Merit	\$0	\$20,745	\$4,500	\$279,062
2013	6/2/2013	3%	\$7,248	\$248,840	\$0	Annual Merit	\$0	\$10,454	\$4,500	\$263,794
2012	1/13/2012	14%	\$29,640	\$241,592	\$0	Stop employee contribution pick up move to salary	\$0	\$0	\$4,500	\$246,092
2012	12/16/2011	4%	\$8,154	\$211,952	\$0	Annual Merit	\$0	\$0	\$0	\$211,952
2011	12/17/2010	5%	\$9,194	\$203,798	\$0	Stop auto allowance move to salary	\$0	\$0	\$4,500	\$208,298
2011	12/17/2010	4%	\$7,488	\$194,605	\$0	Annual Merit	\$9,180	\$0	\$0	\$203,785
2010	12/18/2009	5%	\$13,874	\$187,117	\$0	Annual Merit	\$9,180	\$0	\$4,500	\$200,797
2009	12/19/2008	5%	\$8,258	\$173,243	\$0	Annual Merit	\$9,180	\$0	\$4,500	\$186,923
2008	1/2/2008			\$164,986	\$0	Starting Salary	\$9,180	\$0	\$4,500	\$178,666

County 401(a)			OCERS 401(a)*		Total Employee's Deferred Comp County and OCERS 401(a)	Total Base Salary, Lump Sum, Auto Allowance, Annual Leave Cash Out, 401(a), OBP
Year	% of Salary	Annualized	% of Salary	Annualized	Annualized	Annualized
2021	5%	\$14,867	3%	\$8,920	\$23,787	\$355,343
2020	5%	\$14,434	3%	\$8,660	\$23,094	\$345,164
2019	5%	\$14,013	3%	\$8,408	\$22,421	\$336,930
2018	5%	\$13,672	3%	\$8,203	\$21,875	\$322,160
2017	5%	\$13,072	3%	\$7,843	\$20,914	\$307,584
2016	5%	\$12,691	3%	\$7,614	\$20,305	\$289,604
2015	5%	\$12,691	3%	\$7,614	\$20,305	\$304,443
2014	5%	\$12,691	3%	\$7,614	\$20,305	\$299,367
2013	5%	\$12,442	3%	\$7,465	\$19,907	\$283,701
2012	5%	\$12,080	3%	\$7,248	\$19,327	\$265,419
2011	5%	\$10,190	3%**	\$6,114	\$16,304	\$224,602
2010	5%	\$9,354	3%	\$5,614	\$14,969	\$215,766
2009	5%	\$8,662	3%	\$5,197	\$13,859	\$200,783
2008	5%	\$8,249	3%	\$4,950	\$13,199	\$191,864

OCERS 2.7#55 Retirement Employer Contributions			Employer Pickup of Employee Contributions			
Fiscal Year	Employer contribution % of Salary	Employer Contribution Amount Annualized	Calendar Year	Gov't Code Section 31581.2 Pick up	Gov't Code Section 31581.1 Pick up	Combined Total
7/1/21 - 1/1/21 - 6/30/21	40.50%	\$117,105	2021	\$0	\$0	\$0
7/1/20 - 1/1/20 - 6/30/20	38.27%	\$106,406	2020	\$0	\$0	\$0
7/1/19 - 1/1/19 - 6/30/19	35.45%	\$95,641	2019	\$0	\$0	\$0
7/1/18 - 1/1/18 - 6/30/18	32.80%	\$91,301	2018	\$0	\$0	\$0
7/1/17 - 1/1/17 - 6/30/17	33.98%	\$87,749	2017	\$0	\$0	\$0
7/1/16 - 1/1/16 - 6/30/16	33.15%	\$87,491	2016	\$0	\$0	\$0
7/1/15 - 1/1/15 - 6/30/15	35.79%	\$90,359	2015	\$0	\$0	\$0
7/1/14 - 1/1/14 - 6/30/14	35.79%	\$84,445	2014	\$0	\$0	\$0
7/1/13 - 1/1/13 - 6/30/13	31.13%	\$71,840	2013	\$0	\$0	\$0
7/1/12 - 1/1/12 - 6/30/12	26.61%	\$62,669	2012	\$0	\$0	\$0
7/1/11 - 1/1/11 - 6/30/11	25.27%	\$49,085	2011	\$14,219	\$11,011	\$25,230
7/1/10 - 12/31/10	22.90%	\$41,379	2010	\$13,662	\$10,644	\$24,306
7/1/09 - 12/31/09	19.26%	\$34,679	2009	\$12,636	\$9,628	\$22,264
7/1/08 - 12/31/08	18.76%	\$32,874	2008	\$10,771	\$8,802	\$19,573

