

# AGENDA

## A REGULAR MEETING OF THE BOARD OF RETIREMENT

### LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., WEDNESDAY, NOVEMBER 2, 2016

*The Board may take action on any item on the agenda,  
and agenda items may be taken out of order.*

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF MINUTES
  - A. Approval of the Minutes of the Regular Meeting of October 5, 2016
  - B. Approval of the Minutes of the Regular Meeting of October 13, 2016
- IV. REPORT ON CLOSED SESSION ITEMS
- V. OTHER COMMUNICATIONS
  - A. For Information
    - 1. Service Award
    - 2. September 2016 All Stars
    - 3. Chief Executive Officer's Report  
(Memo dated October 24, 2016)
- VI. PUBLIC COMMENT

VII. CONSENT AGENDA

- A. Ratification of Service Retirement and Survivor Benefit Application Approvals.
- B. Requests for an administrative hearing before a referee. (Memo dated October 20, 2016)
- C. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board dismiss with prejudice the appeal for a service-connected disability retirement in the case of **Robert Cruley**. (Memo dated October 18, 2016)
- D. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board dismiss with prejudice the appeal for a service-connected disability retirement in the case of **Jackie E. Vahlgren**. (Memo dated October 18, 2016)

VIII. NON-CONSENT AGENDA

- A. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board direct its voting delegate to A) Oppose inclusion in the SACRS 2017 legislative platform of "Voting Rights of Alternate Retiree Member" (MCERA #1); and B) Take no action on "Transfer of Accrued Leave Balances" (VCERA #1). (Memo dated October 21, 2016) (Supplemental Agenda Information memo dated October 24, 2016)
- B. Recommendation as submitted by Fern M. Billiny, Senior Staff Counsel: That the Board 1) Adopt the resolution specifying that canine handlers pay earned on and after June 1, 2015, by investigators in the Bureau of Investigation Unit of the District Attorney's Office qualifies as compensation earnable; 2) Instruct staff to implement this change by coordinating with the County Auditor-Controller to remit member and employer contributions; and 3) Instruct staff to collect arrears contributions for canine handlers pay in accordance with the Board's policy regarding implementation of new pensionable pay items. (Memo dated October 31, 2016)

VIII. NON-CONSENT AGENDA (Continued)

- C. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Board review and comment upon the proposed restated Code of Ethical Conduct. (Memo dated October 24, 2016)

IX. FOR INFORMATION ONLY

- A. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated October 21, 2016)
- B. For Information Only as submitted by Barry W. Lew, Legislative Affairs Officer, regarding the 2016 Year-End Legislative Report. (Memo dated October 21, 2016)

X. REPORT ON STAFF ACTION ITEMS

XI. GOOD OF THE ORDER  
(For information purposes only)

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

- A. Applications for Disability
- B. Referee Reports
- C. Staff Recommendations

1. Recommendation as submitted by Eugenia W. Der, Senior Staff Counsel, Disability Litigation: That the Board find **David R. Diaz** permanently incapacitated for service-connected reasons and grant him a service-connected disability retirement. (Letter dated October 19, 2016)

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

C. Staff Recommendations (Continued)

2. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: Instruct staff to pay the invoice in excess of \$15,000 to Referee Irene Ayala. (Memo dated October 20, 2016)
3. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: Instruct staff to pay the invoice in excess of \$15,000 to Referee Kenneth A. Perea. (Memo dated October 20, 2016)
4. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the 2016 Quarterly Reports of Paid Invoices for 3<sup>rd</sup> Quarter – July 1, 2016 to September 30, 2016. (Memo dated October 18, 2016)

XIV. EXECUTIVE SESSION

- A. Conference with Legal Counsel - Anticipated Litigation Significant Exposure to Litigation (Pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9)
  1. Administrative Appeal of Gayle Persons
- B. Conference with Legal Counsel - Anticipated Litigation Initiation of Litigation (Pursuant to Paragraph (4) of Subdivision (d) of California Government Code Section 54956.9)

1. Number of Potential Cases: 1

XV. ADJOURNMENT

*Documents subject to public disclosure that relate to an agenda item for an open session of the Board of Retirement that are distributed to members of the Board of Retirement less than 72 hours prior to the meeting will be available for public inspection at the time they are distributed to a majority of the Board of Retirement Members at LACERA's offices at 300 N. Lake Avenue, Suite 820, Pasadena, CA 91101, during normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.*

*Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling Cynthia Guider at (626) 564-6000, from 8:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence. Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.*

MINUTES OF THE REGULAR MEETING OF THE BOARD OF RETIREMENT

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., WEDNESDAY, OCTOBER 5, 2016

PRESENT: Shawn R. Kehoe, Chair  
Vivian H. Gray, Vice Chair (Arrived at 9:07 a.m.)  
William de la Garza, Secretary  
Marvin Adams  
Anthony Bravo  
Yves Chery  
David L. Muir (Alternate Retired) (Arrived at 9:10 a.m.)  
Joseph Kelly  
Ronald A. Okum  
William Pryor (Alternate Member) (Arrived at 9:15 a.m.)  
Les Robbins

STAFF ADVISORS AND PARTICIPANTS

Gregg Rademacher, Chief Executive Officer  
John Popowich, Assistant Executive Officer  
Steven P. Rice, Chief Counsel  
Ricki Contreras, Division Manager  
Disability Retirement Services

STAFF ADVISORS AND PARTICIPANTS (Continued)

Vickie Neely, Specialist Supervisor  
Disability Retirement Services

Francis J. Boyd, Senior Staff Counsel  
Legal Division

Allison E. Barrett, Senior Staff Counsel  
Disability Litigation

Danny T. Polhamus, Attorney at Law

I. CALL TO ORDER

The meeting was called to order by Chair Kehoe at 9:01 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Chery led the Board Members and staff in reciting the Pledge of Allegiance.

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of September 7, 2016

Mr. Chery made a motion, Mr. de la Garza seconded, to approve the minutes of the regular meeting of September 7, 2016. The motion passed unanimously.

IV. REPORT ON CLOSED SESSION ITEMS

No items were reported.

V. PUBLIC COMMENT

There were no requests from the public to speak.

VI. CONSENT AGENDA

Mr. Kelly made a motion, Mr. de la Garza seconded, to approve agenda items VI.A-C, E. The motion passed unanimously.

- A. Ratification of Service Retirement and Survivor Benefit Application Approvals.
- B. Requests for an administrative hearing before a referee.  
(Memo dated September 21, 2016)
- C. Recommendation as submitted by Vivian H. Gray, Chair, Disability Procedures & Services Committee: That the Board approve Richard C. Rosenberg, M.D. – Board Certified Orthopedist to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants.  
(Memo dated September 20, 2016)
- D. Recommendation as submitted by Vivian H. Gray, Chair, Disability Procedures & Services Committee: That the Board approve Michael M. Bronshvag, M.D. – Board Certified Internist/Neurologist to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants. (Memo dated September 20, 2016)

(Ms. Gray arrived at 9:07 a.m. and Mr. Muir arrived at 9:10 a.m.)

Chair Kehoe made a motion, Ms. Gray seconded, to approve staff's recommendation. The motion passed with Mr. Chery voting no.

- E. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated September 23, 2016)

VII. REPORT ON STAFF ACTION ITEMS

There was nothing to report on for staff action items.



VIII. GOOD OF THE ORDER

(For information purposes only) (Mr. Pryor arrived at 9:15 a.m.)

Mr. de la Garza recognized and thanked the Retiree Health Care staff for their work in putting together a successful Staying Healthy Together workshop.

Lastly, Mr. Rademacher congratulated LACERA staff members, Gloria Harriel and Jeannine Smart, on their recent retirement.

IX. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement

Service-Connected Disability Applications

On a motion by Mr. Pryor, seconded by Mr. Okum, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

APPLICATION NO.

NAME

536C

MICHAEL L. BORNMAN

537C\*

ANTONIO GARZA III

538C

JOHN E. RATTO

\* Granted SCD – Employer Cannot Accommodate

IX. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement (Continued)  
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
540C	JEROME D. EDWARDS
541C*	MARVIN L. WASHINGTON
542C	PAUL A. MERINO
543C**	ARTHUR FAMBLE, JR.

Safety-Fire, Lifeguard  
Service-Connected Disability Applications

On a motion by Mr. Okum, seconded by Mr. Adams, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
1796A	CLAYTON K. REED
1797A	CHRISTOPHER J. SARDELIS
1798A*	ANTHONY D. WOODS
1799A*	JEFF M. FULLER
1800A	MIKE A. WELCH

\* Granted SCD – Employer Cannot Accommodate

IX. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety-Fire, Lifeguard  
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
1801A	STEVEN M. SANDERS
1802A*	SCOTT W. HAGIN
1803A	DANIEL T. ANE

General Members  
Service-Connected Disability Applications

On a motion by Mr. Chery, seconded by Mr. Okum, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
2650B	GENEVIA EARLEY
2651B**/**	JACQUELINE TYLER
2652B*	ROMANI R. LUGA
2653B***/**	FELIPE J. TIJERINA
2654B	AMANDA PLEITEZ-CORTEZ

- \* Granted SCD – Retroactive
- \*\* Granted SCD – Employer Cannot Accommodate
- \*\*\* Applicant Present
- \*\*\*\* Granted SCD – Salary Supplemental

IX. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members

Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
2655B*	ROBERT J. MENDONCA
2656B	CHARLES F. ROMAS
2657B**	VINCENT M. LANE
2658B**	RUDY G. AGUERO

General Members

Non-Service Connected Disability Applications

On a motion by Mr. Okum, seconded by Mr. Adams, the Board of Retirement approved a non-service connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
4348	SANDRA LOPEZ
4349***	CHELSEA CHEUNG
4350***	KAREEN V. GARJIAN (DEC'D)

\* Granted SCD – Employer Cannot Accommodate

\*\* Granted SCD – Retroactive

\*\*\* Granted NSCD – Retroactive

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability

APPLICATION NO. & NAME

BOARD ACTION

6910A – LUCIA A. GONZALEZ

Ms. Gray made a motion, Mr. Adams seconded, to grant a service connected disability retirement with the option of an earlier effective date.

Mr. Muir, made a substitute motion, Chair Kehoe seconded, to deny a service connected disability retirement without prejudice. The motion passed with Ms. Gray, and Messrs. Adams and Bravo voting no.

6911A – HOLLY N. COLEMAN

Chair Kehoe made a motion, Mr. Robbins seconded to grant a service connected disability retirement with the option of an earlier effective date.

Mr. Okum made a substitute motion, Mr. Muir seconded, to refer back to staff for additional information. The motion failed (roll call) with Messrs. Kelly, Okum de la Garza, and Chery voting yes; and Messrs. Adams, Bravo, Robbins, Chair Kehoe, and Ms. Gray voting no.

The motion to grant a service connected disability retirement with the option of an earlier effective date passed (roll call) with Messrs. Adams, Bravo, Robbins, Chair Kehoe, and Ms. Gray voting yes; and Messrs. Kelly, Okum, de la Garza, and Chery voting no.

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability (Continued)

<u>APPLICATION NO. &amp; NAME</u>	<u>BOARD ACTION</u>
6912A – ERLINDA P. SCHNEIDER	Mr. de la Garza made a motion, Mr. Okum seconded, to deny a service connected disability retirement and find the applicant not permanently incapacitated. The motion passed unanimously.
6913A – ALICE N. MOORE	Mr. Chery made a motion, Mr. Okum seconded, to grant a non-service connected disability retirement pursuant to Government Code Section 31720 and 31724. The motion passed unanimously.
6914A – JAMES M. AUGUST	Mr. Chery made a motion, Mr. Okum seconded, to grant a non-service connected disability retirement pursuant to Government Code Section 31726 (b) (2). The motion passed unanimously.
6915A – BARBARA M. D’ABUSCO	Chair Kehoe made a motion, Mr. Okum seconded, to refer back to staff for additional information. The motion passed unanimously.
6897A – KIMBERLY K. KLEINSCHMIDT	Ms. Gray made a motion, Mr. Chery seconded, to grant a service connected disability retirement pursuant to Government Code Section 31720. The motion passed unanimously.

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION  
(Continued)

B. Referee Reports

APPLICATION NO. & NAME

BOARD ACTION

GINA L. MCDOWELL – Danny T. Polhamus for the applicant  
Allison E. Barrett for the respondent

Ms. Gray made a motion, Mr. Bravo seconded, to grant a service connected disability. The motion failed (roll call) with Messrs. Adams, Bravo, Chery, and Ms. Gray voting yes; and Messrs. Kelly, Okum, Robbins, de la Garza, and Chair Kehoe voting no.

Chair Kehoe made a substitute motion, Mr. Muir seconded, to grant a non-service connected disability retirement. The motion passed (roll call) with Messrs. Kelly, Adams, Bravo, Okum, de la Garza, Chery, Chair Kehoe, and Ms. Gray voting yes; and Mr. Robbins voting no.

C. Staff Recommendations

1. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board adopt the Proposed Findings of Fact and Conclusions of Law granting **Sergio J. Hernandez** for a service-connected disability retirement pursuant to Government Code Section 31720. (Memo dated September 21, 2016)

Ms. Contreras was present to answer questions from the Board.

Mr. Chery made a motion, Mr. de la Garza seconded, to approve the recommendation. The motion passed unanimously.

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

C. Staff Recommendations (Continued)

2. Recommendation as submitted by Jason E. Waller, Senior Staff Counsel, Disability Litigation: That the Board grant **Andrea M. Jackson** the option of choosing an earlier effective date for the commencement of her disability retirement in accordance with Government Code Section 31724. (Letter dated September 7, 2016)

Mr. Chery made a motion, Chair Kehoe seconded, to approve the recommendation. The motion passed unanimously.

XI. EXECUTIVE SESSION

A. Conference with Legal Counsel - Existing Litigation  
(Pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9)

1. Vernalea Panga v. LACERA  
Los Angeles Superior Court, Case No. BS 158634

The Board met in Executive Session pursuant to Government Code Section 54956.9 in which the Board unanimously approved to comply with the Writ of Mandate issued by the Superior Court finding Vernalea Panga is permanently incapacitated and grant a service-connected disability retirement.

Green Folder Information (Information distributed in each Board Member's Green Folder at the beginning of the meeting)

1. Retirement Board Listing dated October 5, 2016



October 5, 2016

Page 12

XII. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:45 a.m.

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WILLIAM DE LA GARZA, SECRETARY

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SHAWN R. KEHOE, CHAIR

MINUTES OF THE REGULAR MEETING OF THE BOARD OF RETIREMENT

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., THURSDAY, OCTOBER 13, 2016

PRESENT: Shawn R. Kehoe, Chair  
William de la Garza, Secretary  
Marvin Adams  
Anthony Bravo  
Yves Chery  
David L. Muir (Alternate Retired)  
Keith Knox (Chief Deputy to Joseph Kelly)  
Les Robbins  
Ronald A. Okum (Arrived at 9:02 a.m.)

ABSENT: Vivian H. Gray, Vice Chair  
Joseph Kelly  
William Pryor (Alternate Member)

STAFF ADVISORS AND PARTICIPANTS

Gregg Rademacher, Chief Executive Officer

Robert Hill, Assistant Executive Officer

STAFF ADVISORS AND PARTICIPANTS (Continued)

Steven P. Rice, Chief Counsel

Barry W. Lew, Legislative Affairs Officer

Jill P. Rawal, Staff Counsel

Johanna Fontenot, Senior Staff Counsel

Richard Bendall, Chief Audit Executive

Dominique Shelton, Alston & Bird

Paula Stannard, Alston & Bird

I. CALL TO ORDER

The meeting was called to order by Chair Kehoe at 9:00 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. de la Garza led the Board Members and staff in reciting the Pledge of Allegiance.

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of September 15, 2016

Mr. Chery made a motion, Mr. de la Garza seconded, to approve the minutes of the regular meeting of September 15, 2016. The motion passed unanimously.

#### IV. REPORT ON CLOSED SESSION ITEMS

No items were reported.

#### V. OTHER COMMUNICATIONS

##### A. For Information

##### 1. August 2016 All Stars

Mr. Hill announced the eight winners for the month of August: Jan Bautista, Sarah Robles, Henry Gonsalves, Calvin Chang, Alisa Gavaller, Terri Moore, Maria Manlutac, and Paul Carranza for the Employee Recognition Program and Srbui Tadevosyan for the Webwatcher Program. Linda Moss, Elizabeth Tirado, Mureen Tasang and George Lunde were the winners of LACERA's RideShare Program

##### 2. Chief Executive Officer's Report (Memo dated October 4, 2016) (Mr. Okum arrived at 9:02 a.m.)

Mr. Rademacher provided a brief overview of his Chief Executive Officer's Report with a quick update on what transpired at the previous Board of Investments meeting. (Board of Investments minutes are available to view on LACERA's Website [www.lacera.com](http://www.lacera.com).)

Mr. Rademacher and Mr. Hill attended the Los Angeles County Strategic Executive Strategic Planning meeting. In addition, Mr. Rademacher participated in the RELAC Luncheon Meeting in Las Vegas, as well as the CALAPRS Administrator's Institute in San Diego.

V. OTHER COMMUNICATIONS

2. Chief Executive Officer's Report (Continued)

Mr. Rademacher thanked Jason Waller, Mario Garrido, Ricardo Salinas, Allison Barrett, Hernan Barrientos, Vincent Lim, Barbara Tuncay for presenting at the CALAPRS Disability Roundtable, as well as Jill Rawal and Johanna Fontenot for speaking on felony forfeitures at the CALAPRS Administrator's Institute.

VI. PUBLIC COMMENT

There were no requests from the public to speak.

VII. NON-CONSENT AGENDA

A. Presentation of Alston & Bird's Final Report of Privacy Audit

Recommendation as submitted by Richard Bendall, Chief Audit Executive and Steven P. Rice, Chief Counsel: That the Board:

1. Approve Alston & Bird's Final Report as Presented and Waive Approval by the Audit Committee.

(Public Memo dated September 29, 2016)

(Privileged and Confidential Version of Memo Dated September 29, 2016 for Board members only)\*

Richard Bendall was present to answer questions from the Board. Dominique

Shelton and Paula Stannard from Alston & Bird presented the Final Privacy &

Data Security Legal Compliance Assessment Report and answered questions from the Board.

VII. NON-CONSENT AGENDA (Continued)

Chair Kehoe made a motion, Mr. Adams seconded, to approve the recommendation. The motion passed unanimously.

- B. Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Board adopt the Legislative Policy. (Memo dated October 3, 2016)

Mr. Chery made a motion, Mr. Okum seconded, to approve the recommendation. The motion passed unanimously.

- C. For Information Only as submitted by Barry W. Lew, Legislative Affairs Officer, regarding an update on Assembly Bill 1853 – County Employees Retirement Districts. (Memo dated September 26, 2016)

Barry Lew was present to answer questions from the Board.

- D. For Information Only as submitted by Beulah S. Auten, Chief Financial Officer, regarding the Semi-Annual Interest Crediting for Reserves as of June 30, 2016 (Audited). (Memo dated October 4, 2016)

This report was received and filed.

VIII. REPORT ON STAFF ACTION ITEMS

There was nothing to report on for staff action items.

- IX. GOOD OF THE ORDER  
(For information purposes only)

There was nothing to report during Good of the Order.

X. EXECUTIVE SESSION

- A. Conference with Legal Counsel - Anticipated Litigation  
Initiation of Litigation (Pursuant to Paragraph (4) of Subdivision (d) of  
California Government Code Section 54956.9)

1. Unknown Number

The Board met in Executive Session pursuant to Government Code Section 54956.9 in regards to the anticipated litigation of the above mentioned and there was nothing to report.

- B. Conference with Legal Counsel - Anticipated Litigation  
Significant Exposure to Litigation (Pursuant to Paragraph (2) of Subdivision  
(d) of California Government Code Section 54956.9)

1. Administrative Appeal of Michele Fiorenza
2. Administrative Appeal of Joseph Ruggiero

The Board met in Executive Session pursuant to Government Code Section 54956.9 in regards to the anticipated litigation of the above mentioned cases. The Board voted unanimously to grant the appeal in the case of Michele Fiorenza. In the case of Joseph Ruggiero, the Board provided direction to counsel.

Green Folder Information (Information distributed in each Board  
Member's Green Folder at the beginning of the meeting)

1. LACERA Legislative Report - Bills Amending CERL/PEPRA  
(Dated October 12, 2016)
2. LACERA Legislative Report – Other (Dated October 12, 2016)
3. LACERA Legislative Report – Federal (Dated October 12, 2016)

October 13, 2016

Page 7

XI. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned in memory of Sergeant Steve Owen and Pamela Gomez at 10:51 a.m.

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WILLIAM DE LA GARZA, SECRETARY

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SHAWN R. KEHOE, CHAIR





October 25, 2016

TO: Each Member  
Board of Retirement  
Board of Investments

FROM: Gregg Rademacher   
Chief Executive Officer

SUBJECT: **CHIEF EXECUTIVE OFFICER'S REPORT**

I am pleased to present the Chief Executive Officer's Report that highlights a few of the operational activities that have taken place during the past month, key business metrics to monitor how well we are meeting our performance objectives, and an educational calendar.

### **Our New Secure Message Center**

LACERA is committed to providing our members with service choice options to accommodate individual member preferences for interacting with LACERA to conduct business. Currently we offer three full service options to choose from: members can visit the Member Service Center, call the Member Services or Retiree Healthcare Call Centers, or interact with LACERA by mail.

In mid-November, LACERA will reach another strategic milestone when we launch our newest service choice option, the Secure Message Center. This new channel allows members to interact with Retirement Benefit Specialists electronically in a secure environment. Members will be able to sign into My LACERA and send requests and questions electronically. Retirement Benefit Specialists in Member Services and Retiree Healthcare will be able to respond to members electronically with full and complete answers to their questions and requests. Once a response is posted, the member is sent an email notifying them they have a message waiting for them in the Secure Message Center.

Over the last decade, LACERA has offered limited member support via email through the [welcome@lacera.com](mailto:welcome@lacera.com) email address. This service choice option is limited by the unsecure nature of email. Members often send emails to LACERA that include private or sensitive information. However, for the protection of our members our privacy policy limits responses to only general information. If staff needed to discuss private information they would have to arrange a time to call members or ask members to choose one of our full service options. This has often been a frustration for our members who prefer to conduct business electronically. This general information service choice will remain available to members and the public.

The Secure Message Center also adds internal processing efficiencies. The Secure Message Center is integrated with our Workspace member management database. All messages into and out of the Secure Message Center are automatically stored in Workspace. Staff will also be able to better track service level expectations for processing responses.

The Secure Message Center will be launched quietly in November to allow staff to conduct a brief beta test period. We expect to begin to fully market this new service choice option to members by the end of the year.

### **Sixth Floor Renovation Scheduled to Begin in November**

LACERA is scheduled to begin the renovation of our Administrative Services Division located on the sixth floor in November 2016. Administrative Services consists of LACERA's Budget Control, Document Processing Center, Facilities Management, Mail Room, and Procurement teams, as well as our corporate reception area. The renovation fulfills a commitment to enhance the security of member data by designing a more secure Document Processing Center. The new design allows LACERA to restrict access to staff that have a business reason to be in the Document Processing Center. This is an extensive renovation project and will require LACERA to temporarily move the Administrative Services Division, including our corporate reception area, to the second floor. This move is scheduled to begin the week of October 31<sup>st</sup>. Staff expects these operations will remain on the second floor for the next three to four months.

