#### NOTICE OF MEETING AND AGENDA

# SPECIAL MEETING OF THE OPERATIONS OVERSIGHT COMMITTEE and BOARD OF RETIREMENT\*

#### LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

## 300 NORTH LAKE AVENUE, SUITE 810 PASADENA, CA 91101

**WEDNESDAY, NOVEMBER 7, 2018 - 9:00 A.M.\*\*** 

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

#### **COMMITTEE MEMBERS:**

Marvin Adams, Chair Thomas Walsh, Vice Chair Alan Bernstein William Pryor Vivian H. Gray, Alternate

- I. APPROVAL OF THE MINUTES
  - A. Approval of the minutes of the regular meeting of October 11, 2018
- II. PUBLIC COMMENT
- III. ACTION ITEMS
  - A. Recommendation as submitted by JJ Popowich, Assistant Executive Officer, and Johanna M. Fontenot, Senior Staff Counsel: That the Committee recommend the Board of Retirement approve the Proposed Administrative Appeals Procedures for Felony Forfeiture. (Memo dated October 25, 2018)
- IV. FOR INFORMATION
  - A. <u>LACERA Operations Briefing</u>
    JJ Popowich/Bernie Buenaflor

- V. ITEMS FOR STAFF REVIEW
- VI. GOOD OF THE ORDER

(For information purposes only)

VII. ADJOURNMENT

\*The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.

\*\*Although the meeting is scheduled for 9:00 a.m., it can start anytime thereafter, depending on the length of the Board of Retirement meeting preceding it. Please be on call.

Any documents subject to public disclosure that relate to an agenda item for an open session of the Committee, that are distributed to members of the Committee 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 Committee, at LACERA's offices at 300 North Lake Avenue, Suite 820, Pasadena, California during normal business hours from 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 MEETING OF THE

# OPERATIONS OVERSIGHT COMMITTEE and BOARD OF RETIREMENT\*

# LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION GATEWAY PLAZA - 300 N. LAKE AVENUE, SUITE 810, PASADENA, CA 91101 THURSDAY, OCTOBER 11, 2018, 12:15 P.M. – 12:20 P.M.

#### **COMMITTEE MEMBERS**

PRESENT: Marvin Adams, Chair

Alan Bernstein

Vivian H. Gray, Alternate

ABSENT: Thomas Walsh, Vice Chair

William Pryor

**ALSO ATTENDING:** 

**BOARD MEMBERS AT LARGE** 

JP Harris Les Robbins

STAFF, ADVISORS, PARTICIPANTS

JJ Popowich Bernie Buenaflor

The meeting was called to order by Chair Adams at 12:15 p.m. Due to the absence of Messrs. Pryor and Walsh, the Chair announced that Ms. Gray, as the alternate, would be a voting member of the Committee.

#### I. APPROVAL OF THE MINUTES

A. Approval of the minutes of the regular meeting of September 13, 2018

Ms. Gray made a motion, Mr. Bernstein seconded, to approve the minutes of the regular meeting of September 13, 2018. The motion passed unanimously.

- II. PUBLIC COMMENT
- III. FOR INFORMATION
  - A. <u>LACERA Operations Briefing</u>
    JJ Popowich/Bernie Buenaflor

Messrs. Popowich and Buenaflor presented the monthly briefing on LACERA's operations.

- Public Records Request Update
- Report of Felony Forfeiture Cases Processed
- IV. ITEMS FOR STAFF REVIEW

There was nothing to report.

V. GOOD OF THE ORDER

(For information purposes only)

VI. ADJOURNMENT

The meeting adjourned at 12:20 p.m.

<sup>\*</sup>The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.