Grand Total Annual Compensation Cost to OCERS									
Calendar Year	Base Salary	Lump Sum/401(a)/Car Allowance	OCERS Annualized Cost of Retirement Benefit (Pension)	Retiree Medical Benefit (annualized cost)	Health Care, Life and Disability Insurance	Optional Benefit Plan	Annual Leave (AL) Cash Out	Employer Portion of Medicare Tax (1.45%)	Total Compensation
2021	\$297,335	\$29,560	\$117,105	\$11,596	\$10,777	\$4,500	\$23,948	\$4,724	\$499,545
2020	\$288,675	\$28,699	\$106,406	\$11,258	\$10,777	\$4,500	\$23,290	\$4,589	\$478,193
2019	\$280,267	\$29,257	\$95,641	\$10,930	\$10,340	\$4,500	\$22,906	\$4,461	\$458,303
2018	\$273,437	\$21,875	\$91,301	\$10,793	\$10,320	\$4,500	\$22,348	\$4,354	\$438,928
2017	\$261,431	\$20,914	\$87,749	\$10,445	\$10,528	\$4,500	\$20,739	\$4,157	\$420,463
2016	\$253,817	\$20,305	\$87,748	\$9,684	\$10,449	\$4,500	\$10,982	\$3,905	\$401,391
2015	\$253,817	\$25,382	\$90,359	\$8,630	\$11,208	\$4,500	\$20,745	\$4,046	\$418,686
2014	\$253,817	\$20,305	\$84,445	\$9,340	\$11,262	\$4,500	\$20,745	\$4,046	\$408,461
2013	\$248,840	\$19,907	\$71,840	\$9,854	\$11,314	\$4,500	\$10,454	\$3,825	\$390,534
2012	\$241,592	\$19,327	\$62,669	\$4,784	\$10,935	\$4,500	\$0	\$3,568	\$347,175
2011	\$203,798	\$25,484	\$74,315	\$5,329	\$9,067	\$4,500	\$0	\$3,020	\$325,514
2010	\$187,117	\$24,149	\$65,685	\$4,800	\$6,173	\$4,500	\$0	\$2,778	\$295,202
2009	\$173,243	\$23,039	\$56,942	\$3,681	\$5,839	\$4,500	\$0	\$2,577	\$269,823
2008	\$164,986	\$22,379	\$52,446	\$5,807	\$6,207	\$4,500	\$0	\$2,458	\$258,872

*Separate & in addition to the County 401(a)
**No OCERS 401(a) contributions were made on the portion of salary that was added by eliminating auto allowance

12-13-2021 REGULAR BOARD MEETING - A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

2021 CEO Salary Comparison

Retirement System	Net Assets (\$Million)	CEO Salary Range	CEO Current Salary	CEO Auto Allow/mo	Est. Annual Auto Allow Amount	ER Contributions for Deferred Comp	Est. Annual Def Comp Total By ER	Defined Benefit EE Pickup By ER	Annual Optional Benefit Plan Flexible Spending Dollars (FSA) or Additional Salary	Est. Total = Base, Auto, Defered, FSA or Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
OCCRS	21.0	Salary set by the Board	\$297,335	None	\$0	OCCRS-401(k) = 5% of salary	\$29,737	None	\$4,350	\$326,622	1/1/2021	Eligible for 170 Annual Leave Contract (approx. \$24,301)
Alameda CERA	10.2	\$206,811 - \$310,502	\$306,883	\$691	\$8,292	457(b) = 5% of salary	\$19,500	Employer's total contribution	\$3,300	\$337,975	10/10/2021	
Kern CERA	5.4	\$181,007 - \$271,046	\$221,046	\$599	\$7,188	\$12,057	\$1,057	None	\$1,202	\$252,333	1/20/2021	Contact Unimatched via additional salary, via lex action. City pays \$1,400 medical/ dental \$44.60 7% lex credit
LACERS (City)	22.6	\$178,146 - \$315,748	\$306,119	\$500	\$6,000	None	\$0	None	\$0	\$314,119	2/1/2021	
San Diego County ERA	17.08	\$162,244.80 - \$335,287.60	\$325,550	\$600	\$7,200	None	\$0	None	\$0	\$328,250	11/20/20 (10/26/2018)	
San Joaquin CERA	3.5	\$175,744 - \$217,265	\$217,265	\$585	\$7,000	457(b) = 5% of salary	\$10,863	None	\$4,345	\$239,494	10/26/2020	
San Bernardino CERA	13.4	\$ 229,652.80 - \$335,129.60	\$335,129	\$1,216.67	\$14,600.04	457(b) = SACERA contribution 1 times employee contribution, up to 1% 401(k) = SACERA contribution 2 times employee contribution, up to 8%	\$30,162	ER picks up full 7% (\$2885.5)	\$3,440	\$383,331	2/1/2021	Additional Salary = \$1,040 FSA + 2,400 annual call allowance
LACERA (County)	73.8	Salary set by the Board	\$418,200	725.00	\$8,700	LACERA-401(k) = 4% of salary LACERA-457(b) = 4% of salary	\$33,456	ER Picks up 9.1%	\$7,948	\$539,814	1/1/2021	Annual Optional Benefit Plan (OBP)/Flex/BSA Spending Dollars (FSA) or Additional Salary = 19% Colletiera Allowance Cell phone allowance: \$50/month IRA - \$153/month Additional Compensation - \$10,000 (600) = \$1,125 Staff development/wellness benefit (paid annually) COIA also increase due December, 2021 OBP/FSA - 3.35% management differential (separate pay not included in annual salary)
Sonoma CERA	3.07	\$199,695.64 - \$242,711.11	\$242,711	\$430	\$5,160	401(k) = 4% salary	\$9,708	None	\$11,440	\$269,039	6/1/2021	
Sacramento CERS	12.0	\$207,109 - \$244,341	\$251,780	\$650	\$8,000	15 match	\$2,918	None	\$660	\$260,948	4/20/2021	
County of Orange	102	\$207,109 - \$244,341	\$251,780	None	\$0	457(b) = 2.5% disability	\$2,929	None	\$0	\$254,709	4/1/2021	CEO Salary Survey by Retirement System Size Note: Survey results exclude employer paid medical benefits and employer contributions to DB and DC plans
Los Angeles City Fire & Police ERS	31.3		\$315,768	None	\$0		\$6,000		\$6,000	\$321,768		