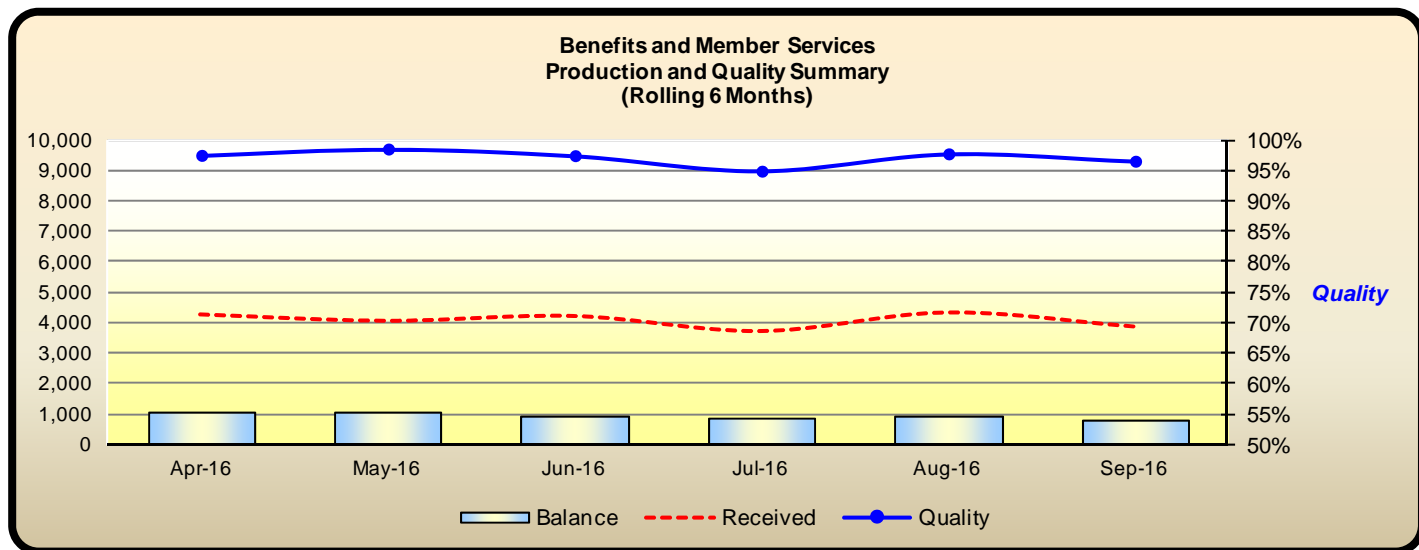
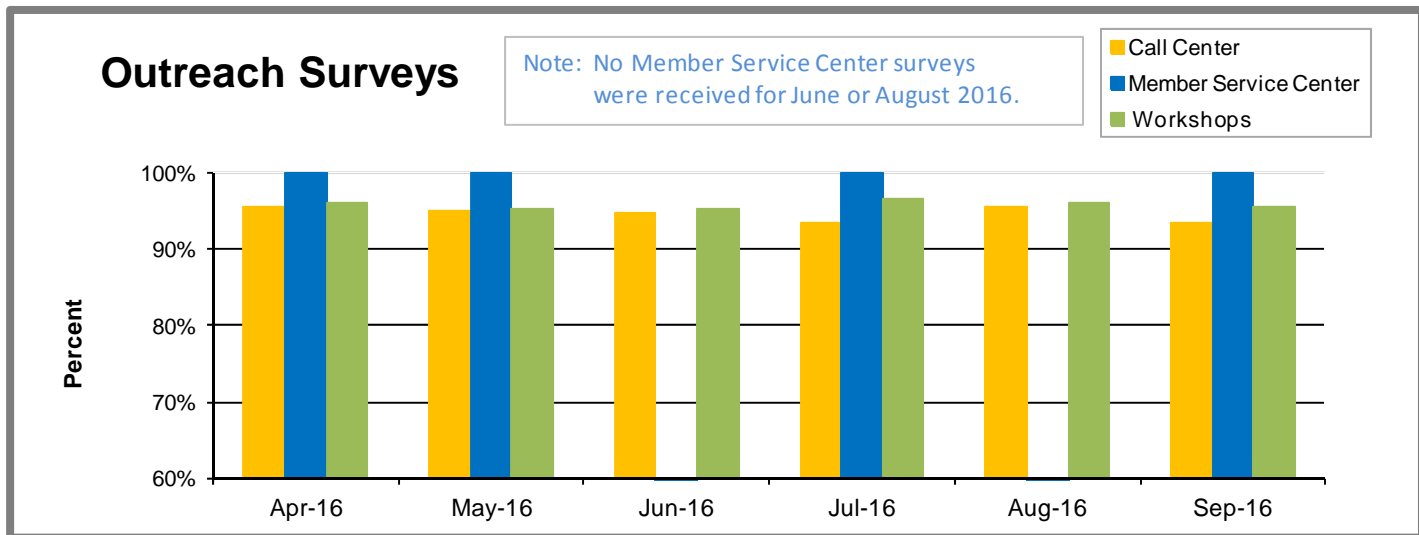
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CEO report Nov 2016.doc

Attachments

# LACERA's KEY BUSINESS METRICS

## OUTREACH EVENTS AND ATTENDANCE

Type	# of WORKSHOPS		# of MEMBERS	
	Monthly	YTD	Monthly	YTD
Benefit Information	21	52	636	1,588
Mid Career	3	14	61	428
New Member	16	51	351	1,037
Pre-Retirement	9	26	189	547
General Information	1	2	20	45
Retiree Events	5	7	302	442
Member Service Center	Daily	Daily	1,114	3,841
<b>TOTALS</b>	<b>55</b>	<b>152</b>	<b>2,673</b>	<b>7,928</b>



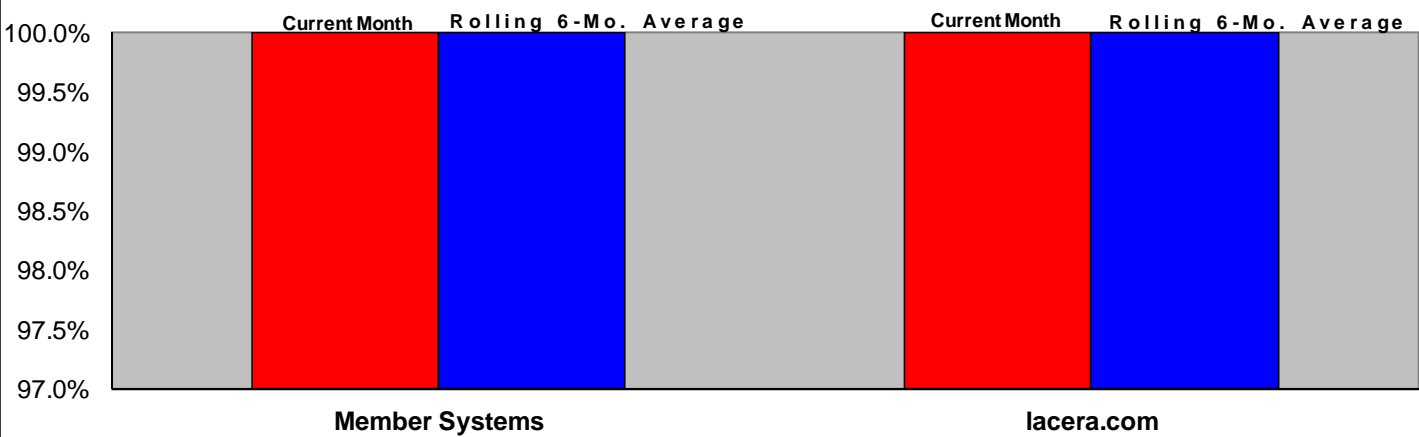
Member Services Contact Center		RHC Call Center	Top Calls
Overall Key Performance Indicator (KPI)	98.30%		
<b>Category</b>	<b>Goal</b>	<b>Rating</b>	<u>Member Services</u>
Call Center Monitoring Score	95%	97.72%	99%
Grade of Service (80% in 60 seconds)	80%	67%	64%
Call Center Survey Score	90%	95.13%	xxxxx
Agent Utilization Rate	65%	66%	79%
Number of Calls	9,737	3,126	<u>Retiree Health Care</u>
Calls Answered	8,924	2,935	1) Medical Benefits - General Inquiries
Calls Abandoned	813	197	2) Dental/Vision Benefits Gen. Inquiries
Calls-Average Speed of Answer	00:01:33	00:01:31	3) Age 65/Part B Prem Reimburse
Number of Emails	380	150	
Emails-Average Response Time	5:49:12	1 day	Adjusted for weekends

## LACERA's KEY BUSINESS METRICS

Fiscal Years	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Assets-Market Value	\$35.2	\$40.9	\$38.7	\$30.5	\$33.4	\$39.5	\$41.2	\$43.7	\$51.1	\$51.4
Funding Ratio	90.5%	93.8%	94.5%	88.9%	83.3%	80.6%	76.8%	75.0%	79.5%	83.3%
Investment Return	13.0%	19.1%	-1.4%	-18.2%	11.8%	20.4%	0.3%	12.1%	16.8%	4.3%

DISABILITY INVESTIGATIONS						
APPLICATIONS	TOTAL	YTD		APPEALS	TOTAL	YTD
On Hand	512	xxxxxxx		On Hand	135	xxxxxxx
Received	37	139		Received	3	7
Re-opened	0	0		Administratively Closed/Rule 32	0	7
To Board – Initial	34	98		Referee Recommendation	0	0
Closed	5	17		Revised/Reconsidered for Granting	2	3
<b>In Process</b>	<b>510</b>	<b>510</b>		<b>In Process</b>	<b>136</b>	<b>136</b>

### SYSTEMS AVAILABILITY - SEPTEMBER 2016



Active Members as of 10/20/16		Retired Members/Survivors as of 10/20/16			Retired Members		
		Retirees	Survivors	Total			
General-Plan A	230	19,144	4,707	23,851	Monthly Payroll	250.71 Million	
General-Plan B	85	686	63	749	Payroll YTD	752.19 Million	
General-Plan C	84	424	57	481	Monthly Added	295	
General-Plan D	46,499	11,931	1,134	13,065	Seamless %	99.32	
General-Plan E	20,566	11,160	927	12,087	YTD Added	768	
General-Plan G	16,130	4	0	4	Seamless YTD %	99.74	
<b>Total General</b>	<b>83,594</b>	<b>Total General</b>	<b>43,349</b>	<b>6,888</b>	<b>50,237</b>	Direct Deposit	95.00%
Safety-Plan A	10	5,796	1,587	7,383			
Safety-Plan B	11,215	4,367	231	4,598			
Safety-Plan C	1,426	1	0	1			
<b>Total Safety</b>	<b>12,651</b>	<b>Total Safety</b>	<b>10,164</b>	<b>1,818</b>	<b>11,982</b>		
<b>TOTAL ACTIVE</b>	<b>96,245</b>	<b>TOTAL RETIRED</b>	<b>53,513</b>	<b>8,706</b>	<b>62,219</b>		

Health Care Program (YTD Totals)		
	Employer Amount	Member Amount
Medical	112,685,344	9,797,084
Dental	10,108,310	1,070,889
Med Part B	13,058,630	xxxxxxxxxx
<b>Total Amount</b>	<b>\$135,852,284</b>	<b>\$10,867,973</b>

Health Care Program Enrollments	
Medical	47,783
Dental	48,751
Med Part B	31,352
Long Term Care (LTC)	745

Funding Metrics as of 6/30/15	
Employer Normal Cost	9.28%
UAAL	8.49%
Assumed Rate	7.50%
Star Reserve	\$614 million
Total Assets	\$48.8 billion

Member Contributions as of 6/30/15	
Annual Additions	\$441.3 million
% of Payroll	6.18%

Employer Contributions as of 6/30/15	
Annual Addition	\$1,495million
% of Payroll	17.77%

Date	Conference
<b>December, 2016</b>	
5-6	Milken Institute London Summit London, England
5-6	The 8th Annual Private Equity Brazil Forum Sao Paulo, Brazil
6-7	International Corporate Governance Network (ICGN) London Conference London, England
<b>January, 2017</b>	
29-31	NCPERS (National Conference on Public Employee Retirement Systems) Legislative Conference Washington D.C.
31-February 2	IMN (Information Management Network) Annual Beneficial Owners' Intl. Securities Finance & Collateral Mgmt. Conference Fort Lauderdale, FL
<b>February, 2017</b>	
22-24	Pacific Pension Institute (PPI) North American Winter Roundtable Seattle, WA
23-24	PREA (Pension Real Estate Association) Spring Conference New York, NY
27-March 1	Council of Institutional Investors (CII) Spring Conference Washington D.C.
<b>March, 2017</b>	
1-2	International Corporate Governance Network (ICGN) Washington D.C. Event Washington D.C.
13-15	IFEBP (International Foundation of Employment Benefit Plans) Investments Institute Phoenix, AZ
<b>April, 2017</b>	
25-26	IFEBP (International Foundation of Employment Benefit Plans) Benefits Conference for Public Employees <i>(back fr. Public Employee Benefits Update)</i> Columbus, OH
30-May 3	World Healthcare Congress Washington D.C.
<b>May, 2017</b>	
1-3	IFEBP (International Foundation of Employment Benefit Plans) Health Care Mgmt. Conference New Orleans, LA
1-4	Portfolio Concepts & Management <i>(prev. Fundamentals of Money Management)</i> Wharton School, University of Pennsylvania



October 20, 2016

TO: Each Member  
Board of Retirement

FROM: Ricki Contreras, Division Manager  
Disability Retirement Services

SUBJECT: **APPEALS FOR THE BOARD OF RETIREMENT'S MEETING  
OF NOVEMBER 2, 2016**

**IT IS RECOMMENDED** that your Board grant the appeals and requests for administrative hearing received from the following applicants, and direct the Disability Retirement Services Manager to refer each case to a referee:

6914A James M. August Michael Treger Grant NSCD

6909A Wanda R. Jamerson In Pro Per Deny SCD

2637B Monica R. Molinar Thomas Wicke Grant SCD – No Option of an Earlier Effective Date



October 18, 2016

TO: Each Member  
Board of Retirement

FROM: Ricki Contreras, Manager   
Disability Retirement Services Division

FOR: November 2, 2016 Board of Retirement Meeting

SUBJECT: **DISMISS WITH PREJUDICE THE APPEAL OF ROBERT CRULEY**

Mr. Robert Cruley applied for a service-connected disability retirement on April 4, 2011. On August 7, 2013, the Board denied Mr. Cruley's application for service-connected disability retirement and granted him a non-service connected disability retirement.

Mr. Cruley's attorney filed a timely appeal. On September 28, 2016, the applicant's attorney advised LACERA that his client did not wish to proceed with his appeal.

**IT IS THEREFORE RECOMMENDED THAT YOUR BOARD:**

Dismiss with prejudice Robert Cruley's appeal for a service-connected disability retirement.

FJB: RC: mb

Cruley, Robert. doc.

Attachment

NOTED AND REVIEWED:




Francis J. Boyd, Sr. Staff Counsel

Date: 10/21/16



October 18, 2016

TO: Each Member  
Board of Retirement

FROM: Ricki Contreras, Manager   
Disability Retirement Services Division

FOR: November 2, 2016 Board of Retirement Meeting

SUBJECT: **DISMISS WITH PREJUDICE THE APPEAL OF JACKIE E. VAHLGREN**

Ms. Jackie E. Vahlgren applied for service-connected disability retirement on August 13, 2015. On August 3, 2016, the Board denied her application for service-connected disability retirement and granted her a non-service connected disability retirement with an option for an earlier effective date.

Ms. Vahlgren filed a timely appeal. On September 22, 2016, Ms. Vahlgren signed a voluntary withdrawal letter advising LACERA that she does not wish to proceed with her appeal.

**IT IS THEREFORE RECOMMENDED THAT YOUR BOARD:**

Dismiss with prejudice Jackie E. Vahlgren's appeal for service-connected disability retirement.

FJB: RC: mb

Vahlgren, Jackie.doc

Attachment

NOTED AND REVIEWED:



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Francis J. Boyd, Sr. Staff Counsel

Date: 10/19/16



October 24, 2016

## SUPPLEMENTAL AGENDA INFORMATION

TO: Each Member  
Board of Retirement

FROM: Barry W. Lew   
Legislative Affairs Officer

FOR: November 2, 2016 Board of Retirement Meeting

SUBJECT: **VOTING INSTRUCTIONS ON SACRS 2017 LEGISLATIVE PROPOSALS: “Voting Rights of Alternate Retirement [sic] Member” (MCERA #1)**

At its meeting on October 13, 2016, the Insurance, Benefits and Legislative Committee adopted a recommendation to your Board to direct your voting delegate to oppose inclusion in the State Association of County Retirement Systems (SACRS) 2017 legislative platform of “Voting Rights of Alternate Retirement<sup>1</sup> [sic] Member” (MCERA #1).

On October 21, 2016, staff participated in a conference call with the SACRS Legislative Committee in which the proposal “Voting Rights of Alternate Retirement [sic] Member” was further discussed by the Committee. Additional background information emerged regarding Merced County Employees’ Retirement Association’s (MCERA) objective with the proposal. The Legislative Committee again voted against supporting the proposal. Nevertheless, the proposal will still be voted on at the November SACRS General Meeting.

MCERA seeks to have its alternate retired member vote in the absence of the second, third, seventh, or eighth member—similar to what is provided for the alternate seventh member under Government Code Section 31520.1 since MCERA does not have an alternate seventh member. Although the alternate retired member may vote in the absence of any two of the third, seventh, and eighth members as provided under AB 2376, which added Government Code Section 31520.6, MCERA seeks to relax the requirement of the absence of two members to the absence of only one of those members. However, MCERA’s proposal lacks clarity regarding this objective and contains unintended consequences as discussed in the attached memo to your Board.

Staff recommends that your Board direct its voting delegate to oppose inclusion in the SACRS 2017 legislative platform of “Voting Rights of Alternate Retirement [sic] Member” (MCERA #1).

**Reviewed and Approved:**



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**Steven P. Rice, Chief Counsel**

Attachments

cc: Gregg Rademacher

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<sup>1</sup> In the memo to the Insurance, Benefits and Legislative Committee dated October 3, 2016 and the memo to your Board dated October 21, 2016, staff erroneously referred to MCERA’s proposal as “Voting Rights of Alternate Retiree Member” (MCERA #1).

October 21, 2016

TO: Each Member  
Board of Retirement

FROM: Insurance, Benefits and Legislative Committee  
Les Robbins, Chair *(BWA for Les Robbins)*  
William de la Garza, Vice Chair  
Vivian H. Gray  
Shawn R. Kehoe  
Ronald Okum, Alternate

FOR: November 2, 2016 Board of Retirement Meeting

SUBJECT: **ADOPT VOTING INSTRUCTIONS ON SACRS 2017 LEGISLATIVE PROPOSALS**

## **RECOMMENDATION**

That the Board of Retirement to direct its voting delegate to:

- A. Oppose inclusion in the SACRS 2017 legislative platform of “Voting Rights of Alternate Retiree Member” (MCERA #1).
- B. Take no action on “Transfer of Accrued Leave Balances” (VCERA #1).

## **DISCUSSION**

Each year the 20 counties operating under the County Employees Retirement Law of 1937 (CERL) are asked to submit proposals to the State Association of County Retirement Systems (SACRS) Legislative Committee for inclusion in the SACRS legislative platform. The items submitted should have application to all CERL systems rather than an individual system; they should not propose new benefits that will be paid for by the plan sponsor; and they should not create major issues, such as conflicts with Proposition 162 or with any of the 19 other CERL systems.

The following two items were submitted to the SACRS Legislative Committee for inclusion in the SACRS 2017 legislative platform. One proposal was not approved by the SACRS Legislative Committee for inclusion in its 2017 platform. The other proposal was approved but contingent on the enactment of AB 1853, which would have enabled a retirement system operating under the County Employees Retirement Law of 1937 to adopt a resolution to become a district. Since AB 1853 was vetoed on September 23, 2016, this proposal is no longer applicable.

## **I. NOT APPROVED BY SACRS LEGISLATIVE COMMITTEE FOR INCLUSION IN 2017 LEGISLATIVE PLATFORM**

### **Voting Rights of Alternate Retiree Member (MCERA #1)**

The Merced County Employees' Retirement Association (MCERA) does not have an alternate safety member and has had board meetings cancelled due to the lack of a quorum. This proposal would enable the alternate retired member to vote not just in the absence of the eighth member but also in the absence of the second, third, or seventh member. The proposal would apply to all CERL systems.

#### **Scenario 1**

Under current law: The alternate retired member votes as a member of the board in the event the eighth member is absent from a board meeting. Beginning January 1, 2017, as a result of the enactment of AB 2376, the alternate retired member—if the eighth member is present—may also vote in the absence of both the second and third members or in the absence of the second or third member and the seventh member. The alternate retired member's voting rights under AB 2376 would not be superseded by this proposal.

Proposed: The alternate retired member votes as a member of the board in the event the second, third, seventh, or eighth member is absent from a board meeting and if the alternate safety member is also absent from the meeting.

MCERA currently does not have an alternate safety member. Under Scenario 1, its alternate retired member would not only be able to vote in the absence of the eighth member (under current law) but also in the absence of the second, third, or seventh member. This requires the absence of one of the aforementioned members as opposed to an absence of a combination of the members as required under Section 31520.6, which was added by AB 2376.

However, Scenario 1 has the unintended consequence of restricting the voting rights of the alternate retired member in systems where there is an alternate safety member. Currently in systems where there is an alternate safety member, the alternate retired member may vote in the absence of the eighth member—regardless of the alternate safety member also being absent. The proposal would require that both the eighth member and the alternate safety member be absent in order for the alternate retired member to vote.

#### **Scenario 2**

Under current law: The alternate safety member votes in the absence of the second, third, seventh, or eighth member. If a retirement system has an alternate retired member, then that member will vote in the absence of the eighth member instead of the

alternate safety member. If both the eighth member and alternate retired member are absent from a meeting, then the alternate safety member may vote in place of the eighth member.

Proposed: If both the alternate safety member and alternate retired member are present and if the second, third, or seventh member is absent, then the alternate safety member may vote in the absence of the second, third, or seventh member.

Although the alternate safety member already has the right to vote in the absence of the second, third, or seventh member in systems where there is an alternate retired member, this scenario would require that the alternate retired member must also be present at a meeting in order for the alternate safety member to vote in the absence of the aforementioned members. This would place an additional requirement for invoking the voting rights of the alternate safety member and appears to be another unintended consequence of the proposal.

### Scenario 3

Under current law: The alternate safety member votes in the absence of the second, third, seventh, or eighth member. If a retirement system has an alternate retired member, then that member will vote in the absence of the eighth member instead of the alternate safety member. If both the eighth member and alternate retired member are absent from a meeting, then the alternate safety member may vote in place of the eighth member. AB 2376, which was enacted on August 17, 2016 and is effective January 1, 2017, enables the alternate retired member—if the eighth member is present—to vote if a combination of two of the second, third, and seventh members is absent.

Proposed: If both the alternate safety member and alternate retired member are present and if two or more of the second, third, seventh, or eighth members are absent from a board meeting, both the alternate safety member and alternate retired member shall be able to vote for two of the absent board members.

This scenario would enable the alternate retired member to vote not just due to the absence of the eighth member; the alternate retired member may also vote due to the absence of two of the second, third, or seventh members, even if the eighth member is present, provided that the alternate safety member is also present. This would expand the scope of the voting rights of the alternate retired member. However, this expansion does not provide any additional benefit since AB 2376 already enables the alternate retired member to vote in the absence of the second, third, or seventh members, without any other limitations or restrictions. AB 2376 added Government Code Section 31520.6, which applies notwithstanding Section 31520.5, the section that this proposal is amending.

### Conclusion

The SACRS Legislative Committee reviewed the proposal and declined to recommend it for SACRS sponsorship. The Committee's criteria for SACRS sponsorship generally require that proposals should not apply just to an individual CERL retirement system. The Committee concluded that the proposal has application to a single CERL system rather than application to all CERL systems and noted that the drafting of the proposal required more fine-tuning.

