

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
2223 E. WELLINGTON AVENUE, SUITE 100  
SANTA ANA, CALIFORNIA 92701**

**GOVERNANCE COMMITTEE MEETING  
November 1, 2024  
9:30 A.M.**

**Members of the Committee**

Chris Prevatt, Chair  
Arthur Hidalgo, Vice-Chair  
Roger Hilton  
Richard Oates

Members of the public who wish to observe and/or participate in the meeting may do so (1) from the OCERS Boardroom or (2) via the Zoom app or telephone (information below) from any location.

<b>OCERS Zoom Video/Teleconference Information</b>	
<b>Join Using Zoom App (Video &amp; Audio)</b>  <a href="https://ocers.zoom.us/j/88385671445">https://ocers.zoom.us/j/88385671445</a>  <b>Meeting ID: 883 8567 1445</b> <b>Passcode: 712248</b>  Go to <a href="https://www.zoom.us/download">https://www.zoom.us/download</a> to download Zoom app before meeting Go to <a href="https://zoom.us">https://zoom.us</a> to connect online using any browser.	<b>Join by Telephone (Audio Only)</b> Dial by your location +1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York)  <b>Meeting ID: 883 8567 1445</b> <b>Passcode: 712248</b>
A <a href="#">Zoom Meeting Participant Guide</a> is available on OCERS website <a href="#">Board &amp; Committee meetings page</a>	

**AGENDA**

This agenda contains a brief general description of each item to be considered. The Committee may take action on any item included in the agenda; however, except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda. The Committee may consider matters included on the agenda in any order, and not necessarily in the order listed.

**OPEN SESSION**

- 1. CALL MEETING TO ORDER AND ROLL CALL**
- 2. BOARD MEMBER STATEMENT REGARDING PARTICIPATION VIA ZOOM (IF NECESSARY)  
(Government Code section 54953(f))**
- 3. PUBLIC COMMENTS**

**Members of the public who wish to provide comment during the meeting may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing \* 9 on your telephone keypad. Members of the public who participate in the meeting from the OCERS Boardroom and who wish to provide comment during the meeting may do so from the podium located in the OCERS Boardroom.** When addressing the Committee, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Committee; and (2) any matter appearing on the Consent Agenda.

In addition, public comment on matters listed on this agenda will be taken at the time the item is addressed.

### **CONSENT AGENDA**

#### **C-1 GOVERNANCE COMMITTEE MEETING MINUTES**

Governance Committee Meeting Minutes

August 15, 2024

**Recommendation:** Approve minutes.

### **ACTION ITEMS**

**NOTE:** Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Committee’s discussion of the item. **Persons attending the meeting in person and wishing to provide comment on a matter listed on the agenda should fill out a speaker card located at the back of the Boardroom and deposit it in the Recording Secretary’s box located near the back counter.**

#### **A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA**

#### **A-2 TRIENNIAL REVIEW OF THE DISPOSITION OF SURPLUS PROPERTY POLICY**

*Presentation by Brenda Shott, Assistant CEO, Finance and Internal Operations*

**Recommendation:** Approve, and recommend that the Board adopt, revisions to the Disposition of Surplus Property Policy.

#### **A-3 TRIENNIAL REVIEW OF THE PAY ITEM REVIEW POLICY**

*Presentation by David Kim, Assistant CEO, External Operations, and Manuel D. Serpa, General Counsel*

**Recommendation:** Approve and recommend that the Board adopt revisions to the Pay Item Review Policy.

#### **A-4 TRIENNIAL REVIEW OF THE RECORDS MANAGEMENT POLICY**

*Presentation by Manuel Serpa, General Counsel*

**Recommendation:** Approve and recommend that the Board adopt the revisions to the Records Management Policy.

**A-5 OFF-CYCLE REVIEW OF THE MEMBERSHIP ELIGIBILITY REQUIREMENTS POLICY**

*Presentation by Manuel Serpa, General Counsel*

**Recommendation:** Approve and recommend the Board adopt revisions to the Membership Eligibility Requirements Policy.

**A-6 CONSIDERATION OF AN EMPLOYER DATA POLICY**

*Presentation by David Kim, Assistant CEO, External Operations, and Manuel Serpa, General Counsel*

**Recommendation:** Consider and provide guidance on the current draft of an Employer Data Policy.

**A-7 REVIEW OF THE OCERS ADMINISTRATIVE PROCEDURE ON THE TOPIC OF THE DIVISION OF RETIREMENT BENEFITS UPON DIVORCE**

*Presentation by Rosie Baek, Staff Attorney*

**Recommendation:** Review and recommend that the Board approve the revisions to the OCERS Administrative Procedure on the Topic of the Division of Retirement Benefits Upon Divorce.

**INFORMATION ITEMS**

**I-1 STRATEGY TO PREPARE FOR ACTUARIAL SURPLUS IN OCERS ACTUARIAL FUNDING POLICY**

*Presentation by Todd Tauzer, Segal*

**COMMITTEE MEMBER COMMENTS**

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

**ADJOURNMENT**

**NOTICE OF NEXT MEETINGS**

**DISABILITY COMMITTEE MEETING**

**November 18, 2024**

**8:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**

**REGULAR BOARD MEETING**

**November 18, 2024**

**9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**

**INVESTMENT COMMITTEE MEETING**

**November 20, 2024**

**9:00 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**

*AVAILABILITY OF AGENDA MATERIALS - Documents and other materials that are non-exempt public records distributed to all or a majority of the members of the OCERS Board or Committee of the Board in connection with a matter subject to discussion or consideration at an open meeting of the Board or Committee of the Board are available at the OCERS' website: <https://www.ocers.org/board-committee-meetings>. If such materials are distributed to members of the Board or Committee of the Board less than 72 hours prior to the meeting, they will be made available on the OCERS' website at the same time as they are distributed to the Board or Committee members. Non-exempt materials distributed during an open meeting of the Board or Committee of the Board will be made available on the OCERS' website as soon as practicable and will be available promptly upon request.*

It is OCERS' intention to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or participant at this meeting, you will need any special assistance beyond that normally provided, OCERS will attempt to accommodate your needs in a reasonable manner. Please contact OCERS via email at [adminsupport@ocers.org](mailto:adminsupport@ocers.org) or call 714-558-6200 as soon as possible prior to the meeting to tell us about your needs and to determine if accommodation is feasible. We would appreciate at least 48 hours' notice, if possible. Please also advise us if you plan to attend meetings on a regular basis.

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
2223 E. WELLINGTON AVENUE, SUITE 100  
SANTA ANA, CALIFORNIA 92701**

**GOVERNANCE COMMITTEE MEETING  
Thursday, August 15, 2024  
9:30 a.m.**

**MINUTES**

The Chair called the meeting to order at 9:33 a.m.

Recording Secretary administered the roll call.

Attendance was as follows:

Present: Chris Prevatt, Chair; Arthur Hidalgo, Vice-Chair; Roger Hilton, Board Member; Richard Oates, Board Member.

Also present: Steve Delaney, CEO; Manuel Serpa, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Joon Kim, Staff Attorney; Ivan Cao, Staff Attorney; Brenda Shott, Assistant CEO, Internal Operations; Will Tsao, Director of Enterprise Project Management Office; Kwame Addo, Chief Compliance Officer; Silviu Ardeleanu, Director of Member & Employer Relations Section - Member Services; Bill Singleton, Paralegal; Amanda Evenson, Executive Secretary; Jeff Lamberson, Director of Retirement Operations - Member Services; Carolyn Nih, Executive Secretary; David Kim, Director of Internal Audit; Rosie Baek, Staff Attorney; Marielle Horst, Executive Secretary; Anthony Beltran, Audio Visual Technician; Rebeca Gonzalez-Verdugo, Recording Secretary; Jenny Davey, Internal Auditor; Iriss Barriga, Member of the Public; Maria Chase, Member of the Public; Mary-Joy Coburn, Director of Communications; Mark Adviento, Senior Internal Auditor; Jenny Sadoski, Director of IT.

**CONSENT AGENDA**

**C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES**

Governance Committee Meeting Minutes

May 23, 2023

**MOTION** by Mr. Hilton, **seconded** by Mr. Oates, to approve the Minutes.

The motion passed **unanimously**.

**ACTION ITEMS**

**A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA**

No items were trailed from the Consent Agenda.

**A-2 OFF-CYCLE REVIEW OF THE MEMBERSHIP ELIGIBILITY REQUIREMENTS POLICY**

*Presentation by Manuel Serpa, General Counsel*

**Recommendation:** Consider and provide guidance on the draft revisions to the Membership Eligibility Requirements Policy.

After discussion, the Committee provided direction to staff to create a separate policy to address working retirees, meet with Employers to discuss the duration limits for Extra Help positions, and retain the language that the Board grants exceptions to the requirements in the Policy.

The Committee provided further direction to staff to provide a final draft at the next Governance Committee meeting to approve by the end of the calendar year.

**A-3 REVIEW OF OCERS ADMINISTRATIVE PROCEDURE REGARDING FELONY FORFEITURE**

*Presentation by Joon Kim, Staff Attorney*

**Recommendation:** Review, approve, and recommend the Board adopt the revised OCERS Administrative Procedure (OAP) regarding Felony Forfeiture, as presented.

After discussion, **MOTION** by Mr. Hidalgo, **seconded** by Mr. Hilton to adopt staff's recommendations.

The motion passed **unanimously**.

*The Committee recessed for break at 10:32 a.m.*

*The Committee reconvened from break at 10:45 a.m.*

The Chair administered the Roll Call attendance.

**A-4 OFF-CYCLE REVIEW OF THE SECURITIES LITIGATION POLICY**

*Presentation by Manuel Serpa, General Counsel*

**Recommendation:** Approve and recommend that the Board adopt revisions to the Securities Litigation Policy.

After discussion, **MOTION** by Mr. Hidalgo, **seconded** by Mr. Hilton to adopt staff's recommendations.

The motion passed **unanimously**.

**A-5 TRIENNIAL REVIEW OF THE SUCCESSION POLICY**

*Presentation by Steve Delaney, Chief Executive Officer*

**Recommendation:** Approve and recommend that the Board adopt revisions to the Succession Policy.

After discussion, **MOTION** by Mr. Hilton, **seconded** by Mr. Oates, to adopt all of staff's recommended revisions to the Policy and provided direction to staff to include a reference to the Board of Retirement Charter language: "Unless expressly waived by the Board, no Board Member will solicit or accept employment as a member of OCERS direct staff while he or she is a Member of the Board and for a period of three years following the termination of their service as a Member of the Board."

The motion passed **unanimously**.

**A-6 REVIEW OF OCERS ADMINISTRATIVE PROCEDURE REGARDING REQUIRED MINIMUM DISTRIBUTIONS**

*Presentation by Ivan Cao, Staff Attorney*

**Recommendation:** Review, approve, and recommend the Board adopt the revised OCERS Administrative Procedure (OAP) regarding Required Minimum Distributions, as presented.

After discussion, **MOTION** by Mr. Oates, **seconded** by Mr. Hilton to adopt staff's recommendations.

The motion passed **unanimously**.

**A-7 OFF-CYCLE REVIEW OF THE MEMBER SERVICES CUSTOMER SERVICE POLICY**

*Presentation by Silviu Ardeleanu, Director of Member & Employer Relations Section - Member Services*

**Recommendation:** Approve and recommend the Board adopt the proposed revisions to the Member Services Customer Service Policy.

After discussion, **MOTION** by Mr. Oates, **seconded** by Mr. Hilton to adopt staff's recommendations.

The motion passed **unanimously**.

**A-8 TRIENNIAL REVIEW OF THE LEGISLATIVE POLICY**

*Presentation by Manuel Serpa, General Counsel*

**Recommendation:** Approve and recommend that the Board adopt revisions to the Legislative Policy.

After discussion, **MOTION** by Mr. Hilton, **seconded** by Mr. Oates, to adopt all of staff's recommended revisions to the Policy and provided direction to staff to remove "as a guest" from paragraph 6.

The motion passed **unanimously**.

Orange County Employees Retirement System  
August 15, 2024  
Governance Committee Meeting – Minutes

Page 4

**A-9 ADOPTION OF THE EMPLOYER DATA POLICY**

*Presentation by Steve Delaney, Chief Executive Officer, and Manuel Serpa, General Counsel*

**Recommendation:** Approve and recommend that the Board adopt the Employer Data Policy.

After discussion, Committee consensus was to return Policy back to staff for further development.

The Committee provided direction to staff to meet with Employers to discuss the next draft of the policy as well as the timeline and details of implementation. More detailed information on potential fees should be provided in the next version. The Committee also discussed the AOCDS recommendation on the definition of “grade or class.”

**INFORMATION ITEMS**

**None.**

**COMMITTEE MEMBER COMMENTS**

None.

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

None.

**COUNSEL COMMENTS**

None.

**ADJOURNMENT**

Chair adjourned meeting at 11:49 a.m.

**Submitted by:**

**Approved by:**

\_\_\_\_\_  
Manuel Serpa  
General Counsel/Staff Liaison

\_\_\_\_\_  
Steve Delaney  
Chief Executive Officer/Secretary

\_\_\_\_\_  
Chris Prevatt  
Chair





## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** Brenda Shott, Assistant CEO, Finance and Internal Operations  
**SUBJECT:** TRIENNIAL REVIEW OF THE DISPOSITION OF SURPLUS PROPERTY POLICY

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### Recommendation

Approve, and recommend that the Board adopt, revisions to the Disposition of Surplus Property Policy.

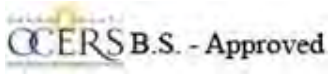
### Background/Discussion

The Disposition of Surplus Property Policy was adopted by the Board on December 20, 1999, and amended on August 25, 2008, May 17, 2011, November 19, 2012, December 14, 2015, October 15, 2018, and April 19, 2021. The Policy is scheduled for review and approval by the Board, after review by the Governance Committee, in 2024.

The Policy is accurate and there are no recommended changes needed at this time.

### Attachments

### Submitted by:



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Brenda Shott, CPA  
Assistant CEO, Finance and Internal Operations



## OCERS Board Policy Disposition of Surplus Property Policy

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### Purpose and Background

1. The CEO is accountable for all OCERS property. When property is no longer needed now or in the foreseeable future a process for the proper disposition is needed.

### Policy Guidelines

2. Surplus Property is defined as all furniture, equipment or other tangible assets owned by OCERS that is determined by the CEO or the Assistant CEO, Finance and Internal Operations, to be obsolete, damaged or no longer useable or required for use by OCERS.
3. The method used to dispose of Surplus Property will be selected from the list in Section 4 by either the CEO or the Assistant CEO, Finance and Internal Operations. Using the method selected, the actual disposition of Surplus Property will be coordinated by the Operations Support Services Department.
4. Surplus Property will be disposed of in one of the following preferred methods:
  - a. Sale by Auction or direct solicitation of bids
  - b. Donation of items with an estimated value of less than \$5,000 per lot to any California public institution including but not limited to, public libraries, school districts, plan sponsors, or interested charities.
  - c. E-waste recycling
  - d. Recycling
  - e. Trash
5. Disposition of Surplus Property that is a capital asset and, as a lot, has an estimated market value that exceeds \$5,000 must be approved by the Board of Retirement.
6. Surplus Property approved for disposition by the Board under Section 5 will be publicly advertised on OCERS' web-site and mailed to a minimum of three firms active in the purchase of like property. Sealed bids shall be accepted from interested parties with the property sold to the highest bidder. The total of bids for individual items must exceed that of lot bids or the highest lot bidder will be awarded the sale. Property for which OCERS does not receive bids may be disposed by any of the methods listed in Section 5 of this Policy with every attempt being made to receive fair market value for the property.
7. Proceeds from the sale of Surplus Property will be remitted to the Finance department to be deposited into OCERS' Pension Trust Fund and accounted for in accordance with Generally Accepted Accounting Principals.
8. Electronic equipment such as hard drives and other recordable media (rewritable and non-rewritable) **will not be** included in any surplus sale or other routine means of disposing of equipment (e-waste recycling, etc.).



# OCERS Board Policy Disposition of Surplus Property Policy

- a. All hard drives and other rewriteable media (tapes, etc.) will be removed and erased by OCERS IT Staff in accordance with the U.S. Department of Defense 5220.22-M “National Industrial Security Program Operating Manual” (NISPOM) standards.
  - b. Erased hard drives and rewritable media will then be submitted to an authorized third party vendor to be physically destroyed. OCERS will retain a copy of the “Certificate of Destruction” affidavit provided by the vendor in accordance with OCERS’ Records and Retention Policy.
  - c. Rewriteable and non-rewriteable CD’s and DVD’s will be shredded by OCERS’ IT staff per OCERS’ regular paper shredding process.
9. Board members and/or employees of OCERS are are not permitted to bid on or receive Surplus Property.
10. Records of disposition will be kept for a minimum of four years after disposition in accordance with OCERS’ Records Retention Policy.

## Policy Review

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

## Policy History

12. The Board of Retirement adopted this policy on December 20, 1999. The policy was revised August 25, 2008, May 17, 2011, November 19, 2012, December 14, 2015, October 15, 2018, ~~and~~ April 19, 2021 and November 18, 2024.

## Secretary’s Certificate

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

\_\_\_\_\_  
Steve Delaney  
Secretary of the Board

11/18/2024~~04/19/2021~~  
\_\_\_\_\_  
Date



## OCERS Board Policy Disposition of Surplus Property Policy

---

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4. Surplus Property will be disposed of in one of the following preferred methods:
  - a. Sale by Auction or direct solicitation of bids
  - b. Donation of items with an estimated value of less than \$5,000 per lot to any California public institution including but not limited to, public libraries, school districts, plan sponsors, or interested charities.
  - c. E-waste recycling
  - d. Recycling
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5. Disposition of Surplus Property that is a capital asset and, as a lot, has an estimated market value that exceeds \$5,000 must be approved by the Board of Retirement.
6. Surplus Property approved for disposition by the Board under Section 5 will be publicly advertised on OCERS' web-site and mailed to a minimum of three firms active in the purchase of like property. Sealed bids shall be accepted from interested parties with the property sold to the highest bidder. The total of bids for individual items must exceed that of lot bids or the highest lot bidder will be awarded the sale. Property for which OCERS does not receive bids may be disposed by any of the methods listed in Section 5 of this Policy with every attempt being made to receive fair market value for the property.
7. Proceeds from the sale of Surplus Property will be remitted to the Finance department to be deposited into OCERS' Pension Trust Fund and accounted for in accordance with Generally Accepted Accounting Principals.
8. Electronic equipment such as hard drives and other recordable media (rewritable and non-rewritable) **will not be** included in any surplus sale or other routine means of disposing of equipment (e-waste recycling, etc.).



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10. Records of disposition will be kept for a minimum of four years after disposition in accordance with OCERS’ Records Retention Policy.

## Policy Review

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

## Policy History

12. The Board of Retirement adopted this policy on December 20, 1999. The policy was revised August 25, 2008, May 17, 2011, November 19, 2012, December 14, 2015, October 15, 2018, April 19, 2021, and November 18, 2024.

## Secretary’s Certificate

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

\_\_\_\_\_  
Steve Delaney  
Secretary of the Board

11/18/2024  
Date



## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** David Kim, Assistant CEO, External Operations; Manuel D. Serpa, General Counsel  
**SUBJECT:** **TRIENNIAL REVIEW OF THE PAY ITEM REVIEW POLICY**

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### Recommendation

Approve and recommend that the Board adopt revisions to the Pay Item Review Policy.

### Discussion

The Board of Retirement has established a review schedule that requires the review of every charter and policy every three years. Pursuant to the board-approved review process, the Governance Committee will first review certain charters and policies before presentation to the Board for approval.

The Board adopted the Pay Item Review Policy on March 18, 2019, and most recently amended it on June 20, 2022. It is scheduled for review and approval by the Board after review by the Governance Committee in 2025.

### Proposed Revisions

The proposed revisions to the Pay Item Review Policy strive to remove unnecessary verbiage, correct grammar and typos, and re-word and re-organize the material to enhance clarity and readability.

Also, Government Code sections 31580.1 was added as an additional citation to paragraph 4 as a basis for imposing any costs on an employer for failure to comply. Gov. Code, Sec. 31580.1 states:

**Contribution from districts; costs of administering retirement system; penalty assessments for delinquencies**

The board may include each year in the contribution required of a district a reasonable amount, which may differ from district to district, to cover the costs of administering its retirement system as such costs affect the active and retired employees of that district. The board may also assess a district a reasonable amount to cover costs incurred because of the district’s failure to submit reports and forward contributions on a timely basis.

The proposed revisions are set forth in underlined/strikeout text in the attached copy of the Pay Item Review Policy. An unmarked version of the Policy is also attached for the Committee’s ease of review.

### Attachments

**Submitted by:**



DK-Approved

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David Kim  
Assistant CEO, External Operations



MDS-Approved

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Manuel D. Serpa  
General Counsel



## OCERS Board Policy Pay Item Review Policy

### Purpose and Background

1. The purpose of this policy is to set forth a procedure for the submittal and approval of pay items by OCERS participating employers to assist OCERS in properly and timely determining whether elements of compensation are appropriately treated as Compensation Earnable (for Legacy Members) or Pensionable Compensation (for PEPRAs members).

### Policy Objectives

2. The objectives of this policy are to comply with the requirements of the County Employees Retirement Law (CERL; California Government Code Title 3, Part 3, Chapters 3 & 3.9), as amended by the Public Employees Pension Reform Act (PEPRA; California Government Code sections 7522 - 7522.74) and to ensure OCERS' effective assessment and determination of whether an element of compensation is properly categorized for purposes of collecting contributions and including in the calculation of final average salary.

### Policy Guidelines

3. OCERS shall not accept any new pay items from employers for processing contributions and reporting compensation until each pay item has been reviewed by OCERS staff and approved by the CEO or ~~his/her~~their designee for inclusion as, or exclusion from, Compensation Earnable for Legacy members and Pensionable Compensation for PEPRAs members. OCERS staff, under the direction of the CEO and with ~~the~~ assistance of ~~OCERS legal~~the General Counsel, is responsible for implementing this Policy. OCERS staff will analyze each pay item to determine whether each meets the definition of Compensation Earnable or Pensionable Compensation. Unless appealed, the CEO's determination shall be final.
4. Employers are responsible ~~for~~ notifying OCERS of new or modified pay items for ~~sufficient~~ review and approval ~~sufficiently in advance of implementation of~~before implementing the items. Failure to do so may result in OCERS imposing costs on the employer ~~in accordance with~~per Government Code sections ~~31580.1 and~~ 31542.5.
5. OCERS staff will review employer pay ~~item~~ listings for compliance with this Policy. When reviewing ~~items of compensation~~compensation items, OCERS will audit pay items to determine whether each ~~of them~~ meets the applicable statutory definitions and ~~applicable~~Board Policies.
6. After concluding the foregoing assessment, OCERS staff shall send written notification to the employer of ~~the~~ staff's determination, including the specific supporting facts, circumstances, reasoning, and analyses.
7. The employer shall have 30 calendar days from the date of staff's final notice of determination ~~within which~~ to appeal the staff determination to the Board ~~of Retirement (Board)~~. If the employer accepts staff's determination, ~~or if~~ ~~or does not file~~ a timely appeal ~~it to the Board is not filed~~, the matter shall be deemed concluded ~~and~~, the staff determination shall be final, and the employer shall comply with the determination.
8. Upon receipt of a timely request for appeal to the Board of staff's determination, staff shall place the matter on a future Board agenda and ~~shall~~ prepare a written report to the Board making a





## OCERS Board Policy Pay Item Review Policy

recommendation to the Board on the pay items in question. Staff shall provide the employer with advance notice of the Board meeting and a copy of staff’s report and all materials to be considered by the Board, ~~and~~. Likewise, the employer shall provide OCERS with all materials it intends to submit to the Board.

- 9. The Board shall consider ~~the~~ all written materials submitted ~~as well as~~ and any arguments presented by the employer. The Board shall then ~~make a decision as to~~ decide whether the pay item qualifies as Compensation Earnable ~~or P~~, Pensionable Compensation, or both, ~~which~~. The decision shall be final, and the employer shall comply with ~~the Board’s determination~~ the Board’s determination.

### Policy Review

- 10. The Board shall review this policy at least every three (3) years to ensure ~~that~~ it remains relevant and appropriate.

### Policy History

- 11. The Board adopted this policy on March 18, 2019, and revised ~~it~~ on June 20, 2022 ~~and~~.

### Secretary’s Certificate

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

Steve Delaney  
Secretary of the Board

~~06/20/2022~~

Date



## OCERS Board Policy Pay Item Review Policy

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### Purpose and Background

1. The purpose of this policy is to set forth a procedure for the submittal and approval of pay items by OCERS participating employers to assist OCERS in properly and timely determining whether elements of compensation are appropriately treated as Compensation Earnable (for Legacy Members) or Pensionable Compensation (for PEPRAs members).

### Policy Objectives

2. The objectives of this policy are to comply with the requirements of the County Employees Retirement Law (CERL; California Government Code Title 3, Part 3, Chapters 3 & 3.9), as amended by the Public Employees Pension Reform Act (PEPRA; California Government Code sections 7522 - 7522.74) and to ensure OCERS' effective assessment and determination of whether an element of compensation is properly categorized for purposes of collecting contributions and including in the calculation of final average salary.

### Policy Guidelines

3. OCERS shall not accept any new pay items from employers for processing contributions and reporting compensation until each pay item has been reviewed by OCERS staff and approved by the CEO or their designee for inclusion as, or exclusion from, Compensation Earnable for Legacy members and Pensionable Compensation for PEPRAs members. OCERS staff, under the direction of the CEO and with the assistance of the General Counsel, is responsible for implementing this Policy. OCERS staff will analyze each pay item to determine whether each meets the definition of Compensation Earnable or Pensionable Compensation. Unless appealed, the CEO's determination shall be final.
4. Employers are responsible for notifying OCERS of new or modified pay items for sufficient review and approval before implementing the items. Failure to do so may result in OCERS imposing costs on the employer per Government Code sections 31580.1 and 31542.5.
5. OCERS staff will review employer pay item listings for compliance with this Policy. When reviewing compensation items, OCERS will audit pay items to determine whether each meets the applicable statutory definitions and Board Policies.
6. After concluding the foregoing assessment, OCERS staff shall send written notification to the employer of the staff's determination, including the specific supporting facts, circumstances, reasoning, and analyses.
7. The employer shall have 30 calendar days from the date of staff's final notice of determination to appeal the staff determination to the Board of Retirement (Board). If the employer accepts staff's determination or does not file a timely appeal, the matter shall be deemed concluded, the staff determination shall be final, and the employer shall comply with the determination.
8. Upon receipt of a timely request for appeal to the Board of staff's determination, staff shall place the matter on a future Board agenda and prepare a written report to the Board making a recommendation to the Board on the pay items in question. Staff shall provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered



## OCERS Board Policy Pay Item Review Policy

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by the Board. Likewise, the employer shall provide OCERS with all materials it intends to submit to the Board.

