

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

**REGULAR MEETING
Monday, December 12, 2022
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 2022-11, this meeting will be conducted by video/teleconference, in compliance with Government Code section 54953 as amended by Assembly Bill 361. In addition, members of the Board and the public are welcome to participate in the meeting via Zoom from the OCERS Boardroom located at 2223 E. Wellington Ave., Santa Ana, CA. However, none of the other locations from which the Board members participate by teleconference will be open to the public.

Members of the public who wish to observe and/or participate in the meeting may do so (1) from the OCERS Boardroom or (2) via the Zoom app or telephone from any location. 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. Members of the public who participate in the meeting from the OCERS Boardroom and who wish to provide comment during the meeting may do so from the podium located in the OCERS Boardroom.

OCERS Zoom Video/Teleconference information	
<p>Join Using Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/86735927780</p> <p>Meeting ID: 867 3592 7780 Passcode: 847071</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: 867 3592 7780 Passcode: 847071</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA (AMENDED)

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

PLEDGE OF ALLEGIANCE

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. Persons attending the meeting in person and wishing to provide comment at this time should fill out a speaker card located at the back of the Boardroom and deposit it in the Recording Secretary’s box located near the back counter. 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.

- Ronald Roberts

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

November 17, 2022

Recommendation: Approve minutes.

C-3 2023 OCERS BOARD ANNUAL WORK PLAN

Recommendation: Approve 2023 OCERS Board Annual Work Plan.

DISABILITY/MEMBER BENEFITS AGENDA

9:30 AM

NOTE: WHEN CONSIDERING DISABILITY RETIREMENT APPLICATIONS OR MEMBER APPEALS OF 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: JAMES GABBARD

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as July 2, 2021.

DC-2: TODD HART

Administrative Manager II, Orange County District Attorney’s Office (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant non-service connected disability retirement.
- Set the effective date as May 10, 2019.

DC-3: KEVIN LA PYRNE

Captain, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 11, 2022.

DC-4: ALEXANDER LOPEZ

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as June 4, 2021.

DC-5: STEPHEN MAHER

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

Recommendation: The Disability Committee recommends that the Board: :

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

DC-6: JUAN OSORIO

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as September 23, 2022.

DC-7: TODD PERRIN

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 25, 2022.

DC-8: MARK STICHTER

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 14, 2022.

DC-9: JOHN TIMOTI

Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 28, 2022.

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.

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

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

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. Persons attending the meeting in person and wishing to provide comment on a matter listed on the agenda should fill out a speaker card located at the back of the Boardroom and deposit it in the Recording Secretary’s box located near the back counter.**

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

**A-2 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND
ADOPTION OF BOARD RESOLUTION 2022-12**

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: That the Board:

- (1) Reconsider the circumstances of the state of emergency resulting from the COVID-19 pandemic and determine whether:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; **and/or**
 - ii. State or local officials continue to impose or recommend measures to promote social distancing; and
- (2) If the Board so determines, adopt Board of Retirement Resolution 2022-12 to reflect such findings pursuant to Government Code section 54953, as amended by AB 361.

A-3 CONFIRM OCERS BOARD CHAIR AND ELECT OCERS BOARD VICE CHAIR

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

- (1) Confirm the succession of the current Vice Chair of the Board to the position of Chair of the Board for calendar year 2023; and
- (2) Elect an elected member of the Board to serve as Vice Chair of the Board for calendar year 2023.

**A-4 ALAMEDA IMPLEMENTATION PLAN CHANGES FOR PAYEES WITH A \$100 OR LESS PER MONTH
BENEFIT IMPACT**

Presentation by Suzanne Jenike, Assistant CEO, and Steve Delaney, Chief Executive Officer, OCERS

Recommendation: Approve changes to the Alameda Implementation plan for payees with a monthly benefit impact of \$100 or less.

A-5 ANNUAL CEO COMPENSATION

Recommendation: Take appropriate action.

INFORMATION 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 2023 OCERS BOARD COMMITTEE ASSIGNMENTS

Presentation by Steve Delaney, Chief Executive Officer, OCERS

I-3 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 12, 2022

Death Notices

December 12, 2022

R-2 COMMITTEE MEETING MINUTES

- March 2022- Building Committee Meeting
- June 2022- Special Building Committee Meeting
- July 2022- Building Committee Meeting

R-3 CEO FUTURE AGENDAS (2023)

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 PUBLIC PENSION COORDINATING COUNCIL (PPCC) STANDARDS AWARD FOR FUNDING AND ADMINISTRATION 2022

Written Report

R-7 UPDATE: CONTRACT NEGOTIATIONS – SEGAL CONSULTING
Written Report

CIO COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

BOARD MEMBER COMMENTS

CLOSED SESSION ITEMS

E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)
(GOVERNMENT CODE SECTION 54956.9)
Adjourn pursuant to Government Code section 54956.9(d)(2)

Recommendation: Take appropriate action.

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

NOTICE OF NEXT MEETINGS

AUDIT COMMITTEE MEETING
December 15, 2022
9:30 A.M.

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

DISABILITY COMMITTEE MEETING
January 17, 2023
8:30 A.M.

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

REGULAR BOARD MEETING
January 17, 2023

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.



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Jonathea Tallase, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – RONALD ROBERTS**

Recommendation

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

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective October 6, 2022. The Orange County Employees Retirement System (OCERS) was joined in the member's dissolution of marriage and under the terms of the DRO, the member's ex-spouse was awarded a lifetime continuance as a percentage of the member's allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member's monthly allowance as indicated in the attached letter, as well as the allowance payable to the member's ex-spouse and the current spouse's continuance (upon the member's death).

Submitted by:



J. T. – APPROVED

Jonathea Tallase
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
T 415.263.8254
mcalcagno@segalco.com

180 Howard Street, Suite 1100
San Francisco, CA 94105-6147
segalco.com

Personal and Confidential

December 9, 2022

Jonathea Tallase
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Ronald Roberts**

Dear Jonathea:

Pursuant to your request, we have determined the Option 4 benefits payable to Ronald Roberts, his ex-spouse, and his current spouse based on the unmodified benefit and other information provided in the System’s request dated December 6, 2022.

The monthly benefits payable to the member, ex-spouse and current spouse and the data we used for our calculations are as follows:

Member’s Date of Birth	
Ex-Spouse’s Date of Birth	
Date of Retirement	October 6, 2022
Plan of Membership	Safety Plan F
Monthly Unmodified Benefit	\$17,717.13
Ex-Spouse’s Share of Monthly Unmodified Benefit	27.34%
Retirement Type	Service Retirement
Current Spouse’s Date of Birth	
Continuance Payable to Current Spouse	30%/50%/60%

Jonathea Tallase
December 9, 2022
Page 2

We have determined the Option 4 benefits using a two-part process. In Part One, we first calculated the adjustment to the member's unmodified benefit to provide a 27.34% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

Part One – Before Adjustment for Continuance to Current Spouse

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$2,244.34	
Pension:	<u>10,628.93</u>	
Total:	\$12,873.27	\$0.00
Monthly benefit payable to ex-spouse ¹	\$4,304.68	\$4,304.68

In Part Two, we further adjusted the member's benefit in Part One so that a continuance benefit of 30%, 50%, or 60% can be paid to the member's current spouse. In addition, the cost to provide this continuance benefit would be paid for entirely by the member.

Part Two – After Adjustment for Continuance Benefit Payable to Current Spouse

Alternative A: 30% Continuance

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$2,141.19	
Pension:	<u>10,140.43</u>	
Total:	\$12,281.62	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$3,684.49
Monthly benefit payable to ex-spouse ¹	\$4,304.68	\$4,304.68

¹ This is equal to 27.34% of the member's unmodified benefit (i.e., 27.34% * \$17,717.13 or \$4,843.86) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Jonathea Tallase
 December 9, 2022
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Alternative B: 50% Continuance

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$2,077.54	
Pension:	<u>9,838.97</u>	
Total:	\$11,916.51	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$5,958.26
Monthly benefit payable to ex-spouse ²	\$4,304.68	\$4,304.68

Alternative C: 60% Continuance

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$2,047.11	
Pension:	<u>9,694.86</u>	
Total:	\$11,741.97	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$7,045.18
Monthly benefit payable to ex-spouse ²	\$4,304.68	\$4,304.68

² This is equal to 27.34% of the member's unmodified benefit (i.e., 27.34% * \$17,717.13 or \$4,843.86) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Jonathea Tallase
December 9, 2022
Page 4

Actuarial Assumptions

We have calculated the Option 4 benefits based on the following actuarial assumptions:

- Interest: Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.
- Mortality Table: Pub-2010 Safety Healthy Retiree Amount-Weighted Above-Median Mortality Table, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 80% male and 20% female for members.
- Pub-2010 General Contingent Survivor Amount-Weighted Above-Median Mortality Table with rates increased by 5%, projected generationally with the two-dimensional mortality improvement scale MP-2019 associated with a retirement year of 2024, weighted 20% male and 80% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Actuary

JY/hy



December 9, 2022

Ronald T. Roberts

Re: Retirement Election Confirmation – Option 4

Dear Mr. Roberts:

You have elected Option 4 as your retirement option, as required by your DRO. This option will provide a 27.34% of your monthly benefit, for the life of the benefit, to:

Renita Howard

30% of your monthly benefit (upon your death) will be paid to your current spouse: Stacy Gore Roberts

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4, I will take a monthly reduction in order to provide a 30% continuance to Stacy Gore Roberts and 27.34% continuance to Renita Howard.

Ronald T. Roberts 12/8/2022 (1456 HRS)

Member Signature / Date

Sincerely,

Jonathea Tallase
Member Services Manager

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

**REGULAR MEETING
Monday, November 14, 2022
9:30 A.M.**

MINUTES

Chair Eley called the meeting to order at 9:31 a.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

Present: Frank Eley, Chair; Shawn Dewane, Vice Chair; Adele Tagaloa, Charles Packard, Chris Prevatt, Richard Oates, Wayne Lindholm, Arthur Hidalgo, Shari Freidenrich, Jeremy Vallone

Also Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investments Officer; Gina Ratto, General Counsel; David Kim, Director of Internal Audit; Tracy Bowman, Director of Finance; Anthony Beltran, Audio-Visual Technician; Carolyn Nih, Recording Secretary

Guests: Harvey Leiderman, ReedSmith

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.

- Steven Hoffman

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

October 17, 2022

Recommendation: Approve minutes.

MOTION by Ms. Freidenrich, **SECONDED** by Mr. Packard, to approve Consent Agenda items, C-1 and C-2.

The motion passed **unanimously**.

C-3 OUTCOMES FROM THE GOVERNANCE COMMITTEE MEETING ON OCTOBER 19, 2022

Recommendation: The Governance Committee recommends that the Board adopt the following:

- (1) Revisions to the Withdrawing Employer (Fully Satisfied Obligation) Policy as presented
- (2) Revisions to the Withdrawing Employer (Continuing Obligation) Policy as presented
- (3) Revisions to the Declining Payroll Policy as presented
- (4) Revisions to the Actuarial Funding Policy as presented
- (5) Revisions to the Interest Crediting and Reserves Policy as presented
- (6) Revisions to the Travel Policy as presented

Pulled for discussion (see A-1)

DISABILITY/MEMBER BENEFITS AGENDA

CONSENT ITEMS

DC-1: KENNETH BURMOOD

Assistant Sheriff, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 14, 2022.

DC-2: JOHN GRAY

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

Recommendation: The Disability Committee recommends that the Board:

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

DC-3: JASON LUONG

Correctional Services Assistant, Orange County Sheriff’s Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

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

DC-4: EDDIE MEDRANO

Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

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

DC-5: JOHN PATTERSON

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

Recommendation: The Disability Committee recommends that the Board:

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

DC-6: LEONIKA RECITES

Senior Institutional Cook, Orange County Probation Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as June 3, 2022, the day after last date of regular compensation as a Senior Institutional Cook.
- Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65.
- Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective June 3, 2022, the date of the position change until the day Ms. Recites wishes to retire from the new position.

DC-7: TODD RUSS

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

Recommendation: The Disability Committee recommends that the Board:

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

DC-8: GLENN STITZ

Court Collection Officer I, Orange County Superior Court (General Member)

Recommendation: The Disability Committee recommends that the Board:

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

DC-9: SUZANNE TINKLER

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as April 8, 2022.

DC-10: ROBERT TWEEDY

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as December 27, 2021.

DC-11: KELLY ZIMMERMAN

Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 25, 2022.

MOTION by Ms. Tagalao, **SECONDED** by Mr. Packard, to approve the Disability Consent Agenda items, DC-1 through DC-11 with the correction of DC-1 to have the documentation to match the agenda recommendation.

The motion passed **unanimously**.

END OF DISABILITY/MEMBER BENEFITS AGENDA

ACTION ITEMS

**A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA
C-3 OUTCOMES FROM THE GOVERNANCE COMMITTEE MEETING ON OCTOBER 19, 2022**

Recommendation: The Governance Committee recommends that the Board adopt the following:

- (1) Revisions to the Withdrawing Employer (Fully Satisfied Obligation) Policy as presented
- (2) Revisions to the Withdrawing Employer (Continuing Obligation) Policy as presented
- (3) Revisions to the Declining Payroll Policy as presented
- (4) Revisions to the Actuarial Funding Policy as presented
- (5) Revisions to the Interest Crediting and Reserves Policy as presented
- (6) Revisions to the Travel Policy as presented

Ms. Freidenrich asked staff to confirm she was correctly interpreting the second sentence of Section 33 of the Travel Policy. Upon receipt of that confirmation from the legal division, the Board acted in the following way.

MOTION by Ms. Freidenrich, **SECONDED** by Ms. Tagalao, to approve the recommendation of the Governance Committee.

The motion passed **unanimously**.

**A-2 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND
ADOPTION OF BOARD RESOLUTION 2022-11**

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: That the Board:

- (1) Reconsider the circumstances of the state of emergency resulting from the COVID-19 pandemic and determine whether:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; **and/or**
 - ii. State or local officials continue to impose or recommend measures to promote social distancing; and
- (2) If the Board so determines, adopt Board of Retirement Resolution 2022-11 to reflect such findings pursuant to Government Code section 54953, as amended by AB 361.

MOTION by Mr. Dewane, **SECONDED** by Mr. Lindholm, to approve staff recommendation.

The motion passed **unanimously**.

A-3 OCERS CERTIFICATION INCENTIVE PROGRAM

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

- 1. The Personnel Committee recommends the Board of Retirement approve the addition of three certifications to the OCERS Certification Incentive Program, providing 5.5% in additional salary. Such additions to first become available on January 1, 2023. The three additions are:
 - a. Certified Information Systems Security Professional
 - b. Certified Internal Auditor
 - c. SHRM - Senior Certified Professional
- 2. The Personnel Committee recommends the Board of Retirement approve a requirement of a minimum of 20 hours of continuing education (CE) each year for any certification that does not have a CE requirement set by its governing Board. Such requirement to become effective January 1, 2023, with professional documentation to be provided by December 2023 to confirm compliance.

MOTION by Mr. Dewane, **SECONDED** by Ms. Freidenrich, to approve staff recommendation.

The motion passed **unanimously**.

A-4 OCERS' PROPOSED ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2023

Presentation by Brenda Shott, Assistant CEO, Internal Operations, and Steve Delaney, CEO

Recommendation: Adopt the Proposed Administrative Budget for Fiscal Year 2023 in the amount of \$39,874,896 which includes:

- a. Personnel costs in the amount of \$23,697,171
- b. Services and supplies in the amount of \$14,951,725
- c. Capital expenditures in the amount of \$1,226,000

Ms. Freidenrich temporarily leaves the meeting to fulfill other duties at 10:39am.

MOTION by Mr. Dewane, **SECONDED** by Mr. Packard, to approve staff recommendation.

The motion passed **unanimously**, absent Ms. Freidenrich.

The Board recessed for break at 11:00 a.m.

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

Recording Secretary administered the Roll Call attendance.

A-5 CONSULTING ACTUARY SERVICES – SELECTION OF SERVICE PROVIDER

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

1. Approve Segal as OCERS’ Consulting Actuary subject to contract negotiations
OR
2. Move Segal to be a finalist for an interview presentation at the December 15, 2022, Regular Board Meeting

MOTION by Mr. Dewane, **SECONDED** by Mr. Packard, to Approve Segal as OCERS’ Consulting Actuary subject to contract negotiations.

The motion passed **unanimously**.

A-7 ADOPT 2023 BOARD MEETING CALENDAR

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Recommendation: Take appropriate action.

MOTION by Mr. Dewane, **SECONDED** by Mr. Packard, to approve staff suggestions for Board Meeting dates, with the exception of moving the Board and Disability Committee meetings from May 15 to May 17, 2023.

