

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, DECEMBER 14, 2017

PRESENT: Shawn R. Kehoe, Chair
Vivian H. Gray, Vice Chair
Marvin Adams
Alan Bernstein
Keith Knox (Chief Deputy to Joseph Kelly)
David L. Muir (Alternate Retired)
Ronald A. Okum
William Pryor (Alternate Member)
Herman Santos

ABSENT: William de la Garza, Secretary
Anthony Bravo
Joseph Kelly

STAFF ADVISORS AND PARTICIPANTS

Robert Hill, Interim Chief Executive Officer
James Brekk, Interim Deputy Chief Executive Officer
Steven P. Rice, Chief Counsel
John Popowich, Assistant Executive Officer

STAFF ADVISORS AND PARTICIPANTS (Continued)

Bernie Buenaflor, Interim Assistant Executive Officer

Michael Herrera, Senior Staff Counsel

Johanna Fontenot, Senior Staff Counsel

Dr. Vito Campese, Medical Advisor

Barry W. Lew, Legislative Affairs Officer

Francis J. Boyd, Senior Staff Counsel
Legal Division

Ricki Contreras, Division Manager
Disability Retirement Services

Tamara Caldwell, Specialist Supervisor
Disability Retirement Services

Allison Barrett, Senior Staff Counsel
Legal Division

Eugenia W. Der, Senior Staff Counsel
Legal Division

Reed Smith LLP
Harvey L. Leiderman

Michael E. Singer, Attorney at Law

Step toe & Johnson LLP
Don Wellington, Partner

Groom Law Firm
David N. Levine, Advisor to Plan Sponsor
Michael P. Kreps, Partner
Lisa M. Campbell, Principal
Rachel Leiser Levy, Principal
Brigen L. Winters, Principal

STAFF ADVISORS AND PARTICIPANTS (Continued)

K&L Gates

Karishma Shah Page, Team Lead, Benefits
William A. Kirk, Tax, Congressional Black Caucus
Jim Walsh, Former Congressman
Corbin T. Santo, Health Care

Williams & Jensen

Anthony J. Roda, Principal

DC Consulting

Shane Doucet

I. CALL TO ORDER

The meeting was called to order by Chair Kehoe at 9:05 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Santos 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 November 9, 2017

Mr. Okum made a motion, Mr. Muir seconded, to approve the minutes of the regular meeting of November 9, 2017. The motion passed unanimously.

IV. REPORT ON CLOSED SESSION ITEMS

No items were reported.

V. OTHER COMMUNICATIONS

A. For Information

1. October 2017 All Stars

Mr. Brekk announced the eight winners for the month of October: Dmitriy Khaytovich, Roxana Castillo, Lisa Garcia, Brittany Moyer, Mami Matsuura-Berhow, David Chu, Alisa Gavaller, Dana Brooks for the Employee Recognition Program and Karla Sarni for the Webwatcher Program. Koreana Wong, Claro Lanting, Sandra Ceci and Letha Williams-Martin were the winners of LACERA's RideShare Program.

2. Interim Chief Executive Officer's Report (Memo dated December 4, 2017)

Mr. Hill provided a brief discussion on the Interim Chief Executive Officer's Report and updated the Board regarding the Chief Executive Officer search.

Mr. Hill recognized and thanked Messrs. de la Garza, Muir, Bravo and Okum for their dedicated service and contribution to the Board of Retirement.

VI. PUBLIC COMMENT

There were no requests from the public to speak.

VII. CONSENT AGENDA

Mr. Kehoe made a motion, Mr. Muir seconded, to approve the following agenda items, including Non-Consent item A, B, C and G. The motion passed unanimously.

A. Ratification of Service Retirement and Survivor Benefit Application Approvals.

VII. CONSENT AGENDA (Continued)

- B. Requests for an administrative hearing before a referee.
(Memo dated November 30, 2017)
- C. Recommendation as submitted by Robert R. Hill, Interim Chief Executive Officer: That the Board approve attendance of Board members at the 2018 AIF Annual Investors' Meeting on January 8-9, 2018 in New York, New York and approve reimbursement of all travel costs incurred in accordance with LACERA's Education and Travel Policy.
(Memo dated November 26, 2017)
(Placed on the agenda at the request of Ms. Gray)
- D. Recommendation as submitted by Robert R. Hill, Interim Chief Executive Officer: That the Board approve attendance of Board members at the KORIED Plan Sponsor Educational Institute on January 16-19, 2018 in Key West, Florida and approve reimbursement of all travel costs incurred in accordance with LACERA's Education and Travel Policy.
(Memo dated November 26, 2017)
(Placed on the agenda at the request of Ms. Gray)