**Recommendation: Vote NO**

## **II. PROPOSAL NO LONGER APPLICABLE**

### **Transfer of Accrued Leave Balances (VCERA #1)**

The Ventura County Employees' Retirement Association (VCERA) is authorized under AB 1291, which was enacted on August 17, 2015, to become a district and appoint a retirement administrator, chief financial officer, chief operations officer, chief investment officer, and general counsel. These appointees would be employees of the retirement system rather than the County of Ventura.

In its implementation of AB 1291, VCERA was informed by the County of Ventura that the appointment of any existing County employees to VCERA employment would result in the payout of leave balances to those employees pursuant to Labor Code Section 227.3. VCERA seeks to have those leave balances transferred from the County to VCERA when appointing existing County employees to VCERA employment.

The proposal seeks to amend Government Code Section 31522.75(g)(3) by clarifying that County employees appointed to retirement system employment will have their leave balances transferred to the retirement system rather than paid out directly to the employees.

Section 31522.75 was proposed to be added to the Government Code by AB 1853 and would apply to all CERL retirement systems, including those systems such as VCERA that had already become districts through system-specific legislation. VCERA's proposal would enable a seamless transition for existing employees from County employment to retirement system employment with respect to leave accruals in the process of a retirement system becoming a district.

VCERA's proposal is contingent on the enactment of AB 1853, which would have added Section 31522.75 to the Government Code to which this amendment would be applied. However, since AB 1853 was vetoed on September 23, 2016, this proposal is no longer applicable.

**Recommendation: NO ACTION**

**IT IS THEREFORE RECOMMENDED THAT YOUR BOARD** direct its voting delegate to:

- A. Oppose inclusion in the SACRS 2017 legislative platform of “Voting Rights of Alternate Retiree Member” (MCERA #1).
- B. Take no action on “Transfer of Accrued Leave Balances” (VCERA #1).

Attachments

cc: Gregg Rademacher

**ATTACHMENT A**

**YEAR 2017 SACRS LEGISLATIVE PLATFORM WORKSHEET**

**PLEASE COMPLETE AND RETURN BY SEPTEMBER 7, 2016**

Title of Issue: Voting Rights of Alternate Retirement Member

Association: Merced County Employees Retirement Association (MCERA)

Contact Person: Angelo Lamas

Phone #: (209) 725-2724

Email #: ALamas@co.merced.ca.us

Please answer the following questions as fully as possible:

1. Description of issue. The passage of AB 1853 added certain voting responsibilities for the Retired Alternate Trustee. However, in the absence of the Alternate Safety Member, these voting responsibilities do not come into play unless two other elected board members are absent as well. Currently Merced CERA does not have an Alternate Safety Board member which caused one meeting to be cancelled due to lack of a quorum.
2. Recommended solution. With the proposed legislative language, the Alternate Retiree Board member would be allowed to vote if the Alternate Safety Member and one other elected board member are absent from a board meeting. With this language, if the Alternate Safety Member were present, that member would have priority over the Alternate Retiree Member and vote for any absent elected board member other than the Retiree Member. If two elected members were absent, both the Alternate Safety and Alternate Retiree Members would be able to vote on board agenda items.
3. Specific language that you would like changed in, or added to, '37 Act Law, and suggested code section numbers. **See underlined and bold amendments to the code below.**

**GOVERNMENT CODE - GOV**

**TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]**

( Title 3 added by Stats. 1947, Ch. 424. )

**DIVISION 4. EMPLOYEES [31000 - 33017]**

( Division 4 added by Stats. 1947, Ch. 424. )

**PART 3. RETIREMENT SYSTEMS [31200 - 33017]**

( Part 3 added by Stats. 1947, Ch. 424. )

**CHAPTER 3. County Employees Retirement Law of 1937 [31450 - 31898]**

( Chapter 3 added by Stats. 1947, Ch. 424. )



ARTICLE 3. Retirement Board [31520 - 31543]

( Article 3 added by Stats. 1947, Ch. 424. )

31520.5.

(a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a recognized retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the **second, third, seventh or eighth member is absent from a board meeting for any cause and if the alternate seventh board member is absent from said meeting. In the event that both alternate seventh safety member and alternate retired member are present at the board meeting and if the second, third, or seventh member is absent, the alternate seventh member shall vote for the absent board member. In the vent that both the alternate safety member and alternate retired member are present at a board meeting and if two or more of the second, third, seventh, or eighth members are absent from a board meeting, both alternate safety member and alternate retired member shall be able to vote for the absent board members.** If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

4. Why should the proposed legislation be sponsored by SACRS rather than by your individual retirement association? With twenty CERL county retirement systems, several other counties have Alternate Retired Board Trustee's. The proposed legislation would give all Alternate Retiree Trustee's enhanced voting rights and more of an active role in the actions taken by the retirement board.
5. Do you anticipate that the proposed legislation would create any major problems, such as conflicting with Proposition 162 or create a problem with any of the other 19 SACRS retirement associations? **NO**
6. Who will support or oppose this proposed change in the law? **CERL Counties Support; No known opposition.**
7. Who will be available from your association to testify before the Legislature? **Scott Johnson**

E-mail or mail your legislative proposals to:

**ATTACHMENT B**

**YEAR 2017 SACRS LEGISLATIVE PLATFORM WORKSHEET**

**PLEASE COMPLETE AND RETURN BY SEPTEMBER 7, 2016**

Title of Issue: **Transfer of accrued leave balances**

Association: **Ventura County Employees' Retirement Association (VCERA)**

Contact Person: **Tracy Towner, Board Chair**

Phone #: **805-947-7967**

Fax #:

Please answer the following questions as fully as possible:

1. Description of issue. **See attached #1**
2. Recommended solution. **Amend the 1937 Act to provide clear authorization.**
3. Specific language that you would like changed in, or added to, '37 Act Law, and suggested code section numbers. **See attached #2**
4. Why should the proposed legislation be sponsored by SACRS rather than by your individual retirement association? **To provide clear authority.**
5. Do you anticipate that the proposed legislation would create any major problems, such as conflicting with Proposition 162 or create a problem with any of the other 19 SACRS retirement associations? **No**
6. Who will support or oppose this proposed change in the law? **See attached #3**
7. Who will be available from your association to testify before the Legislature? **Tracy Towner or Art Goulet**

E-mail or mail your legislative proposals to:

Jim Lites  
California Strategies & Advocacy, LLC  
980 9<sup>th</sup> Street, Suite 2000  
Sacramento, CA 95814  
Phone (916) 266-4575  
E-mail: [jlites@calstrat.com](mailto:jlites@calstrat.com)

## Attachment to VCERA Legislative Platform

- #1.** When VCERA attempted to implement the provisions of AB 1291 (Williams) and employ certain county employees, the county argued that the transfer of those employees to VCERA constituted a termination of county employment and the county was obligated to pay the employees the cash value of any leave accruals, as required by sec. 227.3 of the Labor Code. VCERA desired to have leave accruals transferred, but the county would not cooperate, citing risk.
- #2.** Assuming AB 1853 is passed and signed into law, amend Government Code sec. 31522.75 (g)(3) by designating the current text as subdivision (A), and adding a new subdivision (B) to read:
- (B) All leave balances accrued by County employees appointed by a board of retirement as retirement system employees under any provision of this Act shall be transferred from the county to the retirement system, including full payment to the retirement system on those balances to the extent not already a financial obligation of the retirement system, and such employees shall not be deemed to have terminated employment under Labor Code section 227.3.  
This subdivision is declaratory of existing law.*
- #3.** Supporters: VCERA and any other system exercising the provisions of AB 1853.  
Labor Unions.  
Opponents (likely): CSAC



October 21, 2016

TO: Each Member  
Board of Retirement

FROM: Fern M. Billings   
Senior Staff Counsel

DATE: Meeting of November 2, 2016

SUBJECT: **Canine Handlers, District Attorney's Office – Bureau of Investigation**

The Los Angeles County District Attorney's Office, Bureau of Investigation (BOI), seeks Board approval to treat as pensionable the additional compensation received by investigators who are canine handlers.

Some investigators assigned to the BOI are responsible for the care and maintenance of narcotics detection dogs. Each week the investigators are given an additional three hours of compensation for the care and maintenance of these dogs, commonly called K-9 pay. Otherwise, the investigators work a normal 40-hour assignment.

Theodore King, Section Head, Benefits Division, verified that these duties are part of the normal work schedule of the investigators. His memo in support of the request is attached. The initial request is for one investigator, Wendy Lofton, but your Board's determination will apply to all future canine handlers within the BOI unit.

The Legal Office reviewed the documents and determined that the additional compensation received for the care and maintenance of the dogs qualifies as compensation and should be included in the definition of compensation earnable\*.

Therefore, we recommend that your Board:

1. Adopt the attached resolution specifying that canine handlers pay earned on and after June 1, 2015, by investigators in the Bureau of Investigation Unit of the District Attorney's Office qualifies as compensation earnable;

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\* Please note the inclusion of pay does not affect members covered under California Government Code section 7522 et seq.

2. Instruct staff to implement this change by coordinating with the County Auditor-Controller to remit member and employer contributions; and
3. Instruct staff to collect arrears contributions for canine handlers pay in accordance with the Board's policy regarding implementation of new pensionable pay items.

## ANALYSIS

### A. Canine Handlers Pay Should Be Treated As Pensionable

In City of Sacramento v. PERS, (1991) 229 Cal. App. 3d 1470, the appellate court determined that firefighters' regular overtime ("premium overtime") under the applicable FLSA exemption qualified as compensation earnable.

Specifically, the appellate court upheld the PERS Board's ability to treat such overtime as compensation earnable under the PERL because the firefighters normally are required to work more than the FLSA maximum for normally required duties. The rule in determining if overtime actually is compensation earnable is whether the hours for which the pay is received are considered "normal" or part of normal duties (Id. at 1484). The court discussed and relied upon Rose v. City of Hayward, (1981) 126 Cal. App. 3d 926 (premium holiday pay is compensation earnable where law enforcement members regularly are required to work holidays, even though not all employees worked the same holiday).

LACERA confirmed that the additional work hours of the investigator are part of the normal duties of canine handlers assigned to this department. The hours assigned are not sporadic and arbitrary. The investigators have 24 hour responsibility for the canines. Given these confirmations, it appears that these regularly worked hours do not constitute "overtime" that would be excluded from the definition of "compensation earnable" under Government Code Section 31461<sup>†</sup>.

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<sup>†</sup> It should be noted that the investigators may also receive "true" overtime for additional hours worked. The investigators do not dispute this type of pay is properly excluded from compensation earnable.

Each Member  
Board of Retirement  
October 21, 2016  
Page Three

**B. Effective Date for Treating Canine Handlers Pay as Pensionable**

A claim against LACERA for the failure to treat compensation pensionable is limited by a three (3) year statute of limitations (Code of Civil Procedure section 338(d)). As no affected individual has brought a claim against LACERA, we would normally recommend this income be treated as pensionable commencing three (3) years prior to the request. However, in this instance, the position was recently added. The sole canine handler began her duties in June of 2015. Therefore, staff recommends that this income be treated as pensionable commencing June 1, 2015, the date the Unit first employed canine handlers.

**C. Collection of Arrears Contributions**

If your Board determines that this canine handlers pay qualifies for inclusion in the definition of compensation earnable, employee contributions on prior earnings may be required.

In Marin County Employees Retirement Association v. County of Marin Association of Firefighters, (1994) 30 Cal. App. 4<sup>th</sup> 1638, the Court of Appeal determined that once a Retirement Board has determined that an element of compensation is "compensation earnable", the Board must include that element in final compensation. Under the reasoning in Barrett v. Stanislaus County Employee Retirement Association, (1987) 189 Cal. App. 3d 1593 (cited with approval in Marin, supra), the Board had the ability to impose arrears contributions where it was required to classify certain active general members as safety members. The Court stated:

"A review of the entire statutory scheme reveals a retirement system based on contributions by both employer and employee. ...Thus, imposition of an arrears contributions obligation on plaintiffs would place them in the position they would have been had they been properly classified from the date of their employment." (Id. at 1609.)

The Court in Marin noted the applicable statute of limitations is the three (3) year period set forth in Code of Civil Procedure section 338(d) for a claim based on mistake and

Each Member  
Board of Retirement  
October 21, 2016  
Page Four

that the statute does not begin to run until the discovery of the mistake. LACERA did not discover its mistake until sometime after February 2, 2016, when the failure to treat the additional hours as pensionable was brought to our attention. Thus, LACERA is not barred by the statute of limitations from seeking arrears contributions.

Your Board's policy for collecting arrears contributions is currently in place. Staff will apply that policy to the collection of arrears contributions relating to canine handlers pay, and will make every effort to collect contributions from all affected members.

**THEREFORE, IT IS RECOMMENDED** that your Board:

1. Adopt the attached resolution specifying that canine handlers pay earned on and after June 1, 2015, by investigators in the Bureau of Investigation Unit of the District Attorney's Office qualifies as compensation earnable;
2. Instruct staff to implement this change by coordinating with the County Auditor-Controller to remit member and employer contributions; and
3. Instruct staff to collect arrears contributions for canine handlers pay in accordance with the Board's policy regarding implementation of new pensionable pay items.

Reviewed and Approved



Steven P. Rice  
Chief Counsel

FMB/et

BOR/Canine Handlers District Attorneys Office - BOI.doc

Attachments



**BEFORE THE BOARD OF RETIREMENT**

**LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION**

RESOLUTION OF THE  
BOARD OF RETIREMENT  
SPECIFYING BUREAU OF  
INVESTIGATION "CANINE HANDLERS  
PAY" EARNED ON AND AFTER  
JUNE 1, 2015 SHALL QUALIFY AS  
"COMPENSATION" AND  
"COMPENSATION EARNABLE"

RESOLUTION NO. 2016-BR005

WHEREAS, LACERA calculates retirement allowances based on a member's "final compensation;"

WHEREAS, LACERA is required to include in the calculation of "final compensation" a member's base pay, and certain other items of remuneration, if such remuneration qualifies as "compensation" under Government Code Section 31460 and "compensation earnable" under Government Code Section 31461;

WHEREAS, the Board of Retirement previously adopted Resolutions specifying certain items of remuneration payable to employees of the County of Los Angeles which the Board determined qualify as "compensation" under Government Code Section 31460 and "compensation earnable" under Section 31461.

WHEREAS, remuneration accounted for by the District Attorney's Office under the description "Canine Handlers Pay" is not included in the list of items determined to qualify as "compensation" and "compensation earnable."

WHEREAS, on February 2, 2016, a request was filed on behalf of canine handlers of the County of Los Angeles District Attorney's Office, Bureau of Investigation alleging, inter alia, earnings described as "Canine Handlers Pay" qualify as "compensation" and "compensation earnable."

WHEREAS, the Board of Retirement has determined that Bureau of Investigation "Canine Handlers Pay" is regularly worked and does not constitute "overtime" that

would be excluded from the definition of "compensation earnable" under Government Code Section 31461.

WHEREAS, the Board of Retirement has determined that remuneration accounted for as "Canine Handlers Pay" qualifies as "compensation" and "compensation earnable."

NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. Earnings on and after June 1, 2015, designated as "Canine Handlers Pay" shall qualify as "compensation," as defined in Government Code Section 31460 and "compensation earnable," as defined in Section 31461, for purposes of calculating a member's retirement allowance.
2. Attachment No. 1 of this Resolution sets forth a listing of all items of remuneration qualifying as "compensation" and "compensation earnable" for purposes of calculating a member's retirement allowance.
3. Staff shall collect arrears contributions from members.

BOARD OF RETIREMENT,  
LOS ANGELES COUNTY EMPLOYEES  
RETIREMENT ASSOCIATION

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Shawn R. Kehoe  
Chair, Board of Retirement

Approved as to Form

ATTEST:

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Steven P. Rice  
Chief Counsel

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William de la Garza  
Secretary, Board of Retirement

ITEMS OF COUNTY REMUNERATION WHICH QUALIFY AS  
"COMPENSATION," AS DEFINED BY GOVERNMENT CODE SECTION 31460,  
AND/OR "COMPENSATION EARNABLE," AS DEFINED BY GOVERNMENT  
CODE SECTION 31461.

<b><u>EARNINGS</u></b>	<b><u>ITEMS</u></b>
<b><u>CODE NO.</u></b>	
099	PATROL STATION RETENTION BONUS
249	AGRICULTURE INSPECTORS AID ROVER BONUS
334	CUSTODY ASSISTANT ACADEMY DRILL INSTRUCTOR
346	HAZARDOUS MATERIALS II EMERGENCY OPERATIONS ASSIGNMENT
349	WELLNESS/FITNESS FOR LIFE BONUS
350	"PILOT PAY" – FIRE DEPARTMENT
358	TEMPORARY PROMOTION BONUS
359	LIFEGUARD PARAMEDIC, CATALINA
362	PARAMEDIC COORDINATOR/EMS CAPTAIN
369	ADVANCED EDUCATION DEGREE BONUS
381	DENTAL PROFESSIONALS BOARD CERTIFICATION BONUS
384	HIGH DESERT HEALTH ASSIGNMENT BONUS
389	MENTAL HEALTH PSYCHIATRIST BOARD CERTIFICATION – MORE THAN ONE SPECIALTY
503	UNIFORM ALLOWANCE
504	NIGHT SHIFT DIFFERENTIAL

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
505	CORONER'S INQUEST REPORTER
506	VEHICLE USE ALLOWANCE
507	CO-GENERATION OR HYDRO-ELECTRIC OPS & MTCE
508	HENNINGER FLATS WATCHMAN
509	FREEZER WORK
510	DEPARTMENT HEAD MERIT
511	BOARD OF SUPERVISORS PERFORMANCE LUMP SUM
512	FIRE SUPPRESSION TRANSPORTATION TRUCK DRIVER
514	BACKHOE OPERATOR
515	WEEKEND BONUS
516	EXPLOSIVES WORK
517	EVENING SHIFT DIFFERENTIAL
518	POWER EQUIPMENT REPAIR, SNOW CONDITIONS
519	ENGINEERING EMPLOYEES, HAZARD PAY
520	HOME CARE COMPENSATION
522	CUSTODIAN ACTING AS WATCHMAN
523	DPD DEPUTY DIRECTOR RECRUITMENT INCENTIVE
525	CONTRACTING AND PRODUCTIVITY IMPROVEMENT INCENTIVE FOR MANAGERS
528	WEBCOM PRESS OPERATOR

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
529	POWER EQUIPMENT OPERATOR, FIRE SUPPRESSION
530	RN EXTRA WEEKENDS WORKED
531	STANDBY
532	ADDITIONAL RESPONSIBILITIES OR EXCEPTIONAL PERFORMANCE
533	POWER SWEEPER OPERATOR IN EMERGENCY CONDITIONS
534	POWER PLANT RELIEF ENGINEER
535	CLINIC PHYSICIAN, FIRST HOUR AND ONE-HALF
536	CONSULTING SPECIALIST, MD, & MENTAL HEALTH CONSULTANT, MD, FIRST AND FIFTH HOURS
538	RN ASSIGNED AS ACTING OR RELIEF CHARGE NURSE
539	RN WEEKEND DIFFERENTIAL
540	RELIEF NURSE HOLIDAY DIFFERENTIAL (HOURLY ITEM)
541	RELIEF NURSE WEEKEND DIFFERENTIAL (HOURLY ITEM)
544	APPRAISERS LAUNDRY AND DRY CLEANING ALLOWANCE
545	HEAVY DUTY TOW TRUCK DRIVER
546	SLURRY SEAL TRUCK DRIVER
547	LIFEGUARD PARAMEDIC – SHIFT
548	LIFEGUARD PARAMEDIC – HOURLY

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
550	INCENTIVE AWARDS FOR MEDI-CAL REIMBURSEMENTS, HEALTH SERVICES
551	GROUP INCENTIVE AWARD, TREASURER TAX COLLECTOR
552	STANDBY – EMERGENCY ROLLOUT PROGRAM
553	PIONEER EXCAVATION, TUNNEL OPERATIONS, FIRE SUPPRESSION, AND SNOW REMOVAL - CONSTRUCTION INSPECTION AND SURVEYING GROUPS
554	PIONEER EXCAVATION, TUNNEL OPERATIONS, FIRE SUPPRESSION, AND SNOW REMOVAL
555	SCAFFOLD OR SWING STAGE, 30 FEET ABOVE GRADE
556	HIGH SCALE AND RIGGING OPERATIONS, GENERAL
557	EVENING SHIFT, MED TECH
558	NIGHT SHIFT, MED TECH
565	PARAMEDIC RECERTIFICATION BONUS
567	DEPUTY SHERIFF RESERVE ANNUAL COMPENSATION
570	HOME CARE PROGRAM STANDBY
571	CSW LICENSURE SUPERVISION
572	MOU LUMP SUM BONUS
575	WASTEWATER PLANT RELIEF BONUS
576	“SOLO DAILY” PAY – COURT REPORTERS

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
577	INTERPRETER HALF DAY BONUS – SUP. CT.
581	SWIM PROFICIENCY BONUS
601	LIFEGUARD PARAMEDIC, RELIEF
602	SUPERVISING TRANSPORTATION DEPUTY PERFORMING DISPATCHER DUTIES
603	AUTOMOTIVE SERVICE EXCELLENCE CERTIFICATES
604	RN MOBILE INTENSIVE CARE CERTIFICATION
605	CUSTODIAN FLOOR WAXING BONUS
606	FIRE EQUIPMENT MECHANIC ASSIGNED FIELD REPAIR DUTIES
607	SDPO ASSIGNED ACTING DIRECTOR IN A CAMP
608	BILINGUAL BONUS
609	RN ASSIGNED TO EMERGENCY ROOM
610	ANTELOPE VALLEY FIREFIGHTING CREW
611	TREE TRIMMER SUPERVISOR, POWER OPERATIONS
612	SHOOTING BONUS, EXPERT
613	SHOOTING BONUS, DISTINGUISHED EXPERT
614	SHOOTING BONUS, MARKSMAN
615	SHOOTING BONUS, SHARPSHOOTER
616	ANTELOPE VALLEY QUARTERS, ON FIRE CALL

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
617	CLINIC NURSE ASSIGNED TO PROBATION CAMP
618	TRANSPORTATION BUS DRIVER, SHERIFF
619	CERTIFIED ACCESS SPECIALISTS
620	SAN GABRIEL DAM OPERATOR
621	NURSE RETENTION INCENTIVE
622	ADVANCED APPRAISER CERTIFICATION
623	PROBATION TRANSCRIBER TYPIST PRODUCTION INCENTIVE
624	BILINGUAL ADDITIONAL BONUS, CHILDREN'S SOCIAL WORKERS
625	AGRICULTURE INSPECTORS ASSIGNED TO STANDARDIZATION
626	FIREFIGHTER PARAMEDIC NOT ASSIGNED TO A PARAMEDIC POST
627	DETENTION AND TRANSPORTATION EXTRA SUPERVISION BONUS
628	BILINGUAL BONUS FOR OTHER THAN MONTHLY EMPLOYEES
629	MORTUARY ATTENDANT AT LAC/USC MC
630	SAFETY POLICE EDUCATIONAL/LONGEVITY INCENTIVE
632	MENTAL HEALTH WORKERS ASSIGNED TO SHERIFF'S DETENTION FACILITIES
634	SUPERVISING DETENTION SERVICES OFFICER OF THE DAY



<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
635	TRANSPORTATION DEPUTY BUS DRIVER, PROBATION
636	SHERIFF'S STATION COMMANDER EXPENSES
637	PROFESSIONAL DEVELOPMENT EXPENSES
638	PROBATION TELECOM EQUIPMENT BONUS
639	INTERN HOUSING ALLOWANCE LAC/USC MED. CENTER
640	CHILDREN'S SERVICES ERCP RETENTION
641	SHOOTING BONUS, EXPERT – RESERVE
642	SHOOTING BONUS, DISTINGUISHED EXPERT – RESERVE
643	SHOOTING BONUS, MARKSMAN – RESERVE
644	SHOOTING BONUS, SHARPSHOOTER – RESERVE
645	WELDER CERTIFICATION BONUS
646	EMERGENCY ROLLOUT PROGRAM & SHIFT BONUS
647	BILINGUAL ADDITIONAL BONUS, PSYCHIATRIC SOCIAL WORK
648	DEFIBRILLATION AIRWAY BONUS
649	MAMMOGRAPHY BONUS
650	PRESIDING JUDGE 4% BONUS
653	EQUINE HANDLERS PAY
653	K-9 HANDLERS PAY

<u>EARNINGS CODE NO.</u>	<u>ITEMS</u>
694	PARK, TAXABLE
695	TRANSPORTATION ALLOW
696	TRAFFIC MITIGATION
700	"OVERNIGHT TRIP" PAY - SHERIFF'S STATEWIDE UNIT
730	PREMIUM OVERNIGHT TRIP
782	FLSA PREMIUM PAY FOR REGULARLY SCHEDULED WORK ASSIGNMENT
903	NON-ELECTIVE LEAVE BUYBACK
910	SICK BUYBACK
911	VACATION BUYBACK
912	HOLIDAY BUYBACK
913	SICK PRE-71 BUYBACK
914	SICK BUYBACK –PROBATION 56 – HOUR
915	VACATION BUYBACK - 56 HOUR
930	SPECIAL PAID LEAVE BUYBACK
931	APPRAISERS LEAVE BUYBACK
932	INTERN/RESIDENT LEAVE BUYBACK
PP046	EMPLOYEE SUGGESTION
NONE	PARK, NONTAXABLE
NONE	PRIOR SALARY

**EARNINGS**  
**CODE NO.**

**ITEMS**

NONE

56 HOUR TO 40 HOUR ASSIGNMENT BONUS

NONE

REGISTERED NURSE ASSIGNED TO CRITICAL CARE  
UNIT

**Attachment 1**



October 5, 2016

TO: Fern M. Billiny  
Senior Staff Counsel  
Legal Division

FROM: Theodore J. King, Section Head  
Special Benefits Services  
Benefits Division

SUBJECT: **K-9 Handlers in the Los Angeles County District Attorney's Office,  
Bureau of Investigation**

The Association for Los Angeles Deputy Sheriffs submitted a formal request on the behalf of Ms. Wendy Lofton, D. A. Senior Investigator. This request is to determine if the compensation that Ms. Lofton receives for canine care should be deemed as pensionable income. Ms. Lofton is a canine handler for the L.A. IMPACT Team with the District Attorney's office.