Organization	Name	Title	Current Salary	Auto Allow/mo	Est. Annual Auto Allow Amount	ER Contributions for Deferred Comp	Est. Annual Def Comp Total By ER	Defined Benefit EE Pickup By ER	Annual Optional Benefit Plan Flexible Spending Dollars (FSA) or Additional Salary	Est. Total = Base, Auto, Defered, FSA or Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
County of Orange	Frank Kim	CEO	\$322,441	\$765	\$9,180	401(k) = 5% of salary	\$16,122	None	\$1,526	\$343,669	7/27/2021	
OC Superior Court	David Yamashita	CEO	\$291,000	None	\$0	None	\$0	None	\$4,500	\$295,500	10/6/2021	OBP - \$500 Hold over Pay - \$10,824.95
OCTA	Brian Jennings	Fire Chief	\$264,000	Uses OCTA vehicle	\$0	401(k) = 4.5% base salary	\$11,880	None	\$3,500	\$279,380	5/24/2019	Received \$20,000 non-base building "Discretionary Bonus" in 2020; will likely receive the same bonus in 2021 Per contract, (base, employer paid medical salary = \$6,000 annual medical allowance + investment/incentive salary \$1,250 + 6% of base salary)
OCCSD	James Herberg	General Manager	\$332,737	\$700	\$8,400	457(b) = \$11,000 annually	\$11,000	None	\$27,214	\$379,351	7/2021	Per HR contract: EE contribution paid 100% by employee; Employer contribution 100% by employer. CEO currently values FSA, Voluntary benefit and OCTA does not contribute to it)
OCTA	Danell Johnson	CEO	\$273,152	\$765	\$9,180	401(k) = 5% of base pay + \$5,000 annually	\$43,658	None	\$0	\$425,990	7/26/2021	
TCA	Samuel Johnson	CEO	\$275,000	\$765	\$9,180	401(k) = \$26,000 annually	\$26,000	100% employer paid	\$0	\$310,860	11/1/2020	

**Estimated amount assumes employee is receiving the full annual match on base salary.
***Estimated Total Includer Annual Base Salary, Annual Auto Allowance and Annual Deferred Comp.
This salary comparison may not include all pay/incentive given. Information submitted by agency's human resources department.



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY – ISSUES UPDATE

Background/Discussion

At the OCERS Board’s continued invitation, Ms. Linda Robinson and Mr. Doug Storm, Co-Presidents of the Retired Employees Association of Orange County (REAOC) will be at the December 13th meeting.