October 25, 2018

TO: **Operations Oversight Committee** 

Marvin Adams, Chair

Thomas Walsh, Vice Chair

Alan Bernstein William Pryor

Vivian Gray, Alternate

JJ Popowich, Assistant Executive Officer of Johanna M. Fontant C. From:

Johanna M. Fontenot, Senior Staff Counsel 9m>

FOR: November 7, 2018 Operations Oversight Committee Meeting

SUBJECT: Proposed Administrative Appeals Procedures for Felony Forfeiture

#### RECOMMENDATION

That the Operations Oversight Committee recommend that the Board of Retirement approve the Proposed Administrative Appeals Procedures for Felony Forfeiture.

#### **EXECUTIVE SUMMARY**

With the implementation of the Public Employees' Pension Reform Act of 2013 (PEPRA), members who are convicted of a work-related felony must forfeit all service credit and contributions accrued on and after the date the crime was first committed.

On June 19, 2018, the Second District Court of Appeals rejected constitutional challenges to the new felony forfeiture statute in Hipsher v. LACERA, County of Los Angeles and the State of California. Although the Court upheld the constitutionality of the felony forfeiture statute, it ruled in Hipsher's favor as to his due process rights. The court explained that retirement systems have authority to determine whether forfeiture of retirement benefits is warranted under Government Code Sections 7522.72 and 7522.74. As a consequence, the Court concluded LACERA, and not the County, is the appropriate party to offer due process when the conviction does not necessarily arise from the scope of the pensioner's public duties.

Staff prepared the proposed Administrative Appeals Procedures for Felony Forfeiture (the "Procedure") in order to comply with the *Hipsher* decision. This Procedure addresses the employer's notification obligations and establishes a procedure for members to file an administrative appeal related to the Initial Determination that the conviction is job-related and the financial impact.

Proposed Administrative Appeals Procedures for Felony Forfeitures October 25, 2018 Page 2

#### **Roles and Responsibilities**

The law requires that the prosecuting agency to notify the employer within 60 days of the work-related felony conviction. The employer is required by law to notify the retirement system within 90 days of a qualifying felony conviction.

The County provides LACERA with a package of information regarding each qualifying felony conviction as part of their notification obligation. LACERA staff and County staff met last month to discuss whether the County would continue to send the information described in the Procedures after the *Hipsher* decision and they agreed to do so.

Once LACERA receives the packet from the County, LACERA staff will send a letter to the member informing them that LACERA is in the process of determining the applicability of the felony forfeiture law and the possible impact on the member's benefits.

After staff has completed its review, staff will send a Notice of Initial Determination to the member which will include: 1) a copy of the Administrative Appeal Procedures for Felony Forfeiture; 2) a detailed letter explaining the applicability of the felony forfeiture law and explanation of the potential impact; and 3) information about the member's right to appeal Staff's Determination to the Board of Retirement within 30 days.

A member's timely challenge will be heard by the Board of Retirement. If the Initial Determination is not timely challenged by the member, it will be deemed final and LACERA will implement the felony forfeiture adjustments.

#### RECOMMENDATION

**IT IS THEREFORE RECOMMENDED THAT YOUR COMMITTEE** recommend that the Board of Retirement approve the Administrative Appeals Procedures for Felony Forfeiture.

Reviewed and Approved

Steven P. Rice Chief Counsel

Attachment

c: Robert Hill James Brekk JJ Popowich Bernie Buenaflor





ADMINISTRATIVE APPEALS PROCEDURES FOR FELONY FORFEITURE
(Effective)

#### I. PURPOSE

Under the California Public Employees' Pension Reform Act of 2013 (PEPRA), members who have been convicted on or after January 1, 2013, by a state or federal trial court of any felony under the law for conduct arising out of or in the performance of his or her official duties must forfeit all accrued rights and benefits in any public retirement system that they are a member of at the time the felony is committed retroactive to the first commission date of the crime and shall not accrue further benefits in that public retirement system. (Government Code sections 7522.72 and 7522.74.) <sup>1</sup>

These statutes require the forfeiture if the public employee is convicted of any felony for conduct:

- Arising out of or in the performance of his or her official duties, or
- In pursuit of the office or appointment, or
- In connection with obtaining salary, disability retirement, service retirement, or other benefits, or
- Committed within the scope of official duties against or involving a child.