To assist with the determination of the formal request for Ms. Lofton, I contacted Ms. Rebecca Bueno of the Association for Los Angeles Deputy Sheriffs. Ms. Bueno provided me with the Bureau's canine policy that outlined the responsibilities the handlers provide for the canine. In addition to this I also received confirmation from John J. Neu, Chief of The Bureau of Investigation. Chief Neu confirmed that Ms. Lofton has been a narcotics detection canine handler since June of 2015. She performs her mandatory duties full-time, 40 hours per week and is also responsible for the 24 hour care, maintenance, and housing of her canine. As a result of this Ms. Lofton is entitled to three hours of additional compensation per week to care for the canine. Currently, the additional three hours of pay is designated as "overtime". I have enclosed supporting documents for your review.

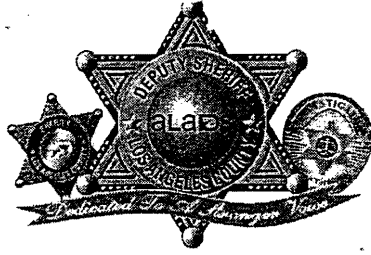
Therefore, I ask for assistance to treat three (3) hours per week as compensation earnable for the Los Angeles County District Attorney's Office, Bureau of Investigation.

I will continue to assist other K-9 units, and stand ready to facilitate similar implementation(s) if and when other animal care units meet the high standard to classify "care and feed" hours earnable.

TK:bb  
Div\ben\retstaff\K9Handlers\Lofton,Wendy.doc

c: Bernie Buenaflor  
Robert Hill

Enclosures



## Association for Los Angeles Deputy Sheriffs

2 Cupania Circle Monterey Park, CA 91755-7406 • Office: (323) 213-4005 • Fax: (323) 724-0140 • www.alads.org

Sent Via E-mail & U.S. Postal Service

February 2, 2016

Mr. Robert R. Hill  
Assistant Executive Officer

~~LACERA~~  
300 North Lake Avenue, Suite 650  
Pasadena, California 91101

**RE: WENDY LOFTON, D.A. SENIOR INVESTIGATOR – EMPLOYEE NUMBER**

Mr. Hill,

Please accept this letter as a formal request to assess pensionability of Ms. Lofton's overtime hours as a canine handler of the L.A. IMPACT team with the District Attorney's office. For your review, I have attached the unit's canine policy as well as Ms. Lofton's paystub.

Should you have any questions, do not hesitate to contact me any time at (323) 213-4005.

Cordially,

Derek Hsieh  
Executive Director

**BOARD OF DIRECTORS**

**George Hofstetter**  
President

**Sean Van Leeuwen**  
Vice President

**J. [Name]**  
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Director

Affiliate of the Marine's Beneficial Association AFL-CIO



**LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE  
BUREAU OF INVESTIGATION**

---

JACKIE LACEY • District Attorney  
JOHN K. SPILLANE • Chief Deputy District Attorney

JOHN J. NEU • Chief  
KRIS CARTER • Deputy Chief

September 16, 2016

Theodore J. King, Section Head  
Los Angeles County Employment Retirement Association  
Benefits Division  
300 North Lake Avenue, Suite 650  
Pasadena, California 91101

Dear Mr. King:

The purpose of this correspondence is to notify you of the Los Angeles County District Attorney's Office, Bureau of Investigation's canine handler duties.

The Los Angeles County District Attorney's Office, Bureau of Investigation, has one dedicated canine handler. Senior Investigator Wendy Lofton, employee \_\_\_\_\_ as been assigned to L.A. IMPACT as a narcotics detection canine handler since June 2015. She performs her mandatory duties full-time, 40-hours per week, and is also responsible for the 24-hour care, maintenance and housing of her canine. Therefore, she is entitled to 3-hours per week for the care, maintenance and housing of her canine. This results in Senior Investigator Wendy Lofton submitting a 3-hour paid overtime position every week for work reflected on her regular day off.

Should you have any questions regarding this correspondence, please call Lieutenant Gregory Frum at (213) 379-1322.

Very truly yours,

JACKIE LACEY  
District Attorney

By 

JOHN J. NEU, Chief  
Bureau of Investigation

JN:SO:lg

## Canines

### 309.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment police services to provide a practical and credible narcotic detection capability for L.A. IMPACT, the Los Angeles County District Attorney's Office, Bureau of Investigation, and the community to aid in the investigation, apprehension and prosecution of participants in illegal activities involving narcotics. This will be accomplished through the deployment of a highly trained team consisting of a canine handler and a narcotics detection dog. The primary task of this team is to locate narcotic substances or materials, objects, paraphernalia, currency, or other items which have been tainted with the odor of narcotic substances.

### 309.2 POLICY

It is the policy of the Los Angeles County District Attorney's Office, Bureau of Investigation that handlers and canines meet and maintain the appropriate proficiency in order to effectively and reasonably carry out legitimate law enforcement objectives.

### 309.3 ASSIGNMENT

Canine handlers should be assigned to assist and supplement the L.A. IMPACT in accordance with current agreed upon Memorandum of Understanding (MOU). However, they may be assigned by the Major Crimes Lieutenant to other functions, such as Bureau related investigative assistance, based on the current operational needs.

Canine handlers should generally not be assigned to handle routine matters that will take them out of service for extended periods of time and then only with the approval of the Major Crimes Lieutenant.

### 309.4 CANINE PROGRAM SUPERVISION

#### 309.4.1 CANINE COORDINATOR

The canine coordinator shall be the Lieutenant assigned to the Major Crimes/Organized Crime (MCOC) unit and directly responsible to the Special Operations Division Captain or the authorized designee.

The responsibilities of the coordinator shall be the overall management of the narcotics detection canine program including, but not limited to:

- (a) Reviewing all Weekly Activity Reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining liaison with the vendor kennel.
- (c) Maintaining liaison with command staff and functional supervisors.
- (d) Maintaining liaison with other agency canine coordinators, including, but not limited to, the Los Angeles County Sheriff's Department, and L.A. IMPACT.



- (e) Maintaining accurate records to document canine activities.
- (f) Recommending and overseeing the procurement of equipment and services for the handler and canine.
- (g) Scheduling all canine-related activities.
- (h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.
- (i) Reviewing all use-of-force and injury claims related to canine activity.
- (j) Supervision, training and evaluation of the canine program Supervisor/Sergeant.
- (k) Oversight of the acquisition of training of additional or replacement handlers and/or animals.
- (l) Review and revision of operational policy and procedures.

#### 309.4.2 CANINE SUPERVISOR

The canine supervisor shall be a designated sergeant assigned to the Major Crimes/Organized Crime (MCOOC) unit and directly responsible to the Major Crimes Lieutenant, (Canine Coordinator), or the authorized designee. The canine supervisor shall have the following duties and responsibilities:

- (a) Supervision and evaluation of investigator assigned as handler(s).
- (b) Oversight of the selection of new or replacement dog(s).
- (c) Supervision of training for the canine program.
- (d) Preparation of canine program statistical summary.
- (e) Acquisition of equipment, supplies, and services for the canine program.
- (f) Preparation and monitoring of canine program budget.
- (g) Supervision of obtaining and auditing training aides containing narcotic substances.
- (h) Annual program evaluation.
- (i) Supervise canine program annual inspection presentation.
- (j) Coordinate with Los Angeles County Sheriff's Department, Narcotics Bureau Canine Program to evaluate proficiency of dog(s).
- (k) Monitoring and evaluation of court testimony.
- (l) Other necessary activities needed to maintain a highly credible and technically proficient narcotic canine program.

### **309.5 REQUESTS FOR NARCOTICS CANINE TEAM**

All members of the Bureau of Investigation are encouraged to request the use of a narcotics canine to assist in their investigations. Requests for a narcotics canine team from department units outside of the Special Operations Division shall be reviewed by the Special Operations Division Captain. Requests for the canine team shall be directed to the Bureau Command Post: (213) 974-3607.

#### **309.5.1 OUTSIDE AGENCY REQUEST**

All requests for narcotics canine assistance from outside agencies must be approved by the Special Operations Division Captain and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) Calling out off-duty canine teams is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

#### **309.5.2 SEARCH WARRANT SERVICE**

As a member of the BOI, the handler will be called upon to assist narcotic investigators serving search warrants. The handler should obtain information about the search location at least one day prior to the service by contacting the case agent or the person in charge of the warrant. The handler should ascertain the size and number of buildings to be searched, the number of vehicles involved, and the type of narcotics sought (cocaine, heroin, methamphetamine and marijuana are good searches; for the protection of the dog, PCP is not). This information is very important because on the day the warrant is to be served, the handler shall ensure that there are sufficient canine teams to manage the search.

To learn the operational plans for officer-safety reasons, it is important that the handler attend search team briefings on the day of the search warrant service. At the end of the briefing, the canine handler shall request the case agent to have, when the premises has been secured, all suspects and all visible narcotics, narcotic paraphernalia and all pets, removed from the rooms that are to be searched.

Conduct the search in a consistent manner. After the area to be searched has been secured, the handler shall do a brief walk-through without the dog.

**NOTE:** It is the handler's responsibility to eliminate things that might be harmful to the dog, e.g., narcotics, narcotic paraphernalia, razor blades, hypodermic needles, cocaine pipes, cocaine cutting mirrors, etc.

While conducting the search, handlers shall indicate areas in which their dog has shown an interest to the case agent or another handler.

The search warrant is the most difficult category of search for the dog. Generally, after a hand search has been conducted, the benefit of using a narcotic detection dog is greatly diminished because of the disruption of the scent of any concealed narcotic. Because of the potential for the destruction of the narcotic scent or for the safety-related considerations, use of the dog will be at the discretion of the canine handler, on a case-by-case basis.

### 309.5.3 USE OF NARCOTIC DETECTION DOGS ON CURRENCY

In recent years, the use of narcotic detection dogs has become an important part of the asset forfeiture process, particularly in regards to currency.

The contamination of the currency prior to the dog sniff is of prime consideration to the canine handler. Many factors may affect the significance of a positive alert by the dog.

Many times, canine handlers are requested to use their dog on currency that has been accidentally contaminated with a narcotic scent by the concerned investigating officers. Initial handling, counting, transportation and storage of currency, prior to a canine check, are critical factors. For this reason, the canine team has established the following procedures related to canine narcotics detection of currency:

**NOTE:** Each case must be considered separately.

(a) Responsibility of the canine handler - BOI canine handlers shall, prior to responding or using a dog for a currency check, as applicable, ascertain the following:

- Location of the currency found.
- Date and time located.
- Narcotics located near or on the currency.
- Other currency recovered at the location or on the suspects.

**NOTE:** Keep all currency separated; each is its own case.

- If transported, was the currency placed in a sealed plastic bag and isolated from other contamination factors?
- If the currency was counted, was it counted by hand or was a money counter used?
- If booked, was the currency booked in compliance with current booking procedures regarding dog sniffs.
- Statement made by arrestee's or witnesses concerning the currency.
- If the currency was removed from a safe deposit box, when was the last date of activity logged by bank personnel?

(b) Interior Search Considerations - The currency shall be controlled by the supervisor at the scene. However, the dog search, procedure and location to be used, is directed by the canine handler. Prior to the currency check, the location shall be cleared with the dog to eliminate any prior contamination from narcotics or other distractions. The canine handler should look for air circulation conditions (e.g., open windows, doors, ceiling fans, air conditioning, vents, etc.) that might adversely affect a narcotic detection search. The currency should be hidden in a location that is conducive to a reliable and effective dog sniff.

**NOTE:** The canine search is not a test of the dog's ability, but a test for the existence of a narcotic scent.

(c) Documentation and Credibility. The credibility of each handler is essential to the success of the mission. Proper documentation of search activities aid in maintaining the validity of the search procedure, the narcotic detection dog, and the handler. To that end, each canine handler shall document currency searches (both positive and negative detections) and other narcotics searches.

### **309.6 REPORTING DEPLOYMENTS, BITES AND INJURIES**

All narcotic searches or calls for service shall be documented on a Weekly Activity Report. These reports shall be submitted for statistical review and post-operation debriefings.

Whenever a narcotics canine deployment results in a bite or causes injury to any person or animal, a supervisor should be promptly notified and the injuries documented in a Weekly Activity Report and a Memorandum to the Chief. The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas including the scene and all witnesses shall be videotaped and/or photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be attached to the Memorandum to the Chief and Weekly Activity Report. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

#### **309.6.1 ACCIDENTAL BITES**

In the event of an accidental bite, the following procedures will be followed:

##### HANDLER

- (a) Immediately render and/or arrange for first aid for the person receiving the bite.
- (b) Immediately notify a supervisor and his/her Canine Unit Supervisor.

- (c) Arrange for all witness to be identified.
- (d) Stay at the scene until relieved by a Supervisor.

#### ON SCENE SUPERVISOR

- (a) Assure the person bitten receives necessary first aid.
- (b) Assure all necessary notifications have been made.
- (c) Videotape and/or photograph the scene, the injuries and all witnesses that may leave prior to the canine coordinator's (or his/her designee's) arrival.

#### CANINE COORDINATOR

- (a) Assure all necessary first aid has been rendered.
- (b) Assure all notifications have been made.
- (c) Take over and assume responsibility for the investigation.
- (d) Complete all necessary reports.

### **309.7 NARCOTICS DETECTION GUIDELINES**

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

#### **309.7.1 SELECTION CRITERIA FOR NEW DETECTION DOGS**

The following specifications will be utilized in the selection of detection dogs for the Los Angeles County District Attorney's Office detection canine program:

- (a) Any suitable working breed, as determined by the Los Angeles County Sheriff's Department, Narcotics Bureau Canine Program Sergeant/Training Cadre.
- (b) The canine must be in excellent health with full medical certification from a licensed veterinarian of the Los Angeles District Attorney's Office choice, including X-rays showing no hip dysplasia.

(c) The canine must be guaranteed to have a sound temperament and disposition, making it suitable for narcotics detection work. The dog must possess psychological characteristics suitable for normal urban deployment, including public relations activities.

(d) The canine must be trained in basic obedience work and must receive a minimum of 200 hours training in the detection of real narcotics. The canine must be certified in the detection of marijuana, cocaine, heroin, methamphetamine and opium. The canine's alert shall be a passive alert.

(e) A written unconditional guarantee of 3 years on the canine's performance and a 2-year guarantee against hip dysplasia are required.

(f) Training and medical records, including hip X-rays, must accompany the canine at the time of delivery.

### **309.8 HANDLER SELECTION**

The minimum qualifications for the assignment of canine handler include:

(a) A senior investigator who is currently off probation.

(b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).

(c) A garage that can be secured and accommodate a canine vehicle.

(d) Living within 30 minutes travel time from the Los Angeles County limits.

(e) Agreeing to be assigned to the position for a minimum of three years.

### **309.9 HANDLER RESPONSIBILITIES**

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection and living conditions.

The canine handler will be responsible for the following:

(a) Provide a proper environment for the dog at the handler's home. Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

(c) When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.

(d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Alameda Vehicle Maintenance facility.

(e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.

(f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.

(g) When off-duty, the canine shall be in a kennel provided by L.A. IMPACT at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.

(h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.

(i) Under no circumstances will the canine be lodged at another location unless approved by the canine supervisor or canine coordinator.

(j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine sergeant or canine coordinator.

(k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

(l) Conduct, at a minimum of 4 hours, weekly training to maintain proficiency with each assigned canine.

(m) Conduct searches for narcotics and narcotics-related items as requested. Including, responding to after-hours calls for service as needed and when appropriate.

(n) Establish working relationships with detection canine personnel in other law enforcement agencies.

(o) Unless otherwise authorized, canines shall only be transported in assigned vehicles.

(p) Abide by all Los Angeles County District Attorney's Office detection canine program policies, procedures, regulations and guidelines, including working a flex schedule if applicable.

### 309.9.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

(a) A canine shall not be left unattended in any area to which the public may have access.

(b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

### 309.9.2 PROCEDURE FOR AFTER-HOURS SERVICE REQUESTS

Bureau canine handlers are issued a cellular telephone for receiving notification of off-duty call outs. Handlers are to maintain their telephones so that incoming calls and messages can be received in the event of an unusual occurrence or canine call-out.

A detection canine handler who receives a request for service after the handler's normal working hours shall adhere to the following procedures unless otherwise instructed by the Canine Program Coordinator or Supervisor:

- (a) The handler shall personally contact the service requestor of the departmental unit or police agency involved.
- (b) The handler shall come to an agreement with the requestor regarding the nature of the service, the location of the service, and whether or not the service requested can reasonably and practically be accomplished during normal working hours.
- (c) If the request will incur paid overtime from the canine handler's Bureau or L.A. IMPACT, the handler will advise the requestor of such, and inform them that overtime authorization will be sought from the their L.A. IMPACT and Bureau supervisor. The handler will contact their supervisors, who will determine if the situation warrants overtime expenditure. Depending on the situation, the canine handler or the canine supervisor, will then contact the requestor and advise them of our response.
- (d) Handlers may immediately respond to a request where exigent circumstances exist. However, the canine supervisor shall be notified while the handler is en route.
- (e) If the handler feels the response is not appropriate or that the task to be performed is not appropriate for the detection canine crew, the handler shall inform the requestor. In situations where there is a disagreement over a non-response, the handler shall immediately contact the canine supervisor, who will contact the requestor to discuss the issues involved.

### 309.9.3 CANINE PROGRAM ACTIVITY REPORTING

All narcotic detection canine handlers shall record their work-related activities daily as directed by L.A. IMPACT and their Bureau sergeant in a "red" book type daily log and a Weekly Activity Report. Additionally, all detection canine handlers will complete and submit a weekly training log. This log will be completed by 0900 hours on Monday for the previous week. These logs will be emailed to the designated "Keeper of the training records." who shall be a member of the MCOC unit. These records will be kept on the Los Angeles County District Attorney's Office database with access available to canine handlers and their supervisors, but entry access only available to the designated records keeper and their supervisor.

### 309.9.4 CANINE PROGRAM EXPENDITURE REPORTING

Los Angeles County District Attorney's Office, Bureau of Investigation canine handlers' will receive an annual Special Appropriations Fund draw in the amount equal to the annual canine maintenance stipend provided by L.A. IMPACT. Purchases and services not routinely needed for daily canine care shall have prior approval by their canine supervisor or canine coordinator, with the exception of emergency veterinary care.



### **309.10 HANDLER COMPENSATION**

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

### **309.11 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine supervisor and canine coordinator as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's Employee Performance Log (EPL).

### **309.12 TRAINING**

This section sets forth the training requirements for all Bureau narcotics detection canines prior to the dogs being placed into field service with a handler. Training of newly assigned handlers and dogs, as well as replacement dogs, shall be conducted by the Los Angeles County Sheriff's Department, Narcotics Bureau Canine Program Training. The training process for a new handler takes approximately 8 to 10 weeks. By training with the Los Angeles County Sheriff's Department, the Bureau of Investigation will save a significant amount in training costs for every new K9 team. This process developed by the Los Angeles County Sheriff's Department, Narcotics Bureau Training Cadre is well above the industry standard and consists of the following:

- (a) The dog must receive and be proficient in basic obedience training.
- (b) The dog must have received a minimum of 200 hours of narcotics detection training. No pseudo narcotics may be utilized at any time. The dog must be able to detect the odors of marijuana, cocaine, heroin, methamphetamine and opium, and give a passive alert upon finding these substances.
- (c) During pre-service training, the dog should be exposed to a wide variety of search environments which replicate actual field search conditions. This includes, but is not limited to, searches of vehicles, residences, commercial buildings, storage facilities, luggage, parcels, and open field areas.
- (d) Training in narcotics detection should also include varied amounts of the substances. In terms of quantity, the dog should be able to detect identifiable residue, and then demonstrate success at various amounts. The dog must show proficiency in detecting substances at various heights from ground level to 6 feet high. Detection of buried narcotics is also very desirable.
- (e) The Canine Team must be certified by officials of the National Police Canine Association, prior to being placed into service and annually thereafter. The certifying Association must be approved by the Los Angeles County Sheriff's Department, Narcotic Bureau Canine Program

# Lexipol California

## Policy Manual

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Sergeant and Lieutenant.

(f) During training, a priority will be placed on training the handler in department policy and case law, as it relates to deployment of narcotic detection canine teams.

(g) If the handler is new and is to be assigned to L.A. IMPACT, he/she will be assigned to meet with the Head Deputy District Attorney of the Special Operations Bureau, Major Narcotics Unit or his/her designee to be trained in current case law.

(h) During the training process, weekly evaluations will be completed by the Los Angeles County Sheriff's Department, Canine Program Training Cadre and approved by the Canine Program Sergeant.

Before assignment in the field, each narcotics canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards, including the National Police Canine Association (NPCA) or other recognized and approved certification standards established for their particular skills.

The canine coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.

All canine training should be conducted while on-duty unless otherwise approved by the canine coordinator.

### 309.12.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, NPCA or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams should receive training as defined in the current contract with L.A. IMPACT and the Los Angeles County Sheriff's Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.

(c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department and the Los Angeles County Sheriff's Department, Narcotic Bureau Canine Program.

(d) Individual Team Training - Each canine handler is required to train with his/her dog a minimum of four hours weekly. This training includes detection and obedience training. The dog must be exercised and played with in order to keep the dog motivated.