As another year of COVID restrictions comes to a close, they will share thoughts and comments on what those challenges have meant to our retired members as well as comments regarding the services OCERS as an organization provides to those same members.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **COVID-19 UPDATE**

Presentation

The OCERS staff continues to do a great job meeting the COVID-19 challenge and ensuring that our members receive the services they expect as we fulfil this agency's mission. Rather than provide you with a written report of the agency status prior to the Monday, December 13th meeting of the OCERS Board of Retirement, I will instead provide a verbal update of plan status and challenges at that time. This recognizes the fact that issues impacted by COVID-19 seem to change daily.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

*Orange County Employees Retirement System
Retirement Board Meeting
December 13, 2021
Application Notices*

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Aguilar, Miguel	Sheriff's Dept	10/8/2021
Ahn, Terry	Sanitation District	10/8/2021
Almaguer, Carol	Sheriff's Dept	10/22/2021
Andrade, Carlos	Health Care Agency	10/8/2021
Argersinger, Mary	Superior Court	10/22/2021
Barber, Erin	Probation	10/26/2021
Benavidez, Isabel	Health Care Agency	9/24/2021
Brust, Susan	Social Services Agency	9/24/2021
Campbell, Lisa	Health Care Agency	9/10/2021
Cate, Collin	Fire Authority (OCFA)	9/24/2021
Cervantes, Gloria	Superior Court	10/22/2021
Chaffin, Larry	Superior Court	10/8/2021
Chalmers, Jeffrey	Superior Court	9/24/2021
Chua, Maria	Sheriff's Dept	10/1/2021
Cortez, Edward	OCTA	9/21/2021
Durr, David	Sheriff's Dept	5/13/2021
Fatema, Kaniz	Probation	10/14/2021
Fisher, Terry	Social Services Agency	10/8/2021
Garcia, William	Sheriff's Dept	10/22/2021
Georgevich, Alison	OC Community Resources	10/8/2021
Gonzalez, Sergio	OCTA	9/26/2021
Goodspeed, Troy	Health Care Agency	10/5/2021
Guerrido, Felix	Sheriff's Dept	10/22/2021
Guillen, Martha	Probation	9/2/2021
Haag, Dawn	Sheriff's Dept	10/8/2021
Hernandez, Abigel	Human Resources Dept	9/29/2021
Hester, Billy	District Attorney	10/20/2021
Higley, Rosemarie	Probation	10/8/2021
Hilton, Roger	Sheriff's Dept	10/22/2021
Horner, Timothy	Sheriff's Dept	9/24/2021
Jarvis, Benjamin	OCTA	9/1/2021
Jones, Pamela	Fire Authority (OCFA)	10/8/2021
Kim, Ju	OC Community Resources	10/20/2021
Lechuga, Martha	Health Care Agency	9/24/2021
Lopez Garcia, Carlos	Social Services Agency	10/8/2021
Lozano, Bernardino	Social Services Agency	9/24/2021
Lucero, Albert	OC Community Resources	10/8/2021
Mabeza, Melvyn	OC Public Works	9/24/2021
Mabeza, Nestor	Health Care Agency	9/24/2021
Manriquez, Maria	Sheriff's Dept	10/22/2021
Marian, Titina	Sheriff's Dept	9/24/2021
Marino, Frances	Superior Court	8/4/2021
Mcklenshaw, Irvin	Health Care Agency	10/22/2021
Monical, Paula	Sheriff's Dept	9/24/2021
Mueller, Jan	Superior Court	10/22/2021
Murphy, Matthew	District Attorney	10/5/2021
Paredes, Erika	Social Services Agency	10/22/2021
Peak, James	Sheriff's Dept	10/22/2021
Purser, David	Sheriff's Dept	10/17/2021

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Ramirez, Martin	Sheriff's Dept	10/22/2021
Ramirez, Raul	Public Defender	10/8/2021
Reynoso, Rosemary	Superior Court	9/22/2021
Serafini, Lawrence	OC Public Works	10/22/2021
Stephenson, Blaine	Sheriff's Dept	10/22/2021
Sulzberger, Suzanne	Child Support Services	9/24/2021
Taylor, Christine	Superior Court	10/20/2021
Thatcher, David	Social Services Agency	10/5/2021
Tico, Teresa	Superior Court	10/8/2021
To, Hoa	Social Services Agency	9/24/2021
Tran, Thanh	OCTA	10/3/2021
Veniaminova, Narine	Superior Court	9/23/2021
Wade, Kevin	Sheriff's Dept	10/22/2021
Wilson, Renee	Superior Court	9/24/2021
Wimmer, Edward	OC Public Works	7/29/2021

*Orange County Employees Retirement
Retirement Board Meeting
November 15, 2021
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>
Smith, Deneb	Sanitation District
Smith, Paul	Probation

