

Declining Employer Payroll Policy

Purpose and Background

1. A participating employer in the Orange County Employees Retirement System (OCERS) may experience an actual or expected material decline in the payroll attributable to its OCERS' active members (OCERS-covered payroll). The Declining Employer Payroll Policy is intended to establish guidelines by which OCERS intends to assure that such employer will continue to satisfy its obligation to timely pay all unfunded actuarial accrued liability (UAAL) attributable to the employer's active, retired and deferred employees and their beneficiaries by reason of their prior and future service as OCERS' members.

Background and Objectives

2. As a general rule, under OCERS' practice in place prior to the adoption of this Declining Payroll Policy, OCERS determined employers' contribution obligations for UAAL by applying a contribution rate determined by OCERS' actuary to the employer's OCERS-covered payroll (the percentage-of-payroll methodology). For employers whose payrolls are generally consistent with OCERS actuarial assumptions regarding payroll growth, the percentage-of-payroll methodology continues to be appropriate. But for employers whose OCERS-covered payroll is declining, or is expected to decline, materially over time, the Board of Retirement has determined that the percentage-of-payroll methodology is not the appropriate means of collecting employer contributions owed to the system. The objectives of this Declining Employer Payroll Policy are to (i) to ensure equitable and adequate funding of UAAL in cases involving employers with declining payrolls, (ii) approve procedures for identifying employers who should be subject to this Policy, and (iii) approve a different methodology for determining any UAAL attributable to such employers and setting the amount and schedule of the contributions needed to fund such UAAL. This Policy does *not* change the methodology regarding how contributions for "normal cost" are determined for participating employers.
3. Generally, the objectives of this Policy also are to ensure compliance with County Employees Retirement Law of 1937, California Government Code sections 31450 et seq., as amended, and other applicable provisions of law. Pursuant to Gov't. Code sections 31453, 31453.5, 31581, 31582, 31584, 31585, 31586 and other applicable provisions of law, a participating employer remains liable, and must make the required appropriations and transfers, to OCERS for the district's share of liabilities attributable to its officers and employees who are and may be entitled to receive retirement, disability and related benefits from OCERS.
4. It is the Board of Retirement's intent to allow an employer covered by this Policy to satisfy its funding obligation in a manner which provides the employer reasonable flexibility; however, primary consideration will be given to ensuring the adequacy of the assets attributable to the employer to satisfy the employer's funding obligations. This will generally require redetermination of the funding obligations of the employer for several years.

Policy Procedures and Guidelines

Absent exigent circumstances or unless otherwise expressly approved by the Board of Retirement at a duly-noticed public meeting, the procedures and guidelines for implementing this Policy are set forth below.

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Commencement of Coverage – Triggering Events

5. This Policy covers only those employers for whom the Board determines, based on a recommendation from OCERS' Chief Executive Officer (CEO), that a *triggering event* as described in this section 4 has occurred *and* who are not excluded from coverage under this Policy as described in sections 5 and 6 below. The Board hereby directs the CEO to work with OCERS' Internal Audit and other staff, and OCERS' service providers (*e.g.*, the actuary) to obtain the information (*e.g.*, OCERS-covered payroll history) needed for the Board to make determinations regarding triggering events. The CEO is further directed to report to the Board, at least annually, regarding these activities.
 - a. *Triggering event resulting from ceasing to enroll new hires.* Some OCERS' participating employers cease to enroll new hires with OCERS but, for a period of time, continue to have at least some previously-enrolled employees maintaining their status as active OCERS members. These employers' OCERS-covered payroll will eventually diminish to zero as their active employees retire or otherwise terminate employment. Examples of employers in this category may include an employer that is acquired by another entity that is not an OCERS participating employer, or an OCERS employer that is taken over by a state agency whose employees are covered by another pension system such as CalPERS. There may be other examples as well.
 - b. *Triggering event resulting from a material and expected long-lasting reduction in OCERS-covered payroll.* Some employers may experience a material reduction in their OCERS-covered payroll, but nevertheless continue to enroll their new hires with OCERS. The reduction may be sudden (*e.g.*, due to a discrete event such as a partial loss of funding, or partial outsourcing), or it may be more gradual, over a period of years, and might not be tied to a discrete event. Generally, the Board would determine that this type of triggering event has occurred only if the Board expects that the reduction in employer's OCERS-covered payroll is expected to be permanent, long-lasting or for an indefinite period of time that is greater than a cycle that the employer may typically experience, or a cycle similarly experienced by the other employers, if any, in the same OCERS' rate group. Generally, by its nature, the determination whether this type of triggering event has occurred is more subjective than that described in subparagraph a) immediately above.