The motion passed **unanimously**.

CLOSED SESSION

Adjourn to closed session at 11:34 am.

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.

Return to open session at 12:53pm.

No reportable action taken

Adjourn to Lunch at 12:53pm

Returned at 1:34pm

Recording Secretary administered the Roll Call attendance.

A-6 ANNUAL CEO PERFORMANCE REVIEW AND COMPENSATION

Recommendation: Take appropriate action.

After discussion, this item was tabled and will be revisited in December after staff gather more information.

INFORMATION ITEMS

Presentations

I-1 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

CEO Delaney shared about the OCERS approach to COVID-19, with staff continuing a hybrid attendance program.

WRITTEN REPORTS

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

November 14, 2022

Death Notices

November 14, 2022

R-2 COMMITTEE MEETING MINUTES

- August 2022 – Governance Committee Minutes
- September 2022 - Personnel Committee Minutes

R-3 CEO FUTURE AGENDAS AND 2022 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 UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2022

Written Report

Orange County Employees Retirement System
November 14, 2022
Regular Board Meeting – Minutes

R-7 THIRD QUARTER 2022 BUDGET TO ACTUALS REPORT

Written Report

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS- CEO thanks the Board for an open and transparent conversation regarding his compensation.

COUNSEL COMMENTS- The GC, in consultation with he CEO, has retained counsel to represent OCERS in connection with the Administrative Hearing to be held at the San Bernadino County Employee Retirement Association (SBCERA) in the disability application of former OCERS employee, Mr. Jeffrey Gross. Michelle Gerke (ReedSmith) will represent OCERS in its role as the Employer, and Ashley Dunning (Nossaman LLP) will represent OCERS in its role as the Benefit Administrator. The recommendations of the hearing officer will be presented to the OCERS Board for final decision.

BOARD MEMBER COMMENTS - None

Meeting **ADJOURNED** at 2:24pm in memory of active members, retired members, and surviving spouses who passed away this passed month.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Frank Eley
Chairman



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **2023 OCERS BOARD ANNUAL WORK PLAN**

Recommendation

Approve 2023 OCERS Board Annual Work Plan.

Background/Discussion

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

The attached 2023 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

12-12-2022 REGULAR BOARD MEETING - C-3 2023 OCERS BOARD ANNUAL WORK PLAN

OCERS RETIREMENT BOARD - 2023 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 2023 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2022 Valuation (I)	Mid-Year Review of 2023 Business Plan Progress (I)	Approve Early Payment Rates for Fiscal Year 2023-25 (A)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Approve 2024-2026 Strategic Plan (A)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
	Receive OCERS Innovation Report (I)	Approve 2023 COLA (A)	Quarterly 2023-2025 Strategic Plan Review (A)			Approve December 31, 2022 Actuarial Valuation & Funded Status of OCERS (A)	Approve Actuarial Experience Study 2020-2022 (A)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2024 Business Plan (A)	Approve 2024 Administrative (Operating) Budget (A)	
						Approve 2022 Comprehensive Annual Financial Report (A)		Receive Evolution of the UAAL (I)	State of OCERS (I)	Employer & Employee Pension Cost Comparison (I)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2023-2025 Strategic Plan Review (A)						
											Adopt 2024 Board Meeting Calendar (A)	
Board Governance												Adopt Annual Work Plan for 2024 (A)
												Vice-Chair Election (A)
												Receive 2024 Board Committee Assignments (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2022 (I)			Form 700 Due (A)		Receive Financial Audit (I)						

(A) = Action (I) = Information



Memorandum

DATE: December 12, 2022
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 2022-12

Recommendation

That the Board:

- (1) Reconsider the circumstances of the state of emergency resulting from the COVID-19 pandemic and determine whether:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; *and/or*
 - ii. State or local officials continue to impose or recommend measures to promote social distancing; and
- (2) If the Board so determines, adopt Board of Retirement Resolution 2022-12 to reflect such findings pursuant to Government Code section 54953, as amended by AB 361.

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 Government 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. A state of emergency must exist in order for the Board to avail itself of the provisions of subdivision (e)(1) of Government Code § 54953. **On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023.** 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; ***and/or***
 - 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 Government Code § 8625 of the California Emergency State Services Act.)

On June 20, 2022, the Board adopted Resolution 2022-06 to reflect the findings made by the Board pursuant to AB 361. The Board determined that because state and local officials continue to impose or recommend measures to promote physical distancing, the Board would elect to continue to use the abbreviated teleconferencing procedures under Government Code section 54953(e)(3), and adopted Resolution 2022-06 after deleting the following language from Section 3 of the Resolution, "that the State of Emergency directly impacts the ability of the OCERS Board, its committees, members and staff to meet safely in person". At each of its monthly meetings following the June 20, 2022 meeting, the Board has adopted resolutions based on the single finding that state or local officials continue to impose or recommend measures to promote social distancing.

Staff recommends the Board now reconsider the circumstances of the state of emergency resulting from the COVID-19 pandemic; and if the Board determines the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person and/or that state or local officials continue to impose or recommend measures to promote social distancing, that the Board renew its findings and adopt Resolution 2022-12 in order for the Board and its committees to continue to meet by teleconference. Like the resolutions adopted in June and thereafter, Resolution 2022-12 is based on the single finding that state or local officials continue to impose or recommend measures to promote social distancing. That is, Resolution 2022-12 *does not* include a determination that the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person.

Reconsideration of the State of Emergency and Requisite Findings

The standards, guidance and recommendations of health officials set forth below support a determination by the Board that the state of emergency continues to directly impact the ability of the members of the Board and its committees to meet safely in person, and confirms that 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. § 3205-3205.4) recognizes that physical distancing decreases the spread of COVID-19 and requires it be considered under certain circumstances. For example, the Emergency Temporary Standards **require employers to evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not feasible, as much distance between persons as feasible, when there has been an outbreak at the workplace** (an "outbreak" is when there have been three or more COVID-19 cases at the workplace during a 14-day period). On May 6, 2022, the Occupational Safety and Health Standards Board readopted the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards for the third time. The draft emergency standards include important revisions to make the workplace rules consistent with the latest requirements and recommendations from the California Department of Public Health (CDPH). The revised emergency standards were effective commencing May 6, 2022. In addition to the emergency temporary standards relevant to OCERS, a fact sheet about the revised emergency standards is attached to the Resolution.

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." (Emphasis added.) **The CDC currently recommends that** "[t]he closer you are to a greater number of people, the more likely you are to be exposed to the virus that causes COVID-19. **To avoid this possible exposure, you may want to avoid crowded areas, or keep distance between yourself and others.**"

Moreover, the County of Orange Health Officer's "Orders and Strong Recommendations" (revised September 23, 2022) states at page 13 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, including boosters, **social distancing** and wearing a mask when around people who don't live in the same household, and practicing hand hygiene." (Emphasis added.) The Health Officer also recognizes, at page 11 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 (at page 15) that **"the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for at-risk persons to** complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, **practice distancing**, frequently wash hands with soap" (Emphasis added.)

Based on the foregoing, if the Board determines either that (1) the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person or (2) state or local officials continue to impose or recommend measures to promote social distancing, staff recommends that the Board renew its findings and adopt Resolution 2022-12 in order for the Board and its committees to continue to meet by teleconference. As mentioned above, the draft Resolution 2022-12 is based on the single finding that state or local officials continue to impose or recommend measures to promote social distancing, and does not include a determination that the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person. Staff will revise the Resolution as necessary to match the findings of the Board.

Attachments

Submitted by:



Gina M. Ratto
General Counsel

**OCERS BOARD OF RETIREMENT
RESOLUTION NO. 2022-12**

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

- **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**
- **AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD AND ITS COMMITTEES THROUGH JANUARY 16, 2023, 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 (on October 14, 2022, the Governor announced that the COVID-19 state of emergency will continue until February 28, 2023); and

WHEREAS, the California Division of Occupational Safety and Health has issued COVID-19 prevention Emergency Temporary Standards recognizing that physical distancing decreases the spread of COVID-19 and requiring the evaluation of the need for physical distancing when there has been an outbreak at the workplace (an "outbreak" is when there have been three or more COVID-19 cases at the workplace during a 14-day period); and

WHEREAS, the County of Orange Health Officer's Orders and Strong Recommendations, last revised on September 23, 2022, state that "the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for at-risk persons to complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, practice distancing, frequently wash hands with soap"; and

WHEREAS, the CDC currently recommends that "[t]he closer you are to a greater number of people, the more likely you are to be exposed to the virus that causes COVID-19. To avoid this possible exposure, you may want to avoid crowded areas, or keep distance between yourself and others"; 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, which State of Emergency will continue until February 28, 2023; 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 the evaluation of physical distancing when a COVID-19 outbreak occurs at the workplace; the County of Orange Health Officer's Orders and Strong Recommendations for at-risk persons to wear well-fitted masks in indoor settings when around others outside of their household and practice distancing; and the CDC's recommendation for unvaccinated persons to avoid crowded areas and maintain physical distance between yourself and others; 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, and said State of Emergency will continue until February 28, 2023; 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 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 17, 2023, 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 12th day of December, 2022, 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

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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

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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: 2/26/20

Signed: 

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, infectious, 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

coinciding 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 
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;

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 preventative 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, containing, 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 8589. 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, 2020.
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 conditions, 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

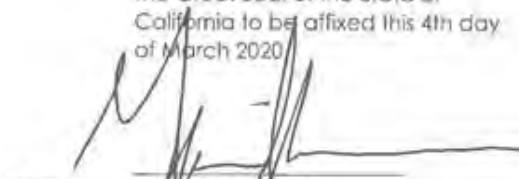
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

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 waivers 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.

(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 infectious period defined by this section, regardless of the use of face coverings, unless close contact is defined by regulation or order of the CDPH. If so, the CDPH definition shall apply.

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 infectious period.

(2) "COVID-19" (Coronavirus Disease 2019) means the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2).

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

(A) Has a positive COVID-19 test; 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.

(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 test for SARS-CoV-2 that is:

(A) Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the United States Food and Drug Administration (FDA) to detect current infection with the SARS-CoV-2 virus (e.g., a viral test); and

(B) Administered in accordance with the authorized instructions.

(C) To meet the return to work criteria set forth in subsection (c)(10), a COVID-19 test may be both self-administered and self-read only if another means of independent verification of the results can be provided (e.g., a time-stamped photograph of the results).

(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 infectious 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 infectious 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 that completely covers the nose and mouth and is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they shall have two layers of fabric or be folded to make two layers. A face covering is a solid piece of material without slits, visible holes, or punctures, and must fit snugly over the nose, mouth, and chin with

no large gaps on the outside of the face. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

This definition includes clear face coverings or cloth face coverings with a clear plastic panel that otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

(9) "Infectious period" means the following time period, unless otherwise defined by CDPH regulation or order, in which case the CDPH definition shall apply:

(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.

(10) "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.

(11) "Returned case" means a COVID-19 case who returned to work pursuant to subsection (c)(10) and did not develop any COVID-19 symptoms after returning. A person shall only be considered a returned case for 90 days after the initial onset of COVID-19 symptoms or, if the person never developed COVID-19 symptoms, for 90 days after the first positive test. If a period of other than 90 days is required by a CDPH regulation or order, that period shall apply.

(12) "Worksite," for the limited purposes of sections 3205 through 3205.4 only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the infectious period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter, locations where the worker worked by themselves without exposure to other employees, or to a worker's personal residence or alternative work location chosen by the worker when working remotely.

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 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 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 infectious 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, and in the manner the employer normally uses to communicate employment-related information. 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 cleaning and disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

a. All employees who were on the premises at the same worksite as the COVID-19 case during the infectious 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 on the premises at the same worksite as the COVID-19 case during the infectious period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall:

a. provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative, if any, of the COVID-19 case and of any employee who had a close contact; and

b. provide the notice required by Labor Code section 6409.6(a)(4) to the authorized representative, if any, of any employee who was on the premises at the same worksite as the COVID-19 case during the infectious 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).

Exception to subsection (c)(3)(B)5.: The employer is not required to make COVID-19 testing available to returned cases.

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 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, the employer shall provide effective training and instruction to employees regarding:

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

(B) 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.

(C) 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.

(D) Employees exempted from wearing face coverings pursuant to subsection (c)(6)(C)4. 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. If their condition or disability does not permit a non-restrictive alternative, the employee shall be tested at least weekly for COVID-19 during paid time and at no cost to the employee.

(E) Any employee not wearing a face covering, pursuant to the exception in subsection (c)(6)(C)5. shall be 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)(E) as an alternative to face coverings when face coverings are otherwise required by this section.

(F) 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.

(G) 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.

(H) 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) 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.

(C) 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 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)(C)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(D) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms, 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 review current CDPH guidance for persons who had close contacts, including any guidance regarding quarantine or other measures to reduce transmission. Employers shall develop, implement, and maintain effective policies to prevent transmission of COVID-19 by persons who had close contacts.

(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. The following return to work criteria shall apply to COVID-19 cases and employees excluded under sections 3205.1 and 3205.2. The employer must demonstrate it has met the applicable requirements below:

(A) COVID-19 cases, regardless of vaccination status or previous infection, who do not develop COVID-19 symptoms or whose COVID-19 symptoms are resolving, shall not return to work until:

1. At least five days have passed from the date that COVID-19 symptoms began or, if the person does not develop COVID-19 symptoms, from the date of first positive COVID-19 test;
2. 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
3. A negative COVID-19 test from a specimen collected on the fifth day or later is obtained; or, if unable to test or the employer chooses not to require a test, 10 days have passed from the date that COVID-19 symptoms began or, if the person does not develop COVID-19 symptoms, from the date of first positive COVID-19 test.

(B) COVID-19 cases, regardless of vaccination status or previous infection, whose COVID-19 symptoms are not resolving, may 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 medication; and
2. Symptoms are resolving or 10 days have passed from when the symptoms began.

(C) Regardless of vaccination status, previous infection, or lack of COVID-19 symptoms, a COVID-19 case shall wear a face covering in the workplace until 10 days have passed since the date that COVID-19 symptoms began or, if the person did not have COVID-19 symptoms, from the date of their first positive COVID-19 test.

(D) The requirements in subsections (c)(10)(A) and (c)(10)(B) apply regardless of whether an employee has previously been excluded or other precautions were taken in response to an employee's close contact or membership in an exposed group.

(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).

(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.
5. New section, including amendments, refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of History 5 (Register 2022, No. 9).

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California Code of Regulations, Title 8, Section 3205. COVID-19 Prevention.

7. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.

8. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 or emergency language will be repealed by operation of law on the following day.

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Subchapter 7. General Industry Safety Orders
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 infectious 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) For returned cases who did not develop COVID-19 symptoms after returning to work pursuant to subsection 3205(c)(10), no testing is required.

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

(A) Immediately upon being covered by this section, the employer shall make testing available to all employees in the exposed group, regardless of vaccination status, 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) Employees who had close contacts shall have a negative COVID-19 test taken within three and five days after the close contact or shall be excluded and follow the return to work requirements of subsection 3205(c)(10) starting from the date of the last known close contact.

(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)(C) 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)(C)2.

(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, as much distance between persons as feasible.

(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,

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California Code of Regulations, Title 8, Section 3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

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.

3. New section refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.

4. Editorial correction of History 5 (Register 2022, No. 9).

5. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.

6. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 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 infectious 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 required of all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department. Employees in the exposed group shall be tested or shall be excluded and follow the return to work requirements of subsection 3205(c)(10) starting from the date that the outbreak begins.

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

(4) 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.
3. New section refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of History 5 (Register 2022, No. 9).
5. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.
6. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 or emergency language will be repealed by operation of law on the following day.

 [Go Back to General Industry Safety Orders, Introduction](#)



What Employers and Workers Need to Know about COVID-19 Isolation & Quarantine

May 6, 2022

This fact sheet provides employers and workers not covered by the **Aerosol Transmissible Diseases standard** with information on when and for how long workers must be excluded from the workplace if they test positive or are exposed to someone who has COVID-19. The chart below reflects the new California Department of Public Health (CDPH) isolation and quarantine periods guidance from April 6, 2022 and the third re-adoption of the Cal/OSHA COVID-19 Prevention Emergency Regulation effective May 6, 2022.

More information is available on [Cal/OSHA's ETS FAQs](#) and [CDPH's Isolation and Quarantine Guidance](#).

Employees who test positive for COVID-19 must be excluded from the workplace as described in Table 1. For employees who had a close contact, employers must review [CPDH guidance](#) and implement quarantine and other measures in the workplace to prevent COVID-19 transmission in the workplace. Please refer to table 2 and table 3 below for CDPH quarantine guidance after close contact.

Where the tables below refer to action to be taken on a specified day (e.g. "day 5" or "day 10"), day 1 is the first day following the onset of symptoms or, if no symptoms develop, the day following the first positive test.