<i>Retired Members</i>	<i>Agency/Employer</i>
Bendezu, Luis	Health Care Agency
Breen, Terry	Public Defender
Burnham, David	Probation
Cardello, Joseph	OC Public Works
Cook, Leonard	Child Support Services
Dixon, Kevin	Social Services Agency
Greenberg, Victoria	Sheriff's Dept
Lawrence, Glorious	Social Services Agency
Mergen, Robert	Sheriff's Dept
Michel, Maria	Social Services Agency
Michels, Patricia	Superior Court
Oakes, Lola	OCTA
Parra, John	Social Services Agency
Petherbridge, Marjorie	Social Services Agency
Phung, Dac	Sheriff's Dept
Smith, Margaret	Auditor Controller
Sutton, Virginia	Sheriff's Dept
Worthington, Ronald	OCTA

<i>Surviving Spouses</i>	
Abbott, Donald	
Alvarado, Rosa	
Ku, Dwight	
Martinez, William	
Robertson, Alvah	
Rogers, Richard	
Young, Ronald	



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

JANUARY

- 2021 Year in Review: Communication Plan
- 2021 OCERS Innovations
- 2021 Disability Statistics
- 2021 Trustee Education Summary Report
- Communication Policy Fact Sheet
- Form 700 Filing Requirements
- Receive Quality of Member Services Report (Tentative)

FEBRUARY

- 2022 Initial STAR COLA Posting
- Annual Cost of Living Adjustment
- Overpaid And Underpaid Plan Benefits Report
- Policy Compliance Report
- Report Outcome of Prior Year Business Plan

MARCH

- STAR COLA Final Approval
- GFOA awards
- Quarterly 2022-2024 Strategic Plan Review
- SACRS Election Materials
- Semi Annual Business Continuity Disaster Recovery Updates

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

12-13-2021 REGULAR BOARD MEETING - R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

OCERS RETIREMENT BOARD - 2021 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight		STAR COLA Posting (I)	Approve 2021 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2020 Valuation (I)	Mid-Year Review of 2021 Business Plan Progress (I)	Alt. Invest. Return and Assumption Sensitivity: 20-year Illustration (I)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2022 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
		Approve 2021 COLA (A)	Quarterly 2021-2023 Strategic Plan Review (A)			Approve December 31, 2020 Actuarial Valuation & Funded Status of OCERS (A)	Actual Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2022-2024 Strategic Plan (A)	Approve 2022 Administrative (Operating) Budget (A)	
						Approve 2020 Comprehensive Annual Financial Report (A)	Approve Early Payment Rates for Fiscal Year 2021-22 (A)	Receive Evolution of the UALAL (I)		Approve 2022 Business Plan (A)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2021-2023 Strategic Plan Review (A)		Employer & Employee Pensions Cost Comparison (I)				Adopt 2022 Board Meeting Calendar (A)
Board Governance												Adopt Annual Work Plan for 2022 (A)
												Vice-Chair Election (A)
Regulation / Policies												
		Communication Policy Fact Sheet (I)										
Compliance												
		Status of Board Education Hours for 2020 (I)		Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report Background/Discussion

1. **Quiet Period Policy Guidelines**

The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for any contract to be awarded by OCERS:

“...Board Members and OCERS staff shall not knowingly communicate with any party financially interested in any prospective contract with OCERS regarding the contract, the services to be provided under the contract or the selection process;”

2. **Quiet Period Guidelines**

In addition, the following language is included in all distributed RFP's:

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

Distributed RFP's

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

- Σ An RFP for Financial Auditor Services was distributed in July. This RFP is to put into place a Financial Auditor Agreement as the prior vendor agreement with MGO has expired and cannot be extended. Interviews with the finalists is scheduled for December.

Submitted by:

Jim Doezie
Contracts, Risk and Performance Administrator



Memorandum

DATE: December 13, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

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

News Links

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

The following news and informational item was provided by staff and the CEO for distribution to the entire Board:

No news items shared this month.

Attached:

- OCERS Activities for October 2021

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status October 2021

To the members of the OCERS Board of Retirement,

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

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received			
Month	2019	2020	2021
January	261	254	101
February	201	169	90
March	206	80	57
April	38	33	41
May	44	47	55
June	52	63	52
July	56	288	71
August	65	279	61
September	41	114	73
October	69	57	38
November	34	52	0
December	75	66	0

2021 Customer Service Statistics						
Month	Unplanned Recalculations	Member	Queue Calls Received	DIRECT 10	Operator Calls Received	Total Calls (monthly)
		Satisfaction Approval Rate		Extension Calls		
January	2	100%	2,605	4,867	992	8,465
February	1	100%	2,618	4,839	1,811	9,268
March	1	95%	2,947	5,630	1,599	10,176
April	0	95%	2,830	5,120	1,146	9,096
May	4	95%	2,552	4,731	973	8,256
June	1	95%	2,010	4,601	747	7,358
July	4	95%	1,935	4,375	834	7,145
August	2	95%	1,745	4,091	360	6,196
September	0	95%	1,982	4,368	691	7,042
October	0	95%	2,270	4,332	669	7,272
Grand Total	15	96%	23,457	46,951	9,822	80,274

MEMBER SURVEY RESPONSE

"I have dealt with OCERS through the past 10 years and no one by far has been as helpful, courteous, thorough, and a joy to speak with then the customer service representative that assisted me! I've been blessed each time I've called to speak with them, and it makes it so much easier to understand."