- 9. The Board shall consider all written materials submitted and any arguments presented by the employer. The Board shall then decide whether the pay item qualifies as Compensation Earnable, Pensionable Compensation, or both. The decision shall be final, and the employer shall comply with the Board’s determination.

### Policy Review

- 10. The Board shall review this policy at least every three (3) years to ensure it remains relevant and appropriate.

### Policy History

- 11. The Board adopted this policy on March 18, 2019, and revised it on June 20, 2022 and .

### Secretary’s Certificate

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

\_\_\_\_\_  
Steve Delaney  
Secretary of the Board

\_\_\_\_\_  
Date



## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** Manuel D. Serpa, General Counsel  
**SUBJECT:** TRIENNIAL REVIEW OF THE RECORDS MANAGEMENT POLICY

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### Recommendation

Approve and recommend that the Board adopt revisions to the Records Management Policy.

### Discussion

The Board of Retirement has established a review schedule that requires the review of every charter and policy every three years. According to the board-approved review process, the Governance Committee will first review certain charters and policies before presentation to the Board for approval.

The Board adopted the Records Management Policy on November 15, 2021. It is scheduled for review and approval by the Board after review by the Governance Committee in 2024.

### Proposed Revisions

The proposed revisions to the Records Management Policy strive to remove unnecessary verbiage and reword and reorganize the material to enhance clarity and readability. Several minor changes were made to record category retention periods. In addition, at the request of Human Resources, the retention schedule for records for terminated employees was changed from "Termination + 4 years" to "Termination + 7 years." At the Finance Division's request, four categories of records were added to its retention schedule. Also, a section for the Compliance department was added.

The proposed revisions are set forth in underlined/strikeout text in the attached copy of the Records Management Policy. An unmarked version of the Policy is also attached for the Committee's ease of review.

### Attachments

### Submitted by:



MDS-Approved

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Manuel D. Serpa  
General Counsel



## OCERS Board Policy

# Records Management Policy

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### Authority and Purpose

The OCERS Board of Retirement (Board) has the authority to establish efficient records management procedures and to provide for the maintenance and disposal of records within its jurisdiction (Gov. Code § 31537). In addition, OCERS has leveraged the guidelines for local government record retention provided by (per Gov. Code § 12236), the California Secretary of State ~~is to establish guidelines for local government record retention. OCERS has leveraged those guidelines~~ in drafting this policy.

This Records Management Policy establishes timeframes for the retention and destruction of OCERS' records in a manner compliant with binding statutes and regulations. This policy recognizes that effective records management ensures that records are kept only as long as they have administrative, fiscal, or legal value. The Policy includes

~~a~~ An up-to-date record retention schedule to ~~ensures~~ that OCERS' obsolete records are properly and timely destroyed and to ~~enable~~ s efficient responses to public record requests. Retaining expired records is costly and makes it more difficult to find the records needed ~~to~~ for OCERS business.

### Policy Objectives

The objectives of the policy are to ensure that:

- OCERS maintains its records for the ~~necessary~~ time period necessary to fulfill its function;
- OCERS properly disposes of records once the retention period has passed; and
- OCERS' staff is informed of the requisite retention periods for agency records.

### Definitions

For purposes of this policy, the following definitions apply:

~~1.~~ **Records** – Documents and files created, received, owned, or used by OCERS, regardless of physical form or ~~the manner in which~~ how the record has been stored. For records created by OCERS, this policy only applies to records in their final form, that is, records that have been finalized or approved for the OCERS' activity related to the ~~content of the record~~ record's content.

~~2.1.~~ **Non-Records** – Material ~~not included within the definition of Records, such as documents or files~~ kept only for convenience or reference is not generally subject to a specific retention schedule. For example:

- Informal notes, working papers, and calculations.
- Library and reference material.



## OCERS Board Policy Records Management Policy

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- Rough drafts.

~~3.2. Records Retention Schedule or Retention Schedule – The table set forth below that designates the period of time that each record must be retained, after which time each record is to be disposed of.~~ The table below designates the period each record must be retained before disposal. The Records are listed by Division and document category.

~~4.3. Retention Period~~ – The length of time a record must be retained to fulfill its administrative, fiscal, or legal function. The required retention period is listed in the Retention Schedule.

~~5.4. Drafts~~ – Drafts consist of works in progress, preliminary drafts, and copies of notes that have either not been finalized or approved. Preliminary drafts and notes are to be disposed of once the document or file they apply to has been finalized. The Retention Schedule does not apply to draft documents and files. It is OCERS' policy that such preliminary drafts and notes are not to be retained.

### Retention and Disposition of Records

The Board's policy is that records should be retained only as long as they serve the administrative, legal, or fiscal purposes for which they were created, after which they should be disposed of as soon as practicable and in a secure manner.

Records have administrative value when they are created to help accomplish the functions for which OCERS is responsible, and have administrative value only as long as they assist OCERS in performing current or future work. Their administrative use is exhausted when the transactions to which the records relate are complete.

Records have legal value when they contain evidence of OCERS' legally enforceable rights or obligations. Examples are records that provide the basis for action, such as legal recommendations and opinions; documents representing transactions and agreements, such as leases, titles, and contracts; and records evidencing action in particular cases, such as claim forms, filings, and pleadings.

Fiscal records pertain to OCERS' financial transactions, for example, budgets, ledgers, financial statements, and payrolls. After some fiscal records have served their function, additional retention may be necessary to protect OCERS against court action, to support audits, or to comply with IRS rules.

Proper disposal of outdated records ~~is an essential part of a records management program~~ also in order to protect any confidential information included in the records. Additionally, if records were never destroyed, the agency's file cabinets and computer networks would fill up with obsolete records that are no longer useful or necessary to the conduct of OCERS' business. The volume of such records would make it more and more challenging to search for



## OCERS Board Policy

# Records Management Policy

and find ~~the~~ records that are still valuable and necessary to OCERS' operations or ~~that are~~ responsive to discovery and public record requests.

The Retention Schedule specifies the time period that at least one version of a designated record must be retained. For example, paper records may be disposed of at any time after they are saved in a digital format or ~~are~~ transferred to an electronic recordkeeping system. Once the retention period has passed, all ~~copies of the record~~ record copies should be disposed of as soon as practicable or, at the latest, by the end of that calendar year. Copies of the record should be disposed of regardless of format or location, i.e., paper and digital versions, located on- or off-site. Records will be disposed of as follows:

- All paper records will be destroyed by placing them in the secure shredding bins located in the OCERS' office.
- All electronic records will be purged from OCERS' systems manually by the user or automatically by the system configured to automatically purge or ~~delete~~ the records ~~in accordance with~~ per the established retention period.

## Electronic Mail

Unless otherwise required by law, a litigation hold, or Board Policy, email communications will not be retained for more than two years. OCERS' email database will archive all email ~~that is~~ older than one year and then automatically delete email s older than two years.

## Exceptions to the Retention Schedule

### CEO Approval

The Chief Executive Officer ("CEO") may authorize ~~retention of a record beyond the period shown on the Retention Schedule by designating the record~~ the retention of a record beyond the period shown on the Retention Schedule by designating it as an archival record and providing a revised disposal date. Requests to depart from the Retention Schedule must be approved in writing by the CEO or their designee.

### Litigation Holds

Whenever a division within OCERS learns that litigation against OCERS is reasonably anticipated, threatened, or pending, the division must notify the Legal Division. The Legal Division will analyze the potential for litigation and, as needed, issue a litigation hold letter to the appropriate parties. **OCERS' staff must comply with the directives of the Legal Division for the retention of records pursuant to a litigation hold letter, even if those directives require the retention of a record beyond the period stated in the Retention Schedule.**

## Compliance



## OCERS Board Policy

# Records Management Policy

It is the responsibility of the Director of each Department (or Senior Executive where there is no Director within the applicable Division) to:

- ensure this policy is communicated to every team member in the Department/Division;
- ensure the Department/Division is initially brought into full compliance with this policy;
- institute a periodic reminder system and process for ensuring the Department/Division remains in full compliance with this policy;
- require each team member in the Department/Division to certify to the Director on an annual basis that the Department/Division is in full compliance with this policy; and
- review the record categories listed in the Retention Schedule on at least an annual basis to confirm that the record categories continue to be accurate and reflective of the types of records maintained by the related Department/Division and promptly inform the Legal Division if any modifications are necessary.

### Record Retention Schedule

#### Board of Retirement

Record Category	Description/Citations	Retention Period
Board Meeting agendas, materials, and minutes	Materials for any meeting of the Board or Board Committee.	Permanent
Digital Recordings of Board Meetings	Gov. Code § 54953.5(b) allows for destruction of recordings 30 days after the recording is made. However, the board voted on October 21, 2013 to change the retention period to permanent.	Permanent
Board Policies and Charters		Permanent
Board Resolutions		Permanent
Employer Sponsor Agreements and MOUs		Permanent
Board of Supervisors Resolutions		Permanent
Actuarial Reports		Permanent

#### Executive Division

Record Category	Description/Citations	Retention Period
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## OCERS Board Policy Records Management Policy

OCERS' Business Plan		Active + 5 years
OCERS' Strategic Plan		Active + 5 years
Executive Charters		Permanent
Evolution of the UAAL		Permanent
Annual Employer Report		Permanent

### Investments

Record Category	Description/Citations	Retention Period
Capital Call Letters/Wire Transfers	Redundant with Finance Dept and State Street	Active + 5 years
Investment Performance Reports		7 years
Investment Manager, Custodian, and Consultant Correspondence; Portfolio Reviews	Correspondence includes work paper, pacing studies from Investment Consultants and Investment Manager Search Materials from Consultants	7 years
Form ADV	Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Adviser	7 years
Investment Manager Contracts	Including separately managed accounts, limited partnerships, mutual funds, and collective trust funds.	Active + 5 years



## OCERS Board Policy

# Records Management Policy

### Administrative Services

Record Category	Description/Citations	Retention Period
Employee Personnel Files	Including, e.g., performance evaluations, disciplinary actions and family leave records. Civil Rights Act of 1964 (Title VII) Americans with Disabilities Act (ADA) GINA, FMLA 29 CFR §§ 1602.14, 1627.3 Cal Labor Code § 1198.5, CCP §337	Termination + <b>74</b> years "Termination" refers to date employee is no longer employed by OCERS for any reason.
Payroll Records	Including time keeping records and wage attachment or garnishment records Cal Labor Code § 1174, CCP §337 29 CFR §§ 1602.31, 1620.33(b), 1627.3	Termination + <b>74</b> years
Recruitment Process Records	Including job postings, résumés, applications, and any scored components. Age Discrimination in Employment Act (ADEA) ADA Title VII	Termination + <b>74</b> years For non-hires: 1 year from no-hire decision.
Background Checks	Title VII	1 year
Form I-9	8 CFR § 274a.2	Later of date of hire + 3 years or Termination + 1 year
Employment Benefits	Including plan descriptions, reports, and amendments. Employee Retirement Income Security Act (ERISA)	Active + 6 years
OSHA and CAL/OSHA Forms and Records	Occupational Safety and Health Administration (OSHA), e.g., 29 CFR §§1904.2, 1904.33. CAL/OSHA: Cal Labor Code § 6300, 8 CCR 14300.33	5 years
Disability Records and Employee Medical Files	ADA, GINA, FMLA	Termination + <b>74</b> year
Workers' Comp Records		Termination + <b>47</b> -years



## OCERS Board Policy

# Records Management Policy

### Operational Support Services

Record Category	Description/Citations	Retention Period
Contracts and Agreements (including OCERS' RFP and the successful bidder's RFP Response), <a href="#">and related due diligence documentation</a>	Agency-wide contracts other than those for investment managers and for the purchase of real estate. E.g., hardware and software licenses and agreements, medical provider contracts, professional services agreements, etc. CCP §337	Active + 4 years
Unfilled RFPs and RFP Responses of unsuccessful bidders		4 years
Real Estate Contracts	Contracts for the purchase of real property.	Duration of ownership + 10 years
Insurance Policies		Active +7 years

### Finance

Record Category	Description/Citations	Retention Period
Accounts Payable Ledgers and Schedules, including Vendor Files, Invoices from Vendors, Employee/Board Member Expense Reports and 1099s		7 years
Accounts Receivable Ledgers and Schedules, including invoices to customers, employees, employers, and members		7 years
Actuarial Reports Accounting Support	Consists of accounting schedules provided to Actuary in support of preparing the valuation, including financial statements, reserve schedule, contributions and benefit payments by rate group, and covered payroll. Guidelines for retention of Final Actuarial Report can be found under Board section of the Retention Schedule.	7 years
Agency Administrative Budget, including department budget templates, presentation materials, and other supporting documentation	Final budget will be included in retention guidelines for Board materials under the Board section of the Retention Schedule.	5 years
Audited Financial Statements/Annual Report		Permanent



## OCERS Board Policy Records Management Policy

Bank Statements/Reconciliations, Cancelled Checks, and Deposit Slips		7 years
Cash Disbursements Journal		Permanent
Cash Receipts Journal		Permanent
<a href="#">Chart of Accounts</a>		<a href="#">Permanent</a>
Contribution Accounting Records for EE & ER Retirement Contributions	Finance is responsible for the accounting activity of EE & ER contributions, but retention of permanent and other EE/ER records (transmittals, contribution rates, etc.) is maintained in the Pension Administration Software and the responsibility of Member Services.	7 years
Fixed Assets and Depreciation Schedules	26 USC §168(e) (IRS depreciation rules)	Permanent
General Ledger and General Journal		Permanent
<a href="#">Investment Accounting Records, including Highlights and Notes Reconciliations, Health Care Trust &amp; Custodial Statements, and Capital Call/Commitment Schedule</a>	<a href="#">Capital call, data, and attachments processed through State Street Bank's eCFM platform are available from State Street for 7 years.</a>	<a href="#">7 years</a>
<a href="#">OCERS Employees Payroll Accounting Records, including Payroll Summaries and Journal Entries</a> <del>Retirement Payroll Accounting Records, including Reconciliations and Payroll Tax Records</del>	<a href="#">Finance is responsible for recording journal entries for payroll activity, but retention of OCERS employee records (timesheets, PAN forms, etc.) is the responsibility of Human Resources.</a> <del>Finance is responsible for the accounting activity of Retiree Payroll, but retention of permanent and other member/retiree records (FAS calculations, deposit forms, EFT/Check copies, etc.) is maintained in the Pension Administration Software System and is the responsibility of Member Services.</del>	<a href="#">7 years</a> <del>7 years</del>
<a href="#">Other Financial Reports</a>	<a href="#">Records not specifically listed (e.g., annual State Controller's Report, annual census report, and other miscellaneous documents) will follow a <del>Show Markup Toolbar</del> default 7 year <del>retention</del> retention consistent with retention period of most other accounting records.</a>	<a href="#">7 years</a>
<a href="#">Retirement Payroll Accounting Records, including Reconciliations and Payroll Tax Records</a> <del>Investment Accounting Records, including Highlights and Notes Reconciliations, Health Care Trust &amp; Custodial Statements, and Capital Call/Commitment Schedule</del>	<a href="#">Finance is responsible for the accounting activity of Retiree Payroll, but retention of permanent and other member/retiree records (FAS calculations, deposit forms, EFT/Check copies, etc.) is maintained in the Pension Administration Software System and is the responsibility of Member Services.</a> <del>Capital call, data, and attachments processed through State Street Bank's eCFM platform are available from State Street for 7 years.</del>	<a href="#">7 years</a> <del>7 years</del>



## OCERS Board Policy Records Management Policy

### Member Services

Record Category	Description/Citations	Retention Period
Member File	<p>The Member account in the pension administration system application.</p> <p>Including:</p> <ul style="list-style-type: none"> <li>• 1099's</li> <li>• Support Orders and Tax Levies</li> <li>• Dissolution documents</li> <li>• Member identification documents</li> <li>• Death Certificates</li> <li>• Transaction requests</li> </ul> <p>CCP §§ 704.110, 706.031; 26 USC §§ 6322, 6333; ERISA §§ 107, 209; Gov. Code § 31532</p> <p>CCP § 338</p>	Permanent
Member Services Actuarial Reports	Including member specific documents provided by actuaries regarding 415 calculations or option 4 calculations.	Permanent
Employer Records	<p>Including microfiche and payroll records</p> <p>ERISA §§ 107, 209; CCP § 338; Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77; Gov. Code § 31532</p>	Permanent

### Disability

Record Category	Description/Citations	Retention Period
Disability Files	<p>Disability Files consist of all records relating to a member's disability application, including:</p> <ul style="list-style-type: none"> <li>• Disability application packet</li> <li>• Medical records and reports</li> <li>• Workers' Compensation file documents</li> <li>• Investigator Reports</li> <li>• Employer File documents</li> <li>• Correspondence regarding the disability application</li> </ul> <p>ERISA §§107, 209</p>	<p>Active + 6 years*</p> <p>Disability files are considered "Active" until all administrative proceedings have concluded and the Board has made a final decision.</p> <p>* Certain Disability File records are scanned into the pension administration system and retained permanently in the member file, including:</p> <ul style="list-style-type: none"> <li>▪ Disability Application</li> <li>▪ Employee and Employer statements</li> </ul>



## OCERS Board Policy Records Management Policy

		<ul style="list-style-type: none"><li>▪ Employer accommodation document</li><li>▪ Physician’s statement of disability</li><li>▪ Attorney designation form</li><li>▪ Workers’ Compensation statement</li><li>▪ Supervisor’s statement</li><li>▪ IME reports</li><li>▪ Disability correspondence between OCERS and member, including earlier effective date requests</li><li>▪ Board release</li></ul>
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## OCERS Board Policy Records Management Policy

### Legal

Record Category	Description/Citations	Retention Period
Legal Memoranda and other Attorney Work Product		Indefinitely, i.e., retained for the period of time <del>they are</del> deemed useful by the General Counsel <del>and then destroyed</del> .
Administrative Record and related filings for hearings, appeals, and writs of both member and non-member actions	Cases are considered "Active" until all writs and appeals have been fully adjudicated.	Active + 5 years
Securities Litigation Reports from Outside Counsel		<del>47</del> years
<a href="#">Log of California Public Records Requests and Responses</a>		<a href="#">4 years</a>

### Compliance

<a href="#">Record Category</a>	<a href="#">Description/Citations</a>	<a href="#">Retention Period</a>
<a href="#">Compliance Program Documents</a>	<a href="#">Foundational documents that outline the purpose, scope, goals, roles, and responsibilities of Compliance Program elements.</a>	<a href="#">Indefinitely, i.e., retained for the period of time deemed useful by the Chief Compliance Officer.</a>
<a href="#">Ethics &amp; Fraud Hotline Case Reports</a>	<a href="#">Including reports received from NAVEX, interview &amp; investigation reports, supporting documentation, communication records, and documents received from external sources.</a>	<a href="#">7 years</a>
<a href="#">Compliance Risk Assessment Reports</a>	<a href="#">Including reports detailing operational risk, evaluation of risks related to non-compliance with laws, rules, regulations, internal policies, and procedures.</a>	<a href="#">7 years</a>
<a href="#">Compliance Control Monitoring Documents</a>	<a href="#">Including reports of control monitoring activities, department attestations, and management reports.</a>	<a href="#">7 years</a>
<a href="#">Compliance Performance Reports</a>	<a href="#">Includes key metrics measuring program effectiveness, e.g., Ethics &amp; Fraud Hotline case disposition, training activity, and summarized risk assessment and control monitoring results.</a>	<a href="#">7 years</a>
<a href="#">Compliance Communication &amp; Training Records</a>	<a href="#">Including records of compliance related communication, awareness campaign material, training material, distribution schedules, and completion tracking reports.</a>	<a href="#">5 years</a>



## OCERS Board Policy Records Management Policy

<u>Record Category</u>	<u>Description/Citations</u>	<u>Retention Period</u>
<u>Other Compliance Reports</u>	<u>Including process due diligence reviews conducted in response to external events.</u>	<u>3 years</u>

### Communications

Record Category	Description/Citations	Retention Period
At Your Service magazines	Including historical SPD publications.	Indefinitely, i.e., retained for the period of time they are deemed useful by the CEO <del>and then destroyed.</del>
Media releases, Board commendations, and Board member biographical info		Indefinitely
OCERS Today newsletters	This includes all employee newsletters created by Communications.	Indefinitely
Informational Videos	This includes video tutorials and FAQs created by Communications.	Active
OCERS by the Numbers publications		Indefinitely

### Internal Audit

Record Category	Description/Citations	Retention Period
Audit Reports and Work Papers	PCAOB – Auditing Standard No. 3. Securities and Exchange Commission, RIN 3235-A174, Retention of Records Relevant to Audits and Reviews.	7 years
<del>Hotline Case Reports</del>		<del>7 years</del>





## OCERS Board Policy

# Records Management Policy

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### Information Technology

Record Category	Description/Citations	Retention Period
IT Asset Inventory		Life of Asset
Agency Reports generated by IT		1 year
IT Programming/Operations Requests		1 year
Hardware and Software Reference Material and User Guides	To include design specification documents	Active
IT Audit and Assessment Reports		7 years
Hardware and Software Serial Numbers and Activation Keys		Life of Product
IT Project Documentation		Project life + 1 year
Server Data Backups		1 year

### Information Security

Record Category	Description/Citations	Retention Period
Information Security Advisory and Audit Committee Material		3 years
IS Audit and Assessment Reports		7 years
Information Security Event Notifications		1 year
Security Incident Reports	Including supporting documentation	5 years
System Summary Reports	E.g., email security, and Rapid 7	3 years
Business Continuity Program Documentation	Including meeting materials, recovery documents, plan documents, and summary reports.	5 years

## Policy Review

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



## OCERS Board Policy

# Records Management Policy

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### Policy History

This policy was adopted by the Board on November 15, 2021, [and revised on \[date\]](#). It replaced the Record Retention Policy and Guidelines adopted by the Board on October 23, 2003.

### Secretary's Certificate

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

A handwritten signature in black ink that reads "Steve Delaney".

~~11/15/2021~~

Steve Delaney  
Secretary of the Board

Date



## OCERS Board Policy Records Management Policy

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### Authority and Purpose

The OCERS Board of Retirement (Board) has the authority to establish efficient records management procedures and to provide for the maintenance and disposal of records within its jurisdiction (Gov. Code § 31537). In addition, OCERS has leveraged the guidelines for local government record retention provided by the California Secretary of State in drafting this policy.

This Records Management Policy establishes timeframes for the retention and destruction of OCERS' records in a manner compliant with binding statutes and regulations. This policy recognizes that effective records management ensures that records are kept only as long as they have administrative, fiscal, or legal value. The Policy includes an up-to-date record retention schedule to ensure that OCERS' obsolete records are properly and timely destroyed and to enable efficient responses to public record requests. Retaining expired records is costly and makes it more difficult to find the records needed for OCERS business.

### Policy Objectives

The objectives of the policy are to ensure that:

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  - Informal notes, working papers, and calculations.
  - Library and reference material.
  - Rough drafts.
2. **Records Retention Schedule or Retention Schedule** – The table below designates the period each record must be retained before disposal. The Records are listed by Division and document category.
3. **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal, or legal function. The required retention period is listed in the Retention Schedule.



## OCERS Board Policy Records Management Policy

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- Drafts** – Drafts consist of works in progress, preliminary drafts, and copies of notes that have either not been finalized or approved. Preliminary drafts and notes are to be disposed of once the document or file they apply to has been finalized. The Retention Schedule does not apply to draft documents and files. It is OCERS' policy that such preliminary drafts and notes are not to be retained.

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## OCERS Board Policy Records Management Policy

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- All paper records will be destroyed by placing them in the secure shredding bins located in the OCERS' office.
- All electronic records will be purged from OCERS' systems manually by the user or automatically by the system configured to automatically purge or delete the records per the established retention period.

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### Compliance

It is the responsibility of the Director of each Department (or Senior Executive where there is no Director within the applicable Division) to:

- ensure this policy is communicated to every team member in the Department/Division;
- ensure the Department/Division is initially brought into full compliance with this policy;
- institute a periodic reminder system and process for ensuring the Department/Division remains in full compliance with this policy;
- require each team member in the Department/Division to certify to the Director on an annual basis that the Department/Division is in full compliance with this policy; and
- review the record categories listed in the Retention Schedule on at least an annual basis to confirm that the record categories continue to be accurate and reflective of the types of



## OCERS Board Policy

# Records Management Policy

records maintained by the related Department/Division and promptly inform the Legal Division if any modifications are necessary.