The public employee and the prosecuting agency are required by law to notify the public employer within 60 days of the qualifying felony conviction. The employer is required by law to notify the public retirement system within 90 days of a qualifying felony conviction.

#### II. FELONY FORFEITURE PROCEDURES 2

#### A. Employer's Notification to LACERA of Felony Conviction

The County of Los Angeles is required by law to notify LACERA within 90 days of a qualifying felony conviction. Upon notification, LACERA will request that the County provide the following information:

- 1. Name of member and County employee ID.
- 2. Date of conviction which is the date that the member pleads guilty, or when the judge (or jury) decides the case.

Section 7522.72 applies to public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013 and 7522.74 applies to public employees first employed, elected or appointed on or after January 1, 2013.

<sup>&</sup>lt;sup>2</sup> The Felony Forfeiture Procedures shall not be subject to LACERA's Administrative Appeals Procedures for Retirement Benefits.

- 3. Date of the first known commission of the felony.
- 4. Name of the court(s) in which the case was heard.
- 5. Name and contact information for the prosecuting attorney.
- 6. Description of the felony charges for which the member was convicted.
- 7. Copy of court documents related to member's conviction/guilty plea.
- 8. Information and supporting documents relating to whether the felony offense for which the conviction was entered was committed during the conduct or performance of the member's job duties pursuant to Gov't Code sections 7522.72 or 7522.74.
- 9. eHR Employee Job History and Class Specifications

Although it is the employer's responsibility to notify LACERA of an employee's felony conviction, LACERA can be notified by the media, third parties or members. When this occurs, LACERA will reach out to the employer to request the information described above. Once LACERA is notified of a job-related conviction, the member's account is locked.<sup>3</sup>

#### B. LACERA'S Notification to the Member of the Forfeiture Review

After LACERA receives notification from the employer of a job-related felony conviction LACERA will send a letter to the member informing them that LACERA is in process of determining the applicability of the felony forfeiture law, and, if applicable, the impact on the member's benefits.

#### C. Staff's Review of Information

Staff will review the charges and determine what additional information, if any, is needed from the employer, the member and or the prosecuting agency to make the required determinations. Staff is not limited to the criminal record in gathering the information it believes is appropriate. Staff may request the Board to exercise its subpoena power under Govt. Code section 31535.

#### D. Notice of Initial Determination

After staff's review, staff will send a Notice of Initial Determination (the "Notice" or "Staff Determination") to the member as to the applicability of the felony forfeiture law to the facts. This Notice will include:

- 1. A copy of this Procedure;
- 2. A detailed letter explaining the applicability of the felony forfeiture law and, if applicable, an explanation of the impact of the forfeiture on the member's benefits and the applicable proposed actions.
- 3. Information about the member's right to appeal Staff's Determination to the Board of Retirement within 30 days of the date of the mailing of the Notice.

<sup>&</sup>lt;sup>3</sup> If these Procedures conflict with any statutory or case law, the statutory or case law shall govern.

#### E. Member's Appeal of Staff's Determination

The appeal shall contain a statement of the facts and the law forming the basis of the appeal and provide copies of documents, if any, the member deems relevant to the appeal. The appeal shall be in writing and mailed to the following address: LACERA Legal office, 300 N. Lake Avenue, Suite 620, Pasadena, CA. 91101. Both the member and LACERA staff shall have the opportunity to submit to the Board written evidence and argument relevant to the matters under consideration.

If Staff's Initial Determination is not timely challenged by the member, within the time limit established above in Section II.D, it will be deemed final and binding and LACERA will implement the felony forfeiture adjustments as indicated in the Notice.

#### F. Board of Retirement's Determination

A member's timely challenge will be heard by the Board of Retirement. Notice of the date and time of the hearing by the Board of Retirement will be provided to the member along with any instructions regarding the submission of documents and other evidence as necessary.