Table 1: Exclusion Requirements for Employees Who Test Positive for COVID-19

Requirements apply to all employees, regardless of vaccination status, previous infection, or lack of symptoms.	<ul style="list-style-type: none"> • Employees who test positive for COVID-19 must be excluded from the workplace for at least 5 days after start of symptoms or after date of first positive test if no symptoms. • Isolation can end and employees may return to the workplace after day 5 if symptoms are not present or are resolving, and a diagnostic specimen* collected on day 5 or later tests negative. • If an employee's test on day 5 (or later) is positive, isolation can end and the employee may return to the workplace after day 10 if they are fever-free for 24 hours without the use of fever-reducing medications. • If an employee is unable to or choosing not to test ⁱ, isolation can end, and the employee may return to the workplace after day 10 if they are fever-free for 24 hours without the use of fever-reducing medications. • If an employee has a feverⁱⁱ, isolation must continue and the employee may not return to work until 24 hours after the fever resolves without the use of fever-reducing medications.ⁱⁱⁱ • If an employee's symptoms other than fever are not resolving, they may not return to work until their symptoms are resolving or until after day 10. • Employees must wear face coverings around others for a total of 10 days. Please refer the FAQs regarding face coverings for additional information <p>*Antigen test preferred.</p>
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ⁱ An employer may require a test. More information is available in the [Department of Fair Employment and Housing FAQ](#).

ⁱⁱ A fever is a measured body temperature of 100.4 degrees Fahrenheit or higher.

ⁱⁱⁱ A fever resolves when 24 hours have passed with no fever, without the use of fever-reducing medications.

Table 2: CDPH Guidance for Close Contacts – Employees Who Are Exposed to Someone with COVID-19. (Applies to All Employees Except those in High-Risk Settings)

<p>For employees who are asymptomatic. Applies to all employees, regardless of vaccination status.</p>	<ul style="list-style-type: none"> Exposed employees must test within three to five days after their last close contact. Persons infected within the prior 90 days do not need to be tested unless symptoms develop. Employees must wear face coverings around others for a total of 10 days after exposure. Please refer to the FAQs on face coverings for additional information. If an exposed employee tests positive for COVID- 19, they must follow the isolation requirements above in Table 1. Employees are strongly encouraged to get vaccinated and boosted
<p>For employees who are symptomatic. Applies to all employees, regardless of vaccination status.</p>	<ul style="list-style-type: none"> Symptomatic employees must be excluded and test as soon as possible. Exclusion must continue until test results are obtained. If the employee is unable to test or choosing not to test, exclusion must continue for 10 days. If the employee tests negative and returns to work earlier than 10 days after the close contact, the employee must wear a face covering around others for 10 days following the close contact. CDPH recommends continuing exclusion and retesting in 1-2 days if testing negative with an antigen test, particularly if tested during the first 1-2 days of symptoms. For symptomatic employees who have tested positive within the previous 90 days, using an antigen test is preferred.

Table 3: CDPH Guidance for Close Contacts – Specified High-Risk Settings

<p>Applies to employees who are:</p> <ul style="list-style-type: none"> Not fully vaccinated, OR Not infected with SARS-CoV-2 within the prior 90 days. <p>AND who work in the following high-risk settings:</p> <ul style="list-style-type: none"> Emergency Shelters Cooling and Heating Centers Long Term Care Settings & Adult and Senior Care Facilities* Local correctional facilities and detention centers* Healthcare settings* <p>* Please note that some employees in these high-risk settings are covered by the Aerosol Transmissible Diseases standard (section 5199) and are subject to different requirements. Please see the Scope of Coverage section of the FAQ for additional information.</p>	<ul style="list-style-type: none"> Exposed employees must be excluded from work for at least five days after the last known close contact. Exclusion can end and exposed employees may return to the workplace after day 5 if symptoms are not present and a diagnostic specimen collected on day 5 or later tests negative. If an employee is unable to test or choosing not to test, and symptoms are not present, work exclusion can end and the employee may return to the workplace after day 10. Employees in these settings must wear a face covering while indoors and around others in accordance with CDPH’s universal masking guidance. Employees are strongly encouraged to get vaccinated or boosted. If employees develop symptoms after returning to work, they must be excluded from the workplace and test as soon as possible. If employees test positive, they must follow the isolation requirements in Table 1.
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Commonly Asked Questions

When do workers need to be paid exclusion pay if exposed to COVID-19?

When workers are required to be excluded from work due to work-related COVID-19 exposure, they must be paid exclusion pay. Workers should speak with their employers about available exclusion pay. Some exceptions apply, for example if the worker can work from home, or they are receiving disability pay or Workers' Compensation Temporary Disability Payments.

What does CDPH guidance require if a worker was exposed to COVID-19 but tests are not available?

If a worker in a non-high-risk setting cannot be tested as required but never develops symptoms, the worker may continue to work but must wear a face covering for 10 days after the close contact. If the worker works in a high-risk setting, they should continue isolation for 10 days, as explained in the table.

This guidance is an overview, for full requirements see Title 8 sections [3205](#), [3205.1](#), [3205.2](#), [3205.3](#), [3205.4](#)

Update History

- January 19, 2022 – Updated to clarify this fact sheet does not apply to workplaces covered by the Aerosol Transmissible Diseases Standard.
- May 6, 2022 – Updated to align with new CDPH guidance for general population and adding high-risk settings.



For assistance with developing a COVID-19 Prevention Program, employers may contact Cal/OSHA Consultation Services at 1 800 963 9424 or InfoCons@dir.ca.gov

For Consultation information or publications, access the following link or copy the site address:
DOSHConsultation www.dir.ca.gov/dosh/consultation.html



Centers for Disease Control and Prevention
CDC 24/7: Saving Lives, Protecting People™



How to Protect Yourself and Others

Updated Aug. 11, 2022

COVID-19 Prevention Actions

There are many ways your actions can help protect you, your household, and your community from severe illness from COVID-19. [CDC's COVID-19 Community Levels](#) provide information about the amount of severe illness in the community where you are located to help you decide when to take action to protect yourself and others.



COVID-19 County Check

Find community levels and prevention steps by county. Data updated we

Select a Location (all fields required)

Prevention Actions to Use at All COVID-19 Community Levels

In addition to basic health and hygiene practices, like [handwashing](#), CDC recommends some prevention actions at all COVID-19 Community Levels, which include:

- Staying Up to Date with COVID-19 Vaccines
- Improving Ventilation
- Getting Tested for COVID-19 If Needed
- Following Recommendations for What to Do If You Have Been Exposed
- Staying Home If You Have Suspected or Confirmed COVID-19
- Seeking Treatment If You Have COVID-19 and Are at High Risk of Getting Very Sick
- Avoiding Contact with People Who Have Suspected or Confirmed COVID-19

Staying Up to Date with COVID-19 Vaccines



COVID-19 vaccines help your body develop protection from the virus that causes COVID-19. Although vaccinated people sometimes get infected with the virus that causes COVID-19, [staying up to date](#) on COVID-19 vaccines significantly lowers the risk of getting very sick, being hospitalized, or dying from COVID-19. CDC recommends that everyone who is eligible get a booster and [stay up to date on their COVID-19 vaccines](#), especially [people with weakened immune systems](#).

If you are moderately or severely immunocompromised or severely allergic to COVID-19 vaccines: Talk with a healthcare provider about whether you are eligible for a medicine called Evusheld that you can take before you are exposed to the virus. This medicine is a combination of two monoclonal antibodies provided together. Evusheld can help prevent infection from the virus that causes COVID-19 for 6 months. See [additional information](#) for making a COVID-19 plan to protect yourself from infection.

To find COVID-19 vaccine locations near you: Search vaccines.gov, text your ZIP code to 438829, or call 1-800-232-0233.

Improving Ventilation and Spending Time Outdoors



Improving ventilation (moving air into, out of, or within a room) and **filtration** (trapping particles on a filter to remove them from the air) can help prevent virus particles from accumulating in indoor air. Improving ventilation and filtration can help protect you from getting infected with and spreading the virus that causes COVID-19. Spending time outside when possible instead of inside can also help: Viral particles spread between people more readily **indoors than outdoors**.


Actions that can **improve ventilation and filtration** include:

- Bringing in as much outdoor air as possible—for example, opening windows.
- Increasing air filtration in your heating, ventilation, and air conditioning (HVAC) system, such as by changing filters frequently and using filters that are properly fitted and provide higher filtration.
- Using portable high-efficiency particulate air (HEPA) cleaners.
- Turning on exhaust fans and using other fans to improve air flow.
- Turning your thermostat to the “ON” position instead of “AUTO” to ensure your HVAC system provides **continuous airflow and filtration**.

CDC’s interactive ventilation tools can help you see how much you can improve ventilation in your **home** or **school**.

Moving indoor activities outdoors

You are less likely to be infected with COVID-19 during outdoor activities because virus particles do not build up in the air outdoors as much as they do indoors. As the COVID-19 Community Level rises, consider increasing the number of group activities you move outside.

[Financial support](#)  may be available to certain entities, like schools, to make ventilation improvements.

Getting Tested for COVID-19 If Needed



[Get tested](#) if you have [COVID-19 symptoms](#). A viral test tells you if you are infected with the virus that causes COVID-19. There are two types of viral tests: rapid tests and laboratory tests. These tests might use samples from your nose or throat, or saliva. Knowing if you are infected with the virus that causes COVID-19 allows you to take care of yourself and take actions to reduce the chance that you will infect others.

CDC's [Viral Testing Tool](#) is an online, mobile-friendly tool that asks a series of questions and recommends actions and resources based on your responses. It can help you interpret what your test result means.

You can also access tests the following ways:

- Order free self-tests at [COVIDtests.gov](https://www.covidtests.gov) [↗](#) . Free tests are also available through [local health departments](#).
- If you have Medicare Part B, including those enrolled in a Medicare Advantage plan, Medicare will cover up to 8 free self-tests each calendar month from participating pharmacies and providers. Private health insurance may also reimburse the cost of purchasing self-tests. Visit [FDA's website](#) [↗](#) for a list of authorized tests.
- Call your healthcare provider, visit a [community testing site](#) [↗](#) , or call your local health department for more options.

Following Recommendations for What to Do If You Have Been Exposed

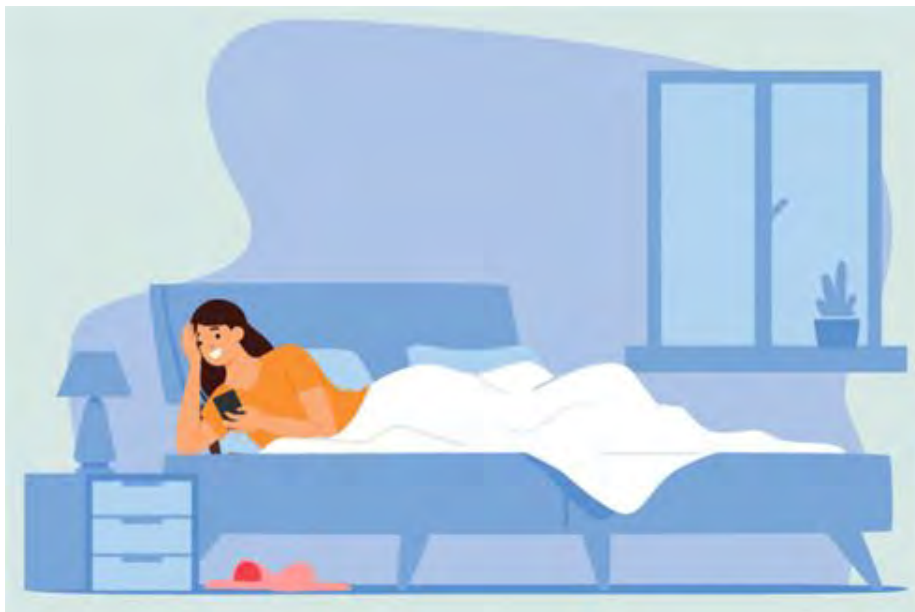
If



you were exposed to someone with COVID-19, you may have been infected with the virus. Follow CDC's recommendations for [what to do if you were exposed](#). This includes wearing a high-quality mask when indoors around others (including inside your home) for 10 days, testing, and monitoring yourself for symptoms.

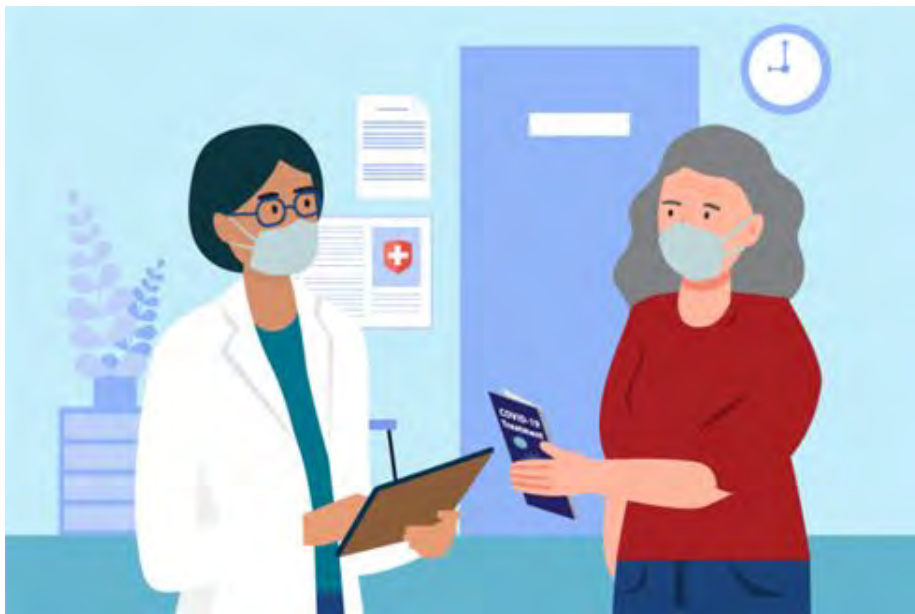
Staying Home When You Have Suspected or Confirmed COVID-19

If



you have COVID-19, you can spread it to others, even if you do not have symptoms. If you have symptoms, get tested and stay home until you have your results. If you have tested positive (even without symptoms), follow CDC's [isolation recommendations](#). These recommendations includes staying home and away from others for at least 5 days (possibly more, depending on how the virus affects you) and wearing a high-quality mask when indoors around others for a period of time.

Seeking Treatment If You Have COVID-19 and Are at High Risk of Getting Very Sick



Effective treatments are now widely available and free, and you may be eligible.

- Contact your healthcare provider, [health department](#), or [Community Health Center](#) [↗](#) to learn about [treatment options](#).
- Don't delay! Treatment must be started within a few days after you first develop symptoms to be effective.
- If you don't have timely access to a healthcare provider, check if a [Test to Treat location](#) [↗](#) is in your community. You can get tested, receive a prescription from a healthcare provider (either onsite or by telehealth), and have it filled all at one location.

Avoiding Contact with People Who Have Suspected or Confirmed COVID-19



Avoiding contact with people who have COVID-19, whether or not they feel sick, can reduce your risk of catching the virus from them. If possible, avoid being around a person who has COVID-19 until they can [safely end home isolation](#). Sometimes it may not be practical for you to stay away from a person who has COVID-19 or you may want to help take care of them. In those situations, use as many prevention strategies as you can, such as practicing hand hygiene, consistently and correctly wearing a high-quality mask, improving ventilation, and keeping your distance, when possible, from the person who is sick or who tested positive.

Prevention Actions to Add as Needed

There are some additional prevention actions that may be done at any level, but CDC especially recommends considering in certain circumstances or at medium or high [COVID-19 Community Levels](#).

