

OCERS Board Policy Hearing Officer Selection and Retention Policy

Purpose and Background

1. The purpose of the Hearing Officer Selection and Retention Policy (Policy) is to provide OCERS with procedures for the selection and retention of Hearing Officers who will conduct administrative hearings. The Board of Retirement (Board) is charged with the responsibility of administering the System in a manner to assure prompt delivery of benefits to plan participants and their beneficiaries. Selection of competent Hearing Officers must be made in a manner that ensures the due process rights of plan participants and their beneficiaries are met.
2. Pursuant to Government Code Section 31533, the Board may appoint either a member of the Board or a member of the State Bar of California to serve as a Hearing Officer in an administrative hearing. This Policy applies only to the appointment of members of the State Bar of California as Hearing Officers.

Policy Objectives

3. The objectives of the Hearing Officer Selection and Retention Policy are to:
 - a. Establish a process for the selection and retention of Hearing Officers that complies with the due process rights of plan participants and their beneficiaries;
 - b. Establish a process for the selection and retention of Hearing Officers that ensures only qualified, competent, and impartial Hearing Officers are appointed;
 - c. Establish a process for monitoring and evaluating Hearing Officers' performance so only qualified and competent Hearing Officers are retained after they have been appointed; and
 - d. Establish a process for the assignment of Hearing Officers to individual cases that ensures the due process rights of plan participants and their beneficiaries.

Roles and Responsibilities

4. The role of the Board of Retirement with respect to the selection of Hearing Officers is to:
 - a. Establish appropriate policies with respect to the selection and evaluation of Hearing Officers; and
 - b. Approve, upon the recommendation of the Hearing Officer Selection Panel (Panel), the appointment of qualified Hearing Officers.
5. The role of the Disability Committee with respect to the selection of Hearing Officers is to monitor compliance with this policy.
6. The Panel will consist of the Chief Executive Officer; the General Counsel; the Assistant CEO of External Operations; the Director of Member Services; and the Chair or Vice Chair of the Disability Committee and is responsible for:
 - a. Interviewing and recommending to the Board for its approval qualified Hearing Officers in conformity with the Selection Process set forth in this Policy.

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Qualifications

7. A Hearing Officer must be a member of the State Bar of California.

Factors for consideration when selecting Hearing Officers will include the following: past experience as an adjudicator (e.g., judge, judge pro tem, arbitrator etc.); and past experience in disability retirement, workers' compensation law, and all relevant provisions of the County Employees Retirement Law, as amended.

Selection Process

8. Request for Proposal (RFP)

- a. When the General Counsel determines that it is necessary to maintain a sufficient panel of Hearing Officers, they will initiate a Request for Proposal.
- b. The RFP may be published in major legal periodicals, journals, and bar association magazines. The RFP will also be posted on OCERS' website, social media platforms, law schools, and other related websites. In addition, the RFP will be sent to potential candidates that are brought to the attention of the General Counsel or have previously served as a Hearing Officer for OCERS.

9. Selection Process

- a. The General Counsel or their designee will collect and review responses to the RFP and refer the most qualified candidates to the Panel.
- b. The Panel will conduct interviews of the selected candidates. Interviews will be conducted in person or virtually. Writing samples, references, and other materials that would reflect the candidate's ability to perform the duties of a Hearing Officer will be evaluated. Based on the interviews the Panel will select candidates to recommend to the Board for appointment as Hearing Officers.

A list of candidates will be submitted to OCERS employers and employee labor groups who will be given a brief summary of the qualifications of the candidates. They will have fifteen (15) days to comment.

Hearing Officer Agreement

10. Each Hearing Officer will execute an Agreement for Hearing Officer Services (Agreement). The term of that Agreement will be for six (6) years and will allow for the termination of the Agreement by either party with cause.
11. The Agreement will terminate at the end of the six-year (6) term, however, the term may be extended for the Hearing Officer to complete any appeals that are not yet final (as defined by the OCERS Administrative Review and Hearing Policy). Upon expiration of the Agreement, the Hearing Officer is prohibited from reapplying to serve as a Hearing Officer for a period of two (2) years after the expiration of the previous Agreement.
 - a. The Agreement will contain a provision stating the Hearing Officer agrees they will be bound by OCERS' Administrative Review and Hearing Policy and their duties will be performed within the time frames set forth in the policy.

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- b. Each Agreement will contain a provision stating the Hearing Officer agrees they are subject to and bound by the provisions of subdivision D of Canon 6 of the Code of Judicial Ethics.
12. The Proposed Findings of Fact and Recommended Decisions issued by the Hearing Officer will be reviewed by the General Counsel or their designee to determine whether they are well-reasoned and logically apply the law to the facts of a given case. The General Counsel or their designee may evaluate any Hearing Officer during the term of the Agreement to determine if cause exists to terminate the Agreement. Cause for termination may include a finding by the General Counsel that the Hearing Officer has engaged in fraudulent billing practices, or disciplined by the State Bar of California, failing to maintain an active status with the State Bar of California, or for any other material breach of the Agreement.

Number of Hearing Officers

13. The General Counsel will maintain a panel of Hearing Officers sufficient to meet OCERS' needs.

Compensation

14. Before the issuance of any RFP the General Counsel will review the contracted rate of pay for OCERS' Hearing Officers and determine if that rate is competitive with rates paid for Hearing Officer services by other public retirement systems.
15. Based on this review, the General Counsel may recommend that the Board of Retirement consider modifications to the Hearing Officers' rate of pay.

Document Terms

16. For purposes of this policy, the term Hearing Officer shall have the same meaning as the term referee, as that term is used in the relevant sections of the California Government Code.

Policy Review

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

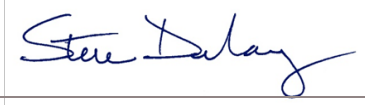
Policy History

18. This Policy was adopted by the Board on April 17, 2000. It was amended on February 22, 2005, and May 16, 2005; reviewed on June 18, 2007 with no changes; and amended on August 23, 2010, January 21, 2014, December 19, 2016, January 16, 2018, April 19, 2021, and June 17, 2024.

Secretary's Certificate

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

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Steve Delaney, Secretary of the Board

06/17/2024

Date