### Record Retention Schedule

#### Board of Retirement

Record Category	Description/Citations	Retention Period
Board Meeting agendas, materials, and minutes	Materials for any meeting of the Board or Board Committee.	Permanent
Digital Recordings of Board Meetings	Gov. Code § 54953.5(b) allows for destruction of recordings 30 days after the recording is made. However, the board voted on October 21, 2013 to change the retention period to permanent.	Permanent
Board Policies and Charters		Permanent
Board Resolutions		Permanent
Employer Sponsor Agreements and MOUs		Permanent
Board of Supervisors Resolutions		Permanent
Actuarial Reports		Permanent

#### Executive Division

Record Category	Description/Citations	Retention Period
OCERS' Business Plan		Active + 5 years
OCERS' Strategic Plan		Active + 5 years
Executive Charters		Permanent
Evolution of the UAAL		Permanent
Annual Employer Report		Permanent



## OCERS Board Policy Records Management Policy

### Investments

Record Category	Description/Citations	Retention Period
Capital Call Letters/Wire Transfers	Redundant with Finance Dept and State Street	Active + 5 years
Investment Performance Reports		7 years
Investment Manager, Custodian, and Consultant Correspondence; Portfolio Reviews	Correspondence includes work paper, pacing studies from Investment Consultants and Investment Manager Search Materials from Consultants	7 years
Form ADV	Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Adviser	7 years
Investment Manager Contracts	Including separately managed accounts, limited partnerships, mutual funds, and collective trust funds.	Active + 5 years

### Administrative Services

Record Category	Description/Citations	Retention Period
Employee Personnel Files	Including, e.g., performance evaluations, disciplinary actions and family leave records. Civil Rights Act of 1964 (Title VII) Americans with Disabilities Act (ADA) GINA, FMLA 29 CFR §§ 1602.14, 1627.3 Cal Labor Code § 1198.5, CCP §337	Termination + 7 years "Termination" refers to date employee is no longer employed by OCERS for any reason.
Payroll Records	Including time keeping records and wage attachment or garnishment records Cal Labor Code § 1174, CCP §337 29 CFR §§ 1602.31, 1620.33(b), 1627.3	Termination + 7 years



## OCERS Board Policy Records Management Policy

Record Category	Description/Citations	Retention Period
Recruitment Process Records	Including job postings, résumés, applications, and any scored components. Age Discrimination in Employment Act (ADEA) ADA Title VII	Termination + 7 years For non-hires: 1 year from no-hire decision.
Background Checks	Title VII	1 year
Form I-9	8 CFR § 274a.2	Later of date of hire + 3 years or Termination + 1 year
Employment Benefits	Including plan descriptions, reports, and amendments. Employee Retirement Income Security Act (ERISA)	Active + 6 years
OSHA and CAL/OSHA Forms and Records	Occupational Safety and Health Administration (OSHA), e.g., 29 CFR §§1904.2, 1904.33. CAL/OSHA: Cal Labor Code § 6300, 8 CCR 14300.33	5 years
Disability Records and Employee Medical Files	ADA, GINA, FMLA	Termination + 7 year
Workers' Comp Records		Termination + 7years

### Operational Support Services

Record Category	Description/Citations	Retention Period
Contracts and Agreements (including OCERS' RFP and the successful bidder's RFP Response), and related due diligence documentation	Agency-wide contracts other than those for investment managers and for the purchase of real estate. E.g., hardware and software licenses and agreements, medical provider contracts, professional services agreements, etc. CCP §337	Active + 4 years
Unfilled RFPs and RFP Responses of unsuccessful bidders		4 years
Real Estate Contracts	Contracts for the purchase of real property.	Duration of ownership + 10 years
Insurance Policies		Active +7 years





## OCERS Board Policy

# Records Management Policy

### Finance

Record Category	Description/Citations	Retention Period
Accounts Payable Ledgers and Schedules, including Vendor Files, Invoices from Vendors, Employee/Board Member Expense Reports and 1099s		7 years
Accounts Receivable Ledgers and Schedules, including invoices to customers, employees, employers, and members		7 years
Actuarial Reports Accounting Support	Consists of accounting schedules provided to Actuary in support of preparing the valuation, including financial statements, reserve schedule, contributions and benefit payments by rate group, and covered payroll. Guidelines for retention of Final Actuarial Report can be found under Board section of the Retention Schedule.	7 years
Agency Administrative Budget, including department budget templates, presentation materials, and other supporting documentation	Final budget will be included in retention guidelines for Board materials under the Board section of the Retention Schedule.	5 years
Audited Financial Statements/Annual Report		Permanent
Bank Statements/Reconciliations, Cancelled Checks, and Deposit Slips		7 years
Cash Disbursements Journal		Permanent
Cash Receipts Journal		Permanent
Chart of Accounts		Permanent
Contribution Accounting Records for EE & ER Retirement Contributions	Finance is responsible for the accounting activity of EE & ER contributions, but retention of permanent and other EE/ER records (transmittals, contribution rates, etc.) is maintained in the Pension Administration Software and the responsibility of Member Services.	7 years
Fixed Assets and Depreciation Schedules	26 USC §168(e) (IRS depreciation rules)	Permanent



## OCERS Board Policy Records Management Policy

General Ledger and General Journal		Permanent
Investment Accounting Records, including Highlights and Notes Reconciliations, Health Care Trust & Custodial Statements, and Capital Call/Commitment Schedule	Capital call, data, and attachments processed through State Street Bank's eCFM platform are available from State Street for 7 years.	7 years
OCERS Employees Payroll Accounting Records, including Payroll Summaries and Journal Entries	Finance is responsible for recording journal entries for payroll activity, but retention of OCERS employee records (timesheets, PAN forms, etc.) is the responsibility of Human Resources.	7 years
Other Financial Reports	Records not specifically listed (e.g., annual State Controller's Report, annual census report, and other miscellaneous documents) will follow a default 7 year retention consistent with retention period of most other accounting records.	7 years
Retirement Payroll Accounting Records, including Reconciliations and Payroll Tax Records	Finance is responsible for the accounting activity of Retiree Payroll, but retention of permanent and other member/retiree records (FAS calculations, deposit forms, EFT/Check copies, etc.) is maintained in the Pension Administration Software System and is the responsibility of Member Services.	7 years

### Member Services

Record Category	Description/Citations	Retention Period
Member File	<p>The Member account in the pension administration system application.</p> <p>Including:</p> <ul style="list-style-type: none"> <li>• 1099's</li> <li>• Support Orders and Tax Levies</li> <li>• Dissolution documents</li> <li>• Member identification documents</li> <li>• Death Certificates</li> <li>• Transaction requests</li> </ul> <p>CCP §§ 704.110, 706.031; 26 USC §§ 6322, 6333; ERISA §§ 107, 209; Gov. Code § 31532 CCP § 338</p>	Permanent



## OCERS Board Policy Records Management Policy

Member Services Actuarial Reports	Including member specific documents provided by actuaries regarding 415 calculations or option 4 calculations.	Permanent
Employer Records	Including microfiche and payroll records ERISA §§ 107, 209; CCP § 338; Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77; Gov. Code § 31532	Permanent

### Disability

Record Category	Description/Citations	Retention Period
Disability Files	<p>Disability Files consist of all records relating to a member's disability application, including:</p> <ul style="list-style-type: none"> <li>• Disability application packet</li> <li>• Medical records and reports</li> <li>• Workers' Compensation file documents</li> <li>• Investigator Reports</li> <li>• Employer File documents</li> <li>• Correspondence regarding the disability application</li> </ul> <p>ERISA §§107, 209</p>	<p>Active + 6 years*</p> <p>Disability files are considered "Active" until all administrative proceedings have concluded and the Board has made a final decision.</p> <p>* Certain Disability File records are scanned into the pension administration system and retained permanently in the member file, including:</p> <ul style="list-style-type: none"> <li>▪ Disability Application</li> <li>▪ Employee and Employer statements</li> <li>▪ Employer accommodation document</li> <li>▪ Physician's statement of disability</li> <li>▪ Attorney designation form</li> <li>▪ Workers' Compensation statement</li> <li>▪ Supervisor's statement</li> <li>▪ IME reports</li> <li>▪ Disability correspondence between OCERS and member, including earlier effective date requests</li> <li>▪ Board release</li> </ul>



## OCERS Board Policy Records Management Policy

### Legal

Record Category	Description/Citations	Retention Period
Legal Memoranda and other Attorney Work Product		Indefinitely, i.e., retained for the period of time deemed useful by the General Counsel.
Administrative Record and related filings for hearings, appeals, and writs of both member and non-member actions	Cases are considered "Active" until all writs and appeals have been fully adjudicated.	Active + 5 years
Securities Litigation Reports from Outside Counsel		4 years
Log of California Public Records Requests and Responses		4 years

### Compliance

Record Category	Description/Citations	Retention Period
Compliance Program Documents	Foundational documents that outline the purpose, scope, goals, roles, and responsibilities of Compliance Program elements.	Indefinitely, i.e., retained for the period of time deemed useful by the Chief Compliance Officer.
Ethics & Fraud Hotline Case Reports	Including reports received from NAVEX, interview & investigation reports, supporting documentation, communication records, and documents received from external sources.	7 years
Compliance Risk Assessment Reports	Including reports detailing operational risk, evaluation of risks related to non-compliance with laws, rules, regulations, internal policies, and procedures.	7 years
Compliance Control Monitoring Documents	Including reports of control monitoring activities, department attestations, and management reports.	7 years
Compliance Performance Reports	Includes key metrics measuring program effectiveness, e.g., Ethics & Fraud Hotline case disposition, training activity, and summarized risk assessment and control monitoring results.	7 years
Compliance Communication & Training Records	Including records of compliance related communication, awareness campaign material, training material, distribution schedules, and completion tracking reports.	5 years



## OCERS Board Policy Records Management Policy

Record Category	Description/Citations	Retention Period
Other Compliance Reports	Including process due diligence reviews conducted in response to external events.	3 years

### Communications

Record Category	Description/Citations	Retention Period
At Your Service magazines	Including historical SPD publications.	Indefinitely, i.e., retained for the period of time they are deemed useful by the CEO.
Media releases, Board commendations, and Board member biographical info		Indefinitely
OCERS Today newsletters	This includes all employee newsletters created by Communications.	Indefinitely
Informational Videos	This includes video tutorials and FAQs created by Communications.	Active
OCERS by the Numbers publications		Indefinitely

### Internal Audit

Record Category	Description/Citations	Retention Period
Audit Reports and Work Papers	PCAOB – Auditing Standard No. 3. Securities and Exchange Commission, RIN 3235-A174, Retention of Records Relevant to Audits and Reviews.	7 years



## OCERS Board Policy

# Records Management Policy

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### Information Technology

Record Category	Description/Citations	Retention Period
IT Asset Inventory		Life of Asset
Agency Reports generated by IT		1 year
IT Programming/Operations Requests		1 year
Hardware and Software Reference Material and User Guides	To include design specification documents	Active
IT Audit and Assessment Reports		7 years
Hardware and Software Serial Numbers and Activation Keys		Life of Product
IT Project Documentation		Project life + 1 year
Server Data Backups		1 year

### Information Security

Record Category	Description/Citations	Retention Period
Information Security Advisory and Audit Committee Material		3 years
IS Audit and Assessment Reports		7 years
Information Security Event Notifications		1 year
Security Incident Reports	Including supporting documentation	5 years
System Summary Reports	E.g., email security, and Rapid 7	3 years
Business Continuity Program Documentation	Including meeting materials, recovery documents, plan documents, and summary reports.	5 years

### Policy Review

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



## OCERS Board Policy Records Management Policy

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### Policy History

This policy was adopted by the Board on November 15, 2021, and revised on [date]. It replaced the Record Retention Policy and Guidelines adopted by the Board on October 23, 2003.

### Secretary's Certificate

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

A handwritten signature in black ink that reads "Steve Delaney". The signature is written in a cursive style.

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Steve Delaney  
Secretary of the Board

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Date



## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** Manuel D. Serpa, General Counsel; David Kim, Assistant CEO, External Operations  
**SUBJECT:** OFF-CYCLE REVIEW OF THE MEMBERSHIP ELIGIBILITY REQUIREMENTS POLICY

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### Recommendation

(1) Approve and recommend the Board adopt revisions to the Membership Eligibility Requirements Policy.

### Background/Discussion

The Board adopted the Membership Eligibility Requirements Policy on March 20, 2017, and last revised it on October 16, 2023. Though not due for its regular review, the Committee has requested a review to clarify the responsibility of participating employers to monitor and report to OCERS the status of ineligible employees.

The proposed revisions to the policy include clarifications of the hourly cap for extra help employees, definitions of terms, and the use of a fiscal year as the measuring period for the hourly limits on extra help. Feedback from Employers was that they prefer a fiscal year. A summary of changes follows.

- The following sentences were added to paragraph 2:
  - Additionally, each Participating Employer is responsible for monitoring the status of employees who are ineligible to participate in the Plan and for timely notifying OCERS of any change necessitating membership. Each Participating Employer must submit an annual report to OCERS, listing all "Extra Help Position" employees and their total hours worked.
- New paragraph 3 was added to select the use of a **fiscal year** for all purposes in the policy.
- Paragraphs 4 and 5 were added to define extra help and to distinguish between newly defined standard extra help and exceptional extra help:
  - 4. Definition of Extra Help Position: An Extra Help Position is a position intended to be occupied on less than a year-round basis for circumstances that include the following:
    - a. to cover seasonal peak workloads;
    - b. for extra emergency workloads of limited duration; or
    - c. for necessary vacation relief, paid sick leave, and other fluctuating staff situations.
  - 5. For purposes of this policy, Extra Help Positions are "Exceptional" or "Standard." An "Exceptional Extra Help" position is one that:
    - a. Requires professional or highly technical skills for more than one year;<sup>[1]</sup>
    - b. Is designated "intern" for more than one year (i.e., entry-level as per the Participating Employer's salary resolution or comparable classification scheme);
    - c. Is designated "seasonal" for more than one year and that works in less than seven calendar months per year;<sup>[2]</sup> or



d. Is designated "intermittent" for more than one year (i.e., works irregularly, as needed).

All others are "Standard Extra Help" positions.

<sup>[1]</sup> "Professional or Highly Technical Skills" are those utilized by employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

<sup>[2]</sup> "Seasonal work" is that performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and that, from its nature, may not be continuous or carried on throughout the year.

- Clarifying language was added to paragraph 7.
- Paragraph 8 was added:
  - 8. Each Participating Employer is responsible for monitoring the number of hours worked by Extra Help employees.
    - a. An Exceptional Extra Help employee who works 1,600 hours in one year must have a minimum break of sixty calendar days before starting another Extra Help Position in the following year. **Any Exceptional Extra Help employee exceeding 1,600 hours in one year must enroll in OCERS membership.**
    - b. A Standard Extra Help employee who works 1,040 hours in one year must have a minimum break in employment of at least sixty calendar days before starting another Extra Help Position in the following year. **Any Standard Extra Help employee exceeding 1,040 hours in one year must enroll in OCERS membership.**
- The following factor was added to those the Board will consider in granting an exception under paragraph 9:
  - The urgency of the employer’s need to fill the position on a temporary basis.

Other non-substantive changes were also made to the document to improve readability. The proposed revisions are set forth in underlined/strikeout text in the attached copy of the Membership Eligibility Requirements Policy. An unmarked version of the Policy is also attached for the Committee’s ease of review.

On October 15, 2024, OCERS held an All Employer Meeting and requested the following feedback from the Employers:

**Membership Eligibility Policy**

Feedback Requested

Employers are requested to respond by October 25<sup>th</sup> (one week before the Governance Committee meeting) regarding:

- Feedback on the proposed Extra Help language.
- A definition of a year for tracking/reporting Working Retirees, fiscal year, calendar year or 12 months from the hire date.
- Apply the same tracking designation for both Extra Help and Working Retirees
- Support sending Extra Help information in the transmittals

**Employer Data Policy**

Feedback Requested

Employers are requested to respond by October 25 (one week before the Governance Committee meeting) regarding:

- Provide feedback on the Data Policy
- Timeframe to comply with the Data Policy

Listed below is the feedback received from its employers.

**Employer Feedback:**

The County, Superior Court, and OCFA’s responses are attached.

OCTA provided the following feedback via email 10/23/2024:

“OCTA is looking into the Data Policy feedback. Our payroll department transmits the payroll information. For tracking working retirees and extra help, we prefer the calendar 12 month year. All of our payroll system tracking is automatically set for a calendar (tax) year, so we have chosen to monitor hours on a calendar year basis and not fiscal year.”

-Bea Maselli, Section Manager, Benefits

OC Cemetery District provided the following feedback via email on 10/25/2024:

“I have reviewed the policies and the proposed changes listed and we do not have any changes to them. Our preferences would be fiscal year & the County submits our transmittals, so whatever they’re comfortable with is fine with the District.”

-Brenda Manriquez, Finance & Accounting Manager

Attachments

**Submitted by:**



MDS-Approved

\_\_\_\_\_  
Manuel D. Serpa  
General Counsel



DK-Approved

\_\_\_\_\_  
David Kim  
Assistant CEO, External Operations



## OCERS Board Policy Membership Eligibility Requirements

### Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System, or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). ~~The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use as a basis for determining~~ to determine the eligibility of persons to be members of the System. The Policy intends to ensure that those eligible to be members of the System who have not executed a lawful waiver of membership are enrolled in the System unless a lawful exception applies. Conversely, persons ineligible for membership in the System must be excluded from membership.

### Policy Objectives

~~All persons eligible to be members of the System who have not executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60) must be enrolled in the System.~~ Employer Responsibility

- ~~2. Conversely, persons ineligible for membership in the System must be excluded from membership. The objective of this Policy is to clarify existing law (Government Code sections 31550, et. seq.) and OCERS' regulations with respect to the persons who are eligible for membership in OCERS.~~

### Roles and Responsibilities

- ~~3.2.~~ Each Participating Employer is responsible for determining, in accordance with this Policy, which of the Participating Employer's its ~~employees are eligible for membership in OCERS and is responsible for enrolling those eligible employees into OCERS membership.~~ Additionally, each Participating Employer is responsible for monitoring the status of employees who are ineligible to participate in the Plan and for timely notifying OCERS of any change necessitating membership. Each Participating Employer must submit an annual report to OCERS, listing all "Extra Help Position" employees and their total hours worked.

### Policy Guidelines

3. The term "year" in this policy refers to a fiscal year.
4. Definition of Extra Help Position: An Extra Help Position is a position intended to be occupied on less than a year-round basis for circumstances that include the following:
  - a. to cover seasonal peak workloads;
  - b. for extra emergency workloads of limited duration; or
  - c. for necessary vacation relief, paid sick leave, and other fluctuating staff situations.



## OCERS Board Policy Membership Eligibility Requirements

5. For purposes of this policy, Extra Help Positions are "Exceptional" or "Standard." An "Exceptional Extra Help" position is one that:

- a. Requires professional or highly technical skills for more than one year;<sup>1</sup>
- b. Is designated "intern" for more than one year (i.e., entry-level as per the Participating Employer's salary resolution or comparable classification scheme);
- c. Is designated "seasonal" for more than one year and that works in less than seven calendar months per year;<sup>2</sup> or
- d. Is designated "intermittent" for more than one year (i.e., works irregularly, as needed).

All others are "Standard Extra Help" positions.

**4.6. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:**

~~Any employee of the Participating Employer who is:~~

- a. ~~Hired~~Those hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph ~~5 below~~7.

**5.7. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:**

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement; ~~or~~ and that does not exceed a total of 960 work hours per year; or
- b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or
- ~~c. Is hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 hours in every year, and is classified as "extra help"~~ part-time and scheduled to work less than twenty (20) hours weekly.

<sup>1</sup> "Professional or Highly Technical Skills" are those utilized by employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

<sup>2</sup> "Seasonal work" is that performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and that, from its nature, may not be continuous or carried on throughout the year.



## OCERS Board Policy Membership Eligibility Requirements

~~e.d.~~ Is classified as an Extra Help Position by the Participating Employer ~~because he or she works in a position that:~~ does not exceed the hour limits set forth in Paragraph 8.

- ~~i.~~ Requires professional or highly technical skills for more than one year;
- ~~ii.~~ Is designated "intern" for more than one year (entry level and consistent with the Each Participating Employer's salary resolution or comparable classification scheme);
- ~~iii.~~ Is designated "seasonal" for more than one year (works in less than seven calendar months per year); or
- ~~iv.~~ Is designated "intermittent" for more than one year (works on an irregular, as-needed basis).

~~8.~~ Note: Per section 4(a), all Employer is responsible for monitoring the number of hours worked by Extra Help employees ~~hired with the expectation that they will work less than one year are properly excluded from OCERS membership for that year, regardless of how their position may be designated. If such employees ultimately work more than one year, they should be enrolled in OCERS membership if they work more than 1,040 hours per year (if not "extra help") or more than 1,600 hours per year (if "extra help").~~

- a. An Exceptional Extra Help employee who works 1,600 hours in one year must have a minimum break of sixty calendar days before starting another Extra Help Position in the following year. Any Exceptional Extra Help employee exceeding 1,600 hours in one year must enroll in OCERS membership.
- b. A Standard Extra Help employee who works 1,040 hours in one year must have a minimum break in employment of at least sixty calendar days before starting another Extra Help Position in the following year. Any Standard Extra Help employee exceeding 1,040 hours in one year must enroll in OCERS membership.

~~6.9.~~ The Board may grant exceptions to the requirements of Paragraphs 4 and 5 Paragraph 8 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. For example: Factors to consider in granting an exception will include:

- ~~a. The Board may consider an~~ An employee's preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership; ~~and~~
- ~~b.~~ The Board may consider whether urgency of the employer's need to fill the position on a temporary basis; and
- ~~b.c.~~ Whether an employee's work hours exceeded the ~~relevant~~ maximum due to administrative oversight.

~~7.10.~~ When a Participating Employer fails to comply with the requirements of Paragraphs 4 and 5 Paragraph 8, and the Board does not grant an exception under Paragraph 6 9 is not granted, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.



## OCERS Board Policy Membership Eligibility Requirements

~~8. For purposes of Paragraphs 4 and 5, the term "year" refers to a fiscal year or a calendar year, whichever is used by the Participating Employer for employment purposes.~~

~~9.11.~~ A Participating Employer that temporarily employs an individual who (i) previously was the employee of a labor supplier with which the Participating Employer contracted, and (ii) would otherwise be excluded from OCERS membership under this Policy, will be permitted to exclude the individual from OCERS membership for a period of up to one year. - The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case, but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.

10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer's payroll practices to assure compliance with this Policy.

### Policy Review

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

### Policy History

12. This Policy was adopted by the Board of Retirement on March 20, 2017, with an effective date of January 1, 2018, July 20, 2020, ~~and~~ October 16, 2023, and.

### Secretary's Certificate

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

	<b>10/16/2023</b>
Steve Delaney Secretary of the Board	Date



# OCERS Board Policy Membership Eligibility Requirements

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## Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System, or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use to determine the eligibility of persons to be members of the System. The Policy intends to ensure that those eligible to be members of the System who have not executed a lawful waiver of membership are enrolled in the System unless a lawful exception applies. Conversely, persons ineligible for membership in the System must be excluded from membership.

## Employer Responsibility

2. Each Participating Employer is responsible for determining, in accordance with this Policy, which of its employees are eligible for membership in OCERS and for enrolling those eligible employees into OCERS membership. Additionally, each Participating Employer is responsible for monitoring the status of employees who are ineligible to participate in the Plan and for timely notifying OCERS of any change necessitating membership. Each Participating Employer must submit an annual report to OCERS, listing all "Extra Help Position" employees and their total hours worked.

## Policy Guidelines

3. The term "year" in this policy refers to a fiscal year.
4. **Definition of Extra Help Position:** An Extra Help Position is a position intended to be occupied on less than a year-round basis for circumstances that include the following:
  - a. to cover seasonal peak workloads;
  - b. for extra emergency workloads of limited duration; or
  - c. for necessary vacation relief, paid sick leave, and other fluctuating staff situations.
5. For purposes of this policy, Extra Help Positions are "Exceptional" or "Standard." An "**Exceptional Extra Help**" position is one that:
  - a. Requires professional or highly technical skills for more than one year;<sup>1</sup>
  - b. Is designated "intern" for more than one year (i.e., entry-level as per the Participating Employer's salary resolution or comparable classification scheme);

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<sup>1</sup> "Professional or Highly Technical Skills" are those utilized by employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.





## OCERS Board Policy Membership Eligibility Requirements

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- c. Is designated "seasonal" for more than one year and that works in less than seven calendar months per year;<sup>2</sup> or
- d. Is designated "intermittent" for more than one year (i.e., works irregularly, as needed).

All others are "**Standard Extra Help**" positions.

6. **The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:**

- a. Those hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph 7.

7. **The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:**

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement and that does not exceed a total of 960 work hours per year; or
- b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or
- c. Is classified as part-time and scheduled to work less than twenty (20) hours weekly.
- d. Is classified as an Extra Help Position by the Participating Employer that does not exceed the hour limits set forth in Paragraph 8.

8. Each Participating Employer is responsible for monitoring the number of hours worked by Extra Help employees.

- a. An **Exceptional Extra Help** employee who works 1,600 hours in one year must have a minimum break of sixty calendar days before starting another Extra Help Position in the following year. **Any Exceptional Extra Help employee exceeding 1,600 hours in one year must enroll in OCERS membership.**
- b. A **Standard Extra Help** employee who works 1,040 hours in one year must have a minimum break in employment of at least sixty calendar days before starting another Extra Help Position in the following year. **Any Standard Extra Help employee exceeding 1,040 hours in one year must enroll in OCERS membership.**

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<sup>2</sup> "Seasonal work" is that performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and that, from its nature, may not be continuous or carried on throughout the year.





## OCERS Board Policy Membership Eligibility Requirements

9. The Board may grant exceptions to the requirements of Paragraph 8 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. Factors to consider in granting an exception will include:
  - a. An employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership;
  - b. The urgency of the employer’s need to fill the position on a temporary basis; and
  - c. Whether an employee’s work hours exceeded the maximum due to administrative oversight.
  
10. When a Participating Employer fails to comply with Paragraph 8, and an exception under Paragraph 9 is not granted, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
  
11. A Participating Employer that temporarily employs an individual who (i) previously was the employee of a labor supplier with which the Participating Employer contracted and (ii) would otherwise be excluded from OCERS membership under this Policy will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.
  
10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

### Policy Review

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

### Policy History

12. This Policy was adopted by the Board of Retirement on March 20, 2017, with an effective date of January 1, 2018, July 20, 2020, October 16, 2023, and .

### Secretary’s Certificate

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

 _____ Steve Delaney Secretary of the Board	_____ Date
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## OCERS Board Policy Membership Eligibility Requirements

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### Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use as a basis for determining the eligibility of persons to be members of the System.

### Policy Objectives

2. All persons eligible to be members of the System who have not executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60) must be enrolled in the System. Conversely, persons ineligible for membership in the System must be excluded from membership. The objective of this Policy is to clarify existing law (Government Code sections 31550, et. seq.) and OCERS' regulations with respect to the persons who are eligible for membership in OCERS.

### Roles and Responsibilities

3. Each Participating Employer is responsible for determining, in accordance with this Policy, which of the Participating Employer's employees are eligible for membership in OCERS and is responsible for enrolling those eligible employees into OCERS membership.

### Policy Guidelines

4. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:  
Any employee of the Participating Employer who is:
  - a. Hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
  - b. Not expressly excluded from membership under Paragraph 5 below.
5. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:  
Any employee of the Participating Employer who:
  - a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement; or
  - b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or



## OCERS Board Policy Membership Eligibility Requirements

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- c. Is hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 hours in every year, and is classified as “extra help” by the Participating Employer because he or she works in a position that:
  - i. Requires professional or highly technical skills for more than one year;
  - ii. Is designated “intern” for more than one year (entry level and consistent with the Participating Employer’s salary resolution or comparable classification scheme);
  - iii. Is designated “seasonal” for more than one year (works in less than seven calendar months per year); or
  - iv. Is designated “intermittent” for more than one year (works on an irregular, as-needed basis).

**Note: Per section 4(a), all employees hired with the expectation that they will work less than one year are properly excluded from OCERS membership for that year, regardless of how their position may be designated. If such employees ultimately work more than one year, they should be enrolled in OCERS membership if they work more than 1,040 hours per year (if not “extra help”) or more than 1,600 hours per year (if “extra help”).**

- 6. The Board may grant exceptions to the requirements of Paragraphs 4 and 5 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. For example:
  - a. The Board may consider an employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership; and
  - b. The Board may consider whether an employee’s work hours exceeded the relevant maximum due to administrative oversight.
- 7. When a Participating Employer fails to comply with the requirements of Paragraphs 4 and 5, and the Board does not grant an exception under Paragraph 6, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
- 8. For purposes of Paragraphs 4 and 5, the term “year” refers to a fiscal year or a calendar year, whichever is used by the Participating Employer for employment purposes.
- 9. A Participating Employer that temporarily employs an individual who (i) previously was the employee of a labor supplier with which the Participating Employer contracted, and (ii) would otherwise be excluded from OCERS membership under this Policy, will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case, but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.