- [Wearing Masks or Respirators](#)
- [Increasing Space and Distance](#)

Wearing Masks or Respirators

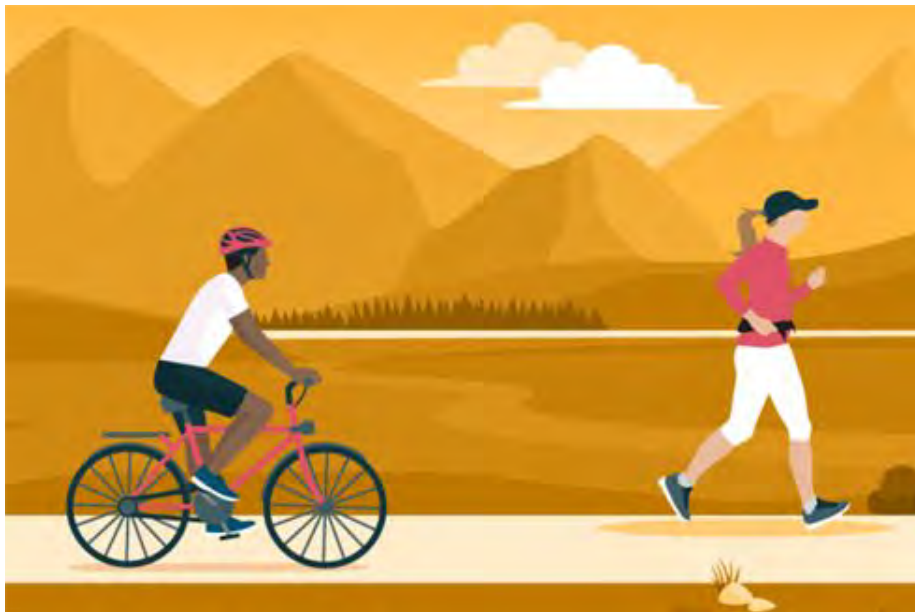


Masks are made to contain droplets and particles that you breathe, cough, or sneeze out. A variety of masks are available. Some masks provide a higher level of protection than others.

Respirators (for example, N95) are made to protect you by fitting closely on the face to filter out particles, including the virus that causes COVID-19. They can also block droplets and particles you breathe, cough, or sneeze out so you do not spread them to others. Respirators (for example, N95) provide higher protection than masks.

When wearing a mask or respirator (for example, N95), it is most important to choose one that you can wear correctly, that fits closely to your face over your mouth and nose, that provides good protection, and that is comfortable for you.

Increasing Space and Distance



Small particles that people breathe out can contain virus particles. The closer you are to a greater number of people, the more likely you are to be exposed to the virus that causes COVID-19. To avoid this possible exposure, you may want to avoid crowded areas, or keep distance between yourself and others. These actions also protect people who are at [high risk for getting very sick from COVID-19](#) in settings where there are [multiple risks for exposure](#).

Additional Resources

[COVID-19 Community Levels](#)

[Science Brief: SARS-CoV-2 Transmission](#)

[Science Brief: Indicators for Monitoring COVID-19 Community Levels and Making Public Health Recommendations](#)

[Science Brief: Community Use of Masks to Control the Spread of SARS-CoV-2](#)

[Science Brief: COVID-19 Vaccines and Vaccination](#)

Last Updated Aug. 11, 2022
Content source: [National Center for Immunization and Respiratory Diseases \(NCIRD\)](#), Division of Viral Diseases



← OCGOV HOME (<http://www.ocgov.com>) TRANSLATE

(<https://www.ocgov.com>)

[Home \(/\)](#) / **OC Health Officer's Orders & Recommendations**

OC Health Officer's Orders & Recommendations

For the PDF English version, click [here \(/sites/virus/files/2022-09/9.16.22 Health Officer Orders and Recommendations Final Version 2.pdf\)](/sites/virus/files/2022-09/9.16.22%20Health%20Officer%20Orders%20and%20Recommendations%20Final%20Version%202.pdf).

For translation, please click on the black "Translate" button on the top right to translate the same order displayed below.



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**COUNTY OF ORANGE HEALTH OFFICER'S
ORDERS AND STRONG RECOMMENDATIONS
(Revised September 23, 2022)**



In light of recent updated COVID-19 State Public Health Officer Orders on masking guidance, vaccine requirements and testing recommendations, 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 September 16, 2022. The Orders and Strong Recommendations issued on September 16, 2022, are no longer in effect as of September 23, 2022.

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 of Persons with COVID-19 Order

***NOTE:** This Self-Isolation Order DOES NOT in any way restrict access by first responders to an isolation site during an emergency.*

1. Persons who are symptom-free but test positive for COVID-19.

If you do not have any COVID-19 symptoms (as defined below in this Order) but test positive for COVID-19, you shall immediately isolate yourself in your home or another suitable place for at least 5 days from the date you test positive and may end your self-isolation after day 5:

- If you continue not having any COVID-19 symptoms and a diagnostic specimen collected on day 5 or later tests negative.
 - While an antigen test, nucleic acid amplification test (NAAT), or LAMP test are acceptable, use of an antigen test is recommended. Use of Over-the-Counter tests are also acceptable to end isolation.

Exceptions.

- If you are unable or choose not to test on day 5 or after, or if you test positive after day 5, you shall continue your self-isolation through day 10 from the date of your initial positive test and may end your self-isolation after 10 days from the date of your initial positive test.
- If you develop COVID-19 symptoms during the time of your self-isolation, you shall isolate yourself for at least 10 days from the date of symptom(s) onset. You may end your



isolation sooner if a diagnostic specimen collected on day 5 (or later) from the date of symptom(s) onset tests negative.

All persons who test positive for COVID-19 should continue to wear a well-fitting mask at all times around other people through day 10.

2. Persons who have COVID-19 symptoms.

If you have COVID-19 symptoms, you shall immediately isolate yourself in your home or another suitable place for 10 days from the date of your symptom(s) onset and may end your self-isolation sooner under any of the following conditions:

- If a diagnostic specimen collected as early as the date of your symptom(s) onset tests negative.
 - While an antigen test, nucleic acid amplification test (NAAT), or LAMP test are acceptable, use of an antigen test is recommended. Use of Over-the-Counter tests are also acceptable to end isolation.
 - Note: A negative PCR or antigen test collected on day 1-2 of symptom onset should be repeated in 1-2 days to confirm negative status. While isolation may end after the first negative test, it is strongly recommended to end isolation upon negative results from the repeat test.
- If you obtain an alternative diagnosis from a healthcare provider.

Exception:

If you have COVID-19 symptoms and test positive for COVID-19, you shall isolate yourself for at least 10 days from the date of symptom(s) onset. You may end your self-isolation sooner if a diagnostic specimen collected on day 5 (or later) from the date of symptom(s) onset tests negative.

You are not required to self-isolate for more than 10 days from the date of your COVID-19 symptom(s) onset regardless of whether your symptoms are present on Day 11.

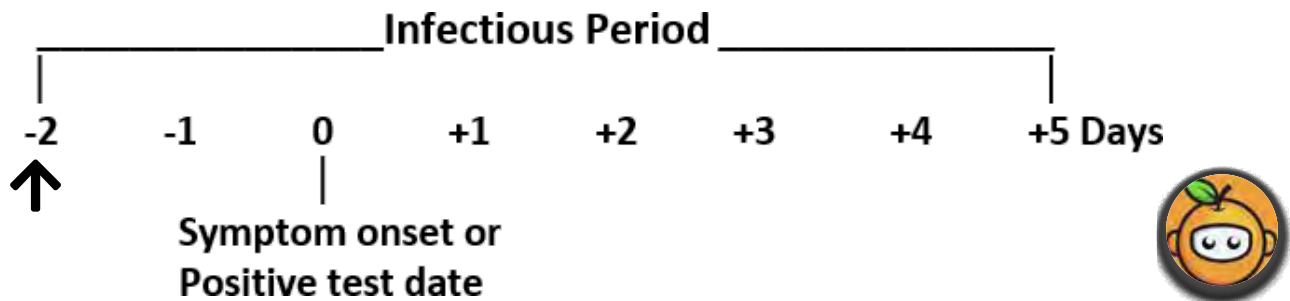
All persons who have COVID-19 symptoms should continue to wear a well-fitting mask at all times around other people through at least Day 10.



3. Additional Considerations for Self-Isolation.

- 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 5 days and up to 20 days after symptoms first appeared. People with weakened immune systems should talk to their healthcare provider for more information.
- Rebound: Regardless of whether an individual has been treated with an antiviral agent, risk of transmission during COVID-rebound can be managed by following CDC's guidance on isolation (<https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html> (<https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>)). An individual with rebound may end re-isolation after 5 full days of isolation with resolution of their fever for 24 hours without the use of fever-reducing medication and if symptoms are improving. The individual should wear a mask for a total of 10 days after rebound symptoms started.
 - More information can be found at <https://www.cdph.ca.gov/Programs/OPA/Pages/CAHAN/CAHAN-Paxlovid-Recurrence-06-07-22.aspx> (<https://www.cdph.ca.gov/Programs/OPA/Pages/CAHAN/CAHAN-Paxlovid-Recurrence-06-07-22.aspx>).

Timing for "Day 0" - As noted in CDPH Isolation and Quarantine Q&A (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Isolation-Quarantine-QA.aspx>), the 5-day clock for isolation period starts on the date of symptom onset or (day 0) for people who test positive after symptoms develop, or initial test positive date (day 0) for those who remain asymptomatic. If an asymptomatic person develops symptoms, and test positive, date of symptom onset is day 0.



NOTE: In workplaces, employers and employees are subject to the Isolation and quarantine requirements as stated in the CalOSHA COVID-19 Emergency Temporary Standards (ETS) as modified by the Governor's Executive Order N-5-22 or in some workplaces the Cal/OSHA Aerosol transmissible Diseases (ATD) Standard.

Information about CalOSHA COVID-19 Emergency Temporary Standards (ETS) can be found at <https://www.dir.ca.gov/dosh/coronavirus> (<https://www.dir.ca.gov/dosh/coronavirus>).

Definition.

Whenever the term "symptom" or "*COVID-19 symptom*" is used, it shall mean COVID-19 symptom. 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.

II. Face-Coverings/Masks:



To help prevent the spread of droplets containing COVID-19, all County residents and visitors are required to wear face coverings in accordance with the Guidance for the Use of Face Coverings issued by CDPH, dated September 20, 2022. The Guidance is attached herein as Attachment "A" and can be found at:

A: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>).



NOTE: For Correctional Facilities and Detention centers, when utilizing COVID-19 Community levels to determine masking requirements, an outbreak in these settings is defined as three suspected, probable, or confirmed COVID-19 cases within a 14-day period among residents and/or staff.

No person shall 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 this mask order:

- Persons younger than two years old.
- 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.
- Additional exceptions to masking requirements in high-risk settings can be found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Face-Coverings-QA.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Face-Coverings-QA.aspx>).

↑ workplaces, employers and employees are subject to either the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or the Cal/OSHA Aerosol Transmissible Disease (ATD) Standard and should consult those regulations for additional applicable requirements.



III. COVID-19 Vaccine Requirement Order

- Health Care Workers COVID-19 Vaccine Requirement Order:

To help prevent transmission of COVID-19, all workers who provide services or work in facilities described below shall comply with the COVID-19 vaccination and booster dose requirements as set forth in the September 13, 2022, 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:



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

Facilities covered by this order include:

- 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

The word, "worker," as used in this Order shall have the same meaning as defined in the State Health Officer's Order, dated September 13, 2022.

• **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 September 13, 2022, shall comply with the State Health Officer's Order with regards to obtaining COVID-19 vaccination and booster doses. A copy of the State Health Officer Order is attached herein as Attachment "C" and can be found at the following link:

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

- **Adult Care Facilities and Direct Care Worker Vaccination Requirements.**

To help prevent transmission of COVID-19, all individuals specified below shall comply with the COVID-19 vaccination and booster dose requirements as set forth in the September 13, 2022, State Health Officer Order. A copy of the State Health Officer Order is attached herein as Attachment "D" and can be found at the following link:

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

Individuals covered by this order include:

- All workers who provide services or work in Adult and Senior Care Facilities licensed by the California Department of Social Services;
- All in-home direct care services workers, including registered home care aides and certified home health aides, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;
- All waiver personal care services (WPCS) providers, as defined by the California Department of Health Care Services, and in-home supportive services (IHSS) providers as defined by the California Department of Social Services, except for those workers who only



provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;

- All hospice workers who are providing services in the home or in a licensed facility; and
- All regional center employees, as well as service provider workers, who provide services to a consumer through the network of Regional Centers serving individuals with developmental and intellectual disabilities, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services.

IV. Seasonal Flu Vaccination Order:

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 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 health care services to a patient but are otherwise integrated into and necessary to the 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. Self-quarantine of Persons Exposed to COVID-19

- If you are known to be exposed to COVID-19 (regardless of vaccination status, prior disease, or occupation), it is strongly recommended to follow CDPH Quarantine guidance found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Guidance-on-Isolation-and-Quarantine-for-COVID-19-Contact-Tracing.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Guidance-on-Isolation-and-Quarantine-for-COVID-19-Contact-Tracing.aspx>).
- **K-12 Schools and Child Care**
 - Schools/school districts are advised to follow CDPH COVID-19 Public Health Guidance for K-12 Schools in California, 2022-2023 School Year found at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2022-23-School-Year.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2022-23-School-Year.aspx>)
 - Child care providers and programs are advised to follow CDPH Guidance for Child Care Providers and Programs found at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Child-Care-Guidance.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Child-Care-Guidance.aspx>).
- **Workplaces**



In workplaces, employers and employees are subject to the Quarantine requirement as stated in the CalOSHA COVID-19 Emergency Temporary Standards (ETS) as modified



the Governor's Executive Order N-5-22 or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard.

Exposed to COVID-19 or exposure to COVID-19 means sharing the same indoor space (e.g. home, clinic waiting room, airplane, etc.) for a cumulative total of 15 minutes or more over a 24-hour period (for example, three individual 5- minute exposures for a total of 15 minutes) during an infected person's (laboratory-confirmed or a clinical diagnosis) infectious period.

2. **For Vulnerable Populations.** 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, including boosters, 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> (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>).

3. **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. 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.

CDC Guidance can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html> (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>) and <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html> (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html>)

4. **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.

5. **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) remain up-to-date as defined by CDC with COVID-19 vaccination. CDC Guidance can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html> (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html>)



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 September 23, 2022, the County has reported a total of 664,185 recorded confirmed COVID-19 cases and 7,432 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 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 splash sprays like a cough or sneeze. 3) Touching eyes, nose, or mouth with hands that have



on them.

See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>
(<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>)

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

7. The CDPH issued a revised Guidance for the Use of Face Coverings, effective April 20, 2022, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx> (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>)
8. 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> (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>)
9. 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 been widely available, but certain populations have been slow to getting vaccinated or boosted (ii) the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for at-risk persons to complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, practice distancing, frequently wash hands with soap (iii) 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; (iv) current evidence shows that the novel coronavirus can survive on surfaces and can be indirectly transmitted between individuals; (v) older adults and individuals with medical conditions are at higher risk of severe illness; (vi) sustained COVID-19 community transmission continues to occur; (vii) the age, condition, and health of a portion of Orange County's residents place them at risk for serious health complications, including hospitalization and death, from COVID-19; (viii) younger and otherwise healthy people are also at risk for serious negative health outcomes and for transmitting the novel coronavirus to others.
10. 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 Orange County, help preserve critical and limited healthcare capacity in Orange County and save the lives of Orange County residents.



- 11. 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.
- 12. 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.
- 13. 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.
- 14. 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: September 23, 2022

Regina Chinsio-Kwong, DD
County Health Officer
County of Orange



Additional Resources



COVID-19 in California
(<https://covid19.ca.gov/>)



Centers for Disease Control and Prevention
(<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>)



World Health Organization
(<https://www.who.int/>)



County Directory Assistance
855.886.5400

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Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, CEO
SUBJECT: CONFIRM OCERS BOARD CHAIR AND ELECT OCERS BOARD VICE CHAIR

Recommendation

- (1) Confirm the succession of the current Vice Chair of the Board to the position of Chair of the Board for calendar year 2023; and
- (2) Elect an elected member of the Board to serve as Vice Chair of the Board for calendar year 2023.

Background/Discussion

In accordance with OCERS' By-Laws, excerpted below, the election of the Vice-Chair is to take place at the "last regular Board meeting in December," which is our meeting of December 12 this year.

With Mr. Dewane, an appointed member, serving as 2022 Vice-Chair, the Board's charter directs that he "shall automatically succeed to the office of Chair".

The by-laws provide further guidance to the election of Vice-Chair by directing that the Vice-Chair shall be of a different "group" than the Chair; for 2023 that would be one of the elected members. Note: While the election will take place in December, the new Chair, Mr. Dewane, and the newly elected Vice-Chair will not take office until January 1, 2023.

By-Laws Excerpt:

3. Election of Officers: The Board shall have a Chairperson and a Vice-Chairperson, each of whom will serve a one-year term of office, which corresponds with the calendar year. The person who holds the office of Vice-Chairman on the last day of the Calendar year shall automatically succeed to the office of Chairperson effective the first day of the following calendar year. At its last regular Board meeting in December, the Board shall elect a new Vice-Chairperson, who shall serve in that capacity beginning in January of the following year until the end of that calendar year, at which time he or she shall succeed to the office of Chairperson. The Chairperson and Vice-Chairperson shall both be members of the Board, and shall be from different "groups" as hereinafter defined.