VIII. NON-CONSENT AGENDA

- A. Recommendation as submitted by Alan Bernstein, Chair, Operations Oversight Committee: That the Board approve the purchase of Cyber Liability Insurance with the following insurance carrier:

Cyber Liability

- North American Specialty (NAS) Insurance
A.M. Best Rating: A+, XV
Limit: \$20 million
Premium: \$113,695
(Memo dated November 14, 2017)

This item was moved to the Consent Agenda

- B. Recommendation as submitted by Vivian H. Gray, Chair, Disability Procedures & Services Committee: That the Board approve physician, Frank Guellich, M.D. to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants. (Memo dated November 21, 2017)

This item was moved to the Consent Agenda

VIII. NON-CONSENT AGENDA (Continued)

- C. Recommendation as submitted by Vivian H. Gray, Chair, Disability Procedures & Services Committee: That the Board adopt the recommended policy statement contained in this memorandum regarding the release of psychiatric/psychological medical records to unrepresented applicants. (Memo dated November 28, 2017)

This item was moved to the Consent Agenda

- D. Recommendation as submitted by Vivian H. Gray, Chair, Disability Procedures & Services Committee: That the Board revise the current Panel Physician Guidelines for Evaluating Members for Disability Retirement and adopt the *Proposed* Panel Physician Guidelines. (Memo dated November 29, 2017)

Mr. Boyd and Mrs. Contreras were present and answered questions from the Board.

Mr. Kehoe made a motion, Mrs. Gray seconded, to approve the agenda item with the following changes to the Proposed Panel Physician Guidelines:

- (1) Include the proposed verbiage: Is the applicant capable of performing each of the duties described in the Class Specification for the applicant's occupation?
- (2) Remove the proposed verbiage: Please avoid using words like prolonged, light, heavy, frequent, occasional, and repetitive in any of your recommended work restrictions.

The motion passed unanimously.

- E. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Board conduct interviews of three finalists on Federal Legislative Advocacy Services RFP, and select a firm. (Memo dated December 6, 2017)

The Groom Law Firm, K&L Gates and Williams & Jensen provided a brief presentation and answered questions from the Board.

VIII. NON-CONSENT AGENDA (Continued)

Mr. Adams made a motion, Mr. Okum seconded, to select Williams & Jensen as LACERA's Federal Legislative Advocacy Services Firm. The motion passed (roll call) with Messrs. Adams, Bernstein, Kehoe, Knox, Muir, and Okum voting yes and Mr. Santos and Mrs. Gray voting no.

(This item was held out of order after, VIII.F)
(Mr. Pryor left the Board room at 1:30 p.m.)

- F. Motion by Mr. Muir: That, with respect to the erroneous denial of retroactive disability retirement benefits, the Board instruct staff to:
1. Advise affected LACERA members of the error and the legislative action the Board is undertaking to enable the Board to correct the error; and
 2. Provide progress reports to affected members during the legislative progress to enable affected members to contact their representatives in the Legislature.

(Memo dated December 5, 2017)

Messrs. Steven Rice, Hill and Brekk and Mrs. Contreras and Harvey

Leiderman of Reed Smith LLP were present and answered questions from the Board.

Mr. Muir made a motion, Mr. Bernstein seconded, to approve the agenda item. The motion passed unanimously.

VIII. NON-CONSENT AGENDA (Continued)

G. Recommendation as submitted by Fern Billings, Senior Staff Counsel: That the Board:

1. Adopt the attached Resolutions specifying pay items as “compensation earnable” and “pensionable compensation;” and
2. Instruct staff to coordinate with the County of Los Angeles to establish necessary reporting to mechanism and procedures to permit LACERA to include or exclude items in the calculation of final compensation.

(Memo dated December 5, 2017)

This item was moved to the Consent Agenda

IX. FOR INFORMATION ONLY

The following items were received and filed:

- A. For information only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated November 22, 2017)
- B. For information only as submitted by Barry Lew, Legislative Affairs Officer, regarding the Update on SACRS 2018 Legislative Platform. (Memo dated November 27, 2017)

X. REPORT ON STAFF ACTION ITEMS

There was nothing to report.