October 2021

"Having had a number of issues with my Employer during retirement, I found the OCERS customer service representative was exceedingly patient and understanding and kept me calm through the entire process. I just can't say enough about how great this OCERS representative was. My spouse retired from the County of Orange around the same time I did, and he had a different OCERS representative who proved to be as talented and professional as the one I had."

September 2021

"I was very pleased with the OCERS Customer Service team. I had never attended any Pre-Retirement sessions. When I was ready to retire I just called OCERS directly and was put in touch with an OCERS representative that really knew their stuff. The representative would get back to me right away and followed up in writing so I had documentation for my records. There were no surprises as the final benefit matched the estimate I was originally provided."

August 2021



Monthly Team Status

October 2021

ACTIVITIES

VISION 2030 (TOWARDS AN AI DRIVEN PENSION ADMINISTRATION SYSTEM)

As noted in prior reports to the Board, a number of Canadian pension systems are well on their way in pursuing AI leveraged technology. Unable to find any US systems similarly involved, the OCERS AI ad hoc Committee had two separate conference calls in October with Canadian systems to learn more about the work they have begun. The Alberta Investment Corporation, as well as the Ontario Municipal Employees Retirement System each made their heir chief AI liaison available to speak to us about their progress. In both cases those systems have very generously offered to continue to be a source of information to OCERS as we move in a similar direction.

OCERS QUARTERLY NEWSLETTER

Attached you will find the latest quarterly OCERS “internal” newsletter. This has become more important than ever as a means of keeping the OCERS team informed and involved in the lives of their fellow employees during the isolating times of COVID.

OCERS BOOK CLUB

Ms. Jenike is pleased to report that on October 7, 2021 OCERS Book Club members met virtually during the lunch hour to discuss the book *Malibu Rising*, by Taylor Jenkins Reed. After the meeting one Team member responded with a heartfelt message: “That was awesome! Already looking forward to doing it again.” For the month of November, the team chose the book “*The Lincoln Highway*”, by Amor Towles. We hope to have a bigger group join us this month and are looking forward to a lively discussion of this historical fiction novel.

NEXT LEVEL LEADERSHIP (A LEADERSHIP DEVELOPMENT PROGRAM AT OCERS)

Late last year Ms. Jenike had a supervisory position come open. Rather than simply fill it, she worked with HR to develop a training program that would allow a number of our team members to experience work as a supervisory, before ultimately choosing one of those individuals to fill the position permanently. Ms. Dena Gunsolley reports the background and outcome (this is also addressed in the OCERS Quarterly Newsletter):

The Next Level Leadership program, envisioned by Ms. Suzanne Jenike and created by the OCERS Learning and Organizational Development (LOD) team is a working model to develop promising OCERS team members into a potential pool of next-generation supervisors and managers. After completing a competitive application and interview process, David Acuna (Disability Investigator), Sandy Guevara (Sr. Retirement Program Specialist), and Rafael Lopez (Retirement Program Specialist) were the first pilot cohort



Monthly Team Status October 2021

to launch the year-long program. These three exceptional OCERS team members committed themselves to learning leadership principles while maintaining the workload of their current positions.

LOD customized and built Next Level Leadership to immerse participants through four phases of learning and application modules. The first, Self-Awareness, included a 360 feedback report and EQ (Emotional Quotient) sessions. Next, in Skill Building, participants learned Business Writing, Time Management, Performance Management, and Coaching principles. These first two modules laid the program's foundation. They were a perfect segue to each participant's time in a temporary promotion where they assumed the role of a Retirement Benefits Program Supervisor in the Employer Payroll Unit of the Member Services Department. In that temporary role, they worked closely with Member Services leadership to gain hands-on and real-time experience. Lastly, in phase four, the Cohort learned Business Case Theory followed up with Review and Feedback.

A collaboration between the OCERS LOD and Member Services teams pioneered a new path in succession and talent management. This effort proved valuable as one participant, Rafael Lopez, was recently promoted into that supervisory role.



David Acuna: "I'm so glad I took the opportunity to apply for the NLL program. The things I learned were invaluable and I know they'll be applicable throughout my career moving forward."