# OCERS Board Policy Membership Eligibility Requirements

10. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

## Policy Review

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

## Policy History

12. This Policy was adopted by the Board of Retirement on March 20, 2017, with an effective date of January 1, 2018, July 20, 2020, and October 16, 2023.

## Secretary’s Certificate

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

Steve Delaney  
Secretary of the Board

10/16/2023

Date



**OFFICE OF THE COUNTY COUNSEL  
COUNTY OF ORANGE**

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Nikhil G. Daftary  
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E-Mail:  
nikhil.daftary@cooccc.org

October 25, 2024

**Sent via E-Mail & U.S.P.S:**  
[sdelaney@ocers.org](mailto:sdelaney@ocers.org)

Steve J. Delaney  
Chief Executive Officer  
Orange County Retirement System  
PO Box 1229  
Santa Ana, CA 92702

Re: Proposed Amended Membership Policy

Mr. Delaney:

The County of Orange (the "County") appreciates the opportunity to review and provide feedback regarding the proposed changes to the Orange County Employees Retirement System's ("OCERS") Membership Policy. OCERS has communicated that these changes are necessary because of reports that some Extra-Help employees are exceeding the hourly limits contained in the Policy. However, as discussed in more detail below, the proposed amendments do not focus on fixing these Policy violations. Instead, the proposed modifications will hinder the County from hiring temporary employees needed for its business operations and labor shortages.

OCERS is permitted to exclude from membership "...persons whose tenure is temporary, seasonal, intermittent, or for part time only." Government Code, section 31527(e). The current OCERS Membership Policy properly excluded temporary workers stating, "Per section 4(a), all employees hired with the expectation that they will work less than one year are properly excluded from OCERS membership for that year, regardless of how their position may be designated. If such employees ultimately work more than one year, they should be enrolled in OCERS membership if they work more than 1,040 hours per year (if not 'extra help') or more than 1,600 hours per year (if 'extra help')."

The proposed amended Membership Policy, without reason, removes this exclusion of employees hired with the expectation they will work less than a year and instead states that if an Extra-Help position exceeds the applicable hourly limitation, within 12 months of their date of hire, they must either be enrolled in OCERS or have a sixty-day break in employment. The County often must hire temporary employees to address operational needs or specific labor shortages. Flexibility in hiring is even more critical in a tight labor market. Certain specialized or professional employees prefer to work on a temporary basis with the expectation they will work less than a year and not be long term or continuous employees. County labor costs will naturally rise if the County is required to enroll these temporary employees in OCERS. The

Steve J. Delaney  
Chief Executive Officer  
Orange County Retirement System  
Page 2

County will also need to track employees' individual hours worked from their specific date of hire instead of on a fiscal year basis. This change will increase administration costs.

Most concerning, the County will have difficulty attracting needed temporary employees. Almost without exception, an employee hired with the expectation that he or she will work less than a year does not want to be automatically enrolled in and make senseless contributions to fund a pension that he or she will never use. The impacted employees, employers and OCERS must all pay the pointless costs and expend the time necessary to make contributions which will only be withdrawn or returned to employees when they are separated.

OCERS has not cited any authority why an employee hired with the expectation that they will work less than a year is anything other than a temporary employee who is properly excluded under Government Code section 31527(e). Instead, OCERS states that the changes are necessary because there are violations of the hourly limits in the Membership Policy. The County does not understand, nor has OCERS explained, how the proposed changes address the violations of the Policy's hourly limits. Similarly, OCERS has always permitted its employers to track Extra-Help hours worked on a fiscal basis. Never has there been a requirement that employers track such hours for each employee from their specific date of hire. No legal authority was noted by OCERS explaining why such a change is necessary.

The County strongly believes any concern regarding ongoing violations of the Policy's hourly limits are better addressed by improved tracking and monitoring of Extra-Help employees' hours worked. The County welcomes the opportunity to work with OCERS towards a solution to the purported violations. If there are any additional concerns that are driving the changes to the OCERS Membership Policy, the County will work with OCERS on those issues. However, as stated above, the proposed changes do not address the purported Policy violations and no other reason has been given why the proposed changes are necessary.

The County may raise additional concerns. The proposed changes were formally presented to employers on October 15, 2024. The employers were only given until October 25, 2024 to review and respond to the proposed modifications. As each County department reviews the proposed changes, additional concerns may be raised. County staff will work to inform OCERS of these additional concerns.

The County also objects to any requirement that the Membership Policy must be amended before the end of the calendar year. The County and most other OCERS employers track Extra-Help employees on a fiscal year basis and there is no legal requirement for the Policy to be amended this calendar year. Considering the potential impact to the County and other employers' operations, changes to the Membership Policy should be carefully considered with ample time for employers to review the modifications and address concerns with OCERS. The County requests that both the OCERS' Governance Committee and the Retirement Board not approve or adopt, or at a minimum, delay from approving or adopting the proposed

Steve J. Delaney  
Chief Executive Officer  
Orange County Retirement System  
Page 3

modifications at their November or December meetings. The County requests additional time to work with OCERS to address the County concerns stated above as the proposed changes by OCERS does not address the supposed issue. If OCERS goes forward, OCERS should specify why the modifications must be immediately adopted and provide the County with an opportunity to respond.

Thank you again for the opportunity to review and voice concerns with the proposed amended Membership Policy.

Very truly yours,

LEON J. PAGE  
COUNTY COUNSEL

By   
Nikhil G. Daftary, Senior Deputy

NGD;jh

cc: Michelle Aguirre, County Executive Officer (via email)  
David Kim, Asst. CEO, External Operations, OCERS (via email)  
Manuel Serpa, General Counsel, OCERS (via email)



## Superior Court of California County of Orange

**Shannon Mays-Fontaine**  
CHIEF HUMAN RESOURCES OFFICER  
HUMAN RESOURCES

700 CIVIC CENTER DR. WEST  
P.O. Box 1994  
SANTA ANA, CA 92701  
PHONE: 657 622-7774  
FAX: (714) 834-7477

October 15, 2024

Steve Delaney  
Chief Executive Officer  
OCERS  
2223 E. Wellington Avenue  
Santa Ana, CA 92701

Re: Feedback on proposed updates to the *Membership Eligibility Requirements Policy* and the proposed *Employer Data Policy*.

Dear Steve:

The objective of this letter is to provide input from the Superior Court to the Governance Committee, as requested, regarding the proposed language in both the *Membership Eligibility Requirements Policy* and the *Employer Data Policy*.

Regarding the *Membership Eligibility Requirements* policy:

1. Plan sponsors were asked for feedback regarding the Extra Help (EH) Measuring Period, specifically whether the measuring period should be based on hours worked "*in the twelve months following their hire date*" or an alternative, such as "*in a fiscal year*", as outlined on slides five and six of the presentation given during the September 17, 2024 all-employer meeting.

In order to comply with the existing *Membership Eligibility Requirements Policy*, the Superior Court has developed various internal tools and processes to track hours worked by employees excluded from OCERS membership. These processes are typically calculated on a fiscal year basis and align with our other measurement, reporting, and budget activities.

**Therefore, the Superior Court supports a measurement period based on a fiscal year for the following reasons:**



Page 2

- a) This will match our existing tools and processes that already track all Extra Help and Working Retirees on a fiscal year basis and would assist us in complying with the updated policy quickly and effectively.
- b) Maintains consistency for staff and supervisors accustomed to tracking Extra Help hours worked on a fiscal year basis.
- c) Workforce planning and budgeting are typically conducted on a fiscal year basis. Aligning the Extra Help measurement period with this cycle aids in comparisons between needs from one fiscal year to the next, and the availability of Extra Help workers can be more readily assumed at the start of each fiscal year, rather than unique measurement periods that may not align with identified needs. Additionally, tracking of Extra Help hours year-over-year would also become more complicated if each employee had a different 12-month period.
- d) Continued simplicity for members, supervisors, and the employer. Applying one standard measurement period, such as a fiscal year, to a group of employees reduces complexity. Alternative measurement periods that create a unique period for each employee would be more administratively complex.
- e) The proposed updates to the policy also include a new reporting requirement. It will be more administratively feasible for plan sponsors to comply and create new reports if the reporting period is in alignment with the membership eligibility measurement period, e.g. hours worked in a fiscal year.

For example, the two examples below illustrate the differing conclusions that can be drawn depending on whether the measurement period aligns with the reporting period:

a. *If a consistent FY measurement period is used:*

A report of all Extra Help employees and their hours worked in the past fiscal year is produced. Since each employee's measurement period is known (the FY), and matches the timeframe of the report (also the FY), any employees listed with more than 960/1,040/1,600 hours can be assumed to have potentially worked in excess of the limits outlined in the policy during their measurement period and may be subject to review for potential OCERS membership.

b. *If a "12 months since hire date" measurement period is used:*

A report of all Extra Help employees and their hours worked in the past fiscal year is produced. If a particular employee's measurement period ends each February, for example, the report may list them as having

Superior Court of California  
County of Orange

Page 3

worked 1,600 hours in the fiscal year. However, since this total is covering multiple measurement periods, it is not possible to tell if this employee has exceeded any limits related to their exclusion from membership. Additional details would be needed to determine hours worked in relation to the employee's unique measurement period, potentially resulting in unique reports for each employee in an Extra Help position.

Regarding the *Employer Data Policy*.

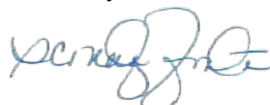
While the Court does not have comments about the purpose of the proposed data policy, the Court wishes to emphasize the importance of a policy crafted with sufficient detail to account for the various payroll reporting processes used by different plan sponsors. Specifically, division of responsibilities between OCERS, Plan Sponsors, and the County (when the latter is contracted for payroll processing and transmitting) should be adequately defined, particularly in light of the potential for fee assessments.

The following points are intended to apply to situations in which the plan sponsor (e.g., the Court) contracts with the County for payroll processing and transmitting of payroll data to OCERS:

1. What is a plan sponsor's responsibility for payroll processing and transmittal errors vs. the County, if the plan sponsor contracts for payroll processing/transmittal? Will the plan sponsor be responsible for fees incurred due to actions of the entity contracted to process payroll?
2. Will communication be made to plan sponsors regarding transmittal errors prior to the assessment of any fees, if the contracted processor has been unresponsive to correction requests?
3. When developing an implementation timeline, please be aware the Court also contracts with the County of Orange for our personnel-payroll system (CAPS+), and any changes to the reporting or transmittal process would need to be consistent with the functionality of this and any other related County systems.

Please let me know if you have any questions or concerns regarding the above.

Sincerely,



Shannon Mays-Fontaine



## OCERS Board Policy Membership Eligibility Requirements

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### Purpose and Background

1. The Orange County Employees Retirement System (OCERS, System, or Plan) is charged with administering a defined benefit pension plan for eligible employees of the County and Districts who participate in the Plan (each a Participating Employer). The purpose of this Policy regarding Membership Eligibility Requirements (Policy) is to clarify the rules that the System will use to determine the eligibility of persons to be members of the System. The Policy intends to ensure that those eligible to be members of the System who have not executed a lawful waiver of membership are enrolled in the System unless a lawful exception applies. Conversely, persons ineligible for membership in the System must be excluded from membership.

### Employer Responsibility

2. Each Participating Employer is responsible for determining, in accordance with this Policy, which of its employees are eligible for membership in OCERS and for enrolling those eligible employees into OCERS membership. Additionally, each Participating Employer is responsible for monitoring the status of those employees ineligible to participate in the Plan (per Paragraphs 6 and 7) and for timely notifying OCERS of any change necessitating membership. Each Participating Employer must submit an annual report to OCERS, listing all "Extra Help Position" employees and their total hours worked.

### Policy Guidelines

3. **Definition of Extra Help Position:** An Extra Help Position is a position intended to be occupied on less than a year-round basis for circumstances that include the following:
  - a. to cover seasonal peak workloads;
  - b. for extra emergency workloads of limited duration; or
  - c. for necessary vacation relief, paid sick leave, and other fluctuating staff situations.
4. For purposes of this policy, **Extra Help Positions are "Exceptional" or "Standard."** An **"Exceptional Extra Help Position"** is one that:
  - a. Requires professional or highly technical skills for more than one year;<sup>1</sup>
  - b. Is designated "intern" for more than one year (i.e., entry-level as per the Participating Employer's salary resolution or comparable classification scheme);

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<sup>1</sup> "Professional or Highly Technical Skills" are those utilized by employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

# Summary of Comments on A-5diii Membership Eligibility Requirements - OCFA Comments.pdf

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Page: 1

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 Number: 1      Author: RhondaKawell      Subject: Comment on Text      Date: 10/24/2024 6:44:35 PM  
Is this period going to be determined by OCERS?

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## OCERS Board Policy Membership Eligibility Requirements

- c. Is designated "seasonal" for more than one year and that works in less than seven calendar months per year;<sup>2</sup> or
- d. Is designated "intermittent" for more than one year (i.e., works irregularly, as needed).

All others are **“Standard Extra Help Positions.”**

**5. The following employees of a Participating Employer are eligible to participate and shall be enrolled in the Plan:**

Any employee of the Participating Employer who is:

- a. <sup>1</sup> Hired with the expectation of employment for more than one year and at least 1,040 hours per year, or who is actually employed for more than one year and at least 1,040 hours per year for at least one of those years; and
- b. Not expressly excluded from membership under Paragraph 6.

**6. The following employees of a Participating Employer are ineligible to participate and shall not be enrolled in the Plan:**

Any employee of the Participating Employer who:

- a. Is a retired member who satisfies the requirements of Government Code section 7522.56 to serve a Participating Employer without reinstatement from retirement and that does not exceed a total of 960 work hours per year; or
  - b. Has executed a lawful waiver of membership (e.g., elected officials and members entering employment after age 60); or
  - c. <sup>3</sup> Is classified as part-time and scheduled to work <sup>4</sup> less than twenty (20) hours weekly.
  - d. Is classified as an Exceptional Extra Help Position by the Participating Employer that does not exceed the hour limits set forth in Section 7 below.
- 7. Each Participating Employer is responsible for monitoring the number of hours worked by Extra Help employees.**
- a. Any employee in an **Exceptional Extra Help Position** who works more than 1,600 hours in the <sup>5</sup> twelve-month period following their <sup>6</sup> hire date must be enrolled in OCERS membership **or** have a minimum break in employment <sup>7</sup> of at least sixty calendar days before beginning employment in another Extra Help Position during the next twelve-month period following the anniversary of their hire date.
  - b. Any employee in a **Standard Extra Help Position** who works more than 1040 hours in the twelve-month period following their hire date must be enrolled in OCERS membership **or** have a minimum break in employment of at least sixty calendar days before beginning

<sup>2</sup> Seasonal work" is that performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and that, from its nature, may not be continuous or carried on throughout the year.

Page: 2

- 
-  Number: 1 Author: NicoleChung Subject: Comment on Text Date: 10/25/2024 10:14:13 AM  
 If the intent of this is to "trigger" enrollment in the system, I would revise the language to clarify the point at which employer should enroll members. e.g. Expectation of more than one year of employment, and more than 1040 hours in the year = enroll on first day; Expectation of less than one year, but employee works more than 1040 hours before the end of the year = enroll first pay period following 1040 hours worked
- 
-  Number: 2 Author: RhondaKawell Subject: Comment on Text Date: 10/24/2024 6:56:41 PM  
 Needs clarification. At what point is membership required? What would the effective date be?
- 
-  Number: 3 Author: NicoleChung Subject: Comment on Text Date: 10/25/2024 10:06:37 AM  
 I recommend removing this as it is already addressed in Section 5.
- 
-  Number: 4 Author: RhondaKawell Subject: Comment on Text Date: 10/24/2024 6:46:14 PM  
 Is this requirement based on schedule or hours?  
 Author: dukesteppe Subject: Sticky Note Date: 10/28/2024 5:21:33 PM  
 it seems like schedule and not total hours worked
- 
-  Number: 5 Author: RhondaKawell Subject: Comment on Text Date: 10/24/2024 6:50:35 PM  
 1. This is not consistent with #10 below.  
 2. At what point is membership required? The pay period following exceeding the hour requirement?  
 3. The language suggests that an extra help employee could remain in this status for an undefined amount of time as long as there is a break and the hours remain within the limits.  
 Author: dukesteppe Subject: Sticky Note Date: 10/28/2024 5:19:13 PM  
 this is not consistent.
- 
-  Number: 6 Author: Stephanie Holloman Subject: Sticky Note Date: 10/28/2024 9:16:19 AM  
 OCFA's preference would be that this is per fiscal year, correct?  
 Author: RhondaKawell Subject: Sticky Note Date: 10/29/2024 10:22:09 AM  
 OCFA's preference is fiscal year.
- 
-  Number: 7 Author: NicoleChung Subject: Comment on Text Date: 10/25/2024 10:21:32 AM  
 For consistency, using maximum hours for the year OR weekly (e.g. 20 hours weekly), but not both. This would allow employers to use EH as intended with the flexibility on hours particularly for backfilling for extended absences on an intermittent basis. Language stating 20 hours weekly locks in to restrict flexibility for 12-24 hour shifts in public safety positions.  
 Author: dukesteppe Subject: Sticky Note Date: 10/28/2024 5:23:24 PM  
 52 weeks by 20 hours is 1040 hours, so could they work 30 hours a week for 6 month, would they have to be enrolled since they worked more than 20 hours a week?
- 
-  Number: 8 Author: NicoleChung Subject: Comment on Text Date: 10/25/2024 10:18:06 AM  
 Will OCERS require separations of seasonal work employees or will there be a transmittal of suspension of work for off season?



# OCERS Board Policy Membership Eligibility Requirements

employment in another Extra Help Position during the next twelve-month period following the anniversary of their hire date.

- 8. The Board may grant exceptions to the requirements of Paragraphs 6 and 7 if the Board determines that doing so is consistent with the intent of this Policy and is fair to all parties. Factors to consider in granting an exception will include:
  - a. An employee’s preference not to be enrolled as a member of OCERS, even though that preference alone does not justify exclusion from OCERS membership;
  - b. The urgency of the employer’s need to fill the position on a temporary basis; and
  - c. Whether an employee’s work hours exceeded the maximum due to administrative oversight.
- 9. When a Participating Employer fails to comply with the Paragraphs 6 and 7 requirements, and an exception under Paragraph 8 is not granted, the Board will exercise its discretion to determine an appropriate correction procedure based on the facts of each case.
- 10. For purposes of Paragraphs 4, 5, 6, and 11 (including the limit of 960 hours or other equivalent limit under Gov. Code § 7522.56(d)), the term "year" refers to a fiscal year or a calendar year, whichever the Participating Employer designates for uniform application to all its employees.
- 11. A Participating Employer that temporarily employs an individual who (i) previously was the employee of a labor supplier with which the Participating Employer contracted and (ii) would otherwise be excluded from OCERS membership under this Policy will be permitted to exclude the individual from OCERS membership for a period of up to one year. The Board will consider requests for exceptions from the requirements of this paragraph based on the facts of each case but will not extend the one-year period for excluding the employee from OCERS membership by more than one additional year.
- 20. The Board shall periodically audit, pursuant to Government Code section 31543, each Participating Employer’s payroll practices to assure compliance with this Policy.

## Policy Review

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

## Policy History


- 12. This Policy was adopted by the Board of Retirement on March 20, 2017, with an effective date of January 1, 2018, July 20, 2020, October 16, 2023, and .

## Secretary’s Certificate


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

## Page: 3

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 Number: 1 Author: Stephanie Holloman Subject: Sticky Note Date: 10/28/2024 9:11:03 AM  
This second needs to be removed/amended.

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 Number: 2 Author: RhondaKawell Subject: Comment on Text Date: 10/24/2024 6:51:29 PM  
Number sequencing is off.

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## OCERS Board Policy Membership Eligibility Requirements

Steve Delaney Secretary of the Board	Date



*County of Orange*  
**County Policy**

<b>Subject:</b>	Extra Help Position Requests
<b>Authority:</b>	County Executive Officer: Signature 
<b>Policy Owner:</b>	Chief Human Resources Officer: Signature 
<b>Approval Date:</b>	12/10/2018
<b>Revision Date(s)</b>	N/A
<b>Version No.:</b>	1.0

**A. Policy**

Extra Help Position Requests shall be reviewed by Human Resource Services (HRS) to ensure that the appropriate classification is being utilized and that the use is consistent with applicable Memoranda of Understanding (MOU), Personnel and Salary Resolution (PSR) and the Orange County Employees Retirement System (OCERS) Membership Eligibility Requirements.

**B. Purpose**

To ensure that extra help positions are classified and utilized appropriately.

**C. Authority**

This policy is consistent with applicable Board of Supervisors approved MOUs, PSR and OCERS Membership Eligibility.

**D. Scope**

This policy applies to all extra help employees and positions and all County departments that utilize them. (Note: Working Retirees are governed by a separate policy).

**E. Responsibilities**

Department

County departments shall obtain approval from HRS prior to the creation of an extra help position and regularly monitor their usage and hours worked per fiscal year to ensure compliance with this policy.

Human Resource Services

HRS will ensure that the appropriate classification is being utilized for an extra help position and that the use is consistent with this policy.



*County of Orange*  
**County Policy**

**F. Definitions**

Term	Definition
<b>Extra Help Position</b>	An Extra Help Position is a position intended to be occupied on less than a year-round basis including, but not limited to, the following: to cover seasonal peak workloads; extra emergency workloads of limited duration; or necessary vacation relief, paid sick leave and other situations involving a fluctuating staff. Ordinarily, a full-time extra help position will not be authorized for a period exceeding six (6) months. In unusual circumstances, and at the discretion of the Chief Human Resources Officer or designee, a full-time extra help position may be authorized for a period longer than six (6) months, provided such period shall not exceed one (1) year.
<b>Extra Help Employee</b>	An Extra Help Employee is an employee who is employed in an extra help position. An Extra Help Employee serves at the pleasure of the County in an extra help position.
<b>Contract Employee</b>	A Contract Employee is an employee who has a current employment contract approved by the Board of Supervisors and who is placed in an extra help position. A Contract Employee serves at the pleasure of the County in an extra help position regardless of the length or term of their contract.
<b>Human Resource Services (HRS)</b>	Human Resource Services or HRS shall mean both the Human Resource Services Department and non-centralized Human Resources teams.
<b>Professional or Highly Technical Skilled Employees</b>	Professional or Highly Technical Skilled Employees are those employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers and various types of physical, chemical and biological scientists.

**G. Procedure**

1. **Adding an Extra Help Position**
  - a. Requesting department completes and signs Part One of the Extra Help Extra Help Position Request Form (See Attachment A – Extra Help Position





*County of Orange*

**County Policy**

Request Form), attaching a justification and the proposed duties for the position.

- b. Requesting department determines which Extra Help Affordable Care Act (ACA) designation applies and selects the appropriate pay class code (e.g. E60P, ESLP, EOOP) from the description below based on that determination.

Extra Help employees must be designated in one of three pay class codes immediately upon hire based on the anticipated number of hours they are expected to work. The proper pay class code is necessary to comply with coverage and reporting provisions of the ACA. Pay class code will dictate if and when the employee is offered Minimum Essential Benefits Coverage under the ACA requirements. The rules vary for each of these three groups. The Internal Revenue Service (IRS) will be evaluating the designations and actual hours worked for all employees on an annual basis to ensure compliance and identify employers using incorrect designations to avoid offering coverage.

The IRS indicates the following factors should be considered: 1) whether the employee is replacing an employee who is a full-time employee; and 2) the extent to which employees in the same or comparable positions are or are not full-time employees, and 3) whether the job was advertised or otherwise communicated to the new hire as requiring hours of service that average 30 hours per week.

E60P (FTE): Employees expected to work at least 30 hours per week. If the employee is reasonably expected at his or her start date to perform 30 or more hours of work per week, for the first three months or longer, the County must offer health plan coverage and this pay class code will direct the Benefits Center to offer coverage. If at a later date the position no longer requires 30 hours a week and the position will be scheduled as a seasonal or variable hour employee, the pay class code should be changed.

ESLP (Seasonal): Employees whose employment period typically begins at the same time of year each year and lasts no longer than six months. Department of Labor defines this as "[l]abor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and that, from its nature, may not be continuous or carried on throughout the year." These employees should not



## County of Orange

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# County Policy

be employed for longer than six months. If they transition from seasonal to another Extra Help category, the pay class code must be changed.

EOOP (Variable Hour): Employees who given the facts and circumstances on the start date, the employer cannot determine that this person is reasonably expected to be employed an average of at least 30 hours per week. They may work over 30 hours at times and less at other times. If they average at least 30 hours per week over the course of a year, they will be offered coverage annually as required by the ACA.

- c. Requesting department sends the Extra Help Position Request Form to their respective department HRS representative to complete Part Two of the Extra Help Position Request Form. The department HRS representative reviews the Extra Help Position Request Form to verify the request meets all applicable PSR provisions, MOUs, ACA designations and County policies and procedures.

### **2. Filling an Extra Help Position**

- a. Prior to filling an extra help position, a department HRS representative will verify any previous County employment that the extra help employee filling the position has worked in order to determine eligibility for OCERS membership.
- b. Extra Help Employees who have worked 1040 hours or longer during one fiscal year must have a minimum break in employment from the County of at least sixty (60) calendar days before beginning employment in another extra help position during the next fiscal year.
- c. The County shall not utilize Extra Help (excluding Working Retirees) for sworn peace officer positions (notwithstanding Extra Help employees currently employed by the County at the time of this policy's adoption) except for working retirees that are placed in Extra Help positions.

### **3. Deleting/Extending an Extra Help Position**

- a. Requesting department completes and signs Part One of the Extra Help Position Request Form. Electronic signatures on the Extra Help Position Request Form are acceptable.
- b. Requesting department sends Extra Help Position Request Form to their respective department HRS representative to fill out Part Two of the Extra Help Position Request Form.





## County of Orange

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### County Policy

Note: Electronic signatures on Extra Help Position Request Forms are acceptable.

#### H. Eligibility for OCERS Membership

As outlined in the OCERS Membership Eligibility Requirements Policy, effective January 1, 2018, Extra Help Employees are subject to the criteria below in determining their eligibility for OCERS membership.

1. The following employees are *eligible* to participate and shall be enrolled in the system:
  - a. Those employees hired with the expectation of employment for more than one (1) year and at least 1,040 hours per year, or who are actually employed for more than one (1) year and at least 1,040 hours per year at least one of those years.
  - b. Not expressly excluded from membership.
  
2. The following employees are *ineligible* to participate and shall *not* be enrolled in the system:
  - a. A retired member who satisfies the requirements of Government Code section 7522.56.
  - b. An employee that has executed a lawful waiver of membership (e.g. Elected Official or employees entering employment after age 60)
  - c. An employee hired with the expectation of employment for less than 1,600 hours per year, is actually employed for less than 1,600 in every year, and is classified as "extra help" because he or she works in a position that:
    - i. Requires professional or highly technical skills for more than one year; or
    - ii. Is designated "intern" for more than one year; or
    - iii. Is designated "seasonal" for more than one year (works in less than seven calendar months per year); or
    - iv. Is designated "intermittent" for more than one year (works on an irregular, as-needed basis).