(e) Quarterly Los Angeles County Sheriff's Department Detection Canine Training Program - Approximately every three months, the Narcotics Bureau Training cadre will conduct training for all of the Los Angeles County Sheriff's Department Detection Canine Teams, and include the Bureau of Investigation canine handler.

# Lexipol California

## Policy Manual

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(f) Recurrent Los Angeles County Sheriff's Department, Narcotic Bureau Canine Program Training - All Bureau of Investigation detection canine handlers will train with the Los Angeles County Sheriff's Department, Narcotic Bureau Canine Program as designated by the Sheriff's Department Canine Program Sergeant. This training will take precedence over normal duties, unless determined otherwise by their Bureau Program Sergeant. At this training, all canine teams will meet at a pre designated training location where narcotic detection, case law, and other types of training will be conducted.

(g) Annual Certification with the Los Angeles County Sheriff's Department, Narcotics Bureau Training Cadre - Approximately half way through the year, six months after yearly outside certification, the Narcotic Bureau Canine Unit Training Cadre will conduct a training day where all narcotics detection canine teams will be tested and "certified" to Los Angeles Sheriff Department Detection Canine Program standards. This certification will include:

1. All odors/items the team is trained to detect.
2. Numerous environments of the types typically encountered during regular deployments.
3. Distraction odors and environments.
4. A pass/fail requirement with a 100% accuracy by the team.

If a team fails this certification, immediate assistance will be provided to correct any deficiencies and the team will be afforded the opportunity to attempt certification again after 24 hours. This will repeat until the team is able to certify.

Any canine teams that fails to certify will be taken out of service until they are able to successfully certify. If a detection canine team is unable to certify, they will be permanently taken out of service and the canine will be replaced.

### 309.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular investigative duties.

### 309.12.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

### 309.12.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Canine handlers possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements regarding the same. Alternatively, the Los Angeles County District Attorney's Office, Bureau of Investigation may work with outside trainers with the applicable licenses or permits.

### 309.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

District Attorney Investigators acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).

The District Attorney canine handler will be required to abide by all Los Angeles Sheriff's Department Narcotic Training Aid policies, procedures and Narcotic Bureau Orders. The Chief of the Bureau of Investigation or his authorized designee may authorize a member to seek a court order to allow controlled substances seized by Los Angeles County Sheriff's Department to be possessed by the narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

It shall be the policy of the Los Angeles County District Attorney's Office that only actual narcotic substances be used in the training of dogs. All narcotics substances used in the training of Los Angeles County District Attorney's Office canines shall be obtained through the Los Angeles County Sheriff's Department, Narcotics Bureau Training Cadre. The narcotics obtained shall be used exclusively for:

- Training which gives the dog experience in finding the substance.
- Providing the dog with scent awareness incidental to an actual search.

Both of these activities are critical to the effectiveness of a narcotic detection canine.

The procedure to be followed to obtain narcotics for these purposes is as follows:

The Los Angeles County Sheriff's Department Canine Program Training Cadre while supervised by the Canine Program Sergeant shall be responsible for identifying suitable narcotic substances in the custody of LASD Central Property which would otherwise be destroyed. The narcotics shall be transferred from Central Property Narcotics to Narcotics Bureau. All official transfer documentation shall occur and a special ledger shall be established which will be utilized only for recording those substances being held for canine training. Court orders for the use of these substances shall be obtained as required.

The Sheriff's Department Narcotics Bureau Canine Program Sergeant shall monitor the transfer of the appropriate quantity of each substance to the Sheriff's Department Crime Laboratory for examination. A Criminalist will analyze the substance, weigh it and seal it, with a certification of its contents and a code for identification and tracking. This process will be repeated for the various substances and package sizes. Proper documentation and record keeping will be performed by the Crime Lab staff for evidence tracking and court presentation by the Crime Laboratory staff.

The Canine Program Training Cadre shall take the packaged narcotics from the Criminalist, place them in the canine locker and enter them into the special canine training substance ledger.

All of the above shall be as directed by and supervised by the Los Angeles County Sheriff's Department Canine Program Sergeant.

As an alternative, the Chief of the Bureau of Investigation or the authorized designee may request narcotics training aids from the Drug Enforcement Agency (DEA).

### 309.12.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

The Sheriff's Department, Narcotics Bureau Canine Sergeant will monitor the collection and assignment of each handler's training aides. The training aides shall be removed from the Canine Locker by the Narcotics Bureau Canine Sergeant and signed for by the Sergeant, Trainer(s), and handler from the Bureau of Investigation. The packages shall remain in the custody of the Bureau handler until they are no longer usable. If the packaging becomes damaged, it shall be returned to the Canine Program Trainer(s) and Sergeant who shall decide whether to have the substance repackaged or process it for destruction.

The chain of Sheriff's Department custody, control, and responsibility for the narcotics to be used in the Canine Program shall be maintained. A handler shall not loan or give their assigned training aides to anyone other than the Canine Crew Sergeant or other narcotics detection handlers.

Handlers must always ensure their assigned training aides are adequately secured. When off-duty, handlers may leave their training aides secured in their assigned vehicle in a locked drawer. Otherwise, the training aides must be secured in the handler's residence.

Handlers will be assigned at minimum six narcotics substances as training aides. The narcotics substances shall be packaged into 1 gram, 7 grams, 14 grams, and 28 grams packages.

Each Handler will be assigned the following six narcotics substances as training aides.

1. Cocaine (powder/ HCL)
2. Cocaine (rock)
3. Heroin
4. Marijuana
5. Methamphetamine (ICE)
6. Opium

Handlers may be assigned additional varieties of narcotics substances depending on narcotics trends with the approval of the Los Angeles County Sheriff's Department, Canine Program Coordinator and Supervisor.

It is the responsibility of the canine supervisor or LA IMPACT supervisor to conduct monthly audits and inspections of each handler's assigned training aides. Canine handlers should inspect/inventory their assigned training aides on a daily basis. All audits shall be documented in the canine handlers' red books.

All narcotics training aids for Los Angeles County District Attorney's Office narcotics detection canine units, shall be obtained through the Los Angeles County Sheriff's Department Narcotics Bureau Canine Unit.

# Lexipol California

## Policy Manual

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All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

Any unusable controlled substance training samples shall be returned to the dispensing agency.

All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

### 309.12.7 CANINE PROGRAM EQUIPMENT

Certain specialized equipment shall be issued to each canine handler. The canine handler shall be responsible for assuring that the equipment is properly maintained and in good working order, functioning properly at all times. The equipment will be inspected by their canine supervisor annually and the inspection shall be documented in their red books.

The following equipment shall be issued to each handler:

- Portable training aid case(s). A case to store the training aids will be an airtight case ("Pelican" type) with smaller airtight cases inside for the safe and secure storage of training aids.
- Suitable vehicle specifically modified for use in their canine program.
- Canine first aid kit including medications necessary for emergency treatment.
- Canine handling equipment.
- Kennel with a padlock, chain, and dog house for senior investigator's residence.
- Food and water dishes.
- Specialty weapons and equipment as deemed necessary by the Bureau.

October 24, 2016

TO: Each Member, Board of Retirement  
Each Member, Board of Investments

FROM: Steven P. Rice *SPR*  
Chief Counsel

FOR: November 2, 2016 Board of Retirement Meeting  
November 7, 2016 Board of Investments Meeting

SUBJECT: **Restated Code of Ethical Conduct (First Read)**

## **RECOMMENDATION**

Staff recommends that the Board of Retirement and Board of Investments review and comment upon the proposed restated Code of Ethical Conduct.

The restated Code, which sets forth ethical standards for Board members and staff, is presented at this time for a first read, discussion, and comments. Based on Board input, the Code will be finalized for adoption by both Boards at the December 2016 Board meetings. The proposed restated Code is attached as Attachment 1. The current Code is attached as Attachment 2.

## **BACKGROUND**

The current Code of Ethical Conduct was adopted in June 2006. It has not been reviewed since that time. The Code should be reviewed on a regular basis to consider changes in the ethics landscape, including new or revised law and regulations, evolving best practices, and the Boards' own vision of the ethical standards to which Board members and LACERA staff should be held.

## **DISCUSSION**

The Code has now been restated, with the following changes:

1. The restated Code is updated based on changes in the law since 2006. Most importantly, Fair Political Practices Commission Regulations relating to conflicts of interest have been revised in the last ten years. For example, the gift limit has increased.
2. The restated Code includes changes that take into account best ethical practices as they have evolved since 2006. In preparing the restated Code, staff reviewed ethical codes of other California public pension funds and public pension funds elsewhere in the country. Staff also reviewed model codes prepared by the

National Conference on Public Employee Retirement Systems (NCPERS) and the CFA Institute.

3. The Code as a whole is restructured and restated with the goal of making the Code a comprehensive, user friendly guide to ethical issues. The topics covered in the Code have been reorganized and expanded to include the following elements:
  - a. A cover letter from the Chief Executive Officer discussing the importance of the Code.
  - b. The Code's Purpose and Scope.
  - c. Summary sections on General Ethical Standards and Prohibited Transactions.
  - d. Detailed sections on:
    - i. Fiduciary Duties;
    - ii. Conflicts of Interest;
    - iii. Employment of Related and Unrelated Persons;
    - iv. Contracting and Vendor Relationships;
    - v. Use of LACERA Position, Resources, and Information;
    - vi. Personal Conduct and Communication; and
    - vii. Leaving LACERA.
  - e. Sections on Reporting, Enforcement, and Training.
  - f. Internal and external Resources for additional information.
  - g. A requirement for Review of the Code by the Boards on a five-year cycle in the future, with a mandate for staff to monitor the legal and ethical landscape to determine if there is a need for additional, off-cycle Board review or amendment.

The Code of Ethical Conduct is separate from and in addition to the Conflict of Interest Code approved by the Boards in September 2016. The Conflict of Interest Code is a legal requirement that only addresses Form 700 issues.



Each Member, Board of Retirement and Board of Investments

October 24, 2016

Re: Restated Code of Ethical Conduct (First Read)

Page 3

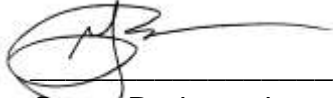
The proposed restated Code has been reviewed by Internal Audit. Staff has also requested that the County Conflict of Interest/Lobbyist Division review the restated Code and provide input.

### **CONCLUSION**

**IT IS RECOMMENDED** that the Board of Retirement and Board of Investments review and comment upon the proposed restated Code of Ethical Conduct.

Attachments

Reviewed and Approved:



---

Gregg Rademacher  
Chief Executive Officer

c: Gregg Rademacher  
Robert Hill  
John Popowich  
Division Managers  
Johanna Fontenot

**ATTACHMENT 1**  
**PROPOSED**  
**RESTATED CODE OF ETHICAL CONDUCT**

# **CODE OF ETHICAL CONDUCT**

Restated  
and Approved:

Board of Retirement:  
Board of Investments:

To LACERA Board Members and Staff:

LACERA holds itself to the highest ethical standards of honesty, integrity, trustworthiness, and fairness.

We must employ these principles every day in fulfilling LACERA's **Mission** to *produce, protect, and provide the promised benefits*. These principles are an important part of our shared **Values** of *Professionalism, Respect, Open Communications, Fairness, Integrity, and Teamwork* (PROFIT) and our collective **Vision** of *Excellence, Commitment, Trust, and Service*.

Ethics extends to all aspects of our business, including our interactions with each other inside the organization, with LACERA's members, with our plan sponsor, with vendors, with the public, and with all others.

The attached Code of Ethical Conduct provides detailed information as to the ethical standards of conduct required at LACERA. The Code addresses specific legal requirements. The Code also includes other standards rooted beyond the law in concepts of what we want to be as an organization. The Code applies equally to everyone at LACERA, including Board members and staff, because ethical lapses by any of us will reflect on all of us.

Please read the Code carefully and familiarize yourself with it. Every ethical situation you may encounter cannot be specifically addressed in such a document, and it is important that you seek additional information when needed. In this regard, the Code has sections on Reporting and Resources, including contacts for specific questions and reporting of ethical concerns.

Ethics is one of the most important criteria by which our colleagues and stakeholders will measure us. Each and every one of us has responsibility for ensuring the excellence of LACERA's ethics. Thank you for following the Code of Ethical Conduct in your work at LACERA.

Very truly yours,

Gregg Rademacher  
Chief Executive Officer

## TABLE OF CONTENTS

I.	Purpose and Scope .....	5
II.	General Ethical Standards.....	7
III.	Prohibited Transactions.....	9
IV.	Fiduciary Duties.....	11
A.	Fiduciary Duties of Board Members.....	11
B.	Fiduciary Duties of LACERA, and Staff’s Role .....	12
C.	Fiduciary Duties of Certain Vendors.....	12
V.	Conflicts of Interest .....	13
A.	Form 700 Statement of Economic Interests.....	13
B.	Gifts, Honoraria, Travel & Loans .....	13
C.	Incompatible Activities/Incompatible Offices.....	15
D.	Contracts .....	15
E.	Investments.....	15
F.	Disclosure and Recusal .....	16
G.	Conflicts of Interest by Vendors.....	16
VI.	Employment of Related and Unrelated Persons .....	17
VII.	Contracting and Vendor Relationships .....	19
VIII.	Use of LACERA Position, Resources, and Information .....	20
IX.	Personal Conduct and Communication .....	21
X.	Leaving LACERA.....	22
A.	Prospective Employment .....	22
B.	Limitations on Subsequent Activities .....	22
XI.	Reporting .....	23
XII.	Enforcement .....	24
XIII.	Training.....	25
XIV.	Resources.....	26
A.	LACERA’s Legal Office.....	26
B.	LACERA’s Internal Audit Division/Audit Hotline .....	26
C.	LACERA’s Conflict of Interest Code.....	26
D.	California Constitution .....	26
E.	CERL .....	26

**F. California Government Code Section 1090 et seq .....27**  
**G. Other California Statutes.....27**  
**H. Fair Political Practices Commission .....27**  
**I. California Attorney General Conflict of Interest Guide.....28**  
**J. Los Angeles County Fraud Hotline .....28**  
**XV. Review of Code ..... 29**

## I. Purpose and Scope

The Los Angeles County Employees Retirement Association (LACERA) is a public pension plan organized under the County Employees Retirement Law of 1937 (CERL) (Cal. Gov't Code §§ 31450 et seq.) and the California Public Employees' Pension Reform Act of 2013 (PEPRA) (Cal. Gov't Code §§ 7522 et seq.). The management and administration of LACERA are vested in the Board of Retirement. All investments of LACERA are the responsibility of the Board of Investments.

The members of the LACERA Boards are mindful of the positions of trust and confidence they hold. The Boards adopt this Code of Ethical Conduct to define standards of ethical conduct required of LACERA Board members and staff. The purpose of the Code is to ensure the proper administration of LACERA and to foster public confidence in LACERA's institutional integrity as a well-managed public pension system.

"Ethics" and "ethical conduct" are defined for purposes of this Code as conduct that complies with principles of honesty, integrity, trust, fairness, and duty in connection with LACERA's business as a public pension fund. This Code looks to three sources for determination of ethical standards:

- First, laws and regulations applicable to LACERA and its business, Board members, and staff, including the California Constitution, CERL, the Political Reform Act and the regulations adopted thereunder, and other statutes, regulations, and case law.
- Second, best practices of ethical conduct. Best practices are drawn from ethical codes and practices of other public pension systems in California and elsewhere, professional associations, and similar sources.
- Third, LACERA's **Mission, Values, and Vision**, historical LACERA practices, and judgment as to the moral principles and behavior that LACERA as an organization strives to follow.

This Code provides ethical standards for LACERA Board members and staff. The Code provides specific guidance for common situations raising ethical issues. However, the Code does not specifically address every issue that Board members and staff will encounter. As to those other situations, the Code should be used and followed as a reference for standards of conduct and the basis for evaluation of facts and circumstances. The Code requires that additional information be requested when a user is unsure as to how the Code should be interpreted or when a user encounters an ethical issue not covered in the Code.

This Code is important:

- To ensure legal compliance with ethics laws and regulations.

- To further best ethical business practices.
- To establish an organization-wide culture and accountability for ethics.
- To foster trust, credibility, and positive relationships between LACERA and all parties necessary for the effective performance of LACERA's **Mission** to *produce, protect and provide the promised benefits*. These parties include others inside the organization, members, the plan sponsor and other participating employers, vendors, the public, and all others with whom LACERA may deal.
- To further LACERA's **Values** and **Vision**, which incorporate ethics, honesty, integrity, fairness, and trust.
- To establish common ethical standards followed by everyone at LACERA, instead of leaving ethics to unguided and possibly inconsistent personal judgment and interpretation.
- To mitigate the legal and business risks associated with ethical issues.
- To further the organization's business goals and objectives.
- To confirm the process for reporting or raising ethical concerns or questions.
- To identify resources for additional information concerning ethics and the applicable laws and regulations.

The Code shall not be construed as the sole source of ethics laws and regulations which must be observed by LACERA Board members and staff. Nothing in this Code shall exempt any person from any other applicable federal, state, or local law or regulation. The standards of ethical conduct in this Code are in addition to any such other laws and regulations.



## II. General Ethical Standards

This Code addresses specific ethical requirements in subsequent sections. The application of those specific requirements is summarized in this Section II as General Ethical Standards.

The following General Ethical Standards apply to LACERA Board members and staff:

- Recognize and be accountable for all fiduciary responsibilities.
- Comply with all applicable laws and regulations.
- Conduct all LACERA business in a fair manner, and be honest in all business dealings.
- Strive to provide the highest quality of performance and counsel.
- Avoid any activity which constitutes an actual conflict of interest or which could be perceived or interpreted as a conflict of interest by others.
- Avoid exerting improper influence or being improperly influenced, and the appearance of improper influence or being improperly influenced.
- Exercise prudence and integrity in the management of funds.
- Report to an appropriate person actions which may constitute violations of this Code of Ethical Conduct.
- Be responsible for maintaining professional competence.
- Be respectful, professional, and courteous to all LACERA Board members and staff, LACERA members, and all persons and entities with which LACERA does business or may otherwise interact.
- Maintain the confidentiality of all plan member information and all other confidential or privileged information so designated, including but not limited to information provided for or related to closed sessions of the Boards, which is received from or created or maintained by LACERA.
- To the extent not otherwise covered by the preceding bullets, conduct LACERA business in a manner consistent with:
  - LACERA's **Mission** *to produce, protect, and provide the promised benefits.*
  - LACERA's **Values** *of Professionalism, Respect, Open Communications, Fairness, Integrity, and Teamwork.*
  - LACERA's **Vision** *of Excellence, Commitment, Trust, and Service.*

- All other applicable LACERA policies and procedures.
- Report or seek additional information from an appropriate person, when necessary, concerning ethical questions and issues.

### III. Prohibited Transactions

The specific ethical requirements in subsequent sections of the Code define and describe certain prohibited conduct. Those prohibitions are summarized in this Section III as Prohibited Transactions.

LACERA Board members and staff shall not engage in the following Prohibited Transactions:

- Utilizing any property, resources, information, or opportunity of LACERA for personal gain.
- Falsifying or failing to record proper entries on any books or records of LACERA.
- Knowingly becoming a party to, or condoning, any illegal activity.
- Authorizing payment of any amount on behalf of LACERA, or for any purpose, other than that explicitly disclosed in the original request for payment.
- Directly or indirectly seeking or accepting gifts, money, property, or other benefit that would influence or appear to influence the conduct of duties.
- Engaging in or conducting outside activities or offices of financial or personal interest that may conflict with the impartial and objective execution of LACERA business activities.
- Selling or providing goods or services to LACERA without disclosure.
- Utilizing the services of relatives or close personal associates for LACERA business without disclosing such relationship prior to execution and obtaining the appropriate approval.
- Engaging in activities involving dishonesty, fraud, deceit or misrepresentation.
- Engaging in outside employment with any providers of supplies or services to LACERA.
- Engaging in outside employment that would interfere with or hamper expected performance at LACERA.
- Engaging in other activities which compromise or appear to compromise one's objectivity in the conduct of one's duties.
- Releasing to any third person plan member information or other confidential or privileged information so designated, including but not limited to information provided for or related to closed sessions of the Boards, which is received from or created or maintained by LACERA.

- Engaging in any other conduct prohibited by this Code of Ethical Conduct or applicable laws and regulations.

## IV. Fiduciary Duties

Members of LACERA's Board of Retirement and Board of Investments have fiduciary duties under the California Constitution and other law. LACERA as an organization also has fiduciary duties, which are implemented through LACERA's employees. Finally, certain of LACERA's vendors have a fiduciary duty to LACERA. This Section IV addresses all three categories of fiduciary duty.

### A. Fiduciary Duties of Board Members

The California Constitution, Article XVI, Section 17, defines the fiduciary duties of the LACERA Boards, and the Board members:

- The Boards "shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system."
- The Boards "shall have the sole and exclusive fiduciary responsibility over the assets of the system. The retirement board also has sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system."
- The members of the LACERA Boards "shall discharge their duties solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty."
- The member of the LACERA Boards "shall discharge their duties with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise with a like character and like aims."
- As to the Board of Investments, the members of the Board "shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so."

These duties are also included in Section 31595 of CERL.

California case law provides that the Boards and the Board members have a trust relationship with LACERA's members and beneficiaries. This trust relationship means that the Boards and the Board members have a fiduciary duty of prudence and loyalty to members and beneficiaries, which must be exercised in good faith. Further, the Boards and the Board members have a duty to deal fairly with the members and beneficiaries,

without the slightest misrepresentation, concealment, threat, or adverse pressure. *Hittle v. Santa Barbara County Employees Retirement Assn.* (1985) 39 Cal.3d 374.

To perform their fiduciary duties, each member of the LACERA Boards shall diligently attend to the business of the Board on which he or she serves, and shall not leave to the other members of the Board control over the administration of the affairs of such Board.

### **B. Fiduciary Duties of LACERA, and Staff's Role**

LACERA as an organization has the same fiduciary duties. LACERA staff supports the organization, the LACERA Boards, and Board members in the fulfillment of their fiduciary duties as described in Section IV(A) of this Code. Accordingly, LACERA staff shall be familiar with the fiduciary duties described in Section IV(A) and conduct themselves at all times in a manner consistent with those duties. LACERA staff shall take no action inconsistent with those duties. LACERA staff shall avoid any conduct which is, or may be perceived to be, detrimental to LACERA and its members and beneficiaries. In dealing with members, LACERA staff shall be honest and forthright. Staff shall ensure that the information provided to members in connection with their rights, questions, choices and decisions, concerns, and issues is complete and accurate.

### **C. Fiduciary Duties of Certain Vendors**

Certain LACERA vendors have a fiduciary duty to the organization under applicable law or under the terms of a contract with LACERA. LACERA Board members and staff shall be aware of those vendors that owe a fiduciary duty and monitor them to ensure that the vendors comply with that duty.

## **V. Conflicts of Interest**

LACERA Board members and staff shall avoid conflicts of interest, including the appearance of conflicts of interest, in all aspects of their work for LACERA and shall comply with applicable laws and regulations relating to conflicts.

### **A. Form 700 Statement of Economic Interests**

Public officials, including LACERA Board members and certain staff, who make or influence governmental decisions are required to submit Form 700 Statements of Economic Interests. Form 700s are an important tool in the identification of actual or potential conflicts of interest by LACERA Board members and staff. Form 700s are public documents. LACERA Board members and designated staff shall file Form 700s when and as required by applicable law and regulations, which are generally summarized here. Additional information can be obtained from LACERA's Legal Office and from Fair Political Practices Commission publications.

Pursuant to California's Political Reform Act, LACERA's Boards have adopted, and the County of Los Angeles Board of Supervisors has approved as code reviewing authority, a Conflict of Interest Code that requires the filing of a Form 700 by positions "which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest," except positions which manage public investments. Cal. Gov't Code § 87302(a). Persons, including members of the Board of Retirement and identified staff, who file under an agency-adopted Conflict of Interest Code are referred to as "Code Filers." LACERA's Conflict of Interest Code sets forth the positions of all Code Filers and describes the specific economic interest Disclosure Categories that apply to each position.

