

# OCERS Board Policy

## Membership Eligibility Requirements

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### Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use as a basis for determining the eligibility of persons to be members of the System.

### Policy Objectives

2. All persons eligible to be members of the System who have not executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60) must be enrolled in the System. Conversely, persons ineligible for membership in the System must be excluded from membership. The objective of this Policy is to clarify existing law (Government Code sections 31550, et. seq.) and OCERS' regulations with respect to the persons who are eligible for membership in OCERS.

### Roles and Responsibilities

3. Each Participating Employer is responsible for determining, in accordance with this Policy, which of the Participating Employer's employees are eligible for membership in OCERS and is responsible for enrolling those eligible employees into OCERS membership.

### Policy Guidelines

4. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:

Any employee of the Participating Employer who is:

- a. Hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph 5 below.

5. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement; or
- b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or

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- c. Is hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 hours in every year, and is classified as “extra help” by the Participating Employer because he or she works in a position that:
  - i. Requires professional or highly technical skills for more than one year;
  - ii. Is designated “intern” for more than one year (entry level and consistent with the Participating Employer’s salary resolution or comparable classification scheme);
  - iii. Is designated “seasonal” for more than one year (works in less than seven calendar months per year); or
  - iv. Is designated “intermittent” for more than one year (works on an irregular, as-needed basis).

***Note: Per section 4(a), all employees hired with the expectation that they will work less than one year are properly excluded from OCERS membership for that year, regardless of how their position may be designated. If such employees ultimately work more than one year, they should be enrolled in OCERS membership if they work more than 1,040 hours per year (if not “extra help”) or more than 1,600 hours per year (if “extra help”).***

6. The Board may grant exceptions to the requirements of Paragraphs 4 and 5 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. For example:
  - a. The Board may consider an employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership; and
  - b. The Board may consider whether an employee’s work hours exceeded the relevant maximum due to administrative oversight.
7. When a Participating Employer fails to comply with the requirements of Paragraphs 4 and 5, and the Board does not grant an exception under Paragraph 6, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
8. For purposes of Paragraphs 4 and 5, the term “year” refers to a fiscal year or a calendar year, whichever is used by the Participating Employer for employment purposes.
9. A Participating Employer that temporarily employs an individual who (i) previously was the employee of a labor supplier with which the Participating Employer contracted, and (ii) would otherwise be excluded from OCERS membership under this Policy, will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case, but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.



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10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

## Policy Review

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

## Policy History

12. This Policy was adopted by the Board of Retirement on March 20, 2017, with an effective date of January 1, 2018, and last revised July 20, 2020.

## Secretary’s Certificate

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

Steve Delaney  
Secretary of the Board

07/20/2020

Date