For purposes of this section, all Board Members shall be considered to be members of one of two "groups." The elected member group shall include those members of the Board who are elected by the members of the Retirement System; i.e., the two general member representatives, the retired member representative, and the safety member representative. The appointed member group shall include the four members appointed by the

County Board of Supervisors and the County Treasurer. The alternate member of the Board is ineligible to hold office as Chairperson or Vice-Chairperson of the Board.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: **ALAMEDA IMPLEMENTATION PLAN CHANGES FOR PAYEES WITH A \$100 OR LESS PER MONTH BENEFIT IMPACT**

Staff Recommendation

Approve changes to the *Alameda* Implementation plan for payees with a monthly benefit impact of \$100 or less.

Background

On June 21, 2021, the Board adopted several staff recommendations regarding the process staff would take to implement the decision of the California Supreme Court in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al* (Alameda). Attached is the staff memo from June 21, 2021, outlining all of the details of the Board's directives.

On November 14, 2022, staff presented the 2023 Administrative Budget and included in the budget a line item for \$500,000 to continue using contractors to process benefit recalculations in 2023. We estimate that it will be the first quarter of 2024 before we are done performing all 650+ benefit recalculations under the current implementation plan.

We have identified two processes that, if changed, could dramatically reduce the processing time and cost associated with making the benefit corrections. **This proposal is only applicable to payees with a monthly benefit impact of \$100 or less.** We would proceed to recalculate the monthly benefit of **all payees** including, those with a monthly benefit impact of \$100 or less, as previously directed; however, for payees with a monthly benefit impact of \$100 or less, we recommend the following two changes to the implementation plan:

1. We would recover all overpayments from the employer (through the UAAL valuation process), including the overpayments made between October 1, 2020 and the date of the recalculation.

The prior directive was to bifurcate the overpayment, and collect from the employer (through the UAAL valuation process) overpayments made prior to October 1, 2020, and collect from the payee overpayments made after October 1, 2020 to the date of the benefit recalculation. V3 can calculate the total overpayment but splitting it in this way is a manual process.

This process change meets the requirements of tax law and the Board's Overpaid/Underpaid Plan Benefits Policy.

2. We would **not** re-evaluate the measuring period to look for a measuring period with a higher Final Average Salary (FAS).

CERL section 31462 states that "final compensation" is the average annual compensation earnable during any three years elected by a member at or before the time they file an application for retirement or if they fail to elect, during the three years immediately preceding their retirement. OCERS agreed to

look for a different measuring period not because it was required by the law but to lessen the impact of *Alameda* corrections on the members. However, based on the small monthly impact of removing the now excluded *Alameda* pay items from payees with a total monthly impact of \$100 or less, it is unlikely that a different measuring period will result in a higher FAS and higher benefit. In addition, the time and resources that are necessary to perform this manual and time consuming calculation far outweigh the potential impact to members' monthly benefits.

As shown in the *Alameda* Decision Implementation project update presented to the Board on October 17, 2022, there are 481 payees with a monthly impact of \$100 or less. Making the two recommended changes outlined above would automate the recalculations, reduce the total processing time significantly, and complete the project sooner.

The suggested changes to the implementation plan comply with the law and OCERS policies.

Submitted by:



SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations

Attachments

- (1) June 21, 2021 Board meeting staff memo
- (2) October 17, 2022 Project Update PowerPoint presentation, page 7
- (3) Overpaid/Underpaid Plan Benefits Policy



Memorandum

DATE: June 21, 2021
TO: Members of the Board
FROM: Steve Delaney, Chief Executive Officer
 Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: IMPLEMENTATION OF ALAMEDA DECISION – SECOND READING AND ACTION

Background/Discussion

On July 30, 2020, the California Supreme Court issued a unanimous decision in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al*, (Alameda). The decision resolved a series of legal challenges which sought to prevent county retirement boards' implementation of amendments, commonly known as PEPRAs, to the County Employees Retirement Law of 1937 ("CERL"), Govt. Code §31450 *et seq.* that went into effect on January 1, 2013.

The decision of the Court in Alameda placed a number of obligations on the OCERS Board of Retirement:

1. PEPRAs, having been found constitutional by the Court, must be applied to legacy (pre January 1, 2013) members as of the date PEPRAs became effective, January 1, 2013;
2. County retirement boards were obligated to follow PEPRAs as written. While the boards have discretion to interpret their governing law consistent with its terms, they have no authority to include as "compensation earnable" amounts that are expressly excluded by the law; and
3. Among the express exclusions from "compensation earnable" under PEPRAs is pay received for additional services rendered outside of normal working hours, based on the same number of hours of work in a year for all employees in the same grade or class; and the OCERS Board must exclude such pay from compensation earnable.

On August 17, 2020, based on the Supreme Court's ruling in Alameda, OCERS administrative staff informed the OCERS Board that beginning October 1, 2020, OCERS would no longer collect pension contributions on the excluded pay items, nor would OCERS include the pay items in new benefit calculations until such time as the OCERS Board made a determination as to how best to implement the Court's findings.

In the ensuing months OCERS administrative staff held numerous meetings with both employer and labor representatives to better understand the nature and usage of the pay items in question, and reported on these meetings to the OCERS Board at each monthly Board meeting.

Board Actions at March 15, 2021 Meeting

On March 15, 2021, OCERS administrative staff made the first of two series of recommendations to the OCERS Board of Retirement: 1) adopt a test for the purpose of determining whether certain items of pay can be included in compensation earnable under the terms of the OCERS' plan document, and 2) adopt a definition of normal working hours.

The test and definition, as approved by the Board on March 15, 2021, are:

Basic Test: Pay for services rendered outside normal working hours is excluded from compensation earnable. Conversely, pay for services rendered during normal working hours is included in compensation earnable (unless the Board otherwise determines the pay was given in order to enhance a member's retirement allowance).

Definition of Normal Working Hours: "Normal working hours" are hours that (1) are required to be worked as part of the employee's regular duties; (2) are ordinarily worked by all other members in the same grade/class/rate of pay as the employee; and (3) are not and cannot be voluntarily worked by the employee. Ordinarily worked does not include time served on a temporary or emergency basis.

On March 15, 2021, the Board also referred proposed revisions to several policies and administrative procedures associated with the calculation of compensation earnable to the Governance Committee for review, approval and recommendation. On March 19, 2021, the Governance Committee met and reviewed the proposed revisions to the policies and administrative procedures and requested several additional revisions. The Governance Committee now recommends the Board approve the policies and administrative procedures, as revised by the committee, that accompany this memorandum.

Staff's Application of the Test and Definition of Normal Working Hours

Staff has applied the Board approved test and definition of normal working to the master list of pay items and has determined that the designation of the following pay items should be modified from "pensionable" to "non-pensionable" and employers should no longer deduct employee contributions on these pay items.

Specific Pay Items Excluded from Compensation Earnable:

- County of Orange
 - Attorney Special Duty Pay¹ - AS

¹ OCERS staff believes that the Attorney Special Duty Pay received by County of Orange attorneys associated with preparation for conducting parole hearings may be pensionable as skills-based services performed during normal working hours. However, in order to be recognized as pensionable, OCERS requires that the pay be reported to OCERS as a separate and distinct pay item. The items of pay other than pay for preparation for conducting parole hearings that are currently included in Attorney Special Duty Pay, including Search Warrant Duty Pay, Parole Hearing Travel Time, Juvenile Hotline Assignment Pay, County Counsel Juvenile Warrant and Emergency Petition Assignment Pay, are pay for additional services rendered outside of normal working hours and are therefore non-pensionable, and should no longer be reported under the Special Duty Pay code.

- Sheriffs Canine Pay² - K9PAY
- On Call Pay - OC
- Orange County Fire Authority
 - On Call Pay - OC
- Transportation Corridor Agencies
 - Stand-By Statistical - SB
- City of San Juan Capistrano
 - On Call Pay - OC
- Sanitation District
 - On Call Pay - OC
- Superior Court
 - On Call Pay - OC

Recommendations:

- 1. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED PENSIONABLE DESIGNATION OF THE FOLLOWING PAY ITEMS AS A RESULT OF STAFF’S APPLICATION OF THE TEST AND DEFINITION OF NORMAL WORKING HOURS, AND FIND THESE PAY ITEMS ARE NOT PENSIONABLE:**
 - a. County of Orange: Attorney Special Duty Pay³, Sheriffs Canine Pay and On Call Pay
 - b. Orange County Fire Authority: On Call Pay
 - c. Transportation Corridor Agencies: Stand-By Statistical
 - d. City of San Juan Capistrano: On Call Pay
 - e. Sanitation District: On Call Pay
 - f. Superior Court: On Call Pay

- 2. THE GOVERNANCE COMMITTEE RECOMMENDS THE BOARD APPROVE REVISIONS TO THE FOLLOWING POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE TO REFLECT THE APPROVED TEST AND DEFINITION OF NORMAL WORKING HOURS:**
 - a. Compensation Earnable Policy
 - b. Pensionable Compensation Policy
 - c. Pay Item Request and Approval Procedures for Employers
 - d. Employer Pay Item Request Form
 - e. Compensation Earnable and Pensionable Compensation Determination OAP
 - f. Final Average Salary Calculation OAP

² This is compensation for canine maintenance at one and one-half times the regular rate of pay for 30 minutes per day, seven days a week, whenever the police service dog is kenneled at the handler’s residence.

³ With the exception of pay for preparation for conducting parole hearings, provided the County reports this pay to OCERS as a separate and distinct item of pay. See footnote 1, above.

3. STAFF RECOMMENDS THE BOARD DIRECT STAFF TO:

- a. Recalculate retirement allowances prospectively excluding the pay items listed in Recommendation #1, above, from compensation earnable for any payee with a benefit effective date of January 1, 2013 through October 1, 2020^{4,5};
- b. Recover overpayments made to such payees between January 1, 2013 and October 1, 2020 by offsetting the overpayments against any over-collected employee contributions during that period.⁶ Any remaining overpayments made between January 1, 2013 and October 1, 2020 will be recovered via the actuarial valuation process⁷;
- c. Credit/refund overpaid employee contributions that are remaining after being offset against the overpayments in 3.b., above, to the payees, if applicable;
- d. Credit/refund any overpaid employee contributions made between January 1, 2013 and October 1, 2020 to non-payees (i.e., active and deferred members) as of October 1, 2020; and
- e. Collect overpayments made between October 1, 2020 and the date of the benefit recalculation in 3.a., above, from the payee in accordance with OCERS' Overpayment/Underpayment of Plan Benefits Policy.

Submitted by:



SD - APPROVED

Steve Delaney
Chief Executive Officer

⁴ These pay items were excluded from compensation earnable for payees whose benefits commenced on and after October 1, 2020 pursuant to the Board's discussion on August 17, 2020.

⁵ Once the excluded pay items are removed from the calculation of final average salary, staff will determine for each payee whether there is a different period of earnings that is higher; and if so, staff will make an adjustment to the payee's measuring period.

⁶ Interest will not be added to overpayments made from January 1, 2013 through October 1, 2020.

⁷ The actuarial valuation process for recovering overpayments means that any remaining overpayments from 3.b., above, will be recovered from the employers by continuing to recognize the overpayments as part of the employers' unfunded actuarial accrued liability (UAAL).

Submitted by:



SJ - APPROVED

Suzanne Jenike
Assistant CEO, External Operations

Attachments:

A-2ab Compensation Earnable Policy clean

A-2ab Compensation Earnable Policy redline

A-2bb Pensionable Compensation Policy v2 clean

A-2bb Pensionable Compensation Policy v2 redline

A-2cb Pay Item Request and Approval Procedures for Employers v2 clean

A-2cb Pay Item Request and Approval Procedures for Employers v2 redline

A-2db Employer Pay Item Request Form v2 clean

A-2db Employer Pay Item Request Form v2 redline

A-2eb Compensation Earnable Pensionable Compensation Determination OAP v2 clean

A-2eb Compensation Earnable Pensionable Compensation Determination OAP v2 redline

A-2fb Final Average Salary Calculation Procedure OAP v2 clean

A-2fb Final Average Salary Calculation Procedure OAP v2 redline

A-2g Proposed OCERS Action in Response to Alameda County Employees' Retirement Association

A-2h LTR - OCERS Special Duty Pay 4.13.21

A-2i Letter from Larry Brennler

A-2j Letter from Grant Fry



**Alameda Decision Implementation
Project Update
October 17, 2022**

Suzanne Jenike
Assistant CEO



Alameda Decision Implementation Project Review of Board Directives

OCERS Board directed staff to take the following steps to implement the Supreme Court decision in *Alameda* effective July 15, 2021:

For impacted Active & Deferred Members

- **Refund** the contributions, plus interest, paid by the member on pay items deemed non-pensionable as a result of *Alameda*, as of January 1, 2013, directly to the member.



Alameda Decision Implementation Project Board Directives (continued)

For impacted Retired Members (and Payees)

- **Recalculate** their benefit payments prospectively to exclude the benefit derived from any *Alameda* excluded compensation; AND
- **Offset** overpaid benefits from over-collected contributions paid by the member on excluded compensation. Over collected contributions are contributions made to the plan from 1/1/2013 through 10/1/2020 for excluded pay items.
- **Refund** any excess contributions, after offsetting overpaid benefits, directly to the member; AND
- **Recover** overpaid benefits which were paid to member from October 1, 2020, if any to the upcoming date of recalculation directly from the member in accordance with OCERS' Overpaid/Underpaid Benefits policy.



Alameda Decision Implementation Project Project Summary

Project is “on track” overall

- ✓ Completed accurate member contributions & interest refund calculations, including data validation, testing and review by system actuary.
- ✓ On track to complete processing of active & deferred member contributions & interest refunds by end of the year.
- ✓ Benefit recalculations have begun starting the three highest impacted retired **general** members.
- ✓ Contract resources have been added to assist with benefit recalculations due to staff constraints.
- ✓ Communications Plan is on target in providing timely and regular updates to members and stakeholders.
- ✓ Maintaining thorough project documentation of datasets, processes, calculations, testing, risks and decisions.



Alameda Decision Implementation Project Current Challenges

- Processing new retirement applications and recalculating retirement benefits for over 630 members who retired in May and June with base FAS
 - Remaining 197 recalculations to be completed by December 1.
- *Alameda* recalculations involve time-consuming manual calculations.
- Project staff resources (Members Services, Finance and IT) balancing multiple projects and priorities:
 - V3 system build to implement W4–P and FAS calculation for part-time and members with less three yrs. of service
 - Upcoming year-end processes (1099, actuarial valuation, etc.)
- Hired/promoted and training 16 staff members and in the process of hiring six more by December 31.
- Projecting high number of retirements in 2023 similar to 2022.



Alameda Decision Implementation Project Recent Accomplishments

- **Member Contributions & Interest Refunds**

- Impacted Active & Deferred Member**

- Member contribution refund notification letters and election forms for payment or rollover were sent to 1,728 active and deferred members impacted by *Alameda*. OCERS has received over 809 forms and has followed-up with members who have not responded.
 - On track to process the refunds either by check or rollover by December 2022.
 - 899 Active members who are due refunds of less than \$75 will receive their refunds through their employer, as approved by the Board. (by end of the year)
 - Completed testing of contributions & interest import file to automate adjustments to Participant Accounts in V3 and payment disbursement.

- Impacted Retired Members**

- For three highest impacted retired general members that have been recalculated, began offsetting any overpayments with over-collected member contributions and refunding any remaining balance prior to the end of the year.



Alameda Decision Implementation Project Recent Accomplishments (cont'd)

- **Benefit Recalculations**

Impacted Retired Members (and Payees)

- Validated data for the *Alameda* recalculation population.
- Developed comprehensive process and procedures as well as excel tool to perform the recalculations and train OCERS and contract staff.
- Completed recalculation of benefits, overpayments and contribution offsets for the three highest impacted general members and notified them of their recalculated benefits effective October 1, 2022.
- Started benefit recalculations on the three highest impacted **safety** members for effective date of November 1, 2022.

