

**OCERS Board Policy**

# **Protocol for Handling Workplace Complaints Against Board Members and Executives**

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## **Background and Objectives**

1. The Board of Retirement takes very seriously workplace complaints made by OCERS employees against members of the Board or OCERS executive staff. Formal procedures and practices are required to ensure complaints are timely, fairly and appropriately investigated and addressed.
2. The objectives of this policy are to:
  - a. Establish protocols for the OCERS Human Resources department to respond to workplace complaints made by OCERS employees against members of the Board or OCERS executive staff; and
  - b. Clarify the roles and responsibilities of the OCERS Human Resources department, the Board, and OCERS staff in the process of handling the complaints covered by this protocol.

## **Policy Guidelines**

In the event the OCERS Human Resources department receives a workplace complaint from an OCERS employee (“complainant”) against a member of the Board or member of the OCERS executive staff (“subject of the complaint”), the following protocols will be observed in addition to the procedures normally followed in response to a workplace complaint:

3. The Director of Human Resources (“Director”) will provide a form to the complainant for the purpose of accurately documenting the complaint in a signed writing. If the Director does not receive the signed form back from the complainant in a timely manner, the Director will prepare a writing based on the information provided orally by the complainant, and request that the complainant confirm the accuracy of the writing. If the complainant declines or fails to confirm the accuracy of the writing, the Director will so indicate in the record of the matter.
4. Before following the procedures normally followed in response to a workplace complaint, the Director will consult with the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair), the CEO (unless the subject of the complaint is the CEO), the General Counsel (unless the subject of the complaint is the General Counsel), and outside Fiduciary Counsel. The group may decide to alter the normal procedures based on the facts and circumstances of the complaint.
5. Upon commencing any procedures in response to a complaint against a member of the Board or the CEO, the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair) will notify the subject of the complaint that a complaint has been made, the general nature of the complaint, and that an investigation of the complaint will proceed. If the subject of the complaint is a member of OCERS executive staff, such notification will be delivered to the subject of the complaint by the CEO. In all cases, the subject of the complaint will be cautioned that it is against the law and OCERS’ policies to retaliate against the complainant.

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6. The Board Chair (or Vice Chair if the subject of the complaint is the Board Chair), the CEO (unless the subject of the complaint is the CEO), the General Counsel (unless the subject of the complaint is the General Counsel), and outside Fiduciary Counsel will together select and retain an investigator to investigate the complaint. During the investigation, Fiduciary Counsel will serve as liaison to the investigator. The investigator's report will be delivered to Fiduciary Counsel and shared only with the individuals identified in Paragraph 4 above. The investigator's report will be confidential and will not be shared with the subject of the complaint or the complainant.
7. During the course of any such investigation, the subject of the complaint will be advised in writing of the substance of the complaint and the identity of the complainant, and will be provided a timely opportunity to respond both orally and in writing. Where the subject of the complaint is a member of the Board or the CEO, such notice will be delivered by the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair); and where the subject of the complaint is an OCERS executive staff member, such notice will be delivered by the CEO. Any written response by the Board member or CEO shall be delivered to the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair) and any written response by the OCERS executive staff member shall be delivered to the CEO. The complainant will be advised in writing of the substance of any written response by the subject of the complaint.
8. Upon the advice of the individuals identified in Paragraph 4 above, the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair), on a confidential basis, may advise the Board of the existence and nature of the complaint, the status of the process in response to the complaint, and any findings and recommendations resulting from that process.
9. The Board Chair (or Vice Chair if the subject of the complaint is the Board Chair) may authorize the Board member or the CEO who is the subject of the complaint, and the CEO may authorize the OCERS executive staff member who is the subject of the complaint, to engage independent counsel of their choice to advise them during the process, at OCERS' expense, with an appropriate reservation of rights. The authority to authorize engagement of counsel at OCERS' expense will not exceed \$10,000 in actual fees and costs reasonably incurred, without further action by the Board.
10. Upon conclusion of the investigation and receipt of the investigator's report, where the subject of the complaint is a member of the Board or the CEO, the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair), upon the advice of the individuals identified in Paragraph 4 above, will determine what actions or measures, if any, will be taken in response to the complaint. Where the subject of the complaint is a member of OCERS executive staff, the CEO, upon the advice of the individuals identified in Paragraph 4 above, will determine what actions or measures, if any, will be taken in response to the complaint, including any recommended action to be taken by the Board.
11. Once the actions or measures determined in Paragraph 10 have been taken, the subject of the complaint and the complainant will be informed that the complaint has been fully investigated, addressed, and closed. Where the subject of the complaint is a member of the Board or the CEO,

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such notice will be delivered by the Board Chair (or Vice Chair if the subject of the complaint is the Board Chair); and where the subject of the complaint is an OCERS executive staff member, such notice will be delivered by the CEO.

12. The identities of the complainant and the subject of the complaint will remain confidential to the fullest extent possible, consistent with the law and customary practice.

## **Policy Review**

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

## **Policy History**

14. This policy was adopted on October 21, 2019, and reviewed and revised on June 20, 2022.

## **Secretary's Certificate**

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



**06/20/2022**

Steve Delaney  
Secretary of the Board

Date