Monthly Team Status

October 2021



Sandy Guevara: “The NLL program taught me that there is always room for developing and strengthening leadership skills. Be patient, motivating and encouraging. ‘An open mind is a beautiful mind.’”



Rafael Lopez: “The Next Level Leadership program really helped me develop and apply the skills that make an effective leader.”

UPDATES

INVESTMENT TEAM

Mr. Dave Beeson reports on OCTOBER activity in Investments:

As of September 30, 2021, the portfolio year-to-date is up 11.3% net of fees, while the one-year return is up 21.9%. The Fund value now stands at \$21.6 billion. The OCERS Investment Team continued to work effectively remotely during the coronavirus pandemic in October. OCERS’ Investment Team closed on two re-up investments with Spark Capital during the month. OCERS committed \$33.3 million to Spark Capital Growth IV within the private equity portfolio. This fund will make digital media and technology investments in later stage venture companies. OCERS also committed \$16.7 million to Spark Capital VII for the private equity program. This strategy will make digital media and technology investments in early stage venture companies. The OCERS Investment Team and Meketa completed the fixed income and credit asset class review during the month. OCERS’ fixed income and credit portfolios have outperformed their benchmarks year-to-date 2021. The private credit pacing plan includes investing \$200 to \$300 million per year on a rolling three-year basis to keep up with the 2.5% target



Monthly Team Status October 2021

to private credit. Finally, OCERS' Investment Team has been very busy during October reviewing consultant RFP responses. OCERS received four responses for general consultant, five responses for private equity consultant, seven responses for real assets consultant, and nine responses for real estate consultant.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the December 13 meeting of the OCERS Board of Retirement.



Memorandum

DATE: December 13, 2021
TO: Members of the Board
FROM: Suzanne Jenike, Assistant Chief Executive Officer, External Operations
SUBJECT: REVIEW OF NEW PAY ITEMS ADDED BETWEEN DECEMBER 31, 2019 AND SEPTEMBER 27, 2021 AS PRESENTED TO THE GOVERNANCE COMMITTEE ON OCTOBER 28, 2021

Background/Discussion

At the Board meeting held on June 19, 2019, the Board approved the Master Final Average Salary List of pay items (Master List), including the attributes for elements of pensionable pay, for Legacy and PEPRAs members as recommended by staff and directed the staff to commence using four (4) adopted policies:

1. Compensation Earnable Policy – compensation applicable to Legacy members - codifies existing law, the Ventura Decision and Resolution 98-001;
2. Pensionable Compensation Policy – compensation applicable to PEPRAs members;
3. Retirement Enhancement “Spiking” Review Policy; and
4. Pay Item Review Policy.

On March 13, 2020, the Governance Committee reviewed and approved additional pay items submitted to staff between June 19, 2019 and December 31, 2019. Once approved, these new pay items were incorporated into the original master list previously approved by the Board on June 19, 2019. In addition to the approval of the Master List and commencement of the review and approval process, the Board directed Staff to report newly added pay items to the Governance Committee and Board on an annual basis.

It is this annual reporting requirement that Staff will address today. I have attached the new pay items added to the Master List between December 31, 2019 and September 27, 2021, including their pensionable attribute determinations that were presented to the Governance Committee on September 28, 2021. OCERS Staff has reviewed and implemented these new pay items between December 2019 and September 27, 2021, and the Employers are submitting these items on the transmittal file with the correct pensionable attributes.

The Pay Item Review Policy (Policy) requires Staff to perform detailed analysis to determine the qualification for pensionable pay status for any new pay items requested by Employers. In accordance with the Policy, Staff makes the determination regarding pensionable attributes and communicates the decision to the Employer prior to the inclusion of the pay item on the biweekly transmittal file submitted to OCERS. Since the commencement of this process, Employers have agreed with all of the Staff’s determinations without dispute.

Attachments

- ∑ List of pay items added between December 31, 2019 and September 27, 2021
- ∑ Pay item Review Policy

Submitted by:



SJ-Approved

Suzanne Jenike
Asst. CEO, External Operations



OCERS Board Policy Pay Item Review Policy

Purpose and Background

1. The purpose of this policy is to set forth a procedure for the submittal and approval of pay items by OCERS participating employers to assist OCERS in properly and timely determining whether elements of compensation are appropriately treated as Compensation Earnable (for Legacy Member) or pensionable compensation (for PEPRA members).

Policy Objectives

2. The objectives of this policy are to comply with the requirements of the County Employees Retirement Law (CERL; California Government Code Title 3, Part 3, Chapters 3 & 3.9), as amended by the Public Employees Pension Reform Act (PEPRA; California Government Code sections 7522 - 7522.74) and to ensure OCERS' effective assessment and determination of whether an element of compensation is properly categorized for purposes of collecting contributions.