The matter will be placed on the Board of Retirement's regular public agenda for its review, findings and decision. The Legal Office's analysis and recommendations will be discussed with the Board in closed-session. The member and his or her counsel will have the opportunity to address the Board in open-session prior to the closed-session.

#### G. Member's Appeal of Board's Decision

Following the Board meeting, the Legal Office will provide the applicant written notice of the Board's decision. If the Board agrees with Staff's Determination, LACERA will implement the adjustments as indicated in the Notice.

If the member is dissatisfied with the Board's action, the member may obtain judicial review by filing a petition for a writ of mandate in accordance with the Code of Civil Procedure section 1085. A member's filing of a writ challenging LACERA's final administrative determination shall not prevent LACERA from implementing its determination, unless a court orders otherwise.

#### III. ACTIONS TAKEN AFTER THE FORFEITURE OF BENETIFS

Any refunds returned to the public employee pursuant to Gov't Code Sections 7522.72 and 7522.74 shall be disbursed by electronic funds transfer to an account of the public employee in a manner conforming with the requirements of the Internal Revenue Code, and LACERA shall notify the court and district attorney at least three business days before that disbursement of funds.

Administrative Appeals Procedures for Felony Forfeiture Page 4

If there is a reversal of the conviction, and that decision is final, the member has the option to redeposit the contributions from the forfeited period or recover the forfeited rights and benefits.

Adopted:

**Approved by Board of Retirement:** 



#### FOR INFORMATION ONLY

October 29, 2018

TO: Operations Oversight Committee

Marvin Adams, Chair

Thomas Walsh, Vice Chair

Alan Bernstein William Pryor

Vivian H. Gray, Alternate

FROM: JJ Popowich, Assistant Executive Officer

Bernie Buenaflor, Interim Assistant Executive Officer

FOR: November 7, 2018 Operations Oversight Committee Meeting

SUBJECT: LACERA OPERATIONS BRIEFING

The purpose of this briefing is to share insights on staff activities, updates on goals, and discuss opportunities and/or concerns. Many of the items highlighted may recur in subsequent briefings or may result in a future comprehensive OOC presentation.

- Public Records Request Update
- Report of Felony Forfeiture Cases Processed
- Update on Sheriff's Deputy II Bonus Project

DATE RECEIVED	REQUESTER	DOCS REQUESTED						
09-18-18 (Legal received on 09-27-18)	D. Gochenouer Ph.D, Southwest Minnesota University	Requested copies of records in the possession of the Los Angeles County Employees Retirement Association pursuant to the state open records law, Cal. Gov't Code Secs. 6250 to 6277. The requested information is as follows:						
09-27-18)		A copy of the winning proposal addressing the Recruitment for CEO.						
		A copy of the resulting contract.						
		Copies of each evaluator's notes and/or rating sheets on all proposals submitted.						
		Transmitted, on September 28, 2018, responsive comments shown below.						
		I am the attorney responsible for responding to LACERA's public record requests. I just became aware of your request as it was routed to me. Please transmit future requests to my attention. I will respond fully to your request with deliberate speed. However, I request an extension to compile and review the documents. As there may be multiple sources, this will take some time. I believe I should be able to collect, review, and transmit all responsive, non-exempt documents by end of business on October 11, 2018.						
		Please confirm that you have received and acknowledged this extension request. If you have any questions, please feel free to contact me at my direct dial number below.						
		Transmitted, on October 11. 2018, responsive comments shown below.						
		After searching LACERA's records and speaking to the Human Resources employee that coordinated the recruitment effort, I have attached three documents in response to your request. The documents are:						
		A copy of the winning proposal addressing the Recruitment for CEO;						
		2. A copy of the resulting contract, and						
		3. The rating template sheet used "CEO Search Firm Interview Packet."						
		Please note that per LACERA's standard procedures, the HR Division does not collect copies of each evaluator's notes and/or rating sheets on proposals submitted.						
		I have redacted personal mobile phone numbers from the documents as required by the California Government Code §§6254(c) and 6254.3(a).						
		Transmitted 3 documents.						
		Sent via email: Korn Ferry Service Proposal_Redacted; Korn Ferry Engagement Letter Redacted, and CEO Search Firm Interview.						
09-20-18	D. Kushner, Individual	Per annual request:						
		Sent via USPS First Class mail the following DVDs listed below.						
		1. Joint Governance Review Committee, dated September 5, 2018;						