XI. GOOD OF THE ORDER

(For information purposes only)

The Board recognized and thanked Messrs. de la Garza, Muir, Bravo and Okum for their dedicated service and contribution to the Board of Retirement.

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

(This item was held out of order after XIV)

Safety Law Enforcement
Service-Connected Disability Applications

On a motion by Mr. Kehoe , 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>
722C*	DIANA C. GUTIERREZ
723C*	ROBERTO P. LIM
724C	ROBERT P. THOMS
725C	BRADLEY REINFORD
726C**	CHRISTOPHER J. SCIACCA JR.
727C	MICHELLE J. REYES
728C*	JUAN J. CHAVEZ
729C	RONALD J. YORK
730C	MICHANNAN L. DIERKS
731C*	STEVEN T. OLIVA
732C	THOMAS C. WHITHAM
733C	DARRYL M. KETCHENS

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Retroactive

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Fire, Lifeguards
Service-Connected Disability Applications

On a motion by Mr. Bernstein 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>
1904A	KENNETH D. HON
1905A	VICTOR S. LOMELI
1906A	GEORGE K. HERNANDEZ
1907A	STEVEN A. HARPER
1908A	ALAN A. SANCHEZ
1909A	TONY LEWIS
1910A	KEITH S. HAMANE
1911A*	DAVID PARDO
1912A	ERNEST V. AVILA

* Granted SCD – Retroactive

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members

Service-Connected Disability Applications

On a motion by Mr. Adams seconded by Mrs. Gray, 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>
2761B	MANUEL MARTINEZ
2762B	CECILIA CHAVEZ
2763B*	PHIL ULLOA
2764B*	DARCHELLE L. YOUNGBLOOD
2765B*/***	AGAVNI A. ISKANDARYAN
2766B**	SEAN E. POWERS
2767B	MATTHEW R. PASCONE
2768B*	IRVINE O'NEIL
2769B*	RICHARD D. ARCEO
2770B*	MICHAEL G. ROYAL
2771B*	MARY P. MEDINA

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Salary Supplement

*** Granted SCD – Mr. Knox abstained from voting.

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members (Continued)
Service-Connected Disability Applications

On a motion by Mr. Adams seconded by Mrs. Gray, 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>
2772B*	SHIRLEEN P. THORPE
2773B**	KIMBERLY D. KOLSTAD
2774B*	ELIZABETH J. KIRBY
2775B**	BETTY CHONG
2776B	ARTURO J. RAZO
2777B	FRANCISCO J. RUIZ
2778B**	TOUFIC M. ASSOUM
2779B***	CASSANDRA M. PRESCOTT
2780B***	RITA J. DELGADO
2781B*	TONYA R. BATCHELOR
2782B	DOMINGO MOLINA

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Retroactive Employer Cannot Accommodate

*** Granted SCD – Retroactive

XII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members

Non-Service-Connected Disability Applications

On a motion by Mr. Bernstein 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>
4362	GARY G. GUARINO
4363*	OTTO R. RODRIGUEZ

* Granted NSCD – Retroactive

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability

<u>APPLICATION NO. & NAME</u>	<u>BOARD ACTION</u>
6990A – TIEN Q. NGO	Mrs. Gray made a motion, Mr. Adams seconded, to grant a service connected disability. The motion passed unanimously.
6991A – TRENACIA M. HOGAN	Mrs. Gray made a motion, Mr. Bernstein seconded, to find the applicant not permanently incapacitated. The motion passed unanimously.
6992A – ERICA A. TORRES	Mr. Kehoe made a motion, Mr. Bernstein seconded, to deny a service connected disability. The motion passed unanimously.
6993A – DOUGLAS B. FRASER*	Mr. Kehoe made a motion, Mr. Adams seconded, to grant a service connected disability. The motion passed unanimously.
6994A – ALTHEA E. MILLER	Mr. Muir made a motion, Mr. Bernstein seconded, to grant a non-service connected disability retirement pursuant to Government Code Sections 31720 and 31724. The motion passed unanimously.
6995A – GRETCHEN A. MOS	Mr. Adams made a motion, Mrs. Gray seconded, to find the applicant not permanently incapacitated. The motion passed unanimously.
6967A – GERALDINE A. BECHARD	Mr. Kehoe made a motion, Mr. Muir seconded, to grant a service connected disability retirement pursuant to Government Code Sections 31720 and 31720.4. The motion passed unanimously.