Exclusions from Coverage; Terminations of Coverage

6. This Policy also covers *only* those employers (i) who are financially-viable entities when a triggering event occurs, *and* (ii) whom OCERS expects to continue indefinitely thereafter to be financially-viable entities. This Policy does not cover any other situation, including, without limitation, an employer going out of business by reason of dissolution, loss of funding, consolidation or merger (unless there is a surviving financially-viable entity that is acceptable to the Board that will make the ongoing payments under the Policy). This Policy also does not cover a "withdrawing employer" who ceases to provide OCERS membership for *all* of the employer's active OCERS members (*i.e.*, as of a date certain, withdraws both new hires and existing actives from membership with OCERS).
7. The Board of Retirement also recognizes that participating employers covered by this Policy will have UAAL funding obligations for several years. Therefore, if concerns arise during that period of time regarding the employer's ongoing existence as a financially-viable entity, the Board may

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remove the employer from coverage under this Policy and/or take any other measures that may be available to ensure the actuarial soundness of the retirement system including, without limitation, assessing the projected entire amount of the employer's UAAL (as recommended by the fund's actuary and approved by the Board) using a lower discount rate and payable in a single sum immediately due.

Procedures

8. The CEO will (i) work with OCERS' Internal Audit and other staff, OCERS' service providers (*e.g.*, the actuary), and OCERS' participating employers to obtain the information (*e.g.*, OCERS-covered payroll history, financial reports) needed for the Board to make determinations regarding triggering events and exclusions from, or terminations of, coverage and (ii) report to the Board, at least annually, regarding these activities.
9. Upon a recommendation from the CEO and notice to the affected participating employer, the Board will make a determination at a duly-noticed public meeting regarding (i) whether a triggering event has occurred for the employer, (ii) whether the employer should be excluded from coverage under this Policy, and (iii) for those employers that the Board has previously determined to be covered under the Policy, whether their coverage should be terminated under section 6 above. Employers may be required to provide OCERS with updated employee census and payroll data and financial reports. *See Gov't. Code section 31543.*
10. If the Board determines that a triggering event has occurred and the employer is not excluded from coverage under the Policy, then, solely for purposes of determining the covered employer's UAAL contribution obligation, OCERS will segregate on its books all assets and liabilities attributable to the employer, based upon the recommendation of OCERS' actuary, and shall maintain such separate accounting for the employer until all of the participating employer's obligations to OCERS have been fully satisfied.
11. OCERS' actuary will determine, and certify to the Board of Retirement, the covered employer's funding obligation for its initial UAAL, which obligation shall not be pro-rata based on payroll, but rather based on the employer's actuarial accrued liability (AAL) including inactives. The Board may determine to require the employer's contributions to be paid in level, fixed-dollar amounts over a period not to exceed twenty (20) years, beginning on July 1 of the calendar year immediately after the year in which the triggering event occurs.
12. The actuary will use the actuarial valuation performed for OCERS as of the end of the calendar year immediately prior to the calendar year in which the triggering event occurs (and based on all of OCERS' then current actuarial assumptions and methodologies) to determine the initial valuation value of assets (VVA), a smoothed value, allocated to the covered employer. That initial VVA will be a pro-rata allocation based on the employer's AAL (*i.e.*, based on the employer's initial UAAL allocation determined in accordance with section 10 above). Later values of the VVA (*i.e.*, those used in the future valuations described below) shall be determined by rolling forward the initial VVA, adding contributions, deducting benefit payments, and crediting earnings at the actual smoothed (VVA) earnings rate on total OCERS assets.
13. Annually, after the determination of the covered employer's initial funding obligation, as part of the regular annual actuarial valuation of the plan, OCERS' actuary will measure any change in the UAAL

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of the participating employer due to actuarial experience or changes in actuarial assumptions. In addition to the amortized payments for the covered employer's initial UAAL funding obligation determined as of the initial valuation, the employer will be liable for, and must contribute to OCERS, any such new UAAL determined as of subsequent valuations, based upon an amortization schedule recommended by the actuary and adopted by the Board of Retirement. OCERS will hold any negative UAAL (Surplus) to be applied against any future UAAL of the covered employer.

14. If any Surplus remains after the covered employer has satisfied *all* of its UAAL obligations (Final Surplus), OCERS will distribute the Final Surplus in accordance with the terms of applicable law.

Policy Review

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

Policy History

16. The Board of Retirement adopted this Policy on June 15, 2015.

Secretary's Certificate

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



6/15/15

Steve Delaney
Secretary of the Board

Date