**If an Extra Help Employee becomes eligible for OCERS membership based on the criteria outlined above, the department or the HRS Satellite Team must immediately notify the Central HRS Records Team. The Extra Help Employee will then be given a new subtitle code identifying them as being eligible for OCERS membership at the beginning of the next pay period and for any future employment with the County.**



*County of Orange*

**County Policy**

**I. References**

#	Title/URL
1	<a href="#">OCERS Membership Eligibility Requirements Policy</a>

**J. Attachments**

#	Title	Description
A	<a href="#">Extra Help Position Request Form</a>	Form used to request and provide justification for an Extra Help Position

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

REGULATIONS

SECTIONS 31525 - 31527

ARTICLE I. MEMBERSHIP

1. Eligible: Persons eligible for membership in the Retirement System shall become members as of the first day employed in this status. Individuals eligible for membership are:

a. All full-time employees, including limited term employees, whose normal scheduled working hours are eighty (80) hours or more per biweekly pay period or whose regular scheduled working hours are considered full-time by the employing agency or district.

b. All employees who are part-time, including limited term employees, whose scheduled hours are equal to twenty (20) hours or more per weekly period or who are scheduled to work at least 1/2 of a regular scheduled pay period will become members effective on the first day they are on pay status beginning on or after August 27, 1976.

c. All employees classified as part-time, who are scheduled to work less than the time prescribed in "b" above, or who are classified as extra-help regardless of number of hours worked, are hereby excluded from membership.

2. A person is no longer a member as defined in Government Code Section 31470 effective with termination of employment or transfer to a non-eligible position with the County or District except when deferred retirement is requested and is approved by the Board or its authorized representative. When a member terminates employment and is appointed to the same or another regular position in County or District service in the same or next succeeding payroll period, membership shall be deemed continuous unless accumulated contributions have been refunded. Accumulated contributions and interest cannot be refunded unless 15 days have passed following the date of termination.

3. Types of Membership: "Safety" are all eligible County or District employees whose principal duties consist of active law enforcement or active fire suppression as described in Government Code Sections 31470.2 and 31470.4. "General" are all eligible County or District employees not classified "Safety".



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

4. Membership Request: Every person who is or becomes a member of the OCERS shall, upon his/her entry into the System, fill out and properly execute a sworn statement as required.

5. Compensation Earnable: Pursuant to Government Code Section 31461, the "compensation earnable" of a member means the average compensation as determined by the Board of Retirement, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. "Compensation earnable" does not include additional elements of compensation such as bonuses, differential pay, and the like, which are paid to an employee over and above his/her regular base salary and are not necessarily paid to all employees in the same grade or class of positions, or paid in the same amounts.

The Board of Retirement recognizes that compensation paid by an employer to an employee may take many different forms, some of which may not be known to this Board, and it is not feasible for this Board to compile a complete and comprehensive list of all elements of compensation which are to be included in, or excluded from, the definition of "compensation earnable". However, the following are examples of the types of items of compensation which are to be excluded from a member's "compensation earnable" under Government Code Sections 31460 and 31461:

- Overtime pay
- Bonuses
- Payoffs of unused sick leave, vacation, or compensatory time
- Shift differential pay
- Educational incentive pay (including POST pay)
- Uniform and automobile allowances
- Bilingual pay
- Flexible benefits paid under a cafeteria plan

The following items of compensation are to be included in a member's "compensation earnable":

- Amounts deducted from a member's salary for participation in a deferred compensation program under Section 457 of the Internal Revenue Code.
- The amount of any salary reduction, such as under a premium only plan (POP) or a dependent care plan designed, and qualified to reduce an employee's taxable gross income.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

- Premium pay under the Federal Fair Labor Standards Act (FSLA) which is included in the compensation paid to firefighters (including fire apparatus engineers and fire captains) who work the regular duty schedule averaging 56 hours per week, will be included in such employees' "compensation earnable" for retirement purposes. However, premium pay for overtime hours worked over and above the regular duty schedule averaging 56 hours per week is not included in compensation earnable.
  
- Holiday pay for safety members if all or substantially all of the safety members in a particular job classification receive pay for a holiday, whether or not they actually work that holiday.

6. Determination of Compensation Earnable: As to any items of compensation not specifically referred to in Article III, Part 5 above, the Board of Retirement will determine, pursuant to Government Code Section 31461, what is to be included in, and what is to be excluded from, "compensation earnable".

7. Contributions: Shall be calculated on compensation earned and shall be deducted from each salary or wage warrant or check drawn in favor of each member for each pay period. The pay period shall be as determined by the Board of Supervisors or District's governing body.

All districts participating in the OCERS shall have the following responsibilities: To enroll new members as members of OCERS; to report members who terminate employment along with the date of termination; and to make appropriate payroll deductions and collect and remit to OCERS, on a timely basis, both employee and employer retirement contributions along with written or magnetic tape reports of such contributions. Such contributions (along with the required reports) shall be submitted to OCERS [within five (5) days of each payroll date] the date that paychecks are issued. If the contributions from any district are received after such [five-day period] pay date, the district must pay OCERS interest on the overdue contributions. Such interest shall be equal to the current daily treasury bill rate, for each day the contributions are delinquent.

In addition, all participating districts shall submit to OCERS a hard copy contribution report in the format specified by the retirement office, certified by the agency that the data is correct. The report is to indicate on the top of each page: The

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

name of the employer submitting the report; the period of time covered by the report; and the titles of the data being reported on each employee. The data in the report is to contain at least the last name, no less than the first initial and middle initial, employee's social security number, retirement membership tier, salary being reported, the contributions rate of the employee, the contributions creditable to the employee's account, the hours worked for the period, and the tax status of the contributions being reported. The hard copy contribution report is also to contain totals for the following fields: hours worked for the period, salary reported, the employee contributions and the number of entries[.] and a breakdown of the employer contributions which includes a report of the normal contributions, UAAL, and employer pick-up of employee contributions by tier and general/safety category.

Annually the participating districts shall submit to OCERS a electronic data tape of W-2 wages in the same manner and form as submitted to the Internal Revenue Service.

If a participating district submits a report or magnetic tape which does not conform to the format provided, OCERS may charge the district a reasonable time and service charge to recover the costs of having the data keypunched, or to recover the amount of any investment interest lost during the time necessary to prepare a report or tape which conforms with the above format.

8. Additional Contributions: The Board of Retirement by administrative procedure shall establish regulations by which eligible employees may make additional contributions for the purpose of providing additional benefits subject to Government Code Section 31627.

9. Withdrawal of Contributions upon Termination: A withdrawal of contributions plus accrued interest is allowed following termination and written request by the former member. A minimum waiting period of fifteen (15) days following the date of termination shall be required before processing of the withdrawal request. The maximum waiting period for withdrawal, as established by Government Code Section 31628, shall be no longer than six (6) months following the member's separation date. An employee's membership in OCERS terminates as of his or her last day of employment, unless the member is eligible to, and elects to, leave his or her retirement contributions on deposit and elect a deferred retirement pursuant to Government Code Section 31700. In order to

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

elect a deferred retirement pursuant to Section 31700, the member must have at least five years of service or transfer to a reciprocal system. If a member leaves his or her retirement contributions on deposit and does not elect a deferred retirement or is not eligible to do so, such contributions shall earn no additional interest after the last day of employment.

Former members who do not apply for a withdrawal of their contributions and interest shall be notified by the retirement office that their funds remain on deposit. Failure to claim the contributions and interest or failure to elect deferred status within the time specified by law shall result in the transfer of the contributions and interest of the former member to the current pension reserve fund with no further legal claim being allowed by the former member.

10. Misstatement of Age: If a member has misstated his or her age on the enrollment affidavit filed with OCERS, and if as a result of such misstatement the employee contributions made to OCERS are less than what would have been contributed if the member's age had been correctly stated in the first place, OCERS will correct such misstatement upon the request of the member and upon proper proof of age being shown, provided:

(a) Prior to retirement, the member must deposit in the retirement fund additional employee contributions equal to the difference between the contributions which were actually made and what would have been made if the member's age had been properly stated in the first place, plus simple interest of ten (10) percent per annum added thereto; or

(b) If such additional contributions and interest are not deposited by the member prior to retirement, the member's retirement allowance will be actuarial reduced in order to allow OCERS to recover the amount of such additional contributions and interest.

(c) If the member's misstatement of age results in an overstatement of the member's age, OCERS will, upon receipt of a certified copy of member's birth certificate, refund the amount of the difference between the employee contributions actually paid, and the contributions which should have been paid, plus interest at the rate credited member accounts.

11. Payment of Retirement Allowance: Retirement benefits are payable the first day of each month, for the preceding month. No payment of retirement allowances shall begin until final payroll

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

compensation is received from the member's district and until the Board has approved the retirement effective date at a regular meeting as contained within the scheduled consent calendar items.

When making an application for retirement benefits, or upon request by OCERS staff, a member and/or beneficiary shall be required to submit a copy of his or her birth certificate in order to verify the date of birth of such member or beneficiary. In addition, members and/or their beneficiaries shall, upon request, submit copies of their marriage certificates or other suitable proof of marriage, in order to establish an individual's status as an eligible spouse of a member who may become entitled to survivor's benefits.

12. Definitions: The definitions of categories of employees shall be the same as the definitions contained in the Orange County Personnel and Salary Resolution.

13. Rollover of Member Contributions: Member Contributions and interest which have not been taxed are eligible for rollover in an IRA Account to the extent permitted by the Internal Revenue Code.

ARTICLE II. DEDUCTION OF PAST-DUE CONTRIBUTIONS

1. Where through clerical or administrative error a member's mandatory contributions are not deducted at the time and in the manner required by law or under the bylaws and regulations, and where the deduction of the total due would cause a difficulty and a hardship to the member, the Retirement Administrator, on behalf of the Board in his/her discretion, may approve the deduction thereof over a period not to exceed two (2) years, but in no event may the additional contribution be less than TWENTY dollars (\$20.00) per Pay Period.

ARTICLE III. REDEPOSIT OF CONTRIBUTIONS WITHDRAWN

1. Any member who elects, as authorized by law pursuant to Government Code Section 31652, to redeposit in the retirement fund within one (1) year the amount previously withdrawn, may make a written request to the Board for an extension of time to make such redeposit. The Retirement Administrator, in his/her discretion, may on behalf of the Board, approve such extension of time for making such redeposit, not to exceed two (2) additional years.

2. In the event the employee does not repay the contributions



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

and interest within the time prescribed, all monies received for the time being purchased will be returned to the employee. The employee shall not be granted any additional time for the time being purchased other than that provided in Section 31652.

3. If the employee elects at a later time to repurchase the time in which the contributions were refunded to the employee, the employee must redeposit within the time prescribed in the applicable Government Code Section.

4. If a member encounters a temporary layoff from his or her employment and withdraws retirement contributions, and is then reinstated to his or her employment within one year and redeposits such previously-withdrawn retirement contributions, this will not constitute a break in the continuity of service, as provided in Government Code Section 31642, provided the member makes such redeposit within ninety (90) days of re-entrance into service. If such redeposit is not made within such 90-day period, the member may still redeposit previously-withdrawn contributions pursuant to Government Code Section 31652; however, the member's age at entry, for purposes of determining the member's contribution rate, will be the age upon his or her re-entrance into employment.

ARTICLE IV. PRIOR SERVICE

1. Prior service shall be defined as county service prior to January 1, 1945. Credit for prior service shall be allowed and entered in the records of the Retirement System at a rate of one month or fraction thereof for which compensation was received through the County Payroll System. The length of such prior service shall be established by any available official county or court record. Affidavits may be accepted at the discretion of the Board to establish prior service where no official records are available.

ARTICLE V. PUBLIC SERVICE

1. A member who, prior to becoming a member of the Retirement System, was in public service pursuant to Government Code Sections 31478 and 31479, excluding service with the United States of America as provided by resolution of the Board of Supervisors adopted pursuant to Government Code Section 31641.95, may elect by written notice to purchase and receive credit for all allowed public service time.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

2. Public service credit shall not be considered for minimum qualifications for vesting or retirement.

3. A person who is eligible to repurchase credit in another retirement system (but has not yet done so) is eligible to purchase public service credit in OCERS, provided the member waives the right to purchase service credit in the other retirement system. If the member purchases public service credit in OCERS and subsequently receives service credit in the other agency's retirement system for the same period of service, the purchase of public service credit in OCERS will be canceled, and the member(s) will be refunded any unused monies deposited, plus interest thereon.

ARTICLE VI. MILITARY LEAVE

1. Any employee of the County of Orange or member district, who is a member of the OCERS, who was on military leave of absence pursuant to Government Code Section 31649, from County or District employment and who is entitled to and wishes to purchase and receive retirement service credit for the period of military leave, may do so pursuant to applicable statutes and in accordance with the Retirement System's administrative procedure.

ARTICLE VII. SERVICE CREDITS

1. Members shall receive credit for time in the Retirement System for periods of membership for which they contributed or were exempt from contributing.

2. One hour of service credit shall equal .00576923 months of service credit. Service credit is derived by dividing 12 months by 2080 hours (standard number of hours worked in a year) equalling .00576923.

3. Service credit calculation shall be calculated by multiplying the fraction 12/2080 times the hours of service reported calculated to the minimum of the fifth decimal point rounded to the fourth decimal point.

ARTICLE VIII. RETROACTIVE APPROVAL OF DEFERRED STATUS

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

1. A member who was not notified in writing as required by California Government Code Sections 31628 and 31629, regarding their contributions and interest left on deposit, and who did not elect deferred status within one hundred eighty (180) days subsequent to termination, may petition the Board through the Administrator for retroactive deferred status. The Board hereby delegates the authority to approve/disapprove retroactive deferred status to the Retirement Administrator.

ARTICLE IX . DISABILITY RETIREMENT  
OF DEFERRED/RECIPROCAL MEMBERS

1. Definition: As used in this article, the term "deferred/reciprocal member" shall mean a member who terminates employment and leaves his or her retirement contributions on deposit with OCERS, and establishes reciprocity with another retirement system (PERS or other 1937 Act system). This article of the bylaws is intended to establish the procedure for calculating the retirement allowance payable by OCERS to a deferred/reciprocal member who is granted a disability retirement from the reciprocal system.

2. Disability Retirement from OCERS. In order to receive a disability retirement allowance from OCERS which will be concurrent with the disability retirement received from the reciprocal system, the deferred/reciprocal member must file an application with OCERS for disability retirement. A finding by the reciprocal system that the member is entitled to a disability retirement will be binding on OCERS.

3. Calculation of Non-Service Connected Disability Retirement. If the deferred /reciprocal member receives a non-service connected disability retirement from the reciprocal system, and is also granted a disability retirement from OCERS, the member's disability retirement allowance will be subject to the limitations of Government Code Section 31838.5, so that the total disability retirement allowance payable to the member by both retirement systems will not exceed the allowance which would have been paid if all of the member's service had been with one system. In applying this rule, OCERS will first ascertain the amount of the non-service connected disability retirement allowance which would have been paid to the member by the reciprocal system if all of the member's service had been under that system. OCERS will then pay the member a fraction of that amount, which said fraction will have as its numerator the total years of service credit the member has with OCERS and as its



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

denominator the total years of service credit the member has with OCERS and the reciprocal system combined.

If the reciprocal system pays the member a disability retirement allowance which, when combined with the amounts payable by OCERS, exceeds the allowance which would have been paid if all of the member's service had been with the reciprocal system, OCERS will reduce the monthly allowance it pays to the member to insure that the total benefit received by the member does not exceed the limitations set forth in Section 31838.5.

4. Calculation of Service-Connected Disability Allowance. If a deferred/reciprocal member is granted a service-connected disability retirement from the reciprocal system, and applies for and is granted a concurrent disability retirement from OCERS, the only benefit payable to the member from OCERS will be an annuity based on his or her retirement contributions, pursuant to Government Code Section 31837.

5. Waiver of Disability Benefits from OCERS. A deferred/reciprocal member who is granted a disability retirement from the reciprocal system may waive disability retirement benefits from OCERS and elect instead a deferred retirement allowance from OCERS, if eligible. Doing so will break reciprocity, and the member's deferred retirement allowance from OCERS will be based on his or her final compensation as a member of OCERS. A member who has less than five years' credited service in OCERS is not eligible for a deferred retirement allowance from OCERS. All other members must meet the statutory eligibility requirements for a deferred retirement, pursuant to Government Code Section 31700. In accordance with Government Code Section 31838.5, if the member is retired from the reciprocal system on a non-service connected disability retirement, or if the member first became a member of the reciprocal system after January 1, 1984, and is retired from that system on a service-connected disability retirement, the total of the retirement allowances from the two systems (the deferred retirement allowance from OCERS and the disability retirement allowance from the reciprocal system) cannot exceed the disability retirement allowance the member would have received from the reciprocal system if all of the member's service had been with that system. In order to ensure that the member's total retirement allowance (from the two systems) does not exceed this limitation, OCERS will pro-rate the member's deferred retirement allowance from OCERS, and if necessary, reduce such retirement allowance, using the calculation set forth in Part 3

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

of this Article.

ARTICLE X. RETROACTIVE RETIREMENT  
FOR DEFERRED/RECIPROCAL MEMBER

1. Definition: As used in this Article, the term "deferred/reciprocal member" shall have the same meaning as set forth in Section 1 of Article XI of these Bylaws and Regulations.

2. Retroactive Retirement. If a deferred/reciprocal member retires from a reciprocal system on a service retirement, and fails to apply to OCERS for concurrent retirement pursuant to Government Code Section 31835, and if such failure to apply is due to oversight or excusable neglect and not due to willful misconduct, the member may later apply to OCERS for, and be granted, a deferred retirement allowance with an effective date which is retroactive to the effective date of the member's service retirement from the reciprocal system. The member will then qualify for reciprocal benefits from OCERS pursuant to Sections 31835 and 31836 of the Government Code.

ARTICLE XI. COMPENSATION EARNABLE

1. Final compensation as defined by Government Code Section 31462 shall mean the three years of compensation preceding the member's termination unless the member elects a different period of time during which the member has earned three full years of credit.

2. Final compensation as defined by Government Code Section 31462.1 shall mean the one year of compensation preceding the member's termination unless the member elects a different period of time during which the member has earned one full year of credit.

3. Final compensation as defined by Government Code Section 31462.2, for part-time employees, or a member who has both part-time and full time service, shall mean the equivalent of three years of compensation [prior to termination] for the 6,280 hours of service rendered prior to termination, unless the member elects a different period of time during which the member has earned the equivalent of three years of service.

ARTICLE XII. ANNUITY CERTIFICATES

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

1. Upon retirement, a member of the Retirement System shall be furnished with a letter signed by the Administrator, Assistant Administrator, or other person(s) designated by the Administrator, setting forth the member's name, address, date of retirement, the amount of contributions that were subject to taxes, and the amount of his/her allowance in lieu of an annuity certificate.

ARTICLE XIII. SUBPOENA

1. The Chairperson and Secretary of the Board are hereby authorized to issue and sign subpoenas for documents and/or attendance at [Board hearings on] disability retirement hearings/applications, upon request of the applicant or member, the applicant's or member's attorney, or designated retirement personnel.

2. The Board hereby delegates the subpoena power to each referee appointed to hear a disability retirement application.

3. Witnesses subpoenaed will be provided a witness fee plus reimbursement for necessary travel. The amount to be paid shall be established by Board policy.

ARTICLE XIV. APPEAL TO BOARD OF RETIREMENT

1. A member's application for disability retirement benefits, and any appeal from a denial of such benefits, shall be processed and heard in accordance with the procedures established for disability retirement adopted by this Board.

2. A member's request for any other right or benefit may be made to the Retirement Administrator. If denied by the Retirement Administrator, the member has the right to appeal the Administrator's decision to the Board.

3. An appeal must be filed at the retirement office in care of the Retirement Administrator.

4. The member's written request will be included in the next regular Board agenda in accordance with the date received.

ARTICLE XV. RE-EMPLOYMENT AFTER RETIREMENT

1. For purposes applying the provisions of Government Code

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS

Sections 31641.04 and 31680.6 to individuals who are re-employed after retirement, the County fiscal year will be used as the 12-month period for determining the maximum number of hours or days such individuals may be employed without a loss of retirement benefits. For persons re-employed by the County after retirement, the Human Resources Department will be responsible for notifying OCERS if such individual's work period exceeds the maximum allowed by Section 31641.04 or 31680.6. For persons re-employed by a district, the personnel manager of the district will have such responsibility.

2. For purposes of applying Government Code Sections 31725.5 and 31725.6 to individuals who are re-employed after having been found to be disabled, the member's status as a general or safety member in the position for which the member has been re-employed will be determined based on the duties of that position.

3. If a member who has been retired for service is re-employed his or her retirement allowance will be discontinued unless the member is re-employed as an extra help or temporary employee, and does not work more than the maximum number of days or hours allowed by statute.

ARTICLE XVI. WAIVER OF BENEFITS

A retired member may voluntarily waive a benefit adjustment increase. The waiver must be in writing. Such a waiver does not prohibit the member from accepting future pension increases granted by the Board of Retirement.

ARTICLE XVII. AMENDMENTS

1. These regulations may be amended from time to time by two-thirds (2/3) vote of the Retirement Board and are subject to Board of Supervisors' approval.

ARTICLE XVIII. REPEALS

1. All former regulations and amendments are hereby repealed. The foregoing regulations become effective when approved by the Board of Supervisors in accordance with Section 31525 of the Government Code.

2. Date Approved: April 10, 1995 by the Board of Retirement.



## Memorandum

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DATE: November 1, 2024  
 TO: Members of the Governance Committee  
 FROM: David Kim, Asst. CEO, External Operations; Manuel D. Serpa, General Counsel, OCERS  
 SUBJECT: **CONSIDERATION OF AN EMPLOYER DATA POLICY**

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### Recommendation

Consider and provide guidance on the current draft of an Employer Data Policy.

### Background

At the direction of the Board, OCERS staff has had quarterly informational meetings with representatives from our Employer groups regarding the data reported to OCERS and the need for all components of Final Average Salary to be reported on the biweekly transmittal file in an accurate and timely fashion. To date, the OCERS team has met with several employer groups at their headquarters buildings to review the process from their perspective and hosted two employer meetings to solicit feedback on the draft policy. In addition, the team is in the process of finalizing a detailed procedure document reflecting the required steps the Employer and OCERS must take to process transmittal files. A copy of that document will be shared with the Employers upon finalization.

### Summary

The goal of the new Employer Data Policy is to clarify the roles and responsibilities of OCERS and its Employers to facilitate the accurate exchange of the data elements required for OCERS to perform its function of administering the retirement system. The policy also outlines the actions OCERS will take, as authorized by the CERL, in response to insufficient, inaccurate, or untimely data from Employers.

Most importantly, the policy states that Participating Employers are required to timely certify and transmit complete and accurate Employer Data to OCERS on a pay period basis in accordance with the CERL, PEPR, the OCERS Compensation Earnable Pensionable Compensation Policies, and the Employer Data Policy. Historically, the difficulties Employers have had in transmitting complete and accurate data to OCERS have necessitated that OCERS expend significant resources to manage and troubleshoot data issues, including obtaining required data elements itself.

The policy states that Employers must submit Employer Data to OCERS bi-weekly in accordance with the schedule outlined in the OCERS Employer Handbook. They must also notify OCERS of changes to any elements that could affect members or pension calculation and any payroll system change.

The potential for OCERS to charge Employers for the costs it incurs due to their failure to submit timely, complete, and accurate data is set forth in Paragraphs 14-20 of the policy. The potential administrative fees in the event of significant and continued preventable errors related to transmittals

and contribution payments are described in Paragraph 14 and are authorized by Gov. Code, § 31580.1, which states:

**Contribution from districts; costs of administering retirement system; penalty assessments for delinquencies**

The board may include each year in the contribution required of a district a reasonable amount, which may differ from district to district, to cover the costs of administering its retirement system as such costs affect the active and retired employees of that district. The board may also assess a district a reasonable amount to cover costs incurred because of the district's failure to submit reports and forward contributions on a timely basis.

Paragraph 15 addresses that OCERS may assess an amount to cover costs when an Employer fails to submit data timely or when OCERS is required to audit or correct information when an Employer knowingly fails to report compensation by pay period, as authorized by Gov. Code, §31542.5:

**§31542.5. Pay period for compensation reported to board; failure of county or district to report compensation**

(a) When a county or district reports compensation to the board, it shall identify the pay period in which the compensation was earned regardless of when it was reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

(b) The board may assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with subdivision (a). A county or district shall be found to have knowingly failed to comply with subdivision (a) if the board determines that either of the following applies:

- (1) The county or district knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.
- (2) The county or district failed to identify the pay period in which compensation earnable was earned, as required by this section.

(c) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (b).

OCERS will calculate these costs by measuring the cost of labor for OCERS staff to analyze, assist in resolving, and communicate outcomes with the Employer regarding the applicable issue.

Paragraphs 16, 17, and 18 address Transmittal File errors, significant Transmittal Exceptions, and payment discrepancies. Paragraph 19 addresses interest penalties on late contribution payments. This provision includes an option for the Employer to request that the Board reduce or remove an interest penalty.

A Fee Schedule containing illustrations of potential fees for insufficient data is currently being worked on by Member Services and will be added as an attachment.

The proposed draft of the Employer Data Policy is attached.



**Submitted by:**



DK-Approved

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David Kim  
Assistant CEO, External Operations



MDS-Approved

Manuel D. Serpa  
General Counsel



## OCERS Board Policy Employer Data Policy

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### Purpose and Objective

1. The Orange County Employees Retirement System (OCERS) requires the timely submission of detailed information from its Participating Employers to fulfill its responsibilities in administering the retirement system. This policy states the information and data that OCERS requires from its Participating Employers to help them fulfill their responsibilities under the County Employees Retirement Law (CERL), as amended by the Public Employees' Pension Reform Act (PEPRA). These laws establish the fundamental obligations of Participating Employers and employee members. The policy's objective is to clarify the roles and responsibilities of OCERS and its Employers to facilitate the accurate exchange of the data elements required for OCERS to perform its function, including benefit calculation and payment. The policy also outlines the actions OCERS will take in response to insufficient, inaccurate, or untimely data from Employers.

### Policy Guidelines

2. *Definitions*<sup>1</sup>

**Grade or Classification:** Groups of similarly situated employees with the same OCERS' benefit structure in the same grade or classification as set by the Participating Employer.

**Benefit:** A payment to a participant (Member or Beneficiary) for retirement or death from OCERS.

**Earnable Pay Items:** Items of pay paid from Employer funds that will be considered in calculating final average salary.