Separate provisions of the Political Reform Act require positions managing public investments to file a Form 700. Cal. Gov't Code § 87200. Persons who file under Section 87200, including members of the Board of Investments and identified staff, are referred to as "87200 Filers." 87200 Filers are required to disclose investments, interests in real property, income (including gifts, loans, and travel payments), and business positions as described in Form 700 and the Political Reform Act. While 87200 Filers are not subject to LACERA's Conflict of Interest Code, they are listed as a matter of information in the Code.

Form 700s shall be filed, both by Code Filers and 87200 Filers, upon assuming an applicable position, annually thereafter, and on leaving an applicable position. Form 700s shall be filled out by all required filers in a timely, accurate, and thorough and complete manner.

### **B. Gifts, Honoraria, Travel & Loans**

The Political Reform Act, and Regulations promulgated thereunder by the Fair Political Practices Commission (FPPC), impose limitations on gifts, honoraria, travel, and loans. The legal rules associated with gifts, honoraria, travel, and loans are lengthy and do not

lend themselves to a short summary. Additional information can be obtained from LACERA's Legal Office and from FPPC publications. A summary of the general standards with respect to these matters is as follows:

**Gifts.** LACERA Board of Retirement members and staff who are Code Filers are prohibited from receiving gifts totaling more than the legally established gift limit from any single source in a calendar year, if receipts of gifts from that source are required to be disclosed on Form 700 by LACERA's Conflict of Interest Code. LACERA Board of Investments members and staff who are 87200 Filers may not accept gifts totaling more than the legally established limit from any single source in a calendar year. Even if a gift is not subject to Form 700 reporting or the gift limit, a gift may still create a conflict of interest; therefore, LACERA requires Board members and all staff shall make disclosure to the Legal Office of all gifts totaling in excess of \$50 from a single source in a calendar year from any individual or entity as to which LACERA will take any action. Gifts to family members are included in the gift rules under certain circumstances. There are also exceptions to the gift rules for certain gifts; questions should be addressed to LACERA's Legal Office or the FPPC. The gift limit is adjusted biennially. The gift limit for 2015-2016 is \$460; the limit for 2017-2018 is expected to be \$470, although the limit for any date after December 31, 2016 should be confirmed with the LACERA Legal Office or the FPPC. Gifts totaling less than \$50 from a single source in a calendar year currently are not reportable under FPPC law and regulations.

**Honoraria.** LACERA Board of Retirement members and staff who are Code Filers are prohibited from receiving honoraria from any source if receipts of gifts from that source are required to be disclosed on Form 700 by LACERA's Conflict of Interest Code. LACERA Board of Investments members and staff who are 87200 Filers may not accept any honoraria payments. There are certain exceptions to the honoraria rules; questions should be addressed to LACERA's Legal Office or the FPPC. Even if an honorarium is not subject to disclosure, Board members and staff shall make disclosure to the Legal Office of such a payment from any individual or entity as to which LACERA will take any action.

**Travel.** Payments or reimbursement for travel are subject to the reporting requirements for gifts and income. If a travel payment is a gift, it is subject to the gift limit. A travel payment can also be considered an honorarium. Recusal may be required from any decision that will have a materially foreseeable financial effect on the source of a travel payment. There are exceptions to the travel rules; additional information can be obtained from LACERA's Legal Office or the FPPC.

**Loans.** 87200 Filers and elected members of the Boards may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of LACERA or from any individual or entity that has a contract with LACERA. Ordinary retail loans and credit card transactions are excepted if they are offered on the same terms as generally available to the



public. Elected members of the Boards may not receive a loan of \$500 or more unless the loan is made in writing and clearly states the terms. There are other limitations and exceptions. A loan can constitute a gift under certain circumstances. Additional information is available from LACERA's Legal Office or the FPPC.

Board members and staff are prohibited from soliciting any gift or any other consideration (including but not limited to money, service, gratuity, favor, entertainment, hospitality, loan, or other thing of value) from anyone who is doing or is seeking to do business of any kind with LACERA.

Board members and staff are prohibited from accepting any gift from anyone who is doing or is seeking to do business of any kind with LACERA, when the gift is offered with a view toward securing favorable treatment in the awarding of any contract or agreement, or the making of any determination.

All rules relating to gifts, honoraria, travel, and loans are subject to change by the FPPC and other authority. Confirmation of the current rules can be obtained from LACERA's Legal Office or the FPPC.

### **C. Incompatible Activities/Incompatible Offices**

LACERA Board members and staff shall not engage in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to his or her duties for or on behalf of LACERA, or with the duties, functions, or responsibilities of the position he or she occupies for LACERA. LACERA Board members and staff shall not perform any work, service, or counsel outside his or her responsibilities for LACERA where any part of his or her efforts will be subject to approval by the Boards or any employee of LACERA acting in that capacity. Cal. Gov't Code § 1126.

Board members may not simultaneously hold two offices where the functions of the offices are inconsistent or where there are conflicting interests.

### **D. Contracts**

LACERA Board members and staff shall not be financially interested, directly or indirectly, in any contract made between LACERA and any individual or entity. The making of a contract includes any participation whatsoever, including the development of the need for the goods or services subject to the contract, issuance of a Request for Proposals (RFP), Request for Information (RFI), purchase order, or other solicitation or contracting process, evaluation of prospective contracting parties, selection of contracting parties, negotiation of the terms of the contract, and performance of the contract. Cal. Gov't Code § 1090 et seq.

### **E. Investments**

LACERA Board members and staff shall not have any personal interest, direct or indirect, in the making of any investment by LACERA, or in the gains or profits from any

investment. Board members and staff shall not, directly or indirectly, for himself or herself, or as an agent or partner of others, sell or provide any investment product to LACERA. Cal Gov't Code § 31528 (a), (b).

#### **F. Disclosure and Recusal**

LACERA Board members and staff shall disclose actual or potential conflict of interest, or the appearance of an actual or potential conflict of interest, to the Chief Executive Officer and the Legal Office. Board members and staff shall recuse themselves from involvement, consideration, and decision of a matter as to which the member has an actual conflict of interest. Recusal, or disqualification, is mandatory in certain circumstances, and discretionary in others. Board members and staff should consider recusing themselves from consideration and decision of a matter as to which the member has a potential conflict of interest, or the appearance of an actual or potential conflict of interest. Board members and staff shall consult with the Legal Office on any issue of recusal to discuss legal requirements that may apply to the particular circumstances, including whether recusal is required, whether recusal is an effective remedy for a conflict or potential conflict or whether other steps (up to and including disqualification of an individual or the Board) are necessary, and the way in which recusal, if possible, should be documented.

#### **G. Conflicts of Interest by Vendors**

LACERA's contracts shall include appropriate provisions to ensure that there are no conflicts of interest during the contracting process and to prevent conflicts of interest during the term of a contract. Board members and staff should be alert to, and take other appropriate steps to prevent, actual or potential conflicts of interest by vendors in connection with the making or performance of contracts.

## VI. Employment of Related and Unrelated Persons

To avoid nepotism or the appearance of nepotism, LACERA may not employ a person who is related to:

- A Board member.
- The Chief Executive Officer.
- Persons serving as an Assistant Executive Officer and any other employee reporting directly to the Chief Executive Officer.
- A division manager.

This prohibition does not prevent the continued employment of a person who has already been working for LACERA in a full time and non-probationary capacity for thirty consecutive days prior to the date the Board member or other individual described above acquired their position, or the related party became related. If a related party is retained under these circumstances, any actual or potential conflict of interest must still be corrected or sufficiently mitigated.

Related parties of other LACERA staff may be considered for employment by LACERA provided the applicant possesses all the qualifications for employment. Such a related party may not be hired for or assigned to a position which would either:

1. Create either a direct or indirect supervisor/subordinate relationship with a related party; or
2. Create either an actual conflict of interest or the appearance of a conflict of interest.

These criteria will also be considered when assigning, transferring, or promoting a staff member.

For purposes of this policy, related parties include:

- Spouse, parent or grandparent, child or grandchild, or sibling.
- First degree aunt, uncle, niece, nephew or cousin.
- Any “step” or “in-law” variant of the aforementioned relationships.
- Any member of the employee’s household, whether or not related.

A LACERA Board member or staff may not exercise discretionary authority to hire, evaluate or promote a related party under any circumstances, even when otherwise permitted under the standards above.

Board members and staff may participate in the hiring process for any person, whether related or unrelated, only in accordance with established LACERA policies and procedures and shall not use or attempt to use influence outside of their individual hiring authority to cause the organization to hire any individual as a permanent or temporary LACERA employee. Board members and staff may refer individuals interested in potential employment to LACERA's Human Resources.

## **VII. Contracting and Vendor Relationships**

LACERA Board members and staff shall not have contact with individuals or entities who are seeking engagement by LACERA in response to an RFP, RFI, purchase order, or other solicitation or contracting process, except in accordance with the published terms of the contracting process or except for, and limited to, contact necessary in connection with ongoing LACERA business with an individual or entity.

LACERA's RFPs, RFIs, and other contract solicitations shall include notice that a "quiet period" will be in place from the beginning of the contracting process until the selection of the successful party such that LACERA Board members and staff, as well as potential contracting parties, are instructed that contact between Board members and staff, on the one hand, and all potential contracting parties, on the other hand, shall not occur, except as provided in the preceding paragraph. As part of the contracting process, potential contracting parties shall be required to disclose potential conflicts of interest.

LACERA Board members and staff shall participate in the contracting process only in accordance with established LACERA policies and procedures, and the published terms of the process. Board members and staff shall not use or attempt to use influence, outside of their individual authority to cause the organization to enter into a contract with any individual or entity. Board members and staff may refer individuals or entities for consideration for contracting to the appropriate LACERA staff responsible for the particular procurement or contract process.

## **VIII. Use of LACERA Position, Resources, and Information**

LACERA Board members and staff shall not use their position or status with LACERA, LACERA property, funds, or other resources, or LACERA information, including plan member information, investment information, and other information concerning LACERA's business, for any personal purpose or gain, to secure any special privilege or exemption for himself or herself or any other individual or entity, or to assist or further the interests of any other individual or entity except in the normal course of LACERA's business. LACERA position, resources and information are to be exclusively used for LACERA business.

Board members and staff shall maintain the confidentiality of plan member information. Cal. Gov't Code § 31532.

Disclosures of public LACERA information pursuant to the Public Records Act shall be handled by the Legal Office to ensure compliance with legal requirements, consistency, and proper recordkeeping.

Board members and staff shall not disclose information acquired during a closed session of the Board unless the Board takes action to authorize disclosure. Cal. Gov't Code § 54963.

Board members and staff shall not, directly or indirectly, for himself or herself, or as an agent or partner of others, borrow or use any of the funds or deposits of LACERA, except to make authorized current and necessary payments of the retirement system. Cal. Gov't Code § 31528(a).

## IX. Personal Conduct and Communication

LACERA Board members and staff shall adhere to the following standards in their personal conduct in performing their work on behalf of LACERA:

- Board members and staff shall conduct themselves in accordance with this Code of Ethical Conduct.
- Board members and staff shall abide all applicable laws and regulations.
- Board members and staff shall act in a manner consistent with LACERA's **Mission, Values, and Vision** and shall follow all LACERA policies and procedures.
- Board members and staff shall treat similarly situated individuals and entities in a similar way, absent good cause, in the conduct of LACERA's business and decision-making to ensure consistency and fairness.
- Board members and staff shall communicate with, orally and in writing, and otherwise in all respects and at all times treat each other and all others in a respectful, professional, courteous, and civil manner.

A Board member shall not correspond with a non-LACERA person or entity using LACERA letterhead unless the communication is authorized by the Board on which the member serves. Copies of all written communications from a Board member to a current service provider, or person or entity related to a current service provider, relating to LACERA's business (other than purely personal or social correspondence) shall be provided to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves. A copy of any written communication (other than purely personal or social correspondence, routine announcements, generally distributed newsletters, and the like) received by a Board member from a current LACERA service provider, or person or entity related to a current service provider, shall be forwarded to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves.

Board members and staff shall be aware of the risk of communicating inaccurate information to plan members. Board members and staff shall refrain from providing specific advice or counsel with respect to a plan member's rights, benefits, or obligations, except staff who are authorized to communicate with members on such matters. All others should refer plan member questions and concerns to the Chief Executive Officer or appropriate designee.

## **X. Leaving LACERA**

### **A. Prospective Employment**

LACERA Board members and all staff shall not make, participate in making, or influence a decision by LACERA that directly relates to a nongovernmental prospective employer while negotiating or after reaching an employment agreement. The foregoing prohibition is triggered by an interview with a nongovernmental prospective employer or a nongovernmental prospective employer's agent, discussing an offer of employment with a nongovernmental prospective employer or a nongovernmental prospective employer's agent, or accepting an offer of employment. The foregoing prohibition does not apply if the Board member or staff is legally required to make or participate in the making of the decision or if the decision affects the nongovernmental prospective employer in substantially the same way as it will affect a significant segment of the public generally. Cal. Gov't Code § 87407.

### **B. Limitations on Subsequent Activities**

LACERA Boards members, the Chief Executive Officer, Assistant Executive Officers, persons next in line to Assistant Executive Officers, Chief Counsel, chief deputy legal officers, the Chief Investment Officer, and persons next in line to the Chief Investment Officer shall not, for two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any person except the County of Los Angeles, by making any formal or informal appearance before, or any oral or written communication to, LACERA, or any Board member or employee of LACERA, for the purpose of influencing action by LACERA, including any action involving the awarding or issuance of a contract or sale or purchase of goods or property. Cal. Gov't Code § 31528(c).



## **XI. Reporting**

Reporting of ethical issues is an important element of ensuring compliance with ethical requirements. Any concerns by Board members and staff about possible violations of this Code of Ethical Conduct or other ethical issues shall be reported to the Chief Executive Officer, the Chief Audit Executive, or Chief Counsel. Board members may also report concerns to their Board Chair. Staff may also report ethical issues to their immediate supervisor or division manager.

Concerns may be reported anonymously at the Internal Audit Hotline, which may be reached externally at (626) 564-6000, extension 2040, or internally by dialing extension 2040 directly.

## **XII. Enforcement**

LACERA's Chief Executive Officer is responsible for communicating, implementing and enforcing the Code of Ethical Conduct with respect to LACERA staff. The Board Chairs will enforce this Code with respect to Board members and the Chief Executive Officer in accordance with Board administrative policies and applicable laws.

Violations of any of the provisions of the Code by staff may result in disciplinary action as the situation may warrant, up to and including termination of employment. Violations by Board members will be handled in accordance with Board Regulations, Bylaws, and policies and applicable law.

Questions on this matter should be referred to LACERA's Director of Human Resources, Internal Audit, or the Legal Office.

### **XIII. Training**

LACERA management will provide training to new staff on this Code of Ethical Conduct as part of the new employee orientation. Management will provide training to existing staff on this Code at least every two years.

Management will include discussion of this Code in the training for new and incoming Board members. The Code will be circulated to all Board members at least every two years.

## **XIV. Resources**

Board members and staff may refer to the following resources for additional information concerning this Code, questions concerning the application and interpretation of the Code to specific situations, and other issues concerning ethics and ethical conduct relevant to the performance of their duties and work for LACERA and its members and beneficiaries.

### **A. LACERA's Legal Office**

The LACERA Legal Office is familiar with the laws and regulations that form the foundation for this Code. The Legal Office is experienced in applying those laws and regulations to specific situations. The Legal Office is available at any time to provide additional information concerning ethics questions and issues and provide written or oral advice or opinions with respect to specific situations. The Legal Office will respond to information about potential ethical issues, concerns, and violations in the LACERA organization and take appropriate action. Questions for the Legal Office should be directed to LACERA's Chief Counsel.

### **B. LACERA's Internal Audit Division/Audit Hotline**

LACERA's Internal Audit Division will respond to information concerning ethical issues, problems, and concerns regarding acts or omissions in connection with LACERA's operations and will take appropriate action. Questions for the Internal Audit Division should be directed to LACERA's Chief Audit Executive. The Internal Audit Division may also be contacted anonymously on the Internal Audit Hotline, which may be reached externally at (626) 564-6000, extension 2040, or internally by dialing extension 2040 directly.

### **C. LACERA's Conflict of Interest Code**

Board members and staff should refer to LACERA's current Conflict of Interest Code, which is available on LACERA's website, [www.lacera.com](http://www.lacera.com), with respect to LACERA's requirements for the filing of Form 700 Statements of Economic Interests.

### **D. California Constitution**

The California Constitution, Article XVI, Section 17, which sets forth the fiduciary duties of the Board and Board members and the retirement system, is available on line at [http://www.leginfo.ca.gov/const/article\\_16](http://www.leginfo.ca.gov/const/article_16).

### **E. CERL**

CERL, California Government Code §§ 31450 et seq., is available online at [http://www.leginfo.ca.gov/html/gov\\_table\\_of\\_contents.html](http://www.leginfo.ca.gov/html/gov_table_of_contents.html).

## **F. California Government Code Section 1090 et seq.**

Conflict of interest rules relating to financial interest in the making of contracts are contained in California Government Code Section 1090 et seq., which is available online at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=01001-02000&file=1090-1099>.

## **G. Other California Statutes**

Other California statutes relating to ethics issues are available online at <http://www.leginfo.ca.gov/calaw.html>.

## **H. Fair Political Practices Commission**

The California Fair Political Practices Commission (FPPC) has a large number of resources available concerning ethics issues under the Political Reform Act, FPPC Regulations, and related law. FPPC resources include:

1. Website: [www.fppc.ca.gov/](http://www.fppc.ca.gov/).
2. FPPC Publications available on the website:
  - a. Form 700 Statement of Economic Interests, and Form 700 Statement of Economic Interests Reference Pamphlet.
  - b. Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Officials.
  - c. Recognizing Conflicts of Interest: A Guide to the Conflict of Interest Rules of the Political Reform Act.
  - d. Leaving Local Government Employment.
  - e. Political Reform Act, including the full text of the law.
  - f. FPPC Regulations, including the full text of the regulations.
  - g. FPPC Letters and Opinions, including a searchable database of letter and opinions issued by the FPPC on ethical issues.
3. Advice and Enforcement. The FPPC offers informal and formal advice on ethical issues and has procedures for making a complaint. Instructions for seeking advice or making a complaint are on the FPPC website.

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## **I. California Attorney General Conflict of Interest Guide**

The California Attorney General has published a Conflict of Interest Guide which contains information on a wide range of conflict of interest issues. Although the Guide was last updated in 2010, it remains a useful reference. The Guide is available online at <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/coi.pdf>.

## **J. Los Angeles County Fraud Hotline**

Ethical concerns may be reported to the Los Angeles County Fraud Hotline, <http://fraud.lacounty.gov/>. The County Fraud Hotline will not generally investigate LACERA issues, but it will forward concerns to LACERA for response.

## **XV. Review of Code**

This Code shall be reviewed by the Board of Retirement and Board of Investments every five years. The Legal Office and Internal Audit shall monitor applicable laws, regulations, and best practices on an ongoing basis and shall request amendment of the Code when deemed necessary and appropriate. This Code may be amended by action of both Boards at any time.

**ATTACHMENT 2**

**EXISTING**

**2006 CODE OF ETHICAL CONDUCT**



CODE OF

*Ethical*

**Conduct**

For LACERA Boards and Staff

## **PREAMBLE**

The Los Angeles County Employees Retirement Association (LACERA) is a public pension plan organized under the County Employees Retirement Law of 1937. (California Government Code Section 31450, et seq.) All investments of LACERA are the responsibility of the Board of Investments. The management and administration of LACERA are vested in the Board of Retirement.

Members of the LACERA Boards hold positions of public trust. Article XVI, Section 17 of the California Constitution charges LACERA Board members with the responsibility of administering the affairs of LACERA “in a manner that will assure prompt delivery of benefits and related services to LACERA’s participants and their beneficiaries,” and further mandates LACERA Board members to “discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries.”

The members of the LACERA Boards are mindful of the positions of trust and confidence they hold. They adopt this Code of Ethical Conduct to ensure the proper administration of LACERA, and to foster unquestioned public confidence in LACERA’s institutional integrity as a prudently-managed and fiduciarily-governed public pension system, operated for the sole and exclusive purpose of providing benefits to LACERA’s participants and beneficiaries.

# TABLE OF CONTENTS

---

## **INTRODUCTORY INFORMATION**

---

- 4 Purpose and Scope
- 4 Fiduciary Duty
- 5 Enforcement

---

## **STANDARDS OF ETHICAL CONDUCT FOR LACERA BOARDS AND STAFF**

---

- 7 Ethical Standards
- 7 Prohibited Transactions
- 8 Nepotism
- 9 Gifts: General Restrictions and Prohibitions
- 9 Conflict of Interest and Disclosure Code

---

## **RULES AND LAWS FOR LACERA BOARDS AND DESIGNATED STAFF**

---

- 11 Fiduciary Duty
- 11 Conflicts of Interest
- 11 Incompatible Activities
- 11 Gifts
- 11 Honoraria
- 12 Public Disclosure of Economic Interests
- 12 Communications with Service Providers and Other Non-LACERA Persons and Entities

### **Appendix to Code of Ethics Legal Foundations**

- 12 Fiduciary Duty
- 12 Conflicts of Interest
- 16 Incompatible Activities
- 17 Limitation on the Acceptance of Gifts
- 18 Prohibition on Acceptance of Honoraria
- 19 Public disclosure of Economic Interests

### **Addendum to Code of Ethics**

- 20 Introduction
- 21 Gifts
- 24 Honoraria
- 26 Travel Payments
- 29 Loans



## INTRODUCTORY INFORMATION

### PURPOSE AND SCOPE

This policy defines the standard of professional and ethical conduct expected of LACERA Board members and staff. These provisions are based on legal and fiduciary concepts. However, this policy should not be relied upon as an exclusive or comprehensive list of the legal or fiduciary requirements of conduct. This policy is intended to be used as a guideline for conduct and the basis for evaluation of that conduct.

This policy does not attempt to specify every possible activity that might be inappropriate or prohibited under applicable laws and regulations. This policy shall not be construed as the sole provision of laws and administrative rules which must be observed by each LACERA Board member and staff. Nothing in this policy shall exempt any person from any federal, state, or county law or regulation. The standards of conduct set forth in this policy are in addition to any such law or regulation.

### FIDUCIARY DUTY

Under the statutes governing LACERA the Fund is a trust fund to be administered solely in the interest of the participants and their beneficiaries.

#### **Board Fiduciary Responsibilities**

As required by the California Constitution, each member of the LACERA Boards shall discharge his or her duties solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries.

Each member of the LACERA Boards shall exercise his or her duties with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims.

Each member of the LACERA Boards shall diligently attend to the business of the Board on which he or she serves, and shall not leave to the other members of the Board control over the administration of the affairs of such Board.

#### **Staff Fiduciary Responsibilities**

LACERA staff supports the LACERA Boards in the fulfillment of all their duties, including their fiduciary duty to LACERA's participants and their beneficiaries. All LACERA staff must comply with all relevant federal and state laws, and

LACERA policies regulating conduct, and must avoid any conduct which is, or may be perceived to be, detrimental to LACERA and its members and beneficiaries.

## **ENFORCEMENT**

LACERA's Chief Executive Officer (CEO) is responsible for communicating, implementing and enforcing this Code with respect to LACERA staff. The Board Chair will enforce this policy with respect to Board Members and the CEO in accordance with Board administrative policies and applicable laws.

Any person with knowledge of a violation of this Code shall report such information to appropriate supervisory personnel, the CEO, or the Board Chair, as applicable.

Violations of any of the provisions of the Code may result in termination of employment or other disciplinary action as the situation may warrant. Disciplinary actions involving board members are to be handled in accordance with Board administrative policies and applicable laws.