DATE RECEIVED	REQUESTER	DOCS REQUESTED				
REGENTES		2. Board of Retirement Disability Mtg. dated September 5, 2018;				
		3. Disability Procedure & Services Committee Mtg. dated August 1, 2018;				
		4. Board of Retirement Disability Mtg. dated August 1, 2018;				
		5. Disability Procedure & Services Committee Mtg. dated August 1, 2018;				
		6. Insurance Benefits & Legislative Committee Mtg. dated August 9, 2018;				
		7. Operations Oversight Committee Mtg. August 1, 2018, and				
		8. Portfolio Risks Meeting dated August 8, 2018. 9.				
10-05-18	D. Gregory, Public Plan IQ	Requested DVDs regarding Board meetings as shown below.				
	T dolle Flam (q	1. September 11-12, 2018 DVD recordings for the open sessions of the Board of Investments and Committee Meetings, and				
		2. July 9, 2018 DVD recordings for the open sessions of the Board of Investments and Committee Meetings.				
		Transmitted, on October 9, 2018, email response shown below.				
		The July 9, 2018 BOI meetings were held offsite. Recordings are not made for offsite meetings.				
		Sent via USPS First Class Mail the three DVDs				
		listed below.				
		1. Board of Investments dated September 12, 2018;				
		2. Joint Governance Review Committee – dated September 5, 2018, and				
		<ol> <li>Operations Oversight Committee Meeting – dated September 13, 2018.</li> </ol>				
10-08-18	R. James, PEI Media	From the Requester: Looking through the docs from LACERA's October meeting, I see on page 38 that LACERA sold a stake in The Resolute Fund II for \$26.7 million.				
		Is this part of the ongoing secondary portfolio sale or a separate transaction? And can you name the buyer?				
		Transmitted, on October 17, 2018, responsive comments shown below.				
		The sale was reported as a separate action. I have no further information than the memo included in the Board of Investments Agenda.				
10-11-18	S. Ayers, Tristar Group	Per monthly request:				
		Transmitted one document:				
		Sent via email: Board of Retirement Meeting of October 11, 2018 Benefit Approval List.				

DATE RECEIVED	REQUESTER	DOCS REQUESTED					
10-11-18	J. Hammond, RELAC	Per monthly request:  Transmitted one document:  Sent via email: Board of Retirement Meeting of October 11, 2018, Benefit Approval List.					
10-11-18	LA Sheriffs Department	Per monthly request:  Transmitted 2 documents.  Sent via email: Monthly Agenda Reports for Sheriff Department Listing and Fire Department listing each dated October 11, 2018.					
10-11-18	M. McCue, FIN	From the Requester:  Provide insight on the following.  1. Was the cash overlay RFP approved and was a more specific date for its issuance provided?  2. With regards to the consultant search for hedge funds, illiquid credit and real assets, I saw the listing in the documents naming the firms that submitted proposals, however I was wondering if that list can be broken out into the services that the proposals were submitted for?  3. Is there any update on the private equity secondary advisor selection that was directed to staff in May?  4. I would like to request all responses to the emerging manager U.S. and non-U.S. equity RFP that was issued in October 2017 as well as the small-cap RFI issued in July 2017. Please let me know if this request needs to be submitted in a different manner or do a different individual.  Transmitted, on October 15, 2018, responsive comments shown below.  1. The cash overlay RFP was approved but no specific date was discussed.  2. The Board did not discuss this topic. Staff did not provide a breakdown the list by firm/service.  3. Staff made no update to the private equity secondary advisor selection.  4. I have forwarded your request to our Investments Division and will respond with all non-exempt, responsive documents.  5.					
10-11-18	K. Spector, Pitchbook	Requested a copy of the public records from August 28, 2014 through October 9, 2018 for the following information:  1. Investment memorandum used by the Los Angeles County Employees' Retirement Association investment committee and investment consultants providing consultation to the Los Angeles County Employees' Retirement Association regarding private equity, venture capital, mezzanine, distressed, real estate/REIT, debt and					