*Present

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability (Continued)

<u>APPLICATION NO. & NAME</u>	<u>BOARD ACTION</u>
696C – PATRICK E. MAXWELL	<p>Mrs. Gray made a motion, Mr. Muir seconded, to grant a service connected disability retirement pursuant to Government Code Section 31720.</p> <p>Mr. Kehoe made a substitute motion, Mr. Santos seconded, to return to staff for additional information. The motion passed unanimously.</p>
6981A – FLORY M. DIAZ	<p>Mr. Muir made a motion. Mr. Knox seconded. to grant a service connected disability retirement pursuant to Government Code Section 31720 and 31724 since employer cannot accommodate. The motion passed unanimously.</p>
6986A – GREGORY THURMAN	<p>Mr. Kehoe made a motion, Mrs. Gray seconded, to grant a service connected disability retirement pursuant to Government Code Section 31720 and 31724. The motion passed unanimously.</p>

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

B. Referee Reports (This item was held out of order before XIII.A)

APPLICATION NO. & NAME

BOARD ACTION

MICHAEL J. LEINWEBER

Mark E. Singer for the applicant
Jason E. Waller for the respondent

Mr. Adams made a motion, Mrs. Gray seconded, to grant a service connected disability retirement. The motion passed unanimously.

ERNESTO NUNEZ

Mark E. Singer for the applicant
Allison E. Barrett for the respondent

Mr. Bernstein made a motion, Mr. Adams seconded, to find the applicant not permanently incapacitated.

Mr. Kehoe made a substitute motion, Mr. Santos seconded, to return to staff for further development.

The motion passed unanimously (roll call) with Messrs. Kehoe, Knox, Adams, Okum, Bernstein, Santos, Muir and Mrs. Gray voting yes.

RICHARD S. BENTLEY

Michael Treger for the applicant
Allison E. Barrett for the respondent

Mrs. Gray made a motion, Mr. Adams seconded, to grant a service connected disability retirement. The motion passed unanimously.

XIII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

B. Referee Reports (Continued)

APPLICATION NO. & NAME

BOARD ACTION

ROYCEANNE JOHNSON

Mark E. Singer for the applicant
Eugenia W. Der for the respondent

Mr. Knox made a motion, Mr. Santos seconded, to grant a non-service connected disability. The motion passed unanimously.

XIV. EXECUTIVE SESSION – (The item was held out of order after XI)

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

1. Heidi Rayburn v. Los Angeles County Employees Retirement Association

The Board met in Executive Session pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9. There was nothing to report at this time.

2. United States of America v. Gary Ordog
Case No. CV 17-1164-FMO (C.D. Cal.)

The Board met in Executive Session pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9. There was nothing to report at this time.

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 Vernon Freeman

XIV. EXECUTIVE SESSION (Continued)

The Board met in Executive Session pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9. The Board voted on a motion by Mr. Kehoe, seconded by Mr. Adams, to grant the administrative appeal of Vernon Freeman for the sum agreed. The motion passed (roll call) with Messrs. Knox, Adams, Bernstein, Muir, Santos and Kehoe and Mrs. Gray voting yes.

2. Administrative Appeal of Sandra Claggett

The Board met in Executive Session pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9. The Board voted on a motion by Mr. Bernstein, seconded by Mr. Adams, to deny Mrs. Sandra Claggett's appeal. The motion passed (roll call) with Messrs. Knox, Adams, Bernstein, Santos and Kehoe and Mrs. Gray voting yes and Mr. Muir abstaining.

3. Administrative Appeal of Oksana Bihun

The Board met in Executive Session pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9. The Board voted on a motion by Mr. Adams, seconded by Mr. Muir, to deny Mrs. Oksana Bihun's appeal. The motion passed (roll call) with Messrs. Knox, Adams, Bernstein, Muir, Santos and Kehoe and Mrs. Gray voting yes.

XIV. EXECUTIVE SESSION (Continued)

4. Number of Other Potential Cases: 1

The Board met in Executive Session pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9. There was nothing to report at this time.

XV. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 3:56 p.m.

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

1. LACERA 2018 Legislative Proposal – Correction of Errors and Omissions (Memo dated June 15, 2017)
2. Confidential Memo Regarding Item XIV.B.4.

WILLIAM DE LA GARZA, SECRETARY

SHAWN R. KEHOE, CHAIR