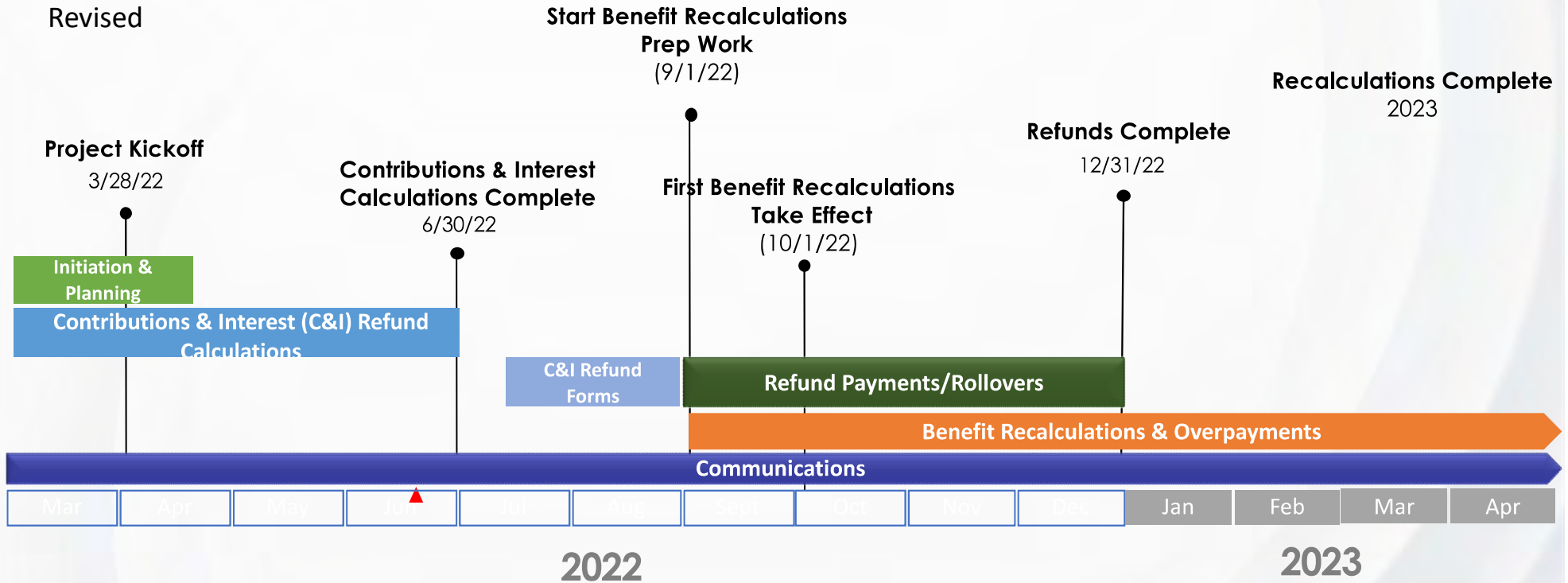


Alameda Decision Implementation Project Look Ahead

- Complete processing of contributions & interest refund payments/rollovers by December 2022 for impacted active and deferred members.
- For retired members with retirement effective dates on/after September 1, 2020 that do not require benefit recalculations, process their contributions & interest refunds through the retirement benefit payment process as a lump sum payment by December 2022.
- Continue performing three *Alameda* benefit recalculations per month for the next three months, while completing the remaining regular benefit recalculations from the May and June retirements.
- Evaluate progress and processing time of *Alameda* benefit recalculations at the end of the three month period to determine next steps and additional resource needs.



Alameda Decision Implementation Project Project Timeline





Questions

Q & A



Active & Deferred Members Contribution & Interest Refunds

Members Receiving Refunds					
Range_of_Refund	Total Member Count	Total Contribution Refund	Total Interest Refund	Total Dollar Refund	Avg Refund
\$0.00 to \$75.00	1006	\$ 17,643	\$ 4,920	\$ 22,563	\$ 22
\$75.01 to \$100.00	97	\$ 6,603	\$ 1,837	\$ 8,440	\$ 87
\$100.01 to \$500.00	655	\$ 130,300	\$ 36,204	\$ 166,504	\$ 254
\$500.01 to \$1,000.00	267	\$ 144,590	\$ 37,708	\$ 182,297	\$ 683
\$1,000.01 to \$2,000.00	142	\$ 159,709	\$ 40,806	\$ 200,515	\$ 1,412
\$2,000.01 to \$3,000.00	92	\$ 186,611	\$ 43,917	\$ 230,528	\$ 2,506
\$3,000.01 to \$4,000.00	69	\$ 192,565	\$ 47,428	\$ 239,993	\$ 3,478
\$4,000.01 to \$5,000.00	49	\$ 176,393	\$ 45,365	\$ 221,758	\$ 4,526
\$5,000.01 to \$7,500.00	95	\$ 466,834	\$ 113,422	\$ 580,256	\$ 6,108
\$7,500.01 to \$10,000.00	35	\$ 237,643	\$ 63,442	\$ 301,086	\$ 8,602
\$10,000.01 to \$20,000.00	86	\$ 951,655	\$ 259,794	\$ 1,211,449	\$ 14,087
\$20,000.01 to \$30,000.00	20	\$ 397,358	\$ 108,523	\$ 505,880	\$ 25,294
\$30,000.01 to \$40,000.00	5	\$ 140,233	\$ 36,998	\$ 177,231	\$ 35,446
\$40,000.01 to \$50,000.00	4	\$ 135,874	\$ 39,294	\$ 175,168	\$ 43,792
\$50,000.01 to \$75,000.00	3	\$ 155,502	\$ 43,658	\$ 199,160	\$ 66,387
\$75,000.01 to \$100,000.00	1	\$ 67,969	\$ 18,260	\$ 86,230	\$ 86,230
\$100,000.01 to \$120,000.00	1	\$ 79,980	\$ 22,102	\$ 102,081	\$ 102,081
Totals	2627	\$ 3,647,462	\$ 963,676	\$ 4,611,139	

Note: 899 Active members under \$75.00 are being refunded by their Employer



UPDATED

Estimated Breakdown of Benefit Corrections for Retirees

Range of Reduction	Main Retiree	Attorney Retiree	High Dollar Impact	Beneficiary	DRO	Totals	Total Monthly Reduction	Avg. Monthly Reduction
\$0.01 and \$10.00	286	3	0	10	33	332	\$842	\$2
\$10.00 and \$50.00	81	15	0	1	5	102	\$2,451	\$24
\$50.00 and \$100.00	35	9	0	1	2	47	\$3,225	\$69
\$100.00 and \$500.00	73	21	0	3	3	100	\$21,639	\$216
\$500.00 and \$1,000.00	43	0	0	0	2	45	\$31,698	\$704
\$1,000.00 and \$2,000.00	0	0	22	0	0	22	\$27,245	\$1,238
\$2,000.00 and \$3,000.00	0	0	5	0	0	5	\$12,023	\$2,405
\$4,500.00 and \$5,500.00	0	0	2	0	0	2	\$9,952	\$4,976
Totals	518	48	29	15	45	655	\$109,076	

- Of the total payees, 481 would see less than \$100 a month impact.

may be removed therefrom as a result of any subsequent judicial determination, except that a county of the first class and a recognized employee organization may agree only through a memorandum of understanding to exclude the item of remuneration from "compensation earnable" or the Board of Supervisors may adopt a resolution excluding the item of remuneration from "compensation earnable" with respect to nonrepresented employees.

(d) This section shall not be operative in the county until the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 1, Effective October 13, 2001, as an urgency statute)

§31461.5. Executive and Unclassified Management Operational Incentive Plan; exclusion from retirement benefits

Notwithstanding any other provision of law, salary bonuses or any other compensation incentive payments for regular duties or for additional services outside regular duties received under the program known on April 1, 1997, as the Executive and Unclassified Management Operational Incentive Plan or any successor program that is substantially similar by any members who are in positions identified as executive or unclassified management shall be excluded from all retirement benefit calculations.

(Added by Stats. 1998, Ch. 129 (SB 1789), Sec. 1)

§31461.6. "Compensation earnable" defined

(a) "Compensation earnable" shall not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2000, Ch. 966 (AB 2331), Sec. 3)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 6)

§31462. "Final Compensation" defined

(a) "Final compensation" means the average annual compensation earnable by a member during any three years elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the three years immediately preceding his or her retirement. If a member has less than three years of service, his or her final compensation shall be determined by dividing his or her total compensation by the number of months of service credited to him or her and multiplying by 12.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system.

(Amended by Stats. 1969, Ch. 416, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 7)

§31462.05. Determination of "final compensation"

(a) For a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system, "final compensation" as defined in Section 7522.32 shall apply.

(b) If a member has less than three years of service, that member's final compensation shall be determined by dividing the total compensation by the number of months of service credited to the member and multiplying by 12.



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Frank Eley, Board Chair
SUBJECT: **ANNUAL CEO COMPENSATION**

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. 2022 Business Plan
4. Blank CEO Evaluation Form
5. Steve Delaney Compensation History
6. CEO Salary Comparison 2022 - Updated



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.

A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

08/19/19

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.

A handwritten signature in blue ink that reads "Steve Delaney".

03/18/19

Steve Delaney
Secretary of the Board

Date

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

2022
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

2022-2024 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. Complete Investment Consultants procurement process

Objective B: Prudent Use and Security of Resources

Executive Lead – Molly Murphy

1. Initiate Custodial Bank Services RFP preparation

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. Create comprehensive overview of applicable Memorandum of Understandings (MOU) (\$25,000)
2. Continue to Enhance Cross Training for Member Services Team
3. Continue Evaluation of Existing Forms & Letters
4. Investigate options of enhancing the online calculator to provide disability estimates
5. Evaluate Options for New Imaging System for Member Document Repository and implement if appropriate (\$250,000)

Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update website to enhance disability related FAQs and include a white board video that counsels on the disability application process.
2. Investigate options for communicating OCERS news via email.

3. Continue to create videos, both in-house and white board (\$25,000)
4. Evaluate options for transition *At Your Service* newsletter to be electronic for active/deferred members and only send hard copies to retirees.

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

Executive Leads – Brenda Shott and Suzanne Jenike

1. Investigate options for enhanced member survey platform (\$10,000)
2. Investigate creating a triage process for disability applications allowing the independent medical examination to be foregone if allowable.
3. Identify, develop and implement V3 Data Validation and Clean Up procedures (\$10,000)
4. Issue a RFP for next generation pension administration system (\$200,000)
5. Execute a pilot project for the use of Robotic Process Automation to streamline routine task (\$350,000)
6. Complete implementation and post-implementation of new ERP/Accounting Software system (\$42,500)
7. Conduct LEAN process on the investment reporting function (\$10,000)
8. Procure and implement a new helpdesk solution for internal use (\$100,000)

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. Continue to develop and enhance information security policies (year two)
3. Develop and enhance information technology policies (year one of two)
4. Develop executive dashboard and security strategy document to enhance communication of Information Security program
5. 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. Replace Web Application Firewalls (\$180,000)
2. Continue Phased Implementation of Microsoft 365 (\$100,000)

Objective C: Ensure Compliance with Industry Frameworks and Best Practices

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement an Information Security Governance, Risk & Compliance system (\$50,000)
2. Complete a data classification study (year two) (\$100,000)

Objective D: Provide a Robust Business Continuity Solution

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Review implementation of mail services using a 3rd party vendor (\$25,000)
2. Expand the Disaster Recovery and Business Continuity Plan and semi-annual exercise as it relates to remote data recovery

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

Executive Lead – Brenda Shott

1. Continue to investigate and evaluate long-term options for OCERS headquarters
2. Replace Roof on Existing OCERS Headquarters (\$110,000)

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 rewrite where appropriate classification specifications and compensation ranges of County level team members (\$35,000)

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 (\$50,000)
2. Develop a comprehensive standardized library of business processes and procedure manuals across the organization (\$330,000)

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

Executive Lead – Steve Delaney

1. Continue to implement strategies that promote an inclusive workplace (\$47,000)

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. Delegated Authority with regard to Investments and the creation of the Board’s Personnel Committee have both been positive initiatives of Board Governance implemented in recent years. Possible Board review of overall best in class governance continues to be an issue for consideration, but likely in 2023.

Objective B: Improve the Governance and Management of OCERS’ Records (multi-year)
Executive Lead – Gina Ratto

1. Implement a Records Management Program that reflects best practices and identifies appropriate retention periods for each category of OCERS records
2. Establish, include within the Records Management Program, and implement (using Microsoft 365) the default rules for automated archival and automated destruction of electronic mail, with limited exceptions from the default rules (e.g., for litigation holds)
3. Establish a process to export and save electronic mail in an alternative format (PDF preferably) for longer retention and in

accordance with the retention period for underlying record category

4. Develop and adopt an Implementation Plan for the Records Management Program
5. Systematically bring each department within OCERS into compliance with the Records Management Program
6. Establish procedures to maintain and audit compliance with the Records Management Program



ORANGE COUNTY EMPLOYEES RETIREMENT
SYSTEM
www.ocers.org

Chief Executive Officer 2022 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 2022 Performance Evaluation

OCERS is committed to providing secure retirement and disability benefits with the highest standards of excellence. We are a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship. Our values are: Open and transparent; Commitment to superior service; Engaged and dedicated workforce; Reliable and accurate; Secure and sustainable.

- 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):

Please remember to save your changes before closing this form.

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 OCERS 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

Comments:

3. Risk Management

Comments:

4. Talent Management

Comments:

5. Direction and oversight of benefit administration.

Comments:

6. Direction and oversight of the investment program.

Comments:

7. Direction and oversight of internal operations.

Comments:

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

Comments:

9. Addressing exigent situations that arose during the year.

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).

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.

Comments:

12. Overall Performance Rating Comments

COMPETENCY RATING SUMMARY

_____ /10 = _____

14. Please add any performance evaluation criteria to focus on for the CEO's 2023 performance here.

Comments:

Please remember to save your changes before closing this form.

12-12-2022 REGULAR BOARD MEETING - A-5 Annual CEO Compensation

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
2022	12/31/2021	5%	\$14,868	\$312,202.8	\$5,946.70	5.0% Annual Salary Adjustment & 2.0% Lump sum - 2021 Performance Evaluation	\$0	\$24,909.02	\$4,500	\$347,559
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 1/9/2015	\$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	8%	\$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
2022	5%	\$15,610	3%	\$9,366	\$24,976	\$372,535
2021	5%	\$14,867	3%	\$8,920	\$23,787	\$355,343
2020	5%	\$14,434	3%	\$8,660	\$23,094	\$345,384
2019	5%	\$14,013	3%	\$8,408	\$22,421	\$336,920
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	\$265,619
2011	5%	\$10,190	3%*	\$6,114	\$16,304	\$224,602
2010	5%	\$9,356	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 2,765 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
7/1/22 - 12/31/22	42.41%	\$129,424	2022	\$0	\$0	\$0
1/1/22 - 6/30/22	40.50%					
7/1/21 - 12/31/21	40.50%	\$117,105	2021	\$0	\$0	\$0
1/1/21 - 6/30/21	38.27%					
7/1/20 - 12/31/20	38.27%	\$106,406	2020	\$0	\$0	\$0
1/1/20 - 6/30/20	35.45%					
7/1/19 - 12/31/19	35.45%	\$95,641	2019	\$0	\$0	\$0
1/1/19 - 6/30/19	32.80%					
7/1/18 - 12/31/18	32.80%	\$91,301	2018	\$0	\$0	\$0
1/1/18 - 6/30/18	33.98%					
7/1/17 - 12/31/17	33.98%	\$87,749	2017	\$0	\$0	\$0
1/1/17 - 6/30/17	33.15%					
7/1/16 - 12/31/16	33.15%	\$87,491	2016	\$0	\$0	\$0
1/1/16 - 6/30/16	35.79%					
7/1/15 - 12/31/15	35.79%	\$90,359	2015	\$0	\$0	\$0
1/1/15 - 6/30/15	35.41%					
7/1/14 - 12/31/14	35.41%	\$84,445	2014	\$0	\$0	\$0
1/1/14 - 6/30/14	31.13%					
7/1/13 - 12/31/13	31.13%	\$71,840	2013	\$0	\$0	\$0
1/1/13 - 6/30/13	26.61%					
7/1/12 - 12/31/12	26.61%	\$62,669	2012	\$0	\$0	\$0
1/1/12 - 6/30/12	25.27%					
7/1/11 - 12/31/11	25.27%	\$49,085	2011	\$14,219	\$11,011	\$25,230
1/1/11 - 6/30/11	22.90%					
7/1/10 - 12/31/10	22.90%	\$41,379	2010	\$13,662	\$10,644	\$24,306
1/1/10 - 6/30/10	19.26%					
7/1/09 - 12/31/09	19.26%	\$34,679	2009	\$12,636	\$9,628	\$22,264
1/1/09 - 6/30/09	18.76%					
7/1/08 - 12/31/08	18.76%	\$32,874	2008	\$10,771	\$8,802	\$19,573
1/1/08 - 6/30/08	18.99%					

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
2022	\$312,203	\$30,923	\$129,424	\$12,176	\$12,082	\$4,500	\$24,909	\$4,953	\$531,170
2021	\$297,335	\$29,560	\$117,105	\$11,596	\$10,631	\$4,500	\$23,948	\$4,724	\$499,400
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

12-12-2022 REGULAR BOARD MEETING - A-5 Annual CEO Compensation

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	\$380,534
2012	\$241,592	\$19,327	\$62,659	\$4,784	\$10,735	\$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	\$258,782

*Separate & in addition to the County 401(a)