DATE RECEIVED	REQUESTER	EQUESTER DOCS REQUESTED						
		infrastructure partnerships being considered for investment by the Los Angeles County Employees' Retirement Association portfolio.						
		2. All due diligence materials and presentation materials produced by the General Partners in the course of the Los Angeles County Employees' Retirement Association conducting due diligence on investments into any private equity, venture capital, mezzanine, distressed, real estate/REIT, debt and infrastructure partnerships.						
		Transmitted, on October 15, 2018, first responsive comments shown below.						
		I have forwarded your request to our Private Equity team. I will forward all response, non-exempt documents as soon as they are available.						
10-11-18	T. Usher, HR - LA County	Per monthly request:						
		Transmitted one document.						
		Sent via email: MonthlyAgendaforBrdSecs 180830.						
10-11-18	J. Weitemeyer, Buyouts Insider	Requested the most recent Private Equity portfolio for the Los Angeles County ERA.						
	·	Transmitted, on October 12, 2018, responsive comments shown below.						
		I have attached the Q4 2017 Private Equity Report in response to your request. Please note that the Q2 2018 report will be available after the Board of Investments meeting in November. The Q2 and Q4 reports lag approximately six months after Quarter end.						
		Transmitted 1 document.						
		Sent via email: LACERA 2017.12.30.						
10-12-18	R. Dulin, SP Global	From the Requester: I'm inquiring about the yesterday's meeting in regards to the CEO selection search. Are you able to provide any information about the search process?						
		Transmitted, on October 17, 2018, responsive comment shown below.						
		The Board of Investments did not announce any reportable action at the meeting.						
10-12-18	D. Kushner, Individual	Per annual request:						
		Sent via USPS First Class mail the following DVDs listed below.						
		1. Board of Investments – October 10, 2018;						
		2. Board of Retirement Disability Mtg – October 11, 2018;						
		3. Corporate Governance Committee Meeting – October 10, 2018;						
		4. Insurance Benefits & Legislative Committee Mtg. – October 11, 2018;						

DATE RECEIVED	REQUESTER	DOCS REQUESTED					
		5. Joint Board Meeting – October 11, 2018, and					
		6. Operations Oversight Committee Meeting – October 11, 2018.					
10-15-18	K. Mitchell, Markets Group	Requested recent <u>release</u> on the fund selling for \$26.7 million its interest in Resolute Fund II, a 2007 vintage buyout fund managed by the Jordan Co.					
		Transmitted, on October 15, 2018, responsive comments shown below.					
		LACERA does not routinely provide press releases. The Resolute transaction appears in the October 2018 Agenda, LACERA did not issue a press release. I believe that the report in question is based on the Agenda item.					
		All LACERA Agendas are on the website. The most current Agenda is posted on a monthly basis.					
		I will check to see if LACERA maintains media routing list, I am not aware of one. If LACERA does maintain one, I will ensure that you and your colleagues are added to the list.					



### Report of Felony Forfeiture Cases Processed October 22, 2018

CASE #	MEMBER'S LAST NAME	MEMBER'S FIRST NAME	DEPT.	CONVICTION DATE	LACERA NOTIFIED	MEMBER NOTIFIED BY LACERA	FINAL STATUS	DISABILITY STATUS	IMPACT NOTIFICATION SERVICE LEVEL
45	GARABEKYAN	YURI	IS	2/20/2018	9/11/2018				