**Earnable Salary:** The amount of a member's salary associated with their regularly scheduled work rendered during the member's grade or classification's normal working hours, which is used in calculating the final average salary.

**Employee Contributions:** Contributions towards retirement that are deducted by the employer from each member's compensation based on the employee's contribution rate and forwarded to OCERS to fund the normal cost associated with the member's retirement benefits from OCERS, as defined under the CERL and PEPRA.

**Employer Contributions:** Contributions by the Participating Employers paid to fund the employer's portion of normal costs associated with their employees' retirement benefits from OCERS, as defined under the CERL and PEPRA.

**Employer Data:** Gross base salary, approved pay codes for pay items determined as compensation earnable as approved by the OCERS Board of Retirement (Board), hours worked, expected hours, and employer/employee contributions based upon the rates set by the Board for pensionable pay items and salary, any additional negotiated contributions between the Employer and employees, and any other required data elements as designated in the Employer Handbook.

**Employer Handbook:** Employer Self Service (ESS) Portal User Guide located on the ESS Portal.

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<sup>1</sup> Terms are defined here for ease of reference and are intended to remain consistent with their definition under OCERS Compensation Earnable and Pensionable Compensation Policies.





## OCERS Board Policy Employer Data Policy

**Participating Employer or Employer:** Orange County or any contracting agency or district employing or representing an employee who is a member of OCERS. Participating Employer is synonymous with "Plan Sponsor."

**Employment Status:** The employment status of a OCERS member as reported by the Employer. This includes Active or Active on Leave and separated with a separation date.

**Fatal Transmittal Exception:** An exception in the Transmittal due to missing, incorrect, or incomplete information required to be included by the Employer, per the Employer Handbook.

**Member:** An employee who is a member of the OCERS Plan and is eligible to accrue a benefit in OCERS.

**Pay Period:** Monthly or biweekly payroll period.

**Pensionable Pay Items:** Items of pay that are pensionable and that will be considered in calculating normal cost contributions owed by the member and Participating Employer, and for which the Participating Employer will report contributions.

**Pensionable Salary:** The amount of an employee's salary on which expected normal cost contributions will be calculated and for which the Participating Employer will report contributions.

**Transmittal:** A Participating Employer's regular payroll report of Employer Data.

**Unfunded Actuarial Accrued Liability (UAAL):** The difference between the actuarial accrued liability (AAL) and the actuarial value of assets (AVA). It's also the amount of past service liability that exceeds the value of the plan's assets.

### Roles and Responsibilities

#### *OCERS*

3. OCERS uses information received from Participating Employers to, among other things, update its information on members in its pension administration system, compute benefit estimates, perform benefit calculations, establish official termination dates, process refunds of contributions, and update member account balances. OCERS must accurately account for all Employer Data it receives, transmit that data to its actuary, and timely communicate with Employers regarding plan liabilities.
4. OCERS must maintain records of all contributions deposited by all Participating Employers and members and all benefits paid to members.<sup>2</sup>

#### *Participating Employers*

5. Each Participating Employer must designate one or more reporting officials and their backup, who serve as the organization's OCERS contact. The reporting official is authorized to sign OCERS documents and is responsible for timely and accurately managing, transmitting, and reporting the Transmittal File and Employer Data to OCERS. The Participating Employer must notify OCERS if its reporting official changes.
6. Participating Employers are required to timely certify and transmit complete and accurate Employer Data to OCERS on a pay period basis in accordance with the CERL, PEPRA, the OCERS Compensation Earnable Pensionable Compensation Policies, and this Employer Data Policy. The Employer Data

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<sup>2</sup> Gov. Code, § 31599



## OCERS Board Policy Employer Data Policy

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must be transferred using the protocol and schedule specified in **the Employer Handbook**, which is located on the OCERS website.

7. Participating Employers are responsible for providing OCERS with its list of Pensionable Pay Items.

***Any new pay item must be submitted to OCERS in accordance with OCERS Pay Item Review Policy and the Pay Item Request & Approval Procedures for Employers.***

8. Participating Employers must submit Employer Data to OCERS bi-weekly in accordance with the designated payroll cycle and the schedule outlined in the Employer Handbook. The Participating Employer must immediately notify OCERS if it cannot meet this schedule or if the payroll schedule changes (i.e., twenty-seven (27) pay periods).
9. Participating Employers must promptly notify OCERS of changes to any labor/collective bargaining agreements affecting OCERS members, Employer plans, County grade or classifications, and Pensionable Pay Items. Participating Employers are also required to promptly notify OCERS of any anticipated changes to its payroll system or system provider. Failure to notify as specified in this Paragraph could result in errors in Employer Data transmission and processing, which could significantly impact the delivery of benefits, crediting of members' accounts, accurate reporting, and appropriate reserve funds.
10. **Employer Annual Compliance Certification:** All Employers will submit an annual compliance certification by the end of each calendar year, confirming ongoing compliance with this Policy. This certification will also confirm that the current list of users with approved ESS access on the ESS Portal Authorization Form is up to date.

### Employer Payroll Reporting and Data Transmission

11. Employer Data transmission is the process by which Employers submit information such as Employer and employee contributions, salary, and hours worked to OCERS for OCERS to process and post to members' accounts or the appropriate reserve fund. Employer Data and transaction details for amounts related to individual employees are submitted through OCERS' Employer Self-Service portal or through secure file transfer protocol (FTP). Participating Employers must transmit Employer Data to OCERS via the methods described in the Employer Handbook.
  - a. The payroll record is the most common record type. It contains information about an employee's earnings, contributions, and other pertinent information. Required fields on the payroll record are detailed in the "Transmittal Layout" included in **the Employer Handbook**.
12. All documentation for each payment is due on the payment date for that contribution. OCERS retains the right to determine the accuracy and completeness of all data submissions supporting contribution payments. OCERS will exercise its authority to audit the Employer's records to determine the accuracy of benefits, reportable compensation, enrollment, and reinstatement.<sup>3</sup>
13. Participating Employers must correct incorrect transmittal data submitted previously using an adjustment file by the next pay period following submission.

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<sup>3</sup> Gov. Code, § 31543



## OCERS Board Policy Employer Data Policy

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### Administrative Fees and Costs

14. OCERS charges Participating Employers administrative fees in the event of significant and continued preventable errors related to transmittals and contribution payments. In addition, OCERS is authorized to assess a Participating Employer for the costs of administering the retirement system unique to that Employer; for example, costs directly relating to each Employer's plan design characteristics and employment practices (e.g., work schedules) that impact the transmittal of payroll data to OCERS.<sup>4</sup>
15. **Timely and Incomplete Submissions:** OCERS may assess a reasonable amount to cover costs incurred because a Participating Employer failed to submit requisite Employer Data and contributions or failed to do so timely.<sup>5</sup> OCERS may also assess an Employer a reasonable amount to cover the audit, adjustment, or correction cost if it determines the Employer knowingly failed to report compensation by pay period.<sup>6</sup>

***OCERS will calculate these costs by measuring the cost of labor for OCERS staff to analyze, assist the Employer in resolving, and communicate outcomes to the Employer regarding the applicable issue.***

16. **Employer Transmittal Files:** Transmittal files must be formatted correctly and contain correct and accurate employee information, as set forth in the Employer Handbook, and Employer Data as specified in this Policy. If a transmittal file contains errors that prohibit the import of the file into the OCERS pension administration system, the Employer must create a new file. If an Employer cannot provide a new or corrected file, and OCERS must correct the errors in the existing file, fees may be assessed based on a median hourly rate per hour of work required by OCERS.
17. **Fatal Transmittal Exceptions:** If the number of Fatal Transmittal Exceptions for a single pay period equals an amount over 3% of total payroll transactions for three or more consecutive pay periods or three or more pay periods in a single quarter, OCERS will alert the Employer that they have exceeded the acceptable threshold for errors. Following this notification, OCERS will attempt to hold meetings or conduct training with the Employer's staff to determine the cause of the errors and resolve the process or system issues causing the volume of exceptions. The basis for these fees reflects the cost of labor for OCERS staff to analyze and assist the Employer in resolving the exceptions. **If the exceptions do not fall below the acceptable threshold (3% of total payroll transactions) consistently during the following quarter, the following fees will be assessed for each pay period in which the threshold is exceeded:**
  - a. Under 50 Fatal Transmittal Exceptions (over 3% of total): \$5,000
  - b. 50 to 100 Fatal Transmittal Exceptions (over 3% of total): \$10,000
  - c. 100 to 250 Fatal Transmittal Exceptions (over 3% of total): \$15,000

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<sup>4</sup> Gov. Code, § 31580.1

<sup>5</sup> Id.

<sup>6</sup> Gov. Code, §31542.5



## OCERS Board Policy Employer Data Policy

d. Over 250 Fatal Transmittal Exceptions (over 3% of total): \$20,000<sup>7</sup>

18. **Payment Discrepancies:** Employer and employee contributions stated on electronic or hardcopy reports from the Employer, including transmittal files, spreadsheets, and other reporting formats, should generally match actual payment amounts. Any discrepancy between these amounts requires communication from the Employer upon payment remittance and clearing of the error. This communication must explain the discrepancy and the necessary action to resolve it. OCERS staff will send a notice to the Employer via e-mail if an explanation of the discrepancy does not accompany the contribution payment. This notice will alert the Employer of a potential fee assessment.

***If the discrepancy continues for three consecutive pay periods, fees will be incurred on the fourth pay period. The fees will be based on the hourly rate per hour of work required by OCERS' staff to analyze issues, assist Employers in resolving them, and communicate outcomes with the Employer.***

19. **Interest on Late Contribution Payment and Administrative Charges:** Any payment or partial payments received after the pay date of each pay period are considered late payments. A Participating Employer will be assessed an interest penalty for late payments.<sup>8</sup> OCERS will ordinarily apply interest to the underpaid amount at OCERS' semi-annual interest crediting rate,<sup>9</sup> but reserves the right to assess additional interest (e.g., OCERS' assumed rate of investment return) and add penalties to the underpaid amount in cases of intentional late payments or delays in remedying late payments. OCERS will invoice an Employer for any additional interest payment related to late contribution payments, supported by the interest calculation. An Employer should ensure that OCERS receives payment within thirty days of the invoice date. Interest will continue to accrue if the payment is not received within thirty days of the invoice date. An Employer may appeal in writing to the Board for abatement of interest.

20. **Fee Schedule:** The attached fee schedule identifies specific examples of the fees OCERS will charge for insufficient data.

## Policy Review

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

## Policy History

The Board adopted this policy on...

<sup>7</sup> These dollar amounts are *provisional*.

<sup>8</sup> Gov. Code, § 31580.1

<sup>9</sup> Gov. Code, § 31472.1



## **OCERS Board Policy Employer Data Policy**

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### **Secretary's Certificate**

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



## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** Rosie Baek, Staff Attorney  
**SUBJECT: REVIEW OF THE OCERS ADMINISTRATIVE PROCEDURE ON THE TOPIC OF THE DIVISION OF RETIREMENT BENEFITS UPON DIVORCE**

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### Recommendation

Review and recommend that the Board approve the revisions to the OCERS Administrative Procedure on the Topic of the Division of Retirement Benefits Upon Divorce.

### Background

The OCERS Administrative Procedure on the Topic of the Division of Retirement Benefits Upon Divorce (“Divorce Procedure”) was adopted by the Board of Retirement on January 19, 2016, to be reviewed and revised as needed by the Board and/or Governance Committee. Staff presents the Procedure to the Governance Committee for review of clarifying revisions.

### Revisions

The Divorce Procedure has been revised to ensure a clearer and more accurate explanation of the division of retirement benefits upon a members’ divorce. In addition, edits were made to remove unnecessary verbiage, correct typos, reduce legalese, and re-organize the material to enhance clarity and readability. The changes are as follows:

**Purpose:** A section explaining the Procedure’s Purpose was added for clarity on the information provided by the Procedure. The added language is *indicated in italics* as follows:

*This OCERS Administrative Procedure (“OAP”) provides information about how the community property interest of a member’s benefits are divided, pursuant to a valid a court order setting the terms and conditions of a divorce. More specifically, this OAP will describe the process of notifying OCERS of a divorce, joining OCERS in a divorce, and providing OCERS with a Domestic Relations Order that divides the member’s pension benefits.*

**Authority:** Language was added to cite the OCERS Charters and Board Policy that authorize issuance of this Procedure. Language simply reciting the governing Family Code section was removed and replaced with a concise summary of the same Code section.

The added language is as follows:

*This OAP is established pursuant to the Chief Executive Officer (CEO) Charter, section 8.f., which directs the CEO to develop staff policies and procedures to ensure effective and efficient administration of member benefits. The OAP is in conformance with Board Policy, the County Employees Retirement Law (California Government Code section 31450, et seq.) (CERL), and the Public Employees’ Pension Reform*

*Act (Government Code, sections 7522 - 7522.74) (PEPRA). Also, this OAP is consistent with California Family Code §2610, which provides that the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party's full community property share in any retirement plan, whether public or private, including all survivor and death benefits.*

**Definitions:** A section defining terms that are used throughout the Procedure was added for clarity. The added language is as follows:

***Divorce:*** *The process of terminating a marriage or domestic partnership.*

***Domestic Relations Order (DRO):*** *A DRO is a special type of court order that divides retirement benefits in a divorce that is issued separate and apart from a final judgment granting a divorce or marital settlement agreement.*

***Eligible Surviving Spouse:*** *A spouse married to a member at least one year before the date of retirement or two years before the date of the member's death and has reached the age of 55 on or before the date of the member's death<sup>i</sup>*

***Joinder:*** *A procedure whereby OCERS has or claims an interest in a marital dissolution action.<sup>ii</sup>*

***Judgment of Dissolution of Marriage:*** *An order that states the court's decision in a summary dissolution case to end a marriage or domestic partnership.*

***Judgment of Legal Separation:*** *An order that divides the marital property and debts and makes orders about financial support while keeping the marriage intact.*

***Legal Separation:*** *The parties stay married, but the court divides the marital property and debts and makes orders about financial support.*

***Registered Domestic Partnership (Domestic Partner):*** *Two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring that have met certain criteria and registered with the Secretary of State's Office.*

**Limitations:** A section explicitly stating the legal limits of the Procedure was added for clarity. The section makes clear that the Procedure is to be interpreted consistently with governing legal authority, OCERS cannot provide legal advice, and recommends parties consult an appropriate attorney for advice.

The added language is as follows:

*This administrative procedure will be construed consistently with the requirements of the California Family Code. If this procedure conflicts with statute or authoritative case law, the statute or case law will control.*

*OCERS cannot provide legal advice to members, spouses of members, or former spouses of members. Retirement benefits paid by OCERS may constitute a substantial asset of the parties. OCERS recommends that parties consult an attorney knowledgeable in California community property law and the division of retirement benefits for advice and assistance.*

**Process:** Sub-sections were added to increase readability by distinguishing different topics contained in the section. Redundant or vague language was revised to be clearer and more concise. Language was added to provide a hyperlink to additional information regarding Retirement Payment Options on the OCERS website.

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<sup>i</sup> Gov Code, §§ 31760.1, 31760.2.

<sup>ii</sup> See Fam Code, §2021; Cal Rules of Ct 5.24.

The following sub-section titles were added:

**Notifying OCERS of a Divorce**

**Joining OCERS in a Member’s Divorce**

**Domestic Relations Order (DRO)**

**Model Domestic Relations Orders (“DROs”)**: Model DRO A has been revised to improve clarity. Language regarding the legal limits of Model DRO A has been added as follows:

*The OCERS Model Domestic Relations Order A is a model. It may not be appropriate for all circumstances. Parties are advised to consult an attorney to determine the content required for the parties’ specific needs.*

*The disposition of retirement benefits in domestic relations proceedings involves complex legal and tax issues.*

The Orange County Employees’ Retirement System, its agents and consultants are not authorized to give legal advice and, therefore, make no representation as to the sufficiency of the model orders herein under applicable federal or state law or as to legal consequences.

*OCERS must review any proposed DRO to ensure it can be administered before it’s submitted to the court. If a DRO is submitted to the court without review and approval, OCERS will move to set aside a DRO that does not meet its guidelines.*

*OCERS must be joined before the proposed DRO will be reviewed.*

**ALL TEXT IN BOLD RED MUST BE REMOVED BEFORE OCERS WILL REVIEW THE DRAFT DOCUMENT.**

The following sub-section title was added:

**IDENTIFICATION OF PARTIES AND STATISTICAL INFORMATION**

The proposed revisions are set forth in underlined/strikeout text in the attached copy of the Divorce Procedure. An unmarked version of the Divorce Procedure is also attached for the Committee’s ease of review.

**Submitted by:**



**RB-APPROVED**

Rosie Baek  
Staff Attorney





## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

### Purpose

This OCERS Administrative Procedure (“OAP”) provides information ~~regarding the division of~~ about how the community property interest of ~~OCERS a member’s~~ benefits ~~in accordance with~~ are divided, pursuant to a valid a court order setting ~~forth~~ the terms and conditions of ~~the dissolution a divorce. More specifically,~~ this OAP will describe the process of notifying OCERS of a divorce, joining OCERS in a divorce, and providing OCERS with a Domestic Relations Order that divides the member’s pension benefits. ~~marriage or domestic partnership issued pursuant to the California Family Code and applicable case law.~~

### Authority

This OAP is established pursuant to the Chief Executive Officer (CEO) Charter, section 8.f., which directs the CEO to develop staff policies and procedures to ensure effective and efficient administration of member benefits. The OAP is in conformance with Board Policy, the County Employees Retirement Law (California Government Code section 31450, et seq.) (CERL), and the Public Employees’ Pension Reform Act (Government Code, sections 7522 - 7522.74) (PEPRA). ~~Also, t~~ This OAP is established pursuant to ~~consistent with California Family Code §2610, which provides that the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party’s full community property share in any retirement plan, whether public or private, including all survivor and death benefits.~~ Authority includes but is not limited to Family Code § 2610.

### Definitions

**Divorce:** The process of terminating a marriage or domestic partnership.

**Domestic Relations Order (DRO):** A DRO is a special type of court order that divides retirement benefits in a divorce that is issued separate and apart from a final judgment granting a divorce or marital settlement agreement that divides retirement benefits in a divorce.

**Eligible Surviving Spouse:** A spouse married to a member at least one year ~~prior to~~ before the date of retirement or two years ~~prior to~~ before the date of the member’s death and has reached the age of 55 on or ~~prior to~~ before the date of the member’s death.<sup>1</sup> Gov Code §31760.1; 31760.2.

**Registered Domestic Partnership:** Two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring that have met certain criteria and registered with the Secretary of State’s Office.

~~**Divorce:** The process of terminating a marriage or domestic partnership. Divorce usually entails the canceling or reorganizing of the legal duties and responsibilities of marriage, thus dissolving the bonds of matrimony between a married couple under the rule of law.~~

~~**Legal Separation:** The parties stay married, but the court divides the marital property and debts and makes orders about financial support.~~

~~**Judgment of Dissolution of Marriage:** An order that states the court's decision in a summary dissolution case to end a marriage or domestic partnership. It states the date that the parties become single and tells the parties to comply with the agreement attached to the judgment.~~



## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

~~**Judgment of Legal Separation:** An order that divides the marital property and debts and makes orders about financial support while keeping the marriage intact.~~

**Joinder:** A procedure whereby ~~OCERS~~ a person or entity, other than the spouses, who has or claims an interest in ~~the proceeding may be made a party to~~ a marital dissolution action. ~~Fam C §2021; Cal Rules of Ct 5.24.~~

~~**Judgment of Dissolution of Marriage:** An order that states the court's decision in a summary dissolution case to end a marriage or domestic partnership. It states the date that the parties become single and tells the parties to comply with the agreement attached to the judgment.~~

~~**Judgment of Legal Separation:** An order that divides the marital property and debts and makes orders about financial support while keeping the marriage intact.~~

~~**Legal Separation:** The parties stay married, but the court divides the marital property and debts and makes orders about financial support.~~

**Registered Domestic Partnership (Domestic Partner):** Two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring that have met certain criteria and registered with the Secretary of State's Office.

~~**Domestic Relations Order (DRO):** A DRO is a special type of court order that is issued separate and apart from a final judgment granting a divorce or marital settlement agreement that divides retirement benefits in a divorce.~~

~~**Eligible Surviving Spouse:** A spouse married to a member at least one year prior to the date of retirement or were married two years prior to the date of the member's death and has reached the age of 55 on or prior to the date of the member's death. Gov Code §31760.1.; 31760.2.~~

## Limitations

This administrative procedure will be construed consistently with the requirements of the California Family Code. If this procedure conflicts with statute or authoritative case law, the statute or case law will control.

OCERS cannot provide legal advice to members, spouses of members, or former spouses of members. Retirement benefits paid by OCERS may constitute a substantial asset of the parties. OCERS ~~recommends~~ advises that the parties consult an attorney ~~who is knowledgeable in the areas of~~ knowledgeable in California community property law and the division of retirement benefits for advice and assistance.

## Process

### Notifying OCERS of a Divorce

OCERS must be provided with a conformed copy (~~p~~Photographs will not be accepted-) of a Judgment of Dissolution of Marriage/Property Settlement Agreement with all attachments from the member's divorce proceedings. OCERS cannot assist the member with obtaining a copy from the court.

~~The judgment will undergo a detailed review to assess whether the member is entitled to their retirement, including the community property portion, as separate property or whether the former spouse is entitled~~



## OCERS Administrative Procedure (OAP) Division of Retirement Benefits Upon Divorce

~~to an interest in the community property portion of the member's retirement benefit as determined by the court.~~

If a determination has been made that the member's pension is to be divided, [OCERS Member Services Division](#) will notify the member that OCERS will require a Domestic Relations Order (DRO), [as discussed below](#).

~~OCERS will not pay any amounts to the non-member former spouse until the member actually retires and begins receiving a benefit. (In re Marriage of Jensen (1991) 235 Cal.App.3d 1137.)~~

### **Joining OCERS in a Member's Divorce**

In all cases, OCERS must be joined in the parties' dissolution action so that the court will have proper jurisdiction over the benefits that OCERS administers. OCERS cannot pay a benefit to a ~~non-member spouse or former spouse~~ [or domestic partner](#) unless OCERS has been properly joined in the matter.<sup>iii</sup> [Gov. Code § 31452](#). [Note, also, that OCERS will not pay any amounts to the non-member former spouse until the member retires and begins receiving a benefit.](#)<sup>iv</sup>

~~OCERS staff cannot assist the parties with filing joinder documents.~~

Forms for joining OCERS as a party to a marital dissolution action in California are available on the California Judicial Council website ~~located at~~ [www.courts.ca.gov](http://www.courts.ca.gov) ~~in under~~ the "forms" ~~area~~ [section](#). The specific forms required for joining OCERS are: FL 370 (Pleading on Joinder – Employee Benefits Plan), FL 372 (Request for Joinder of Employee Benefit Plan and Order), and FL 375 (Summons – Joinder). These forms must be filled out by a party and filed with the court ~~prior to~~ [before](#) service on OCERS.

~~OCERS staff cannot assist the parties with filing joinder documents.~~

~~The joinder documents must be properly served on OCERS to be considered valid.~~ [Joinder documents must be properly served on OCERS](#). Service can be made electronically (preferred), via U.S. Mail, [fax at \(657\) 363-3205](#), or in person.<sup>v</sup> [Family Code § 2062](#).

After service of the joinder documents, OCERS will file a Notice of Appearance and Response (FL 374) [with the court](#). OCERS will serve the unfiled Notice of Appearance on the parties along with a letter providing information about OCERS.

**Note: OCERS is not subject to the jurisdiction of out-of-state courts. Any Domestic Relations Orders (DROs) filed in out-of-state courts must be domesticated in a California court ~~in order~~ to be binding on OCERS.**

### **Domestic Relations Order (DRO)**

OCERS requires a ~~Domestic Relations order~~ [DRO](#) to divide a member's pension benefits between the parties. Parties are encouraged to have a DRO on file prior to a member's retirement.

**The parties or their attorneys are required to submit a draft DRO to OCERS prior to filing ~~with the court. If a DRO is filed with the court without approval by OCERS, OCERS will petition the court to set aside the DRO if it does not comply with~~ [with the court](#). [If a DRO is filed with the court without OCERS' approval, OCERS will petition the court to set it aside if it does not comply with the ~~plan rules~~ terms that govern OCERS.](#)**



## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

The DRO must provide a method for calculating the ~~respective shares of the parties'~~ parties' respective shares. The most common ~~method for calculation~~ calculation method is the "Time Rule" or *Judd* formula. ~~(In re Marriage of Judd (1977) 68 Cal.App.3d 515.)~~ Under the *Judd* formula, the number of months of the member's credited employment service during marriage is divided by the total number of months of ~~his or her~~ their credited employment service. This amount is then multiplied by one-half to get the non-member's percentage.

For example, if the member has 20 years of employment service and was married for 10 of those years, the non-member's share would be 25% of the member's retirement allowance:

$$\frac{240 \text{ months of service during marriage}}{240 \text{ total months of service}} \times .5 = 25\%$$

Parties may designate a different method for calculation of the parties' respective shares subject to approval by OCERS. Additional information regarding Retirement Payment Options can be found on our website at: <https://www.ocers.org/retirement-benefit-payment-options>

Retirement benefit payment options available to OCERS members are found in Gov. Code sections §§ 31761 – 31764. Options 2, 3, and 4 provide payments to a designated beneficiary or, under Option 4, multiple beneficiaries for the life of the beneficiary or beneficiaries. ~~Optional payments are calculated based on their being actuarially equivalent to the payments made under the unmodified option. Therefore, optional payments may be less than payments received under the unmodified option. This reduction of payments is considered the "cost" of the optional payment plan. If the parties wish to elect an optional retirement payment, the DRO must designate which party or parties will bear the cost of the optional election.~~ Optional payments are calculated to be actuarially equivalent to the payments made under the unmodified option. As a result, optional payments may be lower than the payments received under the unmodified option. This decrease in payments is referred to as the "cost" of the optional payment plan. If the parties choose to opt for an optional retirement payment, the DRO must specify which party or parties will bear the cost of the optional election.

OCERS cannot compel a member to choose a payment option in favor of the former spouse. Pursuant to Family Code section §-2610, the court may order a member to elect a survivor benefit annuity or other similar election for the benefit of the former spouse.

~~Additional information regarding Retirement Payment Options can be found on our website at: <https://www.ocers.org/retirement-benefit-payment-options>~~

Model DROs are attached to this document ~~and Appendix~~ and are also available on our website at <https://www.ocers.org/divorce>. OCERS model DROs may not be appropriate for the unique circumstances of every individual case.