**No DCERS 401a contributions were made on the portion of salary that was added by eliminating auto allowance.

† Human Resources' 2008-2018 Salary CEO CIO Audit Total Compensation 2018
Updated 11/4/2019 L.Borker

12-12-2022 REGULAR BOARD MEETING - A-5 Annual CEO Compensation

2022 CEO Salary Comparison

Retirement System	Net Assets (\$Billion)	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 (OBP)/ Flexible Spending Dollars (FSA) or Additional Salary	**Est. Total - Base, Auto, Deferred Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
LACERA (County)	70.4	Salary set by the Board	\$447,976	\$725.00	\$8,700	LACERA 401(k) = 4% of salary LACERA 457(b) = 4% of salary	\$35,838	ER Picks up 9.08%	\$85,115	\$577,629	1/1/2022	Annual Optional Benefit Plan (OBP)/Flexible Spending Dollars (FSA) or Additional Salary = 19%. Cafeteria Allowance
San Bernardino CERA	13.4	\$245,273.60 - \$357,926.40	\$57,926.40	\$1,216.67	\$14,600.04	457(b) = SBCERA contribution 1x employee contribution, up to 1% 401(k) = SBCERA contribution 2x employee contribution, up to 8%	\$32,213	ER picks up full 5% (2% @ 55)	\$3,442	\$408,182	1/1/2022 (6.8% COLA increase)	Additionally Salary = \$1,040 FSA + 2,400 annual cell allowance
San Diego County ERA	14.4	\$191,776.00 - \$353,204.80	\$349,939	\$600	\$7,200	None	\$0	None	\$0	\$357,139	7/1/2022	5% flex credits
Alameda CERA	10.4	\$268,632 - \$319,821	\$316,098	\$691	\$8,292	457(b): \$20,500	\$20,500	Employer picks up total contribution	\$3,500	\$348,390	12/26/2021	
OCERS	21.0	Salary set by the Board	\$312,203	None	\$0	OCERS 401(a) = 5% of salary County 401(a) = 3% of salary	\$24,976	None	\$4,500	\$347,559	12/31/2021	Eligible for 170 Annual Leave Cashout (approx. \$25,517)
LACERS (City)	20.6	\$178,148 - \$315,768	\$322,074	\$500	\$6,000	None	\$0	None	\$0	\$328,074	7/1/2022	Contact Lin Lin noted that pending CAO will be \$322,074 (waiting on authorization) retroactive to 7/1/2022 No additional salary, no flex dollars. City pays \$1,649.86 medical/Dental \$44.60 monthly*
Contra Costa CERA	10.0	Salary set by the Board	\$297,880	None	\$0	457(b) = \$235 monthly	\$2,820	None	\$0	\$300,700	7/14/2022	
Sacramento CERS	12.5	\$215,376.96 - \$ 274,906	\$274,906	\$450	\$5,400	Up to 3% match	\$8,247	None	\$600	\$289,153	6/19/22 (COLA)	Employee has option of enrolling in a FSA, but it is voluntary/dependent on selected medical plan. County does not contribute toward it. OBP/FSA - 3.35% management differential (separate pay not included in annual salary) Column L = CEO receives \$25 per pay period (24x per year) into Retiree Health Savings Account
San Joaquin CERA	4.2	\$191,364.16 - \$232,604	\$232,604	\$585	\$7,020	457(b): 5% of salary	\$11,630	None	\$24,022	\$276,276	10/24/2022	Per Amy Bimmer (Classification Analyst) - 2022 net not yet published (\$4.2 billion = 2021) Additional \$923.96 bi-weekly may be used to purchase health insurances (i.e. med, dental, vision, life), applied to deferred comp account or taken as taxable income. For HDHP election, \$700/yr (Employee Only) or \$1400/yr (Employee + Dependent(s)) Employer contribution to HSA.
Sonoma CERA	3.50	\$205,163.90 - \$249,389.97	\$249,390	\$430	\$5,160	401(a): 3% salary	\$7,482	None	\$9,024	\$271,056	5/1/22 (COLA)	Additional Compensation - \$752/month (includes cash stipend & staff development allowance/reimbursement)
Kern CERA	5.4	\$181,067 - \$221,046	\$212,002	\$598	\$7,176	\$25,440	\$25,440	None	\$21,200	\$265,818	7/1/2022	Per Matt Henry = \$25,400.28 (includes 6% matching for participation in deferred comp) Annual Kern Flex = \$21,200.23
Los Angeles City Fire & Police ERs	31.3		\$315,768	None	\$0				\$6,000	\$321,768		Information reflected from 2021 as we did not hear back from them when 2022 information requested.

Additional Considerations:

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 (OBP)/ Flexible Spending Dollars (FSA) or Additional Salary	**Est. Total - Base, Auto, Deferred Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
County of Orange	Frank Kim	CEO	\$376,000	\$765	\$9,180	401(a) = 5% of salary	\$18,800	None	\$4,500	\$408,480	8/9/2022	
OCIA	Darrell Johnson	CEO	\$391,810	\$765	\$9,180	401(a) = 5% of base pay + \$25,000 annually	\$44,591	None	\$0	\$445,581	8/22/2022	Per HR contact: EE contribution paid 100% by employee. ER only pays full ER contribution CEO currently waives FSA (voluntary benefit) and OCIA does not contribute to it)
OCSO	James Herberg	General Manager	\$332,737	\$700	\$8,400	457(b) = \$11,000 annually	\$11,000	None	\$27,214	\$379,351	7/1/2021	Per contact: Laurie Klinger, additional salary = \$6,000 annual medical allowance + Investment Incentive Salary (\$1,250 + 6% of base salary) Steering Committee has begun annual performance evaluation process and discussions on recommendation for next annual increase, retro to July 2022.
OCERS	21.0	Salary set by the Board	\$312,203	None	\$0	OCERS 401(a) = 5% of salary County 401(a) = 3% of salary	\$24,976	None	\$4,500	\$347,559	12/31/2021	Eligible for 170 Annual Leave Cashout (approx. \$25,517)
OCFA	Brian Fennessy	Fire Chief	\$311,159	Uses OCFA vehicle	\$0	401(a) = 4.5% base salary	\$14,002	None	\$3,500	\$328,661	11/18/2021	Received \$20,000 non-base building "Discretionary Bonus" in 2021.
TCA	Samuel Johnson	CEO	\$275,000	\$765	\$9,180	401(a) = \$26,000 annually	\$26,000	100% employer paid	\$0	\$310,180	11/1/2020	Per Amy Potter, not participating; 2021 information reflected.
OC Superior Court	David Yamasaki	CEO	\$291,000	None	\$0	None	\$0	None	\$4,500	\$295,500	10/8/2021	

*Estimated amount assumes employee is receiving the full annual match on base salary.

**Estimated total includes Annual Base Salary, Annual Auto Allowance and Annual Deferred Comp.

This salary comparison may not include all pay incentives given. Information submitted by agency's human resources department.

2022 CEO Salary Comparison

OCERS Sr. Executive Salary Increases							
Effective January 1, 2023							
Name	Anticipated 2023 Salary Range		Current Annualized Salary	Merit Percentage	Merit Award to be added to Base Salary	2023 Annual Base Salary (approximate)	Notes
Chief Investment Officer	\$ 308,617	\$ 478,356	\$ 450,000.10	6.3%	\$ 28,350.01	\$ 478,356.00	
General Counsel	\$ 214,969	\$ 333,203	\$ 317,034.02	5.1%	\$ 16,168.74	\$ 333,202.76	
Steve Delaney	Set by Board	Set by Board	\$ 312,202.59	TBD	TBD	TBD	
Assistant CEO	\$ 186,021	\$ 288,331	\$ 274,340.14	5.1%	\$ 13,991.35	\$ 288,331.00	
Assistant CEO	\$ 186,021	\$ 288,331	\$ 274,340.14	5.1%	\$ 13,991.35	\$ 288,331.49	



Memorandum

DATE: December 12, 2022
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 12th meeting.

With OCERS now returning to full service as COVID begins to recede, they will share thoughts and comments on what challenges our retired members have faced through 2022 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 12, 2022
 TO: Members of the Board of Retirement
 FROM: Shawn Dewane, OCERS Board Chair (2023)
 SUBJECT: **2023 OCERS BOARD COMMITTEE ASSIGNMENTS**

Background/Discussion

I would like to thank my fellow OCERS Board Trustees for their input regarding committee assignments in 2023. I appreciate your flexibility and willingness to serve where needed:

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

- Tried to fulfill each Board member’s stated committee preference(s) where possible
- Tried to have each Board member assigned to at least one committee
- Continued the practice of appointing a Vice Chair for all committees (should the Chair be absent)
- Continued the practice of alternating elected and appointed members as Investment Committee Chair and Investment Committee Vice Chair

The 2023 OCERS Board of Retirement committee assignments are as follows:

INVESTMENTS

Ms. Tagaloa- Chair
 Mr. Packard - Vice Chair
 All other Trustees of the OCERS Board serve as members of the Investment Committee

BUILDING

Mr. Lindholm - Chair
 Mr. Prevatt - Vice Chair
 Mr. Hidalgo
 Mr. Vallone

AUDIT

Mr. Oates - Chair
 Mr. Packard - Vice Chair
 Ms. Tagaloa
 Ms. Freidenrich

DISABILITY

Mr. Oates - Chair
 Mr. Packard – Vice Chair
 Mr. Hilton
 Mr. Vallone (alternate)

GOVERNANCE

Mr. Prevatt - Chair
Mr. Hidalgo - Vice Chair
Mr. Oates
Ms. Freidenrich

PERSONNEL

Mr. Packard - Chair
Mr. Hilton - Vice Chair
Mr. Dewane
Mr. Prevatt

My thanks to each of you and best wishes for a successful 2023 for this Board of Retirement.

Submitted by:
Shawn Dewane

Approved by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **COVID-19 UPDATE**

Presentation

I will provide a verbal update of any timely COVID-related information items to the Board on December 12.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

*Orange County Employees Retirement System
Retirement Board Meeting
December 12, 2022
Application Notices*

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
ABOLFATHI, RAMIN	Sheriff's Dept	10/7/2022
AMIN, SHOLEH	Social Services Agency	10/7/2022
ARCHAMBAULT, HEATHER	Fire Authority (OCFA)	10/1/2022
AROSTEGUY-BROWN, LISA	OCTA	10/3/2022
BACH, ANGIE	Social Services Agency	10/21/2022
BEYNON, BRUCE	OCTA	10/8/2022
BURR, CONSUELO	Social Services Agency	10/21/2022
CARRIER, RICHARD	Transportation Corridor Agency (TCA)	10/15/2022
DELGADO PEREZ, CARLOS	Superior Court	10/11/2022
DOURBETAS, NICK	District Attorney	10/20/2022
DRENNAN, TERRI	Sheriff's Dept	10/7/2022
EITNER, ROBERT	Probation	10/21/2022
EITNER, ROBERTA	Probation	10/21/2022
ESPARZA, ROSALIE	OC Community Resources	10/7/2022
FAULKNER, KATRINA	OCTA	10/15/2022
FORD, DONNA	Auditor Controller	10/20/2022
FUCHS, DALE	OCTA	10/9/2022
GARCIA, OFELINA	Social Services Agency	10/7/2022
GREENGAUER, RICHARD	City of San Juan Capistrano	9/2/2022
GRIMSLEY, CHERYL	Social Services Agency	10/7/2022
GUILLEN, CONNIE	Social Services Agency	10/1/2022
HACKER, CAROLYN	Superior Court	10/12/2022
HO, MAI	Social Services Agency	10/7/2022
HOFFMAN, STEVEN	Sheriff's Dept	9/9/2022
KALIBAN, DAWN	District Attorney	9/24/2022
LE, TOAN	OCTA	9/25/2022
LEWIS, DEMETRA	District Attorney	10/4/2022
LINGREN, LAWRENCE	Health Care Agency	10/21/2022
MANCONI, FLAVIA	Superior Court	10/7/2022
MCKEE, MARY	Health Care Agency	10/7/2022
MCWILLIAMS, RANDY	Sheriff's Dept	9/4/2022
MORALES, BLANCA	Assessor	10/7/2022
PASTER, RORY	OC Public Works	10/7/2022
RENERIA, MARY	Probation	9/16/2022
ROBLES, RABINDRANATH	OCTA	10/18/2022
SCHARFF, GERALDINE	Social Services Agency	10/15/2022
TRAN, HIEN	Social Services Agency	10/21/2022
TRAN, HUONG	OC Community Resources	10/7/2022
WAGNER, KIMBERLY	Sheriff's Dept	10/21/2022
WHITE, GREGORY	Auditor Controller	10/21/2022
WU, JOHN	Sheriff's Dept	10/5/2022

*Orange County Employees Retirement
Retirement Board Meeting
December 12, 2022
Death Notices*

<i>Retired Members</i>	<i>Agency/Employer</i>
ALONZO, SALVADOR	Cemetery District
BERNATZ, JOAN	Social Services Agency
BOSBONIS, STEPHEN	OCTA
BROWN, GREGORY	Sheriff's Dept
BUSHNELL, MARVIN	City of San Juan Capistrano
CHAVARIN, JOSEPH	Social Services Agency
DAVIS, CAROL	Child Support Services
DE LEON, DANIEL	Assessor
EVANS, DEA	Probation
FOSTER, JOHN	Child Support Services
HALCOMB, JOHN	Fire Authority (OCFA)
HILL, MICHAEL	Sheriff's Dept
HOLMS, ANNE	Child Support Services
HYNDS, JAY	Probation
LOGALBO, GARY	District Attorney
LOPES, RALPH	Child Support Services
MARWIN, JOHN	Sheriff's Dept
MCNELLY, PATRICK	Sanitation District
MEINHARDT, PATRICIA	UCI
PLATT, ESTHER	Fire Authority (OCFA)
RILEY, JAMES	Probation
RUSSELL, PATRICIA	Sheriff's Dept
SCHOOLER, JAMES	Health Care Agency
SEAVER, SUSANN	Child Support Services
SHUTT, DONNA	Child Support Services
SOLLIDAY, BARBARA	Child Support Services
TAFT, KIMBERLY	Social Services Agency
TIMBOE, RICHARD	Sheriff's Dept
WAGNER, KAREN	Health Care Agency
WALCOTT, ELIZABETH	County Executive Office (CEO)
WALSH, MARGARET	Health Care Agency
WATSON, KENNETH	Fire Authority (OCFA)
WHITE, BONNIE	OCTA

<i>Surviving Spouses</i>	
HAECKEL, MARY	
KIA, MASSY	
NAGLE, ROBERT	
PRIGMORE, LYOLA	

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

**BUILDING COMMITTEE MEETING
Monday, March 14, 2022
2:00 P.M.**

Members of the Committee

Wayne Lindholm, Chair
Chris Prevatt, Vice Chair
Charles Packard
Frank Eley

MINUTES

Chair Lindholm called the meeting to order at 2:03 p.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

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

Present: Wayne Lindholm, Chair; Chris Prevatt, Vice Chair; Charles Packard; Frank Eley

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Anthony Beltran, Visual Technician; Brittany Cleberg, Recording Secretary

Guests via Zoom: Cushman & Wakefield: Lars Platt; Robert Lambert; Brian Booth

CONSENT AGENDA

MOTION by Eley, **seconded** by Prevatt, to approve staff's recommendation on all of the following items on the Consent Agenda:

C-1 COMMITTEE MEETING:

Building Committee Meeting

August 13, 2021

Recommendation: Approve minutes.

The motion passed **unanimously**, pursuant to a Roll Call vote, as follows:

AYES

NAYS

ABSTAIN

ABSENT

Mr. Eley

Mr. Packard

Mr. Prevatt
Chair Lindholm

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

Mr. Packard arrived at 2:10 p.m.

A-2 OCERS FUTURE HEADQUARTERS BUILDING

Presentation by Lars Platt, Robert Lambert, & Brian Booth, Cushman Wakefield and Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

After discussion by the Committee, **MOTION** by Prevatt, **seconded** by Packard, to recommend that the Board of Retirement approve the issuance of an RFP to develop the existing OCERS’ properties for the future use of a new OCERS headquarters and other best use of the properties.

The motion passed **unanimously**, pursuant to a Roll Call vote, as follows:

AYES

NAYS

ABSTAIN

ABSENT

Mr. Eley
Mr. Packard
Mr. Prevatt
Chair Lindholm

INFORMATION ITEMS

I-1 OCERS BUILDING COMMITTEE CHARTER

Discussion by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

Orange County Employees Retirement System
March 14, 2022
Building Committee Meeting – Minutes

Page 3

WRITTEN REPORTS

None

COMMITTEE MEMBER/CEO/CONSULTANT/COMMENTS

None

STAFF

Ms. Shott gave an update on the Board room audio visual equipment upgrade project. She anticipates the project will be completed by the May Board barring any further delays. The Board room will be operational in April if needed.