Questions on this matter should be referred to LACERA's Director of Human Resources, Internal Audit or the Legal Office.

The CEO is also responsible for ensuring that a class is held periodically for all employees to reinforce and explain the provisions of and answer any questions pertaining to this Code of Ethical Conduct. Written opinions concerning the interpretation of this Code will be provided to LACERA staff members who file a written request with the CEO. Copies of all such opinions will be furnished to the LACERA Boards.





# **STANDARDS OF ETHICAL CONDUCT FOR LACERA BOARDS AND STAFF**

CODE OF

*Ethical*

*Conduct*

# STANDARDS OF ETHICAL CONDUCT

## Ethical Standards

While performing everyday duties and responsibilities, the following standards apply:

- Recognize and be accountable for the fiduciary responsibility;
- Comply with all applicable laws and regulations;
- Conduct all LACERA business for the sole and exclusive benefit of the fund and its members and beneficiaries in a fair manner, and be honest in all business negotiations;
- Strive to provide the highest quality of performance and counsel;
- Avoid any activity which may be interpreted as a conflict of interest by others;
- Avoid not only exerting improper influence or being improperly influenced, but also avoid the appearance of impropriety;
- Exercise prudence and integrity in the management of funds;
- Communicate to an appropriate staff member information on actions which may constitute violations of the Code of Ethical Conduct, or the law, or conflicts of interest;
- Be responsible for maintaining professional competence;
- Maintain confidentiality of information so designated which is received or maintained by LACERA.

## Prohibited Transactions

Each LACERA Board Member or staff member is prohibited from:

- Utilizing any property or resources of LACERA for personal gain;
- Falsifying or failing to record proper entries on any books or records of LACERA;
- Knowingly becoming a party to, or condoning, any illegal activity;
- Authorizing payment of any amount on behalf of LACERA, or for any purpose, other than that explicitly disclosed in the original request for payment;
- Directly or indirectly seeking or accepting gifts, money or property that would influence or appear to influence the conduct of duties;
- Engaging in or conducting outside activities of financial or personal interest that may conflict with the impartial and objective execution of LACERA business activities;
- Selling or providing goods or services to LACERA without disclosure;
- Utilizing the services of relatives or close personal associates for LACERA business without disclosing such relationship prior to execution and obtaining the approval of the CEO;
- Engaging in activities involving dishonesty, fraud, deceit or misrepresentation;
- Engaging in outside employment with any providers of supplies or

CODE OF

*Ethical*

*Conduct*

- services to LACERA; or
- Engaging in outside employment that would interfere with or hamper expected performance at LACERA; or
- Engaging in other activities which compromise or appear to compromise one's objectivity in the conduct of one's duties.

## **Nepotism**

To prevent related-party conflicts of interest, LACERA may not employ a person who is related to:

- a board member,
- the chief executive officer,
- anyone reporting directly to the chief executive officer, or
- anyone serving as a division head.

This does not prevent the continued employment of a person who has already been working for LACERA in a full time and non-probationary capacity for thirty consecutive days prior to the date the board member or other individual described above acquired their position, or the related party became related. If a related party is retained under these circumstances, any actual or potential conflict of interest must still be corrected or sufficiently mitigated.

Related parties of other LACERA staff members may be considered for employment by LACERA provided the applicant possesses all the qualifications for employment. Such a related party may not be hired or assigned to a position which would either:

1. Create either a direct or indirect supervisor/subordinate relationship with a related party; or
2. Create either an actual conflict of interest or the appearance of a conflict of interest.

These criteria will also be considered when assigning, transferring, or promoting a staff member.

For purposes of this policy, related parties include:

- spouse, parent or grandparent, child or grandchild, or sibling,
- first degree aunt, uncle, niece, nephew or cousin,
- any "step" or "in-law" variant of the aforementioned relationships, and
- any member of the employee's household, whether or not related.



A LACERA Board member or staff member may not exercise discretionary authority to hire, evaluate or promote a related party.

Any actual, perceived, or anticipated related party conflict of interest or compromise of objectivity must be reported to appropriate LACERA management or the Board Chairman and corrected without delay.

### **Gifts: General Restrictions and Prohibitions**

Board members and staff members are prohibited from soliciting any gift or any other consideration (including but not limited to money, service, gratuity, favor, entertainment, hospitality, loan, or other thing of value) from anyone who is doing or is seeking to do business of any kind with LACERA.

Board members and staff members are prohibited from accepting any gift from anyone who is doing or is seeking to do business of any kind with LACERA, when the gift is offered with a view toward securing favorable treatment in the awarding of any contract or agreement, or the making of any determination.

For staff members (not including Board members, who are governed by specific state laws), all gifts from a single source aggregating \$50 or more in any one calendar year shall be reported in writing by the staff member to the staff member's immediate supervisor.

In no event shall a Board member or staff member accept gifts from a single source during any calendar year totaling more than the gift limit set forth in Government Code Section 89503(c), a provision of the California Political Reform Act.

The payment or reimbursement of travel expenses, including lodging and meals, constitutes a gift, even if the travel is in connection with official LACERA business. Prior to accepting a gift of travel (including lodging and meals), Board members and staff members shall consult with the Legal Office to confirm that such acceptance is not prohibited by law.

### **LACERA's Conflict of Interest and Disclosure Code**

In addition to the foregoing, Board Members and staff members who are listed as designated employees under the LACERA Conflict of Interest and Disclosure Code shall comply with the gift restrictions (including gifts of travel) and reporting requirements set forth in the California Political Reform Act (PRA), Government Code Sections 89500, et seq., as well as all other applicable provisions of the PRA, Government Code Section 81000, et seq. The CEO is responsible for ensuring all new employees are provided a copy of the LACERA Conflict of Interest and Disclosure Code upon employment.

CODE OF

*Ethical*

*Conduct*



# **RULES & LAWS FOR LACERA BOARDS AND DESIGNATED STAFF**

CODE OF

*Ethical*

*Conduct*

## **RULES AND LAWS APPLICABLE SPECIFICALLY TO BOARD MEMBERS AND DESIGNATED STAFF:**

Each member of a LACERA Board is subject to special legislation governing the following issues:

- **Fiduciary Duty**

The Boards' fiduciary duty is defined by the California Constitution, as previously discussed.

- **Conflicts of Interest**

Each member of the LACERA Boards shall comply with California Government Code Section 87100, which prohibits a LACERA Board member from attempting in any way to influence a LACERA decision in which the Board member has a financial interest.

Each member of the LACERA Boards shall abide by the provisions of California Government Code Sections 1090 through 1097, which prohibit a LACERA Board member from being financially interested in any contract made by the LACERA Board on which he or she serves.

- **Incompatible Activities**

A member of the LACERA Boards shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of a LACERA Board, or with the duties, functions, or responsibilities of the LACERA Board on which he or she serves. A LACERA Board member shall not perform any work, service, or counsel for compensation outside his or her Board responsibilities where any part of his or her efforts will be subject to approval by any other member of the Board on which he or she serves.

- **Gifts**

Each member of the LACERA Boards shall comply with the gift limitation provisions of the Ethics in Government Act of 1990. (California Government Code Section 89500, et seq.)

- **Honoraria**

Each member of the LACERA Boards shall comply with the provisions of the Ethics in Government Act of 1990 (California Government Code Section 89500, et seq.) prohibiting the acceptance of honoraria.



- **Public Disclosure of Economic Interests**

Each member of the Board of Investments shall comply with Article 2 (commencing with California Government Code Section 87200) of the California Political Reform Act of 1974, requiring the public disclosure of economic interests.

- **Communications with Service Providers and Other Non-LACERA Persons and Entities**

A Board member shall not correspond with a non-LACERA person or entity using LACERA letterhead unless the communication is authorized by the Board on which the member serves. Copies of all written communications from a Board member to a current service provider, or person or entity related to a current service provider, relating to LACERA's business (other than purely personal or social correspondence) shall be provided to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves. A copy of any written communication (other than purely personal or social correspondence, routine announcements, generally distributed newsletters, and the like) received by a Board member from a current LACERA service provider, or person or entity related to a current service provider, shall be forwarded to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves.

These laws are discussed in the following attachments to this policy:

- “Appendix to Code of Ethics: Legal Foundations”
- “Addendum to Code of Ethics: Gifts, Honoraria, Travel & Loans”

## **APPENDIX TO CODE OF ETHICS LEGAL FOUNDATIONS**

Board of Retirement

Board of Investments

The Los Angeles County Employees Retirement Association

### **1. Fiduciary Duty**

The California Constitution, the County Employees Retirement Law of 1937, and opinions reported by the California Appellate Courts all provide that members of the Board of Retirement and the Board of Investments are fiduciaries governed by recognized principles of trust law. The California Constitution, at Article XVI, Section 17, provides, in relevant part:

CODE OF

*Ethical*

*Conduct*

“[T]he retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

“(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

“(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board’s duty to its participants and their beneficiaries shall take precedence over any other duty.”

The County Employees Retirement Law of 1937, Government Code Section 31450, et seq., likewise makes it clear members of the Boards of Retirement and Investments are fiduciaries.

Government Code Section 31588 provides that “[a] trust fund account to be designated as ‘employees retirement fund’ shall be opened upon the books of the retirement board... of any county adopting [a 37 Act] retirement system.” This code section further provides that “[t]he ‘employees retirement fund’ shall be a trust fund created or continued and administered in accordance with the provisions of [the 37 Act], solely for the benefit of the members and retired members of the system and their survivors and beneficiaries.”

To the same effect is Government Code Section 31595, providing that “[t]he assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.”

Government Code Section 31595 expressly imposes recognized duties of fiduciaries under common law:

“The board and its officers and employees shall discharge their duties with respect to the system:

“(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

“(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

“(c) Shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.”

In 1985, the California Supreme Court, in a case entitled *Hittle v. Santa Barbara County Employees Retirement Assn.*, 39 Cal.3d 374, specifically held that members of a 37 Act retirement board are trustees subject to all of the fiduciary duties applicable to any other trustee. The Court opined:

“‘[P]ension plans create a trust relationship between pensioner beneficiaries and the trustees of pension funds who administer retirement benefits... and the trustees must exercise their fiduciary trust in good faith and must deal fairly with the pensioners-beneficiaries. [Citations omitted.]’ (Citation, original italics.)”

“The [retirement board] officials, by the acceptance of their appointment, are voluntary trustees, within the meaning of Civil Code section 2216 and 2222, of the retirement plans available to the beneficiary-members of the Association. (Cf. *Hannon Engineering, Inc. v. Reim*, supra, 126 Cal.App.3d at pp. 425-426.) As such, the [pension board] officers are charged with the fiduciary relationship described in Civil Code section 2228: ‘In all matters connected with his trust, a trustee is bound to act in the highest good faith toward his beneficiary, and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.’” [Citation.]

## 2. Conflicts of Interest

The Political Reform Act of 1974 (Government Code Section 81000, et seq.) was adopted by the voters as an initiative measure on June 4, 1974. Chapter 7 of the Act deals with conflicts of interests. The heart of Chapter 7 is Section 87100:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

In *Commission on Cal. State Government Organization & Economy v. Fair Political Practices Com.* (1977) 75 Cal.App.3d 716, the Court of Appeal noted that the conflict laws operate without regard to actual corruption or actual governmental loss. They establish an objective standard directed not only at dishonor, but at conduct that tempts dishonor. They are preventive, acting upon tendencies as well as prohibited results. Thus, noted the Court, a violation of the conflict of interest laws occurs not only when the public official participates in the decision, but when he influences it directly or indirectly.

As noted above, the disqualifying provisions apply when a government official has a “financial interest.” The phrase “financial interest,” as used in the Political Reform Act, is defined in Government Code Section 87103, and by regulations adopted by the Fair Political Practices Commission to guide public officials in complying with the Act. A public official will have a disqualifying financial interest when all the following are present:

1. It is reasonably foreseeable that the decision will have a financial effect;
2. The anticipated financial effect is on the financial interest of the official;
3. The anticipated financial effect is material; and
4. The decision’s financial effect on the official’s financial interest is distinguishable from its effect on the public generally.

In addition to the foregoing, Section 87103 provides that an official will have a disqualifying financial interest in any of the following:

1. Any business entity in which the official has a direct or indirect investment worth \$1,000 or more,
2. Any real property in which the official has a direct or indirect interest worth \$1,000 or more,
3. Any source of income (other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status) aggregating \$250\* or more in value provided to, received by, or promised to the official within 12 months prior to the time the decision is made,
4. Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management,
5. Any donor (or intermediary or agent thereof) of a gift or gifts aggregating \$250\* or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.

In addition to the conflict of interest provisions of the Political Reform Act, Government Code Section 1090 through 1097 prohibits public officials from being financially interested in contracts entered into by the agency. Section 1090 provides:

\*The \$250 gift limitation is indexed and adjusted biennially by the Fair Political Practices Commission. For the period January 1, 1999 through December 31, 2000, the limit has been set at \$300. Regulation No. 18940.1.

“Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

“As used in this article, ‘district’ means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.”

The purpose of the conflict of interest prohibition in Section 1090 is to remove or limit the possibility of any personal influence either directly or indirectly which might bear on an official’s decision, as well as to avoid contracts which are actually obtained through fraud or dishonest conduct. (*Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191.)

Government Code Section 1091 provides an official will not be deemed to be “financially interested,” within the meaning of Section 1090, if the official:

1. Has only a “remote interest” in the subject matter of the contract;
2. Discloses this interest; and
3. Abstains from participating in or attempting to influence the decision to enter the contract.

Finally, it should be noted the Retirement Act contains a specific conflict of interest provision applicable to officers and employees of LACERA:

“A member or employee of the board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the board, or in the gains or profits accruing therefrom, unless permitted by [the Retirement Act]. He shall not directly or indirectly, for himself or as an agent or partner of others, borrow or use any of the funds or deposits of the retirement system, except to make such current and necessary payments as are authorized by the board.” (Government Code Section 31528.)

### **3. Incompatible Activities**

In order to prevent a division of loyalties, both the common law and California statute prohibit the holding of incompatible offices. The California courts have developed a common law doctrine of incompatible offices which essentially prevents a person from holding two public offices which are incompatible. As explained by the California Attorney General, at 48 Ops. Cal. Atty. Gen. 80, 84:

CODE OF

*Ethical*

*Conduct*



“The time honored maxim, that no man can serve two masters, supports the mandate of sound policy that a ‘public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence...’ [Citation.] Fidelity in public office must be maintained, and the law does not permit a public officer to place himself in a position in which he might be tempted by his own private interests to disregard the interests of the public.” [Citations.]

The courts have thus held that an individual “may not simultaneously hold two public offices where the functions of the offices concerned are inherently inconsistent, as where there are conflicting interests, or where the nature of the duties of the two offices is such as to render it improper due to considerations of public policy for one person to retain both.” (Eldridge v. Sierra View Local Hospital District (1990) 224 Cal.App.3d 311, 319.)

A public officer who, during his or her incumbency, is elected or appointed to a second public office which is incompatible with the first office, automatically vacates and terminates his or her right to hold the first office upon entering the duties of the second office. In other words, assumption of the second, incompatible office results in the automatic vacation of the first office. (People ex rel. Chapman v. Rapsey (1940) 16 Cal.2d 636, 644.)

Statutory prohibitions against incompatible activities and the holding of incompatible offices are contained in Government Code Section 1126, which provides, in relevant part:

“...[A] local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed...”

#### **4. Limitation on the Acceptance of Gifts**

As noted in Section 2 above (Conflicts of Interest), the Political Reform Act provides that an official will be deemed to have a financial interest in any donor of gifts aggregating \$250 (indexed and adjusted, effective January 1, 1999 to \$300) or more in the 12-month period prior to the time a government decision is made.

CODE OF

*Ethical*

*Conduct*

In 1990, the California Legislature enacted the “Ethics in Government Act of 1990,” which was added as Chapter 9.5 (commencing with Government Code Section 89500) of the Political Reform Act. Among other things, the Ethics in Government Act, at Government Code Section 89503, limits the acceptance of gifts by state and local public officials. Members of the Board of Investments are covered by subsection (a) of Section 89503, which provides:

“(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).”\*

Section 87200 covers, inter alia, “public officials who manage public investments,” which include members of the Board of Investments. Members of the Board of Retirement are “designated employees” under LACERA’s Conflict of Interest Code, and thus are covered by subsection (c) of Section 89503, which provides:

“(c) No ... designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250)\* if the... employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.”

There are numerous exceptions to the gift limitation provisions. These exceptions are set forth in the Act and the regulations adopted by the Fair Political Practices Commission. In addition, the Fair Political Practices Commission has provided guidance regarding compliance with the gift limitation provisions in its January 1999 publication entitled “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.” (See Addendum, p. 22.)

## **5. Prohibition on Acceptance of Honoraria**

The Ethics in Government Act (Chapter 9.5 of the Political Reform Act) also prohibits the acceptance of honoraria.

Members of the Board of Investments, as officials who manage public investments, are prohibited from accepting honoraria from any source. Members of the Board of Retirement, as “designated employees” under LACERA’s Conflict of Interest Code, are prohibited from accepting honoraria from any source they would have to report income or gifts from on their statements of economic interest. An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code Section 89501; FPPC Regulation 18931.)

\*The \$250 gift limitation is indexed and adjusted biennially by the Fair Political Practices Commission. For the period January 1, 1999 through December 31, 2000, the limit has been set at \$300. Regulation No. 18940.1.

“Speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (FPPC Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (FPPC Regulation 18931.2.)  
“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (FPPC Regulation 18931.3.)

The Act and the FPPC regulations provide certain exceptions to the provisions on honoraria. In addition, the Fair Political Practices Commission has provided guidance for complying with the honoraria prohibition in its January 1999 publication entitled “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.” (See Addendum, p. 24.)

## **6. Public Disclosure of Economic Interests**

The Political Reform Act requires public officials at all levels of government to publicly disclose their private economic interests and to disqualify themselves from participating in a decision in which they have a financial interest. The disqualification requirements are discussed the Conflicts of Interest section. Article 2 (commencing with Government Code Section 87200) and Article 3 (commencing with Government Code Section 87300) of Chapter 7 of the Political Reform Act contain the provisions relating to the disclosure of economic interests. Members of the Board of Investments must file an initial statement of economic interests (called “Assuming Office Statement) within 30 days after assuming office. (Government Code Section 87202.) Members of the Board of Retirement must file an Assuming Office Statement within 30 days after assuming office. Thereafter, each Board member must file an annual statement during their term of office. Board members must file a Leaving Office Statement within 30 days after leaving office. (Government Code Sections 87204, 87302.)

CODE OF

*Ethical*

*Conduct*

# ADDENDUM TO CODE OF ETHICS

Gifts, Honoraria, Travel & Loans

A Fact Sheet For:

- Local Elected Officers & Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Designated Employees of Local Government Agencies

## Introduction

The Political Reform Act<sup>1</sup> imposes limits on gifts and prohibits honoraria payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200<sup>2</sup>, excluding judges;
  - Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
  - Candidates<sup>3</sup> for any of these offices or positions. (Section 89502 and 89503.)
- This addendum summarizes the major provisions of the Act concerning gifts, honoraria, and travel. You should not, however, rely on the addendum alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (916) 322-5660 or visit the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

<sup>1</sup>Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2</sup>Local officials specified in Government Code Section 87200 include members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, and other public officials who manage public investments.

<sup>3</sup>For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you are eligible to terminate your campaign filing obligations and have filed a statement of termination (Form 416), or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

# I. GIFTS

## The Gift Limit

If you are a local elected officer, a candidate for local elective office, or a local official specified in Government Code Section 87200, you may not accept gifts from any single source totaling more than \$300 in a calendar year. (Section 89503.)<sup>4</sup>

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than \$300 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

## What is a "Gift?"

Under the Act, a gift is any payment or other benefit provided to you for which you do not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to your official status. (Section 82028.)

Except as discussed below, you have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. (Regulation 18941.)

## Exceptions to the Definition of "Gift"

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) The following are not subject to any gift limit and are not required to be disclosed on a statement of economic interests (Form 700):

1. Gifts which you return unused to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18943.)

<sup>4</sup>The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 1999-2000, the gift limit is \$300. (Section 89503; Regulation 18940.2). Gifts aggregating \$50 or more must be disclosed and gifts aggregating \$300 or more received by an official may subject the official to disqualification with respect to the source (Section 87103(e)). Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency's conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources which are not required to be disclosed are not subject to the \$300 gift limit.

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2. Gifts which you donate unused to a nonprofit, tax-exempt (501(c)(3)) organization or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028 (b)(2); Regulation 18943.)
3. Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).)
4. Gifts of hospitality involving food, drink or occasional lodging which you receive in an individual's home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).)
5. Gifts approximately equal in value exchanged between you and another individual on holidays, birthdays, or similar occasions. (Regulation 18942(a)(8).)
6. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.  
 "Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than \$300, you have the burden of demonstrating the item is informational. In addition, on-site demonstrations, tours, or inspections designed specifically for public officials are considered informational material, but this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)
7. A bequest or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)
8. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act.
9. Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)
10. Tickets to attend fundraisers for campaign committees or other candidates, and tickets to fundraisers for organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. (Regulation 18946.4.)
11. Free admission, refreshments, and similar non-cash nominal benefits provided to you at an event at which you give a speech, participate in a panel or seminar, or provide a similar service. Transportation within California and any necessary lodging and subsistence provided directly in connection with

the speech, panel, seminar, or service are also not considered gifts. (Regulation 18942(a)(11).)

12. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)
13. Gifts provided directly to members of your family unless you receive direct benefit from the gift or you exercise discretion and control over the use or disposition of the gift. (Regulation 18944.) (Note: In most cases, the full amount of a gift made to you and your spouse must be counted for purposes of disclosure and the gift limits. However, see the discussion below regarding wedding gifts.)
14. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. (Regulations 18944.1–18944.2.) Contact the FPPC Legal Division at (916) 322-5660 for detailed information or visit the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).
15. Generally, payments made by a third party to co-sponsor an event that is principally legislative, governmental or charitable in nature. Payments made by a single source totaling \$5,000 or more in a calendar year for this type of event must be reported if the payments are made at the behest of (at the request of, or in consultation or coordination with) an elected official. The report must be made to the elected official's agency, and then forwarded to the office that maintains the elected official's campaign disclosure statements. (Section 82015(b).)
16. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

### **Other Gift Exceptions Which May Be Reportable**

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below.
2. Wedding gifts are not subject to the gift limit, but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse, unless the gift is intended exclusively for the use and enjoyment

CODE OF

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*Conduct*

of one spouse, in which case the entire value of the gift is attributable to that individual. (Regulation 18946.3.)

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income if the value of the prize or award is \$250 or more.
4. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits are reportable and subject to the gift limit if you use them or give them to another person.
  - The value of a pass or ticket which provides one-time admission is the face value of the pass or ticket, or the price which would be offered to the general public. (Regulation 18946.1(a).)
  - The value of a pass or ticket which provides repeated admission or access to facilities, goods, services, or other benefits is the fair market value of your actual use of the pass or ticket, including guests who accompany you and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person to whom you transfer the privilege or use of the pass or tickets. (Regulation 18946.1(b).)

## II. HONORARIA

### **The Honoraria Prohibition**

If you are a local elected officer, a candidate for local elective office, or a local official specified in Government Code Section 87200, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

### **What is an "Honorarium?"**

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501; Regulation 18931.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)



An “article published” means a non-fictional written work that: 1) is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

### **Exceptions to the Prohibition on Honoraria**

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18935.) The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):

1. An honorarium which you return unused to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
2. An honorarium which is delivered to your government agency within 30 days for donation to the agency’s general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
3. A payment which is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
  - You may not make the donation a condition for your speech, article, or attendance;
  - You may not claim the donation as a deduction for income tax purposes;
  - You may not be identified to the non-profit organization in connection with the donation; and
  - The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)
4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)
5. Items 6, 8, 9, and 11 under “Exceptions to the Definition of Gift” discussed earlier in this addendum.