***If the parties are filing a DRO under a Legal Separation, the language in the DRO must clearly state, that the parties are legally separated, and that the spouse is considered a surviving spouse. OCERS must also be provided a conformed copy of the Judgment of Legal Separation.***



## OCERS Administrative Procedure (OAP) Division of Retirement Benefits Upon Divorce

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<sup>i</sup> [Gov Code, §§ 31760.1, 31760.2.](#)

<sup>ii</sup> [See Fam Code, §2021; Cal Rules of Ct 5.24.](#)

<sup>iii</sup> [Gov. Code, § 31452.](#)

<sup>iv</sup> [See \*In re Marriage of Jensen\* \(1991\) 235 Cal.App.3d 1137.](#)

<sup>v</sup> [Family Code, § 2062.](#)

<sup>vi</sup> [See \*In re Marriage of Judd\* \(1977\) 68 Cal.App.3d 515.](#)



## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

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## Purpose

This OCERS Administrative Procedure (“OAP”) provides information about how the community property interest of a member’s benefits are divided, pursuant to a valid a court order setting the terms and conditions of a divorce. More specifically, this OAP will describe the process of notifying OCERS of a divorce, joining OCERS in a divorce, and providing OCERS with a Domestic Relations Order that divides the member’s pension benefits.

## Authority

This OAP is established pursuant to the Chief Executive Officer (CEO) Charter, section 8.f., which directs the CEO to develop staff policies and procedures to ensure effective and efficient administration of member benefits. The OAP is in conformance with Board Policy, the County Employees Retirement Law (California Government Code section 31450, et seq.) (CERL), and the Public Employees’ Pension Reform Act (Government Code, sections 7522 - 7522.74) (PEPRA). Also, this OAP is consistent with California Family Code §2610, which provides that the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party’s full community property share in any retirement plan, whether public or private, including all survivor and death benefits.

## Definitions

**Divorce:** The process of terminating a marriage or domestic partnership.

**Domestic Relations Order (DRO):** A DRO is a special type of court order that divides retirement benefits in a divorce that is issued separate and apart from a final judgment granting a divorce or marital settlement agreement.

**Eligible Surviving Spouse:** A spouse married to a member at least one year before the date of retirement or two years before the date of the member’s death and has reached the age of 55 on or before the date of the member’s death.<sup>i</sup>

**Joinder:** A procedure whereby OCERS has or claims an interest in a marital dissolution action.<sup>ii</sup>

**Judgment of Dissolution of Marriage:** An order that states the court’s decision in a summary dissolution case to end a marriage or domestic partnership.

**Judgment of Legal Separation:** An order that divides the marital property and debts and makes orders about financial support while keeping the marriage intact.

**Legal Separation:** The parties stay married, but the court divides the marital property and debts and makes orders about financial support.

**Registered Domestic Partnership (Domestic Partner):** Two adults who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring that have met certain criteria and registered with the Secretary of State’s Office.





## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

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## Limitations

This administrative procedure will be construed consistently with the requirements of the California Family Code. If this procedure conflicts with statute or authoritative case law, the statute or case law will control.

OCERS cannot provide legal advice to members, spouses of members, or former spouses of members. Retirement benefits paid by OCERS may constitute a substantial asset of the parties. OCERS recommends that parties consult an attorney knowledgeable in California community property law and the division of retirement benefits for advice and assistance.

## Process

### Notifying OCERS of a Divorce

OCERS must be provided with a conformed copy (photographs will not be accepted) of a Judgment of Dissolution of Marriage/Property Settlement Agreement with all attachments from the member's divorce proceedings. OCERS cannot assist the member with obtaining a copy from the court.

If a determination has been made that the member's pension is to be divided, OCERS Member Services Division will notify the member that OCERS will require a Domestic Relations Order (DRO), as discussed below.

### Joining OCERS in a Member's Divorce

In all cases, OCERS must be joined in the parties' dissolution action so that the court will have proper jurisdiction over the benefits that OCERS administers. OCERS cannot pay a benefit to a former spouse or domestic partner unless OCERS has been properly joined in the matter.<sup>iii</sup> Note, also, that OCERS will not pay any amounts to the non-member former spouse until the member retires and begins receiving a benefit.<sup>iv</sup>

OCERS staff cannot assist the parties with filing joinder documents. Forms for joining OCERS as a party to a marital dissolution action in California are available on the California Judicial Council website at [www.courts.ca.gov](http://www.courts.ca.gov) under the "forms" section. The specific forms required for joining OCERS are FL 370 (Pleading on Joinder – Employee Benefits Plan), FL 372 (Request for Joinder of Employee Benefit Plan and Order), and FL 375 (Summons – Joinder). These forms must be filled out by a party and filed with the court before service on OCERS.

Joinder documents must be properly served on OCERS. Service can be made electronically (preferred), via U.S. Mail, fax at (657) 363-3205, or in person.<sup>v</sup> After service of the joinder documents, OCERS will file a Notice of Appearance and Response (FL 374) with the court. OCERS will serve the unfiled Notice of Appearance on the parties along with a letter providing information about OCERS.

***Note: OCERS is not subject to the jurisdiction of out-of-state courts. Any Domestic Relations Orders (DROs) filed in out-of-state courts must be domesticated in a California court to be binding on OCERS.***

### Domestic Relations Order (DRO)

OCERS requires a DRO to divide a member's pension benefits between the parties. Parties are encouraged to have a DRO on file prior to a member's retirement.



## OCERS Administrative Procedure (OAP)

# Division of Retirement Benefits Upon Divorce

**The parties or their attorneys are required to submit a draft DRO to OCERS prior to filing it with the court. If a DRO is filed with the court without OCERS' approval, OCERS will petition the court to set it aside if it does not comply with the terms that govern OCERS.**

The DRO must provide a method for calculating the parties' respective shares. The most common calculation method is the "Time Rule" or *Judd* formula.<sup>vi</sup> Under the *Judd* formula, the number of months of the member's credited employment service during marriage is divided by the total number of months of their credited employment service. This amount is then multiplied by one-half to get the non-member's percentage.

For example, if the member has 20 years of employment service and was married for 10 of those years, the non-member's share would be 25% of the member's retirement allowance:

$$\frac{240 \text{ months of service during marriage}}{240 \text{ total months of service}} \times .5 = 25\%$$

Parties may designate a different method for calculation of the parties' respective shares subject to approval by OCERS. Additional information regarding Retirement Payment Options can be found on our website at: <https://www.ocers.org/retirement-benefit-payment-options>

Retirement benefit payment options available to OCERS members are found in Gov. Code sections 31761 – 31764. Options 2, 3, and 4 provide payments to a designated beneficiary or, under Option 4, multiple beneficiaries for the life of the beneficiary or beneficiaries. Optional payments are calculated to be actuarially equivalent to the payments made under the unmodified option. As a result, optional payments may be lower than the payments received under the unmodified option. This decrease in payments is referred to as the "cost" of the optional payment plan. **If the parties choose to opt for an optional retirement payment, the DRO must specify which party or parties will bear the cost of the optional election.**

OCERS cannot compel a member to choose a payment option in favor of the former spouse. Pursuant to Family Code section 2610, the court may order a member to elect a survivor benefit annuity or other similar election for the benefit of the former spouse.

Model DROs are attached to this document and are also available on our website at <https://www.ocers.org/divorce>. OCERS model DROs may not be appropriate for the unique circumstances of every individual case.

***If the parties are filing a DRO under a Legal Separation, the language in the DRO must clearly state that the parties are legally separated and that the spouse is considered a surviving spouse. OCERS must also be provided a conformed copy of the Judgment of Legal Separation.***





## OCERS Administrative Procedure (OAP) Division of Retirement Benefits Upon Divorce

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<sup>i</sup> Gov Code, §§ 31760.1, 31760.2.

<sup>ii</sup> See Fam Code, §2021; Cal Rules of Ct 5.24.

<sup>iii</sup> Gov. Code, § 31452.

<sup>iv</sup> See *In re Marriage of Jensen* (1991) 235 Cal.App.3d 1137.

<sup>v</sup> Family Code, § 2062.

<sup>vi</sup> *In re Marriage of Judd* (1977) 68 Cal.App.3d 515.

DRAFT



## Orange County Employees Retirement System

### DIVORCE AND RETIREMENT

### FREQUENTLY ASKED QUESTIONS

#### Contact Us

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Santa Ana, CA 92702

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# Divorce and Retirement

## Definitions

**Divorce:** The process of terminating a marriage or domestic partnership.

**Domestic Relations Order (DRO):** A DRO is a special type of court order that divides retirement benefits in a divorce that is issued separate and apart from a final judgment granting a divorce or marital settlement agreement.

**Eligible Surviving Spouse:** A spouse married to a member at least one year prior to the date of retirement or two years prior to the date of the member's death and has reached the age of 55 on or prior to the date of the member's death. (Gov. Code §31760.1; 31760.2.)

**Joinder:** A procedure whereby OCERS has or claims an interest in a marital dissolution action. (Fam. Code §2021; Cal Rules of Ct 5.24.)

**Judgment of Dissolution of Marriage:** An order that states the court's decision in a summary dissolution case to end a marriage or domestic partnership. It states the date that the parties become single and tells the parties to comply with the agreement attached to the judgment.

**Judgment of Legal Separation:** An order that divides the marital property and debts and makes orders about financial support while keeping the marriage intact.

**Registered Domestic Partnership (Domestic Partner):** Two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring that have met certain criteria and registered with the Secretary of State's Office.

## Purpose

These divorce and retirement FAQs are intended to provide you with general information regarding the division of the community property interest of OCERS member benefits in accordance with a court order setting forth the terms and conditions of the dissolution of marriage or domestic partnership issued pursuant to the California Family Code and applicable case law.

This document does not constitute legal advice and OCERS will not provide legal advice to members, spouses of members, former spouses of members, domestic partners, or beneficiaries. As such, OCERS Legal Staff does not generally communicate with members, spouses of members, former spouses of members, domestic partners, or beneficiaries directly. If either party is represented by an attorney, OCERS Legal Staff will only communicate with the attorney. OCERS will not participate in any negotiation between parties related to retirement benefits. The parties should consult an attorney knowledgeable in the areas of California community property law and the division of retirement benefits. OCERS cannot recommend an attorney.

If these FAQs conflict with statute or authoritative case law, the statute or case law will control.

## What is a registered domestic partnership?

Family Code §297 defines a domestic partnership as two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

A domestic partnership is established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State.

For additional information and requirements for Domestic Partnerships, please go to:  
[https://sco.ca.gov/Files-PPSD/FAQs\\_Domestic\\_Partnerships.pdf](https://sco.ca.gov/Files-PPSD/FAQs_Domestic_Partnerships.pdf)

**How do I notify OCERS of my divorce?**

OCERS must be provided with a conformed copy (photographs will not be accepted) of a Judgment of Dissolution of Marriage (Form FL-180 or FL-825) with all attachments from the member's divorce proceedings. OCERS will not obtain a copy from the court on behalf of the member or former spouse/domestic partner.

The judgment will undergo a detailed review to assess whether the member is entitled to their retirement, including the community property portion, as separate property or whether the former spouse is entitled to an interest in the community property portion of the member's retirement benefit as determined by the court. The language in the judgment must be clear. It is best if the judgment specifically mentions OCERS and clearly states what the member and former spouse are entitled to (e.g., 60% and 40%).

All documents must contain a court's file stamp and the judge's signature. Incomplete documents will be rejected. If a former spouse/domestic partner was not granted any rights to a member's benefit, no further steps are necessary. However, members are still required to submit this documentation and OCERS Member Services Department will notify the member if any additional steps are necessary. If the former spouse/domestic partner is entitled to a portion of the members retirement benefit a Joinder and DRO are required.

**If OCERS determines that my pension is to be divided, can my former spouse/domestic partner waive their interest by submitting a written waiver?**

No. If they wish to waive their interest the parties will be required to return to court and have their Judgment of Dissolution amended to reflect that the OCERS benefit is the sole and separate property of the member.

**What is a Domestic Relations Order (DRO)?**

A Domestic Relations Order, or DRO, is a type of court order that is filed separate and apart from the Judgment of Dissolution or marital settlement agreement that will direct OCERS on how to pay your former spouse/domestic partner. OCERS' model DROs can be found <https://www.ocers.org/post/legal-forms>. The model DRO may not be appropriate for the unique circumstances of every individual case.

**Does OCERS establish separate retirement accounts for me and my former spouse/domestic partner?**

No. Government Code §§ 31685 through 31685.96 have not been adopted in Orange County. In addition, the Retirement System will not pay out benefits to either the member or former spouse/domestic partner while the member is still working. (In re Marriage of Jensen (1991) 235 Cal.App.3d 1137.)

**Can my former spouse/domestic partner cash-out their share of my retirement before I retire?**

No. OCERS does not allow a former spouse/domestic partner to cash-out part of a member's contributions. If a member terminates employment and asks for a return of their contributions, a percent of those cashed out contributions may be payable to a former spouse/domestic partner. Also, should a

member wish to retire, their former spouse/domestic partner can only receive a direct payment from OCERS when a member retires and not before.

**Does OCERS need to be joined in my divorce?**

In all cases, OCERS must be joined in the parties’ divorce action so the court will have jurisdiction over the benefits that OCERS administers. OCERS will not pay a benefit to a former spouse/domestic partner unless OCERS has been properly joined in the matter. (Gov. Code § 31452.) The parties are responsible for filing the joinder, and either party may file. OCERS staff will not assist the parties with completing the joinder documents or filing them.

Forms for joining OCERS as a party to a divorce action in California are available on the California Judicial Council website [www.courts.ca.gov](http://www.courts.ca.gov) in the forms area. The specific forms required for joining OCERS are FL-370 (Pleading on Joinder – Employee Benefits Plan), FL-372 (Request for Joinder of Employee Benefit Plan and Order), and FL-375 (Summons – Joinder). These forms *must* be completed by a party *and* filed with the court *prior* to service on OCERS. (Fam. Code §§ 2060 – 2065.)

The Claimant name listed on the joinder documents must read: **Orange County Employees Retirement System**. If joinder documents are served with the incorrect Claimant name, they will be rejected, and the parties will be required to amend and refile them with the court and serve them upon the Retirement System.

OCERS will accept service electronically (preferred) or via fax to (657) 363-3205, or service via U.S. Mail. Personal service is not required. For electronic service, please email Member Services at [msemail@ocers.org](mailto:msemail@ocers.org).

**If OCERS determines that I need a DRO, can I still retire and collect my benefit?**

Yes, 50% of your benefit will be withheld. Family Code section 755 requires OCERS to withhold part of any benefit payment, whether the member is receiving a monthly retirement benefit or seeking to withdraw their contributions, when it either has a Joinder on file or if there is a written Notice of Adverse Interest from a former spouse/domestic partner.

A joinder is not required for a former spouse/domestic partner to claim an interest in a member’s retirement benefit or return of contributions. A former spouse/domestic partner may send *written* notice directly to OCERS asserting an interest in a member’s retirement benefit without going through Family Court.

When OCERS receives this written notice, OCERS will immediately begin withholding 50% of the member’s benefit and will not release any withheld funds until we receive joinder and a DRO.

Parties are encouraged to complete the DRO process *prior* to retirement. Doing so would avoid any potential delay in benefits being paid to the member or former spouse/domestic partner. OCERS is not responsible for the parties’ failure to comply with their Judgment of Dissolution and timely file a DRO.

**What does OCERS require for a DRO to be administered?**

The DRO must provide a method for calculating the respective shares of the parties. The most common method for calculation is the “Time Rule” or Judd formula (In re Marriage of Judd (1977) 68 Cal.App.3d 515). Under the Judd formula, the number of months of the member’s credited employment service

during marriage is divided by the total number of months of their credited employment service. This amount is then multiplied by one-half to get the non-member's percentage. For example, if the member has 20 years of employment service and was married for 10 of those years, the non-member's share would be 25% of the member's retirement allowance:

$$\frac{120 \text{ months of service during marriage}}{240 \text{ total months of service}} \times .5 = 25\%$$

Parties may designate a different method for calculation such as a flat dollar amount or percentage of the parties' respective shares subject to approval by OCERS.

The DRO must clearly define how death benefits are to be handled.

If the DRO is vague and ambiguous it will be rejected.

**Does OCERS need to review my DRO before I file it with the court?**

OCERS must review any proposed DRO to ensure it can be administered before it's submitted to the court. If a DRO is submitted to the court without review and approval, OCERS will move to set aside a DRO that does not meet its guidelines.

OCERS must be joined before the proposed DRO will be reviewed.

**If I have a DRO that was filed in another state, will OCERS accept it?**

California Community Property Law governs the OCERS Plan. OCERS is not subject to the jurisdiction of out-of-state courts.

OCERS is unable to administer an out-of-state DRO unless it is domesticated in California. Once the DRO is registered in California, OCERS must be joined to the court proceeding in California. After OCERS is joined, the parties must provide OCERS with a copy of the out-of-state DRO for review prior to it being filed with the court. If the proposed DRO is approved, you must file it in a California court, join OCERS in the divorce action and serve OCERS with a conformed copy of the DRO.

OCERS will not assist either party with the domestication process.

**How do I make changes to or vacate my DRO?**

If the Parties wish to changes to their DRO, they will be required to amend it. The caption of the DRO must specifically reference the term "Amended", otherwise, the DRO will be rejected.

To vacate a DRO, OCERS requires a Stipulation and Order that has been filed with the court stating that the DRO has been vacated.

**If I have a DRO on file and have remarried, will my current spouse be entitled to a continuing benefit upon my death?**

If a member elects or has elected the Unmodified Option at the time of retirement, the new or current spouse would be eligible for a continuing benefit if the parties were married at least one year prior to the

date of retirement or were married two years prior to the date of death and the spouse has reached the age of 55 on or prior to your date of death.

**Will my former spouse/domestic partner be considered a surviving spouse?**

A former spouse/domestic partner is not considered a surviving spouse/domestic partner; however, they may receive their community property share of any continuing benefit payment that may be paid to a qualified spouse upon the death of the member.

**What is the difference between divorce and legal separation? If I'm legally separated, can I still file a DRO?**

Divorce is the process of terminating a marriage or domestic partnership. Divorce usually entails the canceling or reorganizing of the legal duties and responsibilities of marriage, thus dissolving the bonds of matrimony between a married couple under the rule of law. In a legal separation, the parties stay married, but the court divides the marital property and debts and makes orders about financial support. If parties are legally separated and wish to file a DRO under that status, OCERS will require a copy of a filed Judgment of Legal Separation complete with any property settlement agreement. Additionally, the DRO must contain language indicating that the parties are legally separated.

OCERS will monitor the legally separated parties' court action on a monthly basis. If it finds that a divorce has been granted, then the former spouse will no longer be eligible for a surviving spouse continuance.

**Limitations**

OCERS cannot administer a DRO that requires it to pay benefits with a total value that would exceed the value the Member would have received if the DRO had not been issued.

OCERS is **not** subject to ERISA, or its provisions applicable to Qualified Domestic Relations Orders (QDROs).

OCERS does **not** administer the Orange County's or other employer's 457 Deferred Compensation Plan or 401(k) plan.

OCERS cannot compel a member to choose a payment option in favor of the former spouse. Pursuant to Family Code section 2610 the court may order the member to elect a survivor benefit annuity or other similar election for the benefit of the former spouse.

MODEL DOMESTIC RELATIONS **ORDER A**

Active or Deferred Members *Prior* to Retirement

**This Model Domestic Relations Order is designed for use by active and deferred members of OCERS.**

**CAUTION: You are hereby advised to seek competent legal counsel.**

The OCERS Model Domestic Relations Order A is a model. It may not be appropriate for all circumstances. Parties are advised to consult an attorney to determine the content required for the parties' specific needs.

The disposition of retirement benefits in domestic relations proceedings involves complex legal and tax issues.

The Orange County Employees' Retirement System, its agents and consultants are not authorized to give legal advice and, therefore, make no representation as to the sufficiency of the model orders under applicable federal or state law or as to legal consequences.

OCERS must review any proposed DRO to ensure it can be administered before it's submitted to the court. If a DRO is submitted to the court without review and approval, OCERS will move to set aside a DRO that does not meet its guidelines.

OCERS must be joined before the proposed DRO will be reviewed.

**ALL TEXT IN BOLD RED MUST BE REMOVED BEFORE OCERS WILL REVIEW THE DRAFT DOCUMENT.**



[Name of Counsel]  
[Address of Counsel] [City,  
State]  
[Phone Number]  
ATTORNEY FOR [Petitioner/Respondent]

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF

In Re the Marriage of

Case No. \_\_\_\_\_

Petitioner: \_\_\_\_\_

**STIPULATED DOMESTIC RELATIONS  
ORDER DIVIDING THE PARTIES'  
INTEREST IN THE ORANGE COUNTY  
EMPLOYEES' RETIRMENT SYSTEM**

and

Respondent: \_\_\_\_\_

Claimant: Orange County Employees  
Retirement System (OCERS)

Petitioner, \_\_\_\_\_, and Respondent, \_\_\_\_\_,  
hereby stipulate as follows:

**RECITALS**

1. Petitioner and Respondent were married on \_\_\_\_\_. They separated on \_\_\_\_\_, and this Court entered a judgment of dissolution in the action on \_\_\_\_\_.
2. This Court has jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage action.
3. OCERS was properly joined as a party to the Petitioner and Respondent's dissolution of marriage action on \_\_\_\_\_ pursuant to sections 2060 through 2065 of the Family Code.

**IDENTIFICATION OF PARTIES AND STATISTICAL INFORMATION**

1. Member’s Name: **[INSERT NAME]**, **[Respondent or Petitioner]**, hereinafter referred to as “Member,” for purposes of making any benefit payments provided by the terms of this Order or providing any notice required by the terms of this Order, Member’s current mailing address, telephone number, Social Security number and date of birth are as follows:
  - a. DATE OF BIRTH: Provided Under Separate Cover.
  - b. SOCIAL SECURITY NUMBER: Provided Under Separate Cover.
  - c. ADDRESS: Provided Under Separate Cover.
  - d. PHONE: Provided Under Separate Cover.
  - e. EMAIL: Provided Under Separate Cover.
  
2. Nonmember’s Name: **[INSERT NAME]**, **[Respondent or Petitioner]**, hereinafter referred to as “Nonmember,” for purposes of making any benefit payments provided by the terms of this Order or providing any notice required by the terms of this Order, Nonmember’s current mailing address, telephone number, Social Security number and date of birth are as follows:
  - a. DATE OF BIRTH: Provided Under Separate Cover.
  - b. SOCIAL SECURITY NUMBER: Provided Under Separate Cover.
  - c. ADDRESS: Provided Under Separate Cover.
  - d. PHONE: Provided Under Separate Cover.
  - e. EMAIL: Provided Under Separate Cover

**STIPULATION**

This Order is acceptable under the County Employees Retirement Law of 1937 (CERL), which is set forth at section 31450 et seq. of the Government Code. OCERS is a “governmental plan” as defined by 29 U.S.C. section 1002(32) and is therefore statutorily exempt from the provisions of Employee Retirement Income Security Act (ERISA) 29 U.S.C. section 1001, et seq., as amended by the Retirement Equity Act of 1984 (REA) which govern “Qualified Domestic Relations Orders (“QDRO’s”). See 29 U.S.C. section 1003(b)(1). Therefore, any order directed to OCERS should not be referred to as a “Qualified Domestic Relations Order,” nor should it require OCERS to comply with any provisions of ERISA or REA, or any other provisions of law generally applicable to Qualified Domestic Relations Orders.

3. Authority: This Order is entered pursuant to the Family Code, Section 2060, and following. In the event that anything in this order conflicts with statute or authoritative

case law, the statute or case law will control.

4. Party Interests: Member and Nonmember have acquired a community interest in the Member’s monthly retirement benefits and death benefits attributable to periods of service in OCERS from the Date of Marriage up to the Date of Separation.
5. Benefit Allocation: Pursuant to section 2610 of the Family Code, the Court allocates and awards to the Nonmember 50% of the monthly benefits attributable to the Member’s service in OCERS during the period from the Date of Marriage up to the Date of Separation as the Nonmember’s sole and separate property. All monthly benefits attributable to the Member’s service in OCERS which are not awarded to Nonmember pursuant to this Order shall be the Member’s sole and separate property.
6. Calculation of Nonmember’s Interest: OCERS is ordered to pay directly to Nonmember an interest in any and all of the Member’s retirement benefits, including any future cost-of-living increases pursuant to the *Judd* or “time rule”. (*In re Marriage of Judd* (1977) 68 Cal.App.3d 515), as follows:

Member’s Unmodified Gross Monthly Benefit	X	Number of months service credit earned or purchased during community ([date of marriage] to [date of separation])	X 50%	–	Monthly adjustment for Retirement Option] election (if applicable)	=	Nonmember’s monthly benefit
		Total number of months service credit earned or purchased by Member at retirement (excluding service credited for unused sick time or retirement incentive)					

**[THE TIME RULE FORMULA MAY BE ADJUSTED BASED ON THE REQUIRED SELECTION OF A RETIREMENT OPTION AND WHETHER THE MEMBER OR NONMEMBER BEARS THE COST OF SUCH RETIREMENT OPTION.]**

7. Commencement of Benefits to the Nonmember: Payments to the Nonmember shall be made at the same time that such benefits are paid to the Member in accordance with *In re Marriage of Jensen* (1991) 235 Cal.App.3d 1137. OCERS will make direct payment of each party’s share of said retirement benefit, by separate check, warrant, or electronic fund transfer. Should Member receive a disability retirement benefit, Nonmember shall be entitled to a portion of Member’s disability retirement equal to the amount Nonmember would have received had Member service retired pursuant to Paragraph 4 above. Payment to Nonmember shall commence upon the latter of (1) the date Member would have reached earliest retirement date under the Plan, or (2) the date of Member’s actual retirement for service.

8. Death of Nonmember: If Nonmember dies before Member, any retirement benefits that would have been paid by OCERS to Nonmember, if Nonmember were still alive, will be paid instead to Nonmember's estate or designated beneficiary, pursuant to *In re Marriage of Powers* (1990) 218 Cal.App.3d 626. Nonmember may designate a beneficiary to receive such benefits, pursuant to Government Code section 31458.4.
  
9. Death of Member Before Retirement: From the date of this Order, and until the time Member retires, Member shall designate Nonmember as Member's beneficiary to receive a portion of any lump sum death benefit (excluding burial) OCERS may become obligated to pay if Member dies before retirement. Said beneficiary designation shall allow Nonmember to receive a portion of any such death benefit, equal to Nonmember's percentage interest in Member's retirement benefit as of the date of Member's death, calculated pursuant to the "time rule" formula in section 4 above. Member may designate a co-beneficiary of Member's choosing to receive the remainder of any lump-sum death benefit OCERS becomes obligated to pay, after subtraction of Nonmember's share. If, at the time of Member's death before retirement, the Member leaves a "surviving spouse" who is eligible to elect, and does elect, a monthly survivor's allowance (continuance) pursuant to the terms of the Plan, Nonmember will be entitled to a pro-rata portion of such survivor's allowance pursuant to *In re Marriage of Carnall* (1989) 216 Cal.App.3d 1010. If Member dies and does not leave a surviving spouse but leaves one or more surviving minor children who are eligible to elect, and do elect, a monthly survivor's allowance under the terms and conditions of the Plan, Nonmember will be entitled to a pro-rata portion of such survivor's allowance until such children are no longer eligible for a monthly survivor's allowance. If any lump sum benefit (excluding burial) is paid to a surviving spouse or surviving minor children pursuant to the terms and conditions of the Plan, Nonmember's share shall be calculated pursuant to the formula in paragraph 4 above.