The meeting **ADJOURNED** at 3:27 p.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Committee

Wayne Lindholm
Chair

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

**SPECIAL BUILDING COMMITTEE MEETING
Friday, June 24, 2022
10:00 A.M.**

**MEETING LOCATION:
1551 N. TUSTIN AVENUE
SANTA ANA, CALIFORNIA**

Members of the Committee

Wayne Lindholm, Chair
Chris Prevatt, Vice Chair
Charles Packard
Frank Eley

MINUTES

Chair Lindholm called the meeting to order at 10:10 a.m.

Attendance was as follows:

Present: Wayne Lindholm, Chair; Chris Prevatt, Vice Chair; Charles Packard; Frank Eley

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations

Guests: Cushman & Wakefield: Robert Lambert

AGENDA

10:00 A.M. -- TOUR AND DISCUSSION OF 1551 N. TUSTIN AVE., SANTA ANA, CA

10:45 A.M. -- TOUR AND DISCUSSION OF 400 N. TUSTIN AVE., SANTA ANA, CA

11:30 A.M. -- TOUR AND DISCUSSION OF 1251 E. DYER ROAD, SANTA ANA, CA

COMMITTEE MEMBER/CEO/STAFF/CONSULTANT/COMMENTS

None

Orange County Employees Retirement System
June 24, 2022
Special Building Committee Meeting – Minutes

Page 2

The meeting **ADJOURNED** at 12:00 p.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Committee

Wayne Lindholm
Chair

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

**BUILDING COMMITTEE MEETING
WEDNESDAY, JULY 27, 2022
1:30 P.M.**

**MEETING LOCATION:
ORANGE COUNTY ADMINISTRATION NORTH BUILDING
400 WEST CIVIC CENTER DRIVE
SANTA ANA, CALIFORNIA**

Members of the Committee

Wayne Lindholm, Chair
Chris Prevatt, Vice Chair
Charles Packard
Frank Eley

MINUTES

Chair Lindholm called the meeting to order at 1:30 p.m.

Attendance was as follows:

Present: Wayne Lindholm, Chair; Chris Prevatt, Vice Chair; Charles Packard; Frank Eley

Also

Present: Brenda Shott, Assistant CEO, Internal Operations

AGENDA

1:30 P.M. -- TOUR AND DISCUSSION OF 400 WEST CIVIC CENTER DRIVE, SANTA ANA, CA

2:30 P.M. – TOUR AND DISCUSSION OF 601 NORTH ROSS STREET, SANTA ANA, CA

COMMITTEE MEMBER/CEO/STAFF/CONSULTANT/COMMENTS

None

The meeting **ADJOURNED** at 3:00 p.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Committee

Wayne Lindholm
Chair



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS (2023)**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

JANUARY

- Annual Disability Statistics
- Annual OCERS Innovations
- Annual Preview of “Year in Review”: Communication Plan
- Board Education Report
- Communication Policy Fact Sheet
- Form 700 Filing Requirements
- Receive Quality of Member Services Report (Tentative)
- Annual Information Security Summary (closed session)
- Quarterly Travel and Training Expense Report
- CIO Comments

FEBRUARY

- Annual Cost of Living Adjustment
- Initial STAR COLA Posting
- Annual Overpaid and Underpaid Plan Benefits Report
- Annual Policy Compliance Report
- Report Outcome of Prior Year Business Plan
- Annual Report of Contracts >\$100,000

MARCH

- STAR COLA Final Approval
- Quarterly 2023-2025 Strategic Plan Review
- Semi Annual Business Continuity Disaster Recovery Updates
- Quarterly Unaudited Financial Statements
- Quarterly Budget vs Actual Report
- CIO Comments

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: December 12, 2022
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 is finalized.

- An RFP for employee Classification and Compensation Review was released in July. This is to provide benchmarking to compare employee's total compensation versus similar internal and external positions. We re-released the RFP and received an additional Proposal. We are currently evaluating the final response.
- We sent out an RFP for Consulting Actuary Services in August. This RFP is to hire a qualified firm as a Consulting Actuary as our current contract with Segal has reached its maximum six-year term. We received four (4) proposals are currently evaluating those responses. A final vendor was selected and we are currently in contract negotiations.
- We sent out an RFP for Pension Administration Technology Futurist Consulting Services in August. This RFP is to hire a qualified firm to provide consulting services for the design and implementation of Vision 2030 as it relates to a new Pension Administration system. We received two Proposals that are being evaluated.



Memorandum

- We sent out an RFP for a Robotic Process Automation platform and associated services in September. This RFP is to hire a qualified firm to provide software and services to automate processes to increase productivity, efficiency, and accuracy. We received eight Proposals that we are currently evaluating.
- An RFP for Administrative Hearing Officer Services was released in October. Contracts for some of our current Hearing Officers are set to expire and so we must bid-out these services. The Proposals are due December 1.

Submitted by:



JD - Approved

Jim Doezie
Contracts, Risk and Performance Administrator



Memorandum

DATE: December 12, 2022
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 following news and informational item was provided by the CEO for distribution to the entire Board:

From Steve Delaney:

- NASRA News Clips
- Detail of ongoing challenge as San Diego City returns to Defined Benefit program:
"San Diego's price tag for lifting Prop. B pension cuts rises to nearly \$200 million"
<https://localtoday.news/ca/san-diegos-price-tag-for-lifting-prop-b-pension-cuts-rises-to-nearly-200-million-120012.html>

From Robert Kinsler:

- "Abu Dhabi wealth fund Mubadala Capital joins Capital Constellation group"
<https://www.pionline.com/sovereign-wealth-funds/abu-dhabi-wealth-fund-mubadala-capital-joins-capital-constellation-group>

Other Items: (See Attached)

1. Monthly summary of OCERS staff activities and updates, starting with an overview of key customer service metrics, for the month of October 2022.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status October 2022

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 October.

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received					2022 Customer Service Statistics						
Month	2019	2020	2021	2022	Month	Unplanned Recalculations	Member Satisfaction Approval Rate	Calls Received via Call Center	Calls Direct to Extension	Calls Received by Operator	Total Calls (monthly)
Jan	265	240	117	346	January	0	98%	3,004	5,402	1,060	9,466
Feb	193	152	91	153	February	0	98%	2,972	5,577	1,271	9,820
Mar	112	95	51	120	March	1	98%	2,666	4,951	845	8,462
Apr	41	37	39	47	April	0	98%	2,828	4,868	966	8,662
May	41	43	52	65	May	0	98%	2,313	4,414	776	7,503
Jun	50	59	49	73	June	1	98%	1,988	4,169	757	6,914
Jul	52	262	64	54	July	0	98%	2,098	3,977	652	6,727
Aug	61	190	59	58	August	0	98%	1,945	4,210	894	7,049
Sep	42	117	70	42	September	0	98%	1,554	3,755	537	5,846
Oct	59	51	67	70	October	0	98%	1,182	3,301	510	4,993
Nov	49	48	95		November						
Dec	68	66	93		December						
Grand Total	1033	1360	847	1028	Grand Total	2	98%	22,550	44,624	8,268	75,442

MEMBER SURVEY RESPONSE

“Your customer support team has done a wonderful job providing me with outstanding customer service and with great detail. They are truly an asset to OCERS organization.”

October 2022

“I wanted to thank your customer support representative for all the help. I had a question about my service credit purchase and they went out of their way to take the time to help me and complete my purchase. I really appreciate the effort as I was anxious about the cost and wanted to take care of this before I retire in a few months. Thank you again!”

September 2022

“I wanted to thank your OCERS customer support representative for helping me update my tax withholdings. They were extremely kind and professional.”

August 2022



Monthly Team Status October 2022

ACTIVITIES

HALLOWEEN AT OCERS

Hooray – The first Halloween event at OCERS post COVID was a happy occasion for all.



HEALTH FAIR OUTREACH

Ms. Erika Gonzalez of Member Services participated in the OCTA Health Fair on October 3rd, 7th, and 11th. Ms. Gonzalez reported there were 90-100 members each day, and she spoke to approximately 20-30 members per day/session during the 3-hour daily sessions. Question included age of retirement, when to retire, COLA impact, password resets, survivor benefits, payment options, logging in/registering in the self-service portal, impact of divorce, windfall effect, PEPR vs. Legacy, documents for retirement, and beneficiary updates. The OCTA Fair kept Ms. Gonzalez very busy, but she was helpful in providing answers to the various questions asked by our members.

AOCDs INFORMATION OUTREACH

On Wednesday, October 5, 2022, Mr. Robert Kinsler and Ms. Jayne Ritchey of the Communications Department hosted an information table at the Association of Orange County Deputy Sheriffs (AOCDs) headquarters in Santa Ana. Between the hours of 8 a.m. and 5 p.m. They had the opportunity to speak with approximately 50 OCERS members. This included members from the Sheriff's Department, District Attorney's Office, OC Parks and Probation Department. The OCERS team answered questions about the OCERS Member Portal and using



Monthly Team Status

October 2022

the Benefit Estimator, as well as using a laptop to demonstrate features on the OCERS website such as the Benefits Calculator and accessing employer-specific SPD documents.

COUNTY OF ORANGE INSTITUTES NEW TIMEKEEPING SYSTEM

Ms. Hockless reports:

Congratulations to Mr. John Nguyen and Ms. Melissa Wozniuk of the Human Resources Department, on their award as part of the OC Time implementation project team. They have done an outstanding job ensuring everyone is accurately paid and onboarded during the new timekeeping system transition.

They recently attended a luncheon at the County's Administration building, receiving an award on behalf of OCERS. The award was from the Board of Supervisors and signed by Chairman Doug Chaffee.

Thank you to Mr. Nguyen and Ms. Wozniuk. With their dedication, OCERS successfully transitioned to the new timekeeping system.

UPDATES

INVESTMENT TEAM

Mr. Beeson reports:

As of September 30, 2022, the portfolio year-to-date is down 11.2% net of fees, while the one-year return is down 7.0%. The fund value now stands at \$19.9 billion. The OCERS Investment Team closed on one new private equity fund and one new infrastructure fund during October. The OCERS Investment Team, together with OCERS' Finance Team, issued an RFP for Global Custody Services. The Investment Team drafted responses to questions that came in from potential RFP bidders in October. In preparation for the 2023 asset allocation study, the OCERS Investment Team and OCERS' Investment Consultants have been reviewing the asset class benchmarks across the OCERS portfolio. Finally, OCERS' Investment Team has continued to monitor the pacing plans for private markets given the declines in the public markets.

STAFFING UPDATE

Ms. Hockless reports:

In October, the Human Resources department extended offers and onboarded a total of three (3) new employees, promoted two (2) internal employees, and transferred one (1) employee to another department. One (1) Benefits Analyst filled a newly added Board approved position in the Member Services division. One (1) internal employee was promoted from Accountant/Auditor II to the position of Internal Auditor. The internal promotion filled a newly added Board approved position. The promotion created a backfill in the Finance department. The hiring manager filled this vacancy at the Accounting



Monthly Team Status

October 2022

Technician level, which is a cost-savings to the department. One (1) internal employee completed a lateral department transfer. The internal employee transferred from the Disability Manager position to the Member Services Manager position. There was no impact to the budgeted headcount, however, the department transfer created a backfill in the Disability department. The hiring manager will fill this vacancy at the Disability Coordinator level, which will be a cost-savings to the department. One (1) internal employee was promoted from Disability Retirement Investigator to the position of the newly vacant Disability Coordinator position. The promotion of the internal employee created a backfill for the Disability Retirement Investigator position.

At the time of this report, the department has received, reviewed, and processed over 1600 applications. This includes inviting over 165 candidates to participate in pre-employment testing, scheduling 228 interviews, hiring twenty-nine (29) new employees, and promoting fifteen (15) current employees. OCERS has 113 budgeted positions. As of October, there are a total of 99 employees on payroll and thirteen (13) vacancies. A total of fourteen (14) employees have separated from the agency. **The year-to-date turnover rate is estimated at 14%.** The turnover rate is the number of separated employees divided by the number of employees on payroll, multiplied by 100. **The current vacancy rate is 12%.** The vacancy rate is calculated by taking the number of vacant positions, multiplying that number by 100, and dividing that result by the total number of budgeted positions.

FINAL OCERS 2021 YEAR IN REVIEW

We wrapped up this year's outreach with meetings in October with the executive teams of the Sanitation Department, the Orange County Superior Courts, and the Orange County Employees Association. All were engaged, and appreciative of OCERS activities through the past year. The great 2021 earnings were very much appreciated, though our message was one of caution as 2022 does not appear to be turning out nearly as lucrative.



As a reminder, you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the December 12 meeting of the OCERS Board of Retirement.



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **Public Pension Coordinating Council (PPCC) Standards Award for Funding and Administration 2022**

Written Report

Background/Discussion

The Public Pension Coordinating Council (PPCC) is a coalition of three associations that represent public pension funds who cover the vast majority of public employees in the United States. The associations are the National Association of State Retirement Administrators (NASRA), the National Conference of Public Employee Retirement Systems (NCPERS) and the National Council on Teacher Retirement (NCTR).

The Public Pension Standards are intended to reflect minimum expectations for public retirement system management and administration, as well as serve as a benchmark by which all defined benefit public plans should be measured. The Standards are separated into the Administrative Standards and Funding Standard. A retirement system may qualify and receive a Recognition Certificate for either the Administrative or Funding Standard. A system that qualifies for both certificates will be awarded the PPCC Standards Award.

To qualify for the Recognition Award for Administration, the retirement system is assessed on the following administrative standards:

- Comprehensive Benefit Program
- Audit
- Actuarial Valuation
- Investments
- Communications

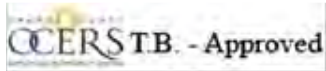
To qualify for the Recognition Award for Funding, the retirement system must meet the Funding Adequacy Standard by demonstrating that actual contribution rates are at a level equal or greater than 100% of the actuarially determined contribution (ADC).

PPCC has deemed OCERS to be proficient in both categories and has awarded OCERS with the Public Pension Standards Award for Funding and Administration in recognition of meeting professional standards for plan funding and administration as set forth in the Public Pension Standards as of December 31, 2021.

Attachment

Public Pension Standards Award for Funding and Administration 2022

Submitted by:



Tracy Bowman
Director of Finance



Public Pension Coordinating Council

***Public Pension Standards Award
For Funding and Administration
2022***

Presented to

Orange County Employees Retirement System

In recognition of meeting professional standards for
plan funding and administration as
set forth in the Public Pension Standards.

Presented by the Public Pension Coordinating Council, a confederation of

National Association of State Retirement Administrators (NASRA)
National Conference on Public Employee Retirement Systems (NCPERS)
National Council on Teacher Retirement (NCTR)

A handwritten signature in cursive script that reads "Alan H. Winkle".

Alan H. Winkle
Program Administrator



Memorandum

DATE: December 12, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer and
Brenda Shott, Assistant CEO, Finance and Internal Operations
SUBJECT: UPDATE: CONTRACT NEGOTIATIONS – SEGAL CONSULTING

Written Report

Background/Discussion

At the meeting on November 14, 2022, the OCERS Board of Retirement voted to approve a staff recommendation to approve “Segal as OCERS’ Consulting Actuary subject to contract negotiations”

Noting that the proposed contract value for the initial three years (2023-2025) totaled \$517,000 compared to \$470,500 for the runner-up, several Trustees remarked on the importance of negotiations and indicated an interest in hearing from staff as to the outcome of those negotiations.

This memo is to provide the Trustees with the results.

On November 22, 2022, Ms. Shott and I met via Zoom with the proposed Segal work team of Msrs Angelo, Tazner, and Young. Over the following hour, we held a vigorous yet professional discussion of Segal’s proposed terms.

Segal understandably started from the position of their costs reflecting the high-quality services they provide which led to our choosing their firm over the other respondents.

Asserting their prices are the same for all their clients, and noting they have not lost a client in many years, they confirmed OCERS is a “long-standing highly valued client” with nearly two decades of valuable work and experience between the two.

For that reason, and while assuring there are no “loss leaders” built into their pricing, the Segal team ultimately offered the following modifications to their original proposed contract:

The initial three-year contract total was reduced by \$20,000 to \$497,000.

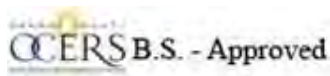


Memorandum

The hourly rate for the three primary Segal team members was reduced by \$10/hour each.

I accepted the terms as per the Board’s November 14 motion, with the understanding I will not sign the contract until I provided this update to the OCERS Board of Retirement.

Submitted by:



SD - Approved

Brenda Shott
Assistant CEO, Internal Operations

Steve Delaney
Chief Executive Officer