Policy Guidelines

3. OCERS shall not accept any new pay items from employers for processing contributions and reporting compensation until each pay item has been reviewed by OCERS staff and approved by the CEO or his/her designee for inclusion as, or exclusion from, Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members. OCERS staff under the direction of the CEO and with assistance of OCERS legal counsel is responsible for implementing this Policy. OCERS staff will analyze each pay item to determine whether each meets the definition of Compensation Earnable or Pensionable Compensation. Unless appealed, the CEO's determination shall be final.
4. Employers are responsible notifying OCERS of new or modified pay items for review and approval sufficiently in advance of implementation of the Items. Failure to do so may result in OCERS imposing costs on the employer in accordance with Government Code section 31542.5.
5. OCERS staff will review employer pay Item listings for compliance with this Policy. When reviewing items of compensation, OCERS will audit pay items to determine whether each of them meets the applicable statutory definitions and applicable Board Policies.
6. After concluding the foregoing assessment, OCERS staff shall send written notification to the employer of staff's determination, including the specific supporting facts, circumstances, reasoning and analyses.
7. The employer shall have 30 calendar days from the date of staff's final notice of determination within which to appeal the staff determination to the Board. If the employer accepts staff's determination, or if a timely appeal it to the Board is not filed, the matter shall be deemed concluded and the staff determination shall be final and the employer shall comply with the determination.
8. Upon receipt of a timely request for appeal to the Board of staff's determination, staff shall place the matter on a future Board agenda and shall prepare a written report to the Board making a recommendation to the Board on the pay items in question. Staff shall provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board, and likewise the employer shall provide OCERS with all materials it intends to submit to the Board.



OCERS Board Policy Pay Item Review Policy

9. The Board shall consider the all written materials submitted as well as any arguments presented by the employer. The Board shall then make a decision as to whether the pay item qualifies as Compensation Earnable or Pensionable Compensation, or both, which decision shall be final and the employer shall comply with the Board's determination.

Policy Review

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

Policy History

11. The Board adopted this policy on March 18, 2019.

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".

03/18/19

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: December 01, 2021
TO: Members of the Board of Retirement
FROM: Cynthia Hockless, Director of Human Resources
SUBJECT: GENERAL MEMBER ELECTION UPDATE

Written Report

Informational Only

Background/Discussion:

OCERS contacted the Registrar of Voters office on July 31, 2021, with a request to conduct an election for the position of General Member with a term of office from January 1, 2022, through December 31, 2024.

The following three candidates submitted completed nomination paperwork and biographical statements and were determined qualified candidates:

1. Kira Rubin, Deputy Public Defender
2. Chris Prevatt, Incumbent
3. Hamid Boroumand, Office Specialist HCA

On November 02, the Registrar of Voters declared Chris Prevatt as the candidate receiving the highest total of votes and elected to the General Member seat.

The Orange County Board of Supervisors certified the election results on November 16, 2021.

Attachment:

1. Election Certification from OC Registrar of Voters
2. ASR from OC Board of Supervisors

Submitted by:

The OCERS logo is repeated here, showing the acronym "OCERS" with a sun graphic above it.

C.H. – APPROVED

Cynthia Hockless
Director of Human Resources

ELECTION CERTIFICATION

I, Neal Kelley, Registrar of Voters of Orange County, State of California, hereby certify that I conducted an election among the General Members of the Orange County Employees Retirement System for the purpose of electing a General Member to the Board of Retirement of the County of Orange for terms commencing January 1, 2022 and ending December 31, 2024.

I further certify that the results of the votes indicate that Chris Prevatt was elected the General Member. I further certify the following to be a complete tally of the votes cast:

GENERAL MEMBER
ORANGE COUNTY BOARD OF RETIREMENT

CHRIS PREVATT	1,255
KIRA RUBIN	303
HAMID BOROUMAND	143
TOTAL BALLOTS CAST:	2,204

WITNESS my hand and Official Seal this 2nd day of November, 2021




NEAL KELLEY
Registrar of Voters
Orange County

on January 1, 2022, through December 31, 2024. Nomination Papers were available to candidates at the Registrar of Voters office from August 11, 2021, through September 10, 2021, 5 p.m. Three candidates filed Nomination Papers by the deadline and were determined qualified candidates.

All costs for this election will be charged to the Orange County Employees Retirement System.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Election Certification

Attachment B - Certification of Registrar of Voters Results of the Canvass of the Election Returns

Attachment C - OCERS Election Procedures