## **Honoraria Exceptions Which May Be Reportable**

The following payments are not considered “honoraria,” but may be reportable and can subject a public official to disqualification:

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 – 18931.2.) However, such payments are reportable income.
2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession – such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting – and the services are customarily provided in connection with the business, trade, or profession.

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching post) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.)

Earned income is required to be reported. Contact the FPPC Legal Division for detailed information at (916) 322-5660 or visit the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

3. Free admission, food, beverages, and other non-cash nominal benefits provided to you at any public or private conference, convention, meeting social event, meal, or similar gathering, whether or not you provide any substantive service at the event. (Regulation 18932.4(f).) Although these items are not considered honoraria, they may be reportable gifts and subject to the gift limit.
4. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

## **III. TRAVEL PAYMENTS**

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89506; Regulations 18950 – 18950.4.)

The term “travel payment” includes payments, advances, or reimbursements for travel, includes payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence. (Section 89501(c).)

### **Travel Payments Not Subject to Limits and Reporting**

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Transportation within California provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)
2. Free admission, refreshments, and similar non-cash nominal benefits provided to you during the entire event (inside or outside California) at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)
3. Necessary lodging and subsistence (inside or outside California) including meals and beverages, provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. However, in most cases, the exclusion for meals and beverages is limited to those provided on the day of the activity. (Regulation 18950.3.)
4. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2); Regulation 18950.1(d).)
5. Reimbursements for travel expenses provided to you by a bona fide nonprofit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)
6. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)
7. Any payment which is excluded from the definition of “gift” as described earlier in this fact sheet.

### **Reportable Travel Payments Not Subject to Limit**

The following travel payments are not subject to the gift limit, but may be reportable on a statement of economic interests (Form 700, Schedule F):

1. Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and that satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the

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Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule C of Form 700.

2. Travel within the United States that is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other service. (Section 89506(a)(1); Regulation 18950.1(a)(2).)

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation outside California but within the United States is not subject to the \$300 gift limit, but is reportable and can subject a public official to disqualification. On the other hand, transportation inside California in connection with a speech is neither limited nor reportable. (Regulation 18950.3.)

In addition, the lodging and subsistence payments described in this paragraph can be provided both the day before and the day after a speech without being subject to the \$300 limit. However, lodging and subsistence payments are reportable unless they are received directly in connection with the event.

3. Travel not in connection with giving a speech, participating in a panel or seminar, or providing a similar service, but which is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – and which is provided by:
  - a) A government, governmental agency, foreign government, or government authority;
  - b) A bona fide public or private educational institution defined in Section 203 of the Revenue and Taxation Code;
  - c) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
  - d) A foreign organization that substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. (Section 89506 (a)(2); Regulation 18950.1(b).)

## IV. LOANS

### Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 20), you may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. (Section 87460(c) and (d).)

### Loan Terms

If you are an elected official, you may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status.
2. Loans received by an elected officer's or candidate's campaign committee.
3. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.
4. Loans made, or offered in writing, prior to January 1, 1998.

### Loans as Gifts

Under the following circumstances, a personal loan received by any public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations.

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1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
  - The date the loan was made;
  - The date the last payment of \$100 or more was made on the loan, or
  - The date upon which the official has made payments aggregating to less than \$250 during the previous 12 months.

The following loans will not become gifts to an official:

1. A loan made to an elected officer's or candidate's campaign committee.
2. A loan described above on which the creditor has taken reasonable action to collect the balance due.
3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
5. A loan that would not be considered a gift (e.g., loans from certain family members). (Section 87462.)

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October 21, 2016

TO: Each Member  
Board of Retirement

FROM: Ricki Contreras, Division Manager   
Disability Retirement Services

FOR: November 2, 2016 Board of Retirement Meeting

SUBJECT: **Application Processing Time Snapshot Reports**

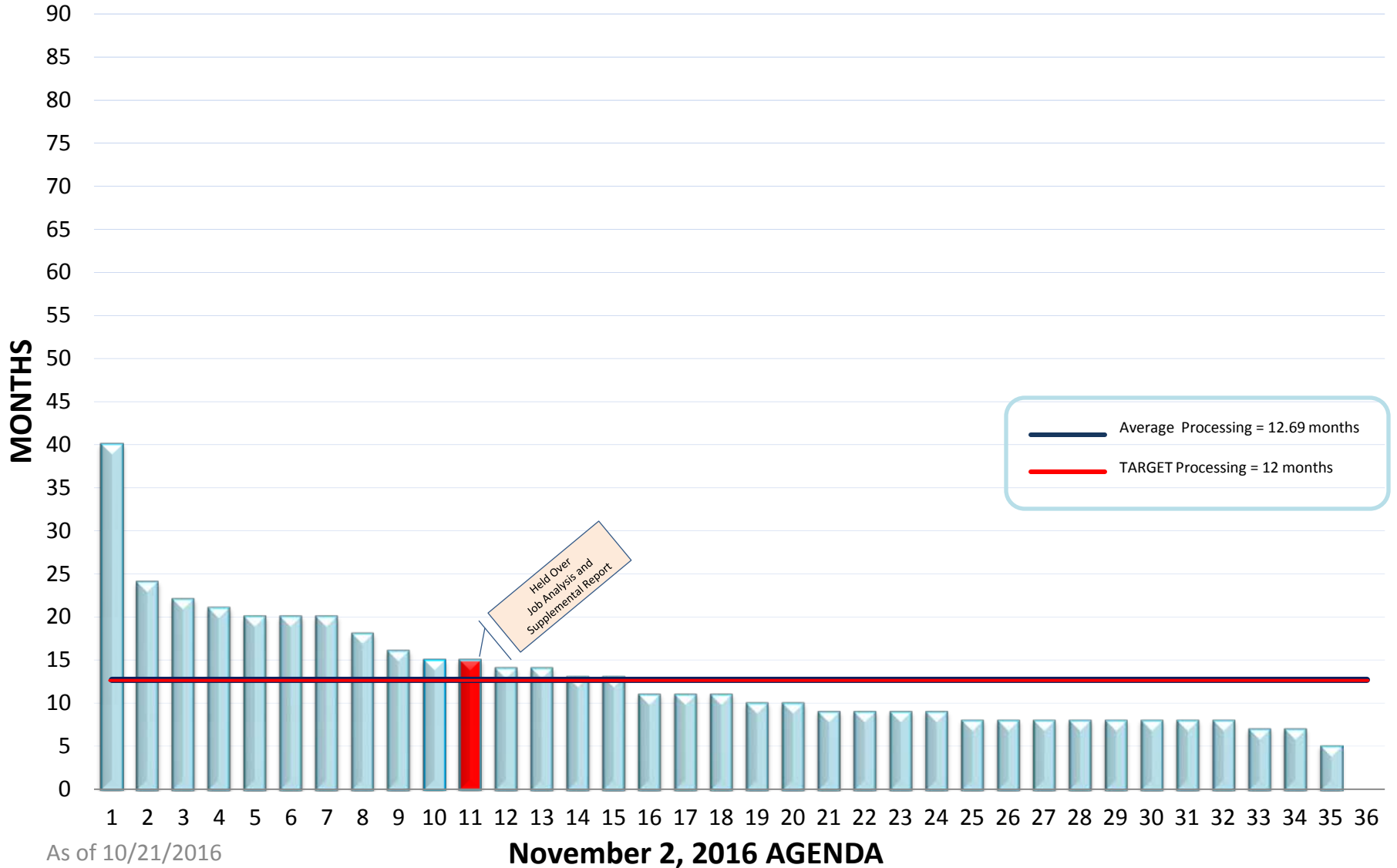
At the February 4, 2015 meeting, the Disability Procedures & Services Committee voted to add two additional snapshot reports addressing application processing times and pending applications by elapsed time since application date. These reports will now be provided on a monthly basis along with the current snapshot that provides a look at application processing time before and after procedural changes were made to the disability application process. The Board adopted proposed changes on July 12, 2012.

**Note:** All applications submitted prior to July 12, 2012 have been processed.

The following chart shows the total processing time from receipt of the application to the first Board action for all cases on the November 2, 2016 Disability Retirement Applications Agenda.

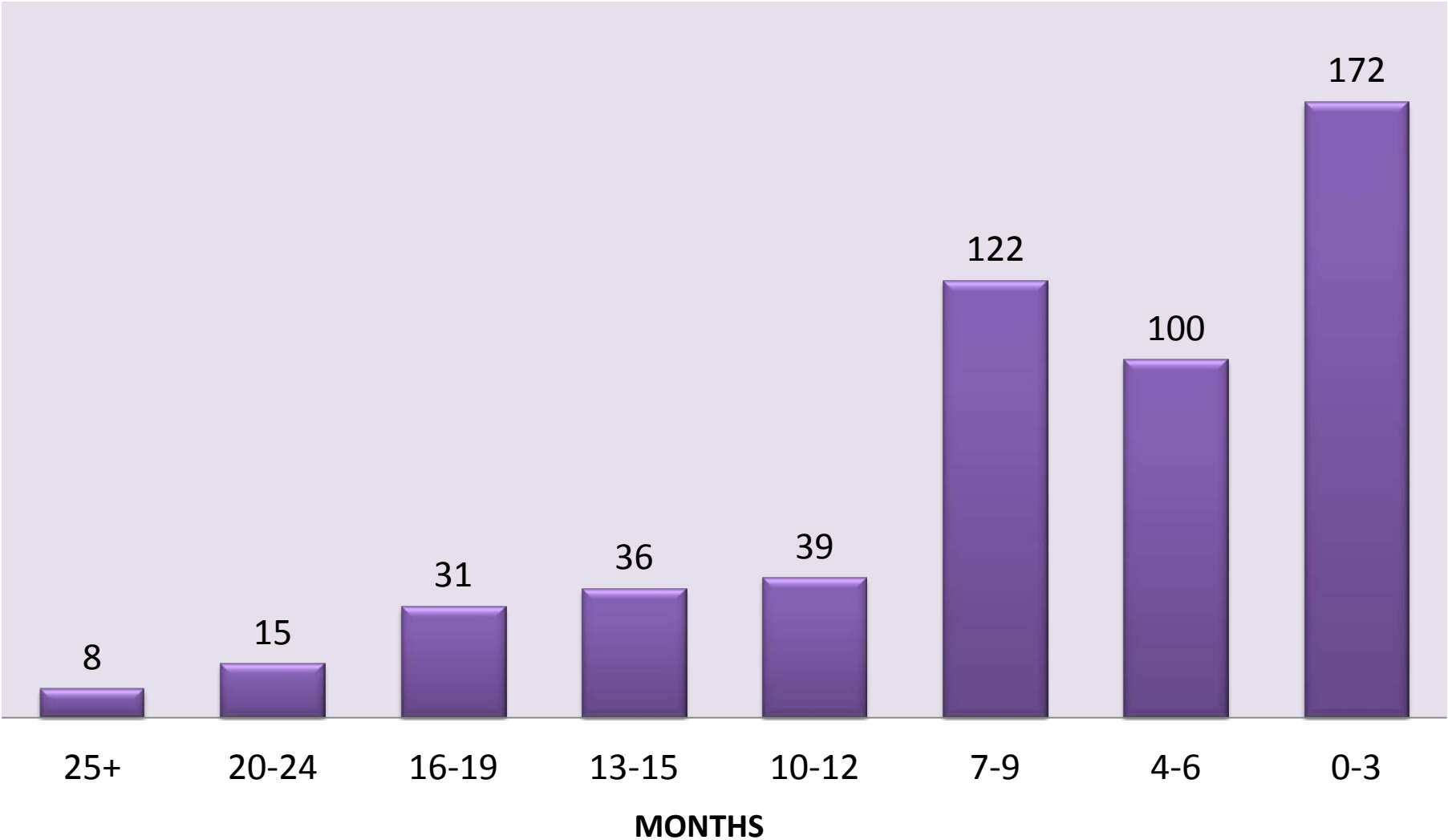
<b>Consent &amp; Non-Consent Calendar</b>	
<b>Number of Applications</b>	35
<b>Average Processing Time (in Months)</b>	12.63
<b>Revised/Held Over Calendar</b>	
<b>Number of Applications</b>	1
<b>Average Processing Time (in Months)</b>	Case 1 15
<b>Total Average Processing Time for Revised/Held Over Calendar</b>	15.00

# ACTUAL vs. AVERAGE PROCESSING TIME



# TIME ELAPSED FOR PENDING APPLICATIONS

NUMBER OF APPLICATIONS



October 21, 2016

**FOR INFORMATION ONLY**

TO: Each Member  
Board of Retirement  
Board of Investments

FROM: Barry W. Lew *BW*  
Legislative Affairs Officer

FOR: November 2, 2016 Board of Retirement Meeting  
November 7, 2016 Board of Investments Meeting

SUBJECT: **2016 Year-End Legislative Report**

This report summarizes the bills on which the Board of Retirement and the Board of Investments had taken a position during the 2016 legislative year. Section I lists the bills amending the County Employees Retirement Law of 1937 (CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA). Section II lists California legislation other than those bills related to CERL or PEPRA. Section III lists federal legislation.

The California Legislature adjourned on August 31, 2016. Any bills that were not passed by the Senate and the Assembly before adjournment are dead and would not carry over to the next legislative year since 2016 is the second year of the 2015-2016 two-year session. September 30, 2016 was the last day for the Governor to sign or veto bills. Unless otherwise noted, the bills signed into law become effective January 1, 2017. Copies of bills that have been signed into law are available upon request.

The 2<sup>nd</sup> Session of the 114<sup>th</sup> Congress is not expected to adjourn until December 2016. Staff will continue monitoring the federal legislation in this report and will report any changes in status when Congress adjourns.

**I. BILLS AMENDING THE COUNTY EMPLOYEES RETIREMENT LAW OF 1937 (CERL) OR THE CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA)**

**AB 1640 (Stone): Retirement: Public Employees**

*Summary:* Extends indefinitely the exemption from the California Public Employees' Pension Reform Act of 2013 for those public employees whose collective bargaining rights are protected under Section 5333(b) of Title 49 of the United States Code and who became members of a public retirement system before December 30, 2014. Would

exempt those employees from PEPRA without regard to date of hire upon the issuance of a specified federal court decision.

Board of Retirement Position: Watch.

Status: Dead.

### **AB 1692 (Bonilla): County Employees Retirement: Contra Costa County**

Summary: Applies specified terms and conditions of disability retirement in Tier Three to nonsafety members of the Contra Costa County Employees' Retirement Association who are subject to the California Public Employees' Pension Reform Act of 2013 and for whom the Board of Supervisors of Contra Costa County is the governing body.

Board of Retirement Position: Watch.

Status: Signed into law.

### **AB 1853 (Cooper): County Employees Retirement Districts**

Summary: Authorizes the board of retirement of any retirement system under the County Employees Retirement Law of 1937 to elect by resolution to be a district. Requires the board of retirement to provide at least 60 days notice to stakeholders before considering a resolution. Authorizes the board to appoint personnel to be employees of the retirement system and not employees of the county. Grants employee organizations and unrepresented employees the right to elect to become district employees. Prescribes requirements related to compensation, benefits, labor negotiations, and continuity of labor agreements.

Board of Retirement Position: Oppose.

Board of Investments Position: Watch.

Status: Vetoed.

### **AB 2376 (Assembly PER&SS Committee): County Employees Retirement**

Summary: Revises the definition of Plan D in the prospective plan transfer provisions to mean the plan otherwise available to members between June 1, 1979 and December 31, 2012.

Authorizes regulations, in lieu of sworn statement, to provide for submission of member data required by sworn statement from the employer to the retirement system in a form to be determined by the retirement system.

Clarifies the applicability of the reciprocal provision on nonconcurrent retirement to Plan E members.

Authorizes the alternate retired member (if the eighth member is present) to vote in the absence of both the second and third members or in the absence of either the second or third member and the seventh member.

*Board of Retirement Position:* Support

*Status:* Signed into law.

### **AB 2468 (Hadley): Public Employees' Retirement System**

*Summary:* Authorizes an alternative benefit formula from the one required by the California Public Employees' Pension Reform Act of 2013 (PEPRA). Applies to nonsafety employees of public agencies that contract with the Public Employees' Retirement System (PERS) for retirement benefits.

*Board of Retirement Position:* Watch

*Status:* Dead.

### **SB 24 (Hill): Public Employees' Pension Reform: Joint Powers**

*Summary:* Authorizes a joint powers authority formed by the Belmont Fire Protection District, the Estero Municipal Improvement District, and the City of San Mateo to provide employees meeting specified criteria with the defined benefit plan or formula that was available to the employees from their employer on December 31, 2012. Prohibits the formation of a joint powers authority on or after January 1, 2013, in a manner that would exempt a new employee or new member from the requirements of the California Public Employees' Pension Reform Act of 2013.

*Board of Retirement Position:* Watch

*Status:* Signed into law.

### **SB 1203 (Hertzberg): Retirement Systems: Joint Powers Authorities: Benefits**

*Summary:* Authorizes a joint powers authority formed on or after January 1, 2013 to provide employees of the joint powers authority who are not new members with the defined benefit plan that was available to the employees on or before December 31, 2012. Prohibits the formation of a joint powers authority on or after January 1, 2013, in a manner that would exempt a new employee or new member from the requirements of the California Public Employees' Pension Reform Act of 2013.

*Board of Retirement Position:* Watch

*Status:* Signed into law.

## **II. OTHER CALIFORNIA LEGISLATION**

### **AB 241 (Gordon): Bankruptcy: Retired Employees: Disclosure of Names and Mailing Addresses**

*Summary:* Requires a local public entity to provide the name and mailing address of retired employees or beneficiaries to any organization incorporated and qualified under specific state and federal law for the purpose of representing retired employees and beneficiaries in a local public entity's neutral evaluation process, declaration of a fiscal emergency, or bankruptcy proceeding.

*Board of Retirement Position:* Oppose.

*Status:* Signed into law.

### **AB 1707 (Linder): Public Records: Response to Request**

*Summary:* Requires that a written response relating to the exemption of a record from disclosure identify the type of record being withheld and the specific exemption within the California Public Records Act that justifies the withholding.

*Board of Retirement Position:* Watch.

*Status:* Dead.

### **AB 1812 (Wagner): Public Employees Retirement**

Summary: Prohibits the retirement benefit paid to a member of any public retirement system whose service is not included in the federal social security system from exceeding \$100,000. Also prohibits the retirement benefit paid to a member of any public retirement system whose service is included in the federal social security system from exceeding \$80,000. Requires that the benefits be adjusted annually for inflation using the Consumer Price Index for All Urban Consumers.

Applies to employees employed by a public agency for the first time and becomes a member of any public retirement system on or after January 1, 2017.

If provisions are in conflict with a memorandum of understanding in effect on January 1, 2017, the provisions will not apply until the expiration of the memorandum of understanding and will supersede any subsequent memoranda of understanding.

Board of Retirement Position: Oppose.

Status: Dead.

### **AB 2257 (Maienschein): Local Agency Meeting: Agenda: Online Posting**

Summary: Amends the Ralph M. Brown Act. Requires that the meeting agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision must have a prominent, direct link to the agenda from the homepage. Requires posted agenda to meet requirements of platform independence and machine readability. Exempts the legislative body from this requirement if it has a specified integrated agenda management platform whose direct link is posted on the homepage and contains the current and prior agendas.

Board of Retirement Position: Watch.

Status: Signed into law.

### **AB 2628 (Levine): Political Reform Act of 1974: Employment Restrictions**

Summary: Prohibits an elected or appointed officer of a state or local agency while in office and for one year after leaving office from maintaining employment with or be compensated as a consultant of the state or local agency. Prohibits the officer from assisting an entity, for compensation, with business before the state or local agency.



Also requires that a state or local agency that maintains a web site to make statements of economic interests filed by its public officials who manage public investments available on the agency's web site.

Board of Retirement Position: Watch.

Status: Dead.

### **AB 2833 (Cooley): Public Investment Funds: Disclosures**

Summary: Requires a public investment fund to require each alternative investment vehicle in which it invests to make specified disclosures of fees, expenses, and carried interest as they relate to the public investment fund, alternative investment vehicle, fund manager, related parties, and portfolio companies. Applies to contracts entered into on or after January 1, 2017 or existing contracts to which a new capital commitment is made on or after January 1, 2017. Requires a public investment fund to make reasonable efforts to obtain information related to fees, expenses, and carried interest for existing contracts to which the public investment fund has not made new capital commitments. Disclosures of fees, expenses, and carried interest as well as gross and net rate of return must be presented at least once annually in a report at a meeting open to the public.

Board of Investments Position: Support if amended.

Status: Signed into law.

### **AB 2853 (Gatto): Public Records**

Summary: Enables a public agency that posts a public record on its website to comply with the California Public Records Act by referring members of the public who request that record to the website where the information is posted. Requires that the agency promptly provide a copy of the record to members of the public who are unable to access or reproduce the record from the website.

Board of Retirement Position: Support.

Status: Signed into law.

### **ACA 3 (Gallagher): Public Employees' Retirement**

Summary: Proposes a constitutional amendment to require that any enhancement to a public employee's retirement formula or retirement benefit apply only to service performed on or after the operative date of the enhancements.

Board of Retirement Position: Watch.

Status: Dead.

### **SB 897 (Roth): Workers' Compensation**

Summary: Provides an additional year of leave of absence without loss of salary under Labor Code Section 4850. Applies to police officers, firefighters, and sheriffs temporarily disabled by a catastrophic injury at the hands of another.

Board of Retirement Position: Watch.

Status: Vetoed.

### **SB 1436 (Bates): Local Agency Meetings: Oral Report of Final Action**

Summary: Requires a legislative body to orally report a summary of a recommendation for final action on the compensation and benefits of a local agency executive prior to taking final action on the recommendation.

Board of Retirement Position: Watch.

Status: Signed into law.

## **III. FEDERAL LEGISLATION**

### **HR 711 (Brady): Equal Treatment of Public Servants Act of 2015**

Summary: Amends title II of the Social Security Act to replace the current windfall elimination provision (WEP) for individuals who become eligible for old-age insurance benefits after 2016 or who attain age 62 after 2016 and become eligible for disability insurance benefits after 2016. A new formula for the treatment of noncovered earnings will be used in determining Social Security benefits.

Board of Retirement Position: Watch.

Status: In House Committee on Ways and Means: referred to Subcommittee on Social Security.

**HR 973 (Davis): Social Security Fairness Act of 2015**

Summary: Amends title II of the Social Security Act to repeal the government pension offset and the windfall elimination provision.

Board of Retirement Position: Support.

Status: In House Committee on Ways and Means: referred to Subcommittee on Social Security.

**HR 4822 (Nunes): Public Employee Pension Transparency Act**

Summary: Amends the Internal Revenue Code of 1986 to establish accounting and disclosure standards related to funding status, unfunded liabilities, actuarial assumptions, alternative projections of cash flows, investment returns, and plan participant statistics for state and local public pension plans. Requires supplemental report if value of plan assets is determined by other than fair market value or if the interest rate used to determine value of plan liabilities is not based on U.S. Treasury obligation yield curve rate. Denies authority for state and local governments to issue tax-exempt bonds if they fail to comply with reporting requirements.

Board of Retirement Position: Oppose.

Status: Referred to House Committee on Ways and Means.

**S 1651 (Brown): Social Security Fairness Act of 2015**

Summary: Amends title II of the Social Security Act to repeal the government pension offset and the windfall elimination provision.

Board of Retirement Position: Support.

Status: Introduced in Senate.

**Reviewed and Approved:**

A handwritten signature in blue ink that reads "Steven P. Rice". The signature is written in a cursive style.

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**Steven P. Rice, Chief Counsel**

cc: LACERA Executive Office  
LACERA Division Managers



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