**[THE FOLLOWING PARAGRAPH PROVIDES SEVERAL OPTIONAL RETIREMENT ELECTIONS AVAILABLE UNDER THE CERL. CAREFULLY READ THE AVAILABLE OPTIONS. THE OPTIONS YOU DO NOT CHOOSE MUST BE REMOVED FROM THE DRO]**

10. Death of Member After Retirement/Retirement Option Selection: At the time of Member's Retirement, Member shall elect a benefit election based upon Member's marital status at retirement as follows:

**[IF THE BENEFIT ELECTION IS BASED ON MARITAL STATUS AT THE TIME OF RETIREMENT, YOU MUST INCLUDE INSTRUCTIONS FOR A MEMBER MARRIED AT THE TIME OF RETIREMENT AND A MEMBER NOT MARRIED AT THE TIME OF RETIREMENT. IF THE BENEFIT ELECTION IS NOT BASED ON MARITAL STATUS AT THE TIME OF RETIREMENT ONLY ONE ELECTION MAY BE IN THE DRO. ALL OTHER POSSIBLE ELECTIONS MUST BE REMOVED.]**

If the Member is married to a qualified spouse at member's date of retirement, Member

shall elect the “Unmodified Option” under the Plan, and name such qualifying spouse as beneficiary for the surviving spouse continuance under such option. It is the intention of the parties that Nonmember shall receive Nonmember’s community property interest, if any, in any surviving spouse continuance, pursuant to the calculation described above in section 4 above, which may be payable to Member’s surviving spouse pursuant to *In re Marriage of Carnall* (1989) 216 Cal.App.3d 1010, and any future qualified spouse who may qualify after Member’s retirement.

**[ONLY ONE ALTERNATIVE MAY BE CHOSEN. ALL OTHER ALTERNATIVES MUST BE DELETED FROM THE DRO.]**

**[ALTERNATIVE NO. 1]** If at the time the Member retires, the Member has no qualifying spouse, Member shall elect “Optional Settlement 2” pursuant to Government Code section 31762 and shall nominate Nonmember as sole beneficiary. Pursuant to this option, if Member predeceases Nonmember, Nonmember will receive, for the remainder of Nonmember’s lifetime, a continuance allowance equal to 100% of the total retirement benefit. Under this optional settlement, the right of Nonmember to receive a continuance allowance, after the death of Member, exists only for the lifetime of the Nonmember, and after the death of Nonmember, no further payment will be made to the estate or beneficiary of Nonmember. If Nonmember dies before the Member retires, Member need not elect an Optional Settlement.

**[ALTERNATIVE NO. 2]** If at the time the Member retires, the Member has no qualifying spouse, Member shall elect “Optional Settlement 3” pursuant to Government Code section 31763 and shall nominate Nonmember as sole beneficiary. Pursuant to this option, if Member predeceases Nonmember, Nonmember will receive, for the remainder of Nonmember’s lifetime, a continuance allowance equal to 50% of the total retirement benefit. Under this optional settlement, the right of Nonmember to receive a continuance allowance, after the death of Member, exists only for the lifetime of the Nonmember, and after the death of Nonmember, no further payment will be made to the estate or beneficiary of Nonmember. If Nonmember dies before the Member retires,

**[INSERT OPTION 4 INSTRUCTIONS]**

**[ALTERNATIVE NO. 3]** If at the time the Member retires, the Member has no qualifying spouse, Member shall elect “Optional Settlement 4” pursuant to Government Code section 31764, and shall nominate Nonmember as beneficiary. Under this optional settlement, the right of Nonmember to receive a continuance allowance, after the death of Member, exists only for the lifetime of the Nonmember, and after the death of Nonmember, no further payment will be made to the estate or beneficiary of Nonmember. If Nonmember dies before the Member retires, Member need not elect an Optional Settlement.

**[THE DRO MUST PROVIDE CLEAR INSTRUCTIONS FOR ALLOCATING THE COST OF THE OPTIONAL SETTLEMENT 4 ELECTION. PLEASE SELECT ONE OF THE FOLLOWING COST ALLOCATION:]**

**[(OPTIONAL LANGUAGE 3A – MEMBER BEARS “COST” OF OPTIONAL SETTLEMENT 4)]**

Pursuant to this Option, Member’s unmodified retirement allowance is reduced during Member’s lifetime, and if Member predeceases Nonmember, Nonmember will receive, for the remainder of Nonmember’s lifetime, a continuance of the retirement allowance equal to the amount Nonmember received at the time of Member’s death.

**[(OPTIONAL LANGUAGE 3B – NONMEMBER BEARS “COST” OF OPTIONAL SETTLEMENT 4)]**

Pursuant to this Option, Member’s unmodified retirement allowance will not be reduced, and Nonmember shall bear the cost of this retirement benefit election by a reduction in benefit, which amount Nonmember will receive, for the remainder of Nonmember’s lifetime.

11. Designation of Beneficiaries: Member and Nonmember shall be responsible for filing a Designation of Beneficiary form with the OCERS Administrator.
12. Constructive Trusts: In the event OCERS inadvertently or otherwise pays to Member or Member’s survivor any benefits that are assigned to Nonmember hereunder, Member or Member’s survivor shall be deemed a constructive trustee of said amounts. In the event OCERS inadvertently or otherwise pays to Nonmember or Nonmember’s survivor any benefits that are assigned to Member hereunder, Nonmember or Nonmember’s survivor shall be deemed a constructive trustee of said amounts.
13. Withdrawal of Contributions by the Member: If the Member wishes to withdraw their accumulated contributions, Nonmember shall be entitled to receive, at the time Member receives Member’s accumulated contributions, Nonmember’s community property share of those accumulated contributions pursuant to Paragraph 4, above. To ensure that Nonmember receives the full value of benefits guaranteed pursuant to Family Code section 2610, Nonmember must agree to the withdrawal in the form of a written statement that must be notarized. That statement shall include language stating the nonmember understands that they are waiving their right to a lifetime benefit.
14. Signatures: Member and Nonmember shall sign all forms, letters and other documents as required to affect the distribution(s) described herein and the intent of this Order.
15. Cooperation: If OCERS does not approve the form of this Order, then each party shall cooperate and do all things necessary to devise a form of Order acceptable to OCERS. The Member and Nonmember shall bear the cost of revising this order.
16. Limitations on Order: Nothing contained in this Order shall be construed to require OCERS:

- a. To provide to Nonmember any type or form of benefit or any option not otherwise available to Member under the Plan.
- b. To provide to Nonmember increased benefits (as determined based on actuarial value) not available to Member.
- c. To pay any benefits to Nonmember which are required to be paid to another non-member spouse under court order.
- d. To provide payment to the Nonmember of benefits forfeited by the Member.
- e. To change the benefit election of the member once the Member has retired.

17. Continuing Jurisdiction: The Court reserves jurisdiction to enforce, revise, modify, or amend this Order, provided, however, neither this Order nor any subsequent revision, modification, or amendment shall require OCERS to provide any form or amount of benefits not otherwise provided by OCERS. If any portion of this Order is rendered invalid or otherwise unenforceable, the Court reserves jurisdiction to make an appropriate adjustment to effectuate the intent of the parties.

18. Notices: Notice of change of address or telephone number shall be made in writing to OCERS addressed as follows, or as the Administrator may specify in a written response to Member and Nonmember:

Orange County Employees Retirement System  
P.O. Box 1229  
Santa Ana, CA 92702

19. Intent: Member, Nonmember, the OCERS Administrator, and the Court intend that this Order meet all requirements of a domestic relations order under the CERL and the Regulations of OCERS and other laws of the State of California. Any fees, taxes, and/or penalties will be assessed against the parties and not against OCERS.

**IT IS SO STIPULATED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Name]  
Petitioner

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Name]  
Attorney for Petitioner(if  
represented)

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Name]  
Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Name]  
Attorney for Respondent(if  
represented)

**ORDER**

The parties having stipulated and good cause appearing, therefore:

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT



MODEL DOMESTIC RELATIONS ORDER B

Retired Members

**This Model Domestic Relations Order (DRO) is designed for use by retired members who are receiving a service retirement allowance.**

**CAUTION: You are hereby advised to seek competent legal counsel.**

The OCERS Model Domestic Relations Order B is a model. It may not be appropriate for all circumstances. Parties are advised to consult an attorney to determine the content required for the parties' specific needs.

The disposition of retirement benefits in domestic relations proceedings involves complex marital and tax issues.

The Orange County Employees' Retirement System, its agents and consultants are not authorized to give legal advice and, therefore, make no representation as to the sufficiency of the model orders herein under applicable federal or state law or as to legal consequences.

OCERS must review any proposed DRO to ensure it can be administered before it's submitted to the court. If a DRO is submitted to the court without review and approval, OCERS will move to set aside a DRO that does not meet its guidelines.

OCERS must be joined before the proposed DRO will be reviewed.

[Name of Counsel]  
[Address of Counsel] [City,  
State]  
[Phone Number]  
ATTORNEY FOR [Petitioner/Respondent]

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF

In Re the Marriage of

Case No. \_\_\_\_\_

Petitioner: \_\_\_\_\_

**STIPULATED DOMESTIC RELATIONS  
ORDER DIVIDING THE PARTIES'  
INTEREST IN THE ORANGE COUNTY  
EMPLOYEES' RETIRMENT SYSTEM**

and

Respondent: \_\_\_\_\_

\_\_\_\_\_  
Claimant: Orange County Employees  
Retirement System (OCERS)

Petitioner, \_\_\_\_\_, and Respondent, \_\_\_\_\_,  
hereby stipulate as follows:

**RECITALS**

1. Petitioner and Respondent were married on \_\_\_\_\_. They separated on \_\_\_\_\_, and this Court entered a judgment of dissolution in the action on \_\_\_\_\_.
2. This Court has jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage action.
3. OCERS was properly joined as a party to the Petitioner and Respondent's dissolution of marriage action on \_\_\_\_\_ pursuant to sections 2060 through 2065 of the Family Code.

**IDENTIFICATION OF PARTIES AND STATISTICAL INFORMATION**

1. Member's Name: **[INSERT NAME]**, **[Respondent or Petitioner]**, hereinafter referred to as "Member,") for purposes of making any benefit payments provided by the terms of this Order or providing any notice required by the terms of this Order, Member's current mailing address, telephone number, Social Security number and date of birth are as follows:
  - a. DATE OF BIRTH: Provided Under Separate Cover.
  - b. SOCIAL SECURITY NUMBER: Provided Under Separate Cover.
  - c. ADDRESS: Provided Under Separate Cover.
  - d. PHONE: Provided Under Separate Cover.
  - e. EMAIL: Provided Under Separate Cover.
  
2. Nonmember's Name: **[INSERT NAME]**, **[Respondent or Petitioner]**, hereinafter referred to as "Nonmember," for purposes of making any benefit payments provided by the terms of this Order or providing any notice required by the terms of this Order, Nonmember's current mailing address, telephone number, Social Security number and date of birth are as follows:
  - a. DATE OF BIRTH: Provided Under Separate Cover.
  - b. SOCIAL SECURITY NUMBER: Provided Under Separate Cover.
  - c. ADDRESS: Provided Under Separate Cover.
  - d. PHONE: Provided Under Separate Cover.
  - e. EMAIL: Provided Under Separate Cover.

**STIPULATION**

This Order is acceptable under the County Employees Retirement Law of 1937 (CERL), which is set forth at section 31450 et seq. of the Government Code. OCERS is a "governmental plan" as defined by 29 U.S.C. section 1002(32), and is, therefore, statutorily exempt from the provisions of Employee Retirement Income Security Act (ERISA) 29 U.S.C. section 1001, et seq., as amended by the Retirement Equity Act of 1984 (REA) which govern "Qualified Domestic Relations Orders ("QDRO's"). See 29 U.S.C. section 1003(b)(1). Therefore, any order directed to OCERS should not be referred to as a "Qualified Domestic Relations Order," nor should it require OCERS to comply with any provisions of ERISA or REA, or any other provisions of law generally applicable to Qualified Domestic Relations Orders.

3. Authority: This Order is entered pursuant to the Family Code. If anything in this order conflicts with statute or authoritative case law, the statute or case law will control.

4. Party Interests: Member and Nonmember have acquired a community interest in the Member’s monthly retirement benefits attributable to periods of service in OCERS from the Date of Marriage up to the Date of Separation.
5. Member Status: The member made an irrevocable election at the time of retirement and elected the unmodified option, upon dissolution of marriage, Nonmember ceases to qualify for survivor benefits (continuance) pursuant to section 31760.2 of the Government Code or for death benefits under Government Code sections 31765, 31765.1, or 31786.
6. Calculation of Nonmember’s Interest: OCERS is ordered to pay directly to Nonmember an interest in any and all of the Member’s retirement benefits, including any future cost-of-living increases pursuant to the *Judd* or “time rule”. (*In re Marriage of Judd* (1977) 68 Cal.App.3d 515), as follows:

Member’s Unmodified Gross Monthly Benefit	X	$\frac{\text{Number of months service credit earned or purchased during community ([date of marriage] to [date of separation])}}{\text{Total number of months service credit earned or purchased by Member at retirement (excluding service credited for unused sick time or retirement incentive)}}$	X 50%	=	Nonmember’s monthly benefit
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Nonmember’s community property share of Member’s retirement benefits shall terminate upon the death of Member unless Member is married to an eligible spouse at the time of Member’s death, and OCERS pays the eligible spouse a continuation allowance pursuant to Government Code section 31760.2. In such event, OCERS will pay the Nonmember’s community portion of the continuation allowance to Nonmember according to formula above.

7. Commencement of Benefits to the Nonmember: Payment of the Nonmember’s share shall commence after OCERS’s final approval of a conformed copy of this order and as soon as administratively possible after Nonmember returns all required forms to OCERS.
8. Death of Nonmember: If Nonmember dies before Member, any retirement benefits which would have been paid (excluding burial benefits) by OCERS to Nonmember, if Nonmember were still alive, will be paid instead to Nonmember’s estate, pursuant to *In re Marriage of Powers* (1990) 218 Cal.App.3d 626. Nonmember may designate a beneficiary to receive such benefits, pursuant to Government Code section 31458.4.
9. Death of Member: If any return of accumulated contributions becomes payable as the result of the death of Member, the Nonmember is entitled to the Nonmember’s community property share of the accumulated contributions(excluding burial) as calculated in section 4 above. Member is hereby ordered to name Nonmember as

beneficiary for the community property share of the accumulated contributions.

10. Designation of Beneficiaries: Member and Nonmember shall be responsible for filing a Designation of Beneficiary form with the OCERS Administrator.
11. Constructive Trusts: In the event OCERS inadvertently or otherwise pays to Member or Member's survivor any benefits that are assigned to Nonmember hereunder, Member or Member's survivor shall be deemed a constructive trustee of said amounts. In the event OCERS inadvertently or otherwise pays to Nonmember or Nonmember's survivor any benefits that are assigned to Member hereunder, Nonmember or Nonmember's survivor shall be deemed a constructive trustee of said amounts.
12. Signatures: Member and Nonmember shall sign all forms, letters and other documents as required to affect the distribution(s) described herein and the intent of this Order.
13. Cooperation: If OCERS does not approve the form of this Order, then each party shall cooperate and do all things necessary to devise a form of Order acceptable to OCERS. The Member and Nonmember shall bear the cost of revising this Order.
14. Limitations on Order: Nothing contained in this Order shall be construed to require OCERS:
  - a. To provide to Nonmember any type or form of benefit or any option not otherwise available to Member under the Plan.
  - b. To provide to Nonmember increased benefits (as determined based on actuarial value) not available to Member.
  - c. To pay any benefits to Nonmember which are required to be paid to another non-member spouse under court order.
  - d. To provide payment to the Nonmember of benefits forfeited by the Member.
  - e. To change the benefit election of the member once the Member has retired.
15. Continuing Jurisdiction: The Court reserves jurisdiction to enforce, revise, modify or amend this Order, provided, however, neither this Order nor any subsequent revision, modification, or amendment shall require OCERS to provide any form or amount of benefits not otherwise provided by OCERS. If any portion of this Order is rendered invalid or otherwise unenforceable, the Court reserves jurisdiction to make an appropriate adjustment to effectuate the intent of the parties.
16. Notices: Notice of change of address or telephone number shall be made in writing to OCERS addressed as follows, or as the Administrator may specify in a written response to Member and Nonmember:

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
P.O. Box 1229  
Santa Ana, CA 92702

17. Intent: Member, Nonmember, the OCERS Administrator, and the Court intend that this Order meet all requirements of a domestic relations order under the CERL and the Regulations of OCERS and other laws of the State of California. Any fees, taxes, and/or penalties will be assessed against the parties and not against OCERS.

**IT IS SO STIPULATED:**

Dated: \_\_\_\_\_  
[Name]  
Petitioner

Dated: \_\_\_\_\_  
[Name]  
Attorney for Petitioner

Dated: \_\_\_\_\_  
[Name]  
Respondent

Dated: \_\_\_\_\_  
[Name]  
Attorney for Respondent

**ORDER**

The parties having stipulated and good cause appearing, therefore:

IT IS SO ORDERED.

Dated: \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT



## Memorandum

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**DATE:** November 1, 2024  
**TO:** Members of the Governance Committee  
**FROM:** Manuel Serpa, General Counsel  
**SUBJECT:** STRATEGY TO PREPARE FOR ACTUARIAL SURPLUS IN OCERS ACTUARIAL FUNDING POLICY

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### Presentation

#### Background/Discussion

Segal's Senior Vice President & Actuary, Todd Tauzer, will present at the November 1, 2024, Governance Committee meeting to provide best practices on preparing for actuarial surplus in OCERS Actuarial Funding Policy.

The presentation is attached. The Actuarial Funding Policy is also attached for the Committee's ease of review.

#### Attachments

#### Submitted by:



MDS-Approved

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Manuel D. Serpa  
General Counsel



OCERS Governance Committee - November 1, 2024

# Funding Strategically

## And Planning Ahead for Surplus

Todd Tauzer, Senior Vice President and Actuary, National Public Sector Retirement Practice Leader





# The Funded Position

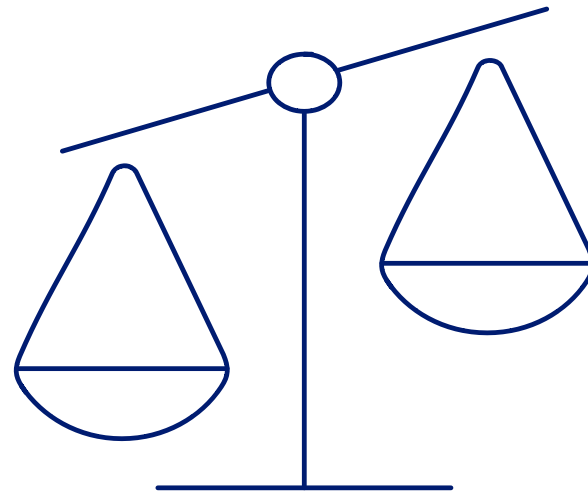
## *Basics*

### **Funded Ratio**

- Assets / Liabilities

### **Funded Status**

- Liabilities - Assets



# The Funded Position

*Beware of nuances – dependent on the purpose of the measurement*

## **Asset valuations vary, for example:**

- Market value of assets
- Actuarial value of assets

## **Liability valuations vary, for example:**

- Actuarial accrued (funding) liability
- Termination liability
- Low-default-risk obligation measure (LDRROM)

*“Assessing Pension Plan Health: More Than One Right Number Tells the Whole Story”*



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# Funded Ratio


## *The 80% Myth*

### Why the focus on funded ratio?

- Desire for comparability
- **Quest for unattainable simplicity** 

### Why a common focus on 80%?

- Corporate and multiemployer (union) pension funding trigger
- Benchmark in credit rating agency pension analysis
- Relatively attainable



A funded ratio of 80% or more is within the range that many public sector experts, union officials, and advocates view as a healthy pension system.

U.S. Government Accountability Office, 2007



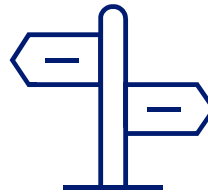
[The plan] currently has around a 71% funding ratio, below the 80% benchmark that healthy pension plans shoot for.

Chief Investment Officer, 2019

# Significance of Funded Ratio

*Which plan would you prefer?*

	Funded Ratio	
Valuation Date	Plan A	Plan B
2024	73%	82%



# Significance of Funded Ratio

*Which plan would you prefer?*

Valuation Date	Funded Ratio	
	Plan A	Plan B
2024	73%	82%
2023	61%	89%
2022	57%	93%
2021	46%	102%
2020	38%	118%
2019	24%	132%

# Funded Ratio

*Caution warranted*

## The funded ratio is:

- Helpful in indicating plan trajectory over long periods of time
- A single point in time measurement
- Subject to the ups and downs of economic cycles
- **Heavily based on actuarial assumptions and even cost methods**
- Easily used, and easily misused



*“The 80% Pension Funding Myth”*





# The 80% Pension Funding Myth

*Context is key*

## **The funded ratio provides meaning in context:**

- Degree of conservatism in actuarial assumptions
- Strength of (and consistent adherence to) funding policy
- History of benefit provision changes
- Size of unfunded liabilities relative to financial size of plan sponsor(s)
- Financial health of plan sponsor(s)
- Investment strategy and level of investment volatility
- Projections of funding and contribution trajectory



The idea that an 80% funding ratio is a 'healthy' level is frequently cited. ... As will be demonstrated, there are drastic long-term financial consequences for not fully funding pension benefits over a reasonable time period.

CalSTRS Board Report, 2018

# The 80% Pension Funding Myth

*What to target?*

## What does 100% funded mean?

- Indicates being “on track”
- Eliminates unfunded liability payments
- Ongoing costs continue to be covered through the normal cost

## Why target at least 100% funded?

- Holding unfunded liability is extremely expensive
- Past decisions to defer costs have led to the most expensive plans
- To be prepared for future economic cycles and risks

*“Objectives and Principles for Funding Public Sector Pension Plans”*





In our view, plans that demonstrate strong funding discipline by targeting 100% funding on a prudent and consistent actuarial basis with conservative assumptions and methods are much more likely to manage pension liabilities...

**S&P Global Ratings, 2019**

# Plan ahead

## *Surplus Management Policy*

### **Important Considerations**

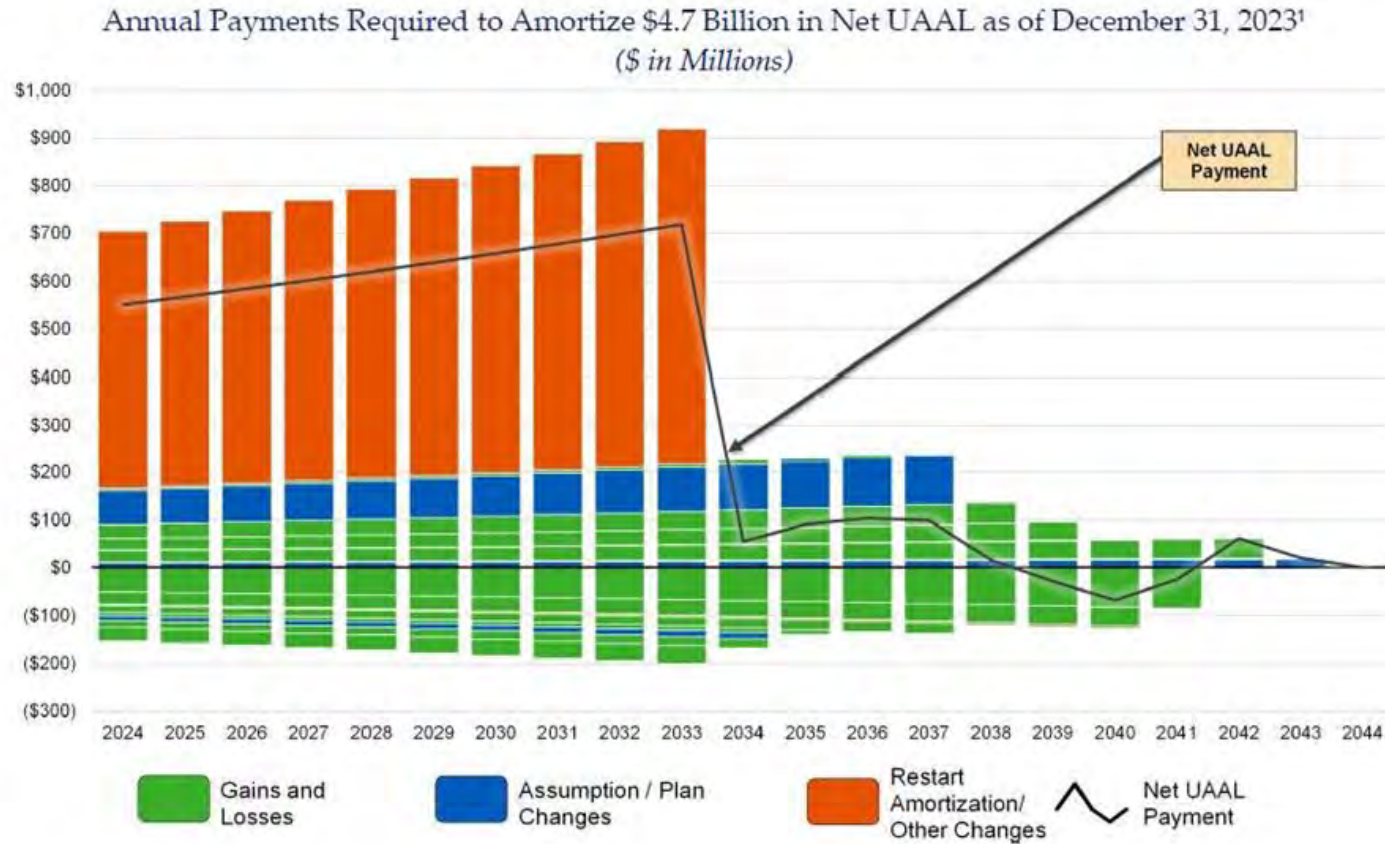
- Understand what “surplus” means and does not mean
- Build a robust funding policy that includes a surplus management strategy
  - Take reactive politics out of the picture!
- Utilize the opportunity to re-evaluate assumptions and funding policies
  - In light of long-term risk management goals
- Acknowledge additional potential risk reduction strategies
  - Examine investment portfolio risk/reward trade off
  - Consider reserves, rainy-day funds, or other methods for stabilizing future contributions

*“Surplus Considerations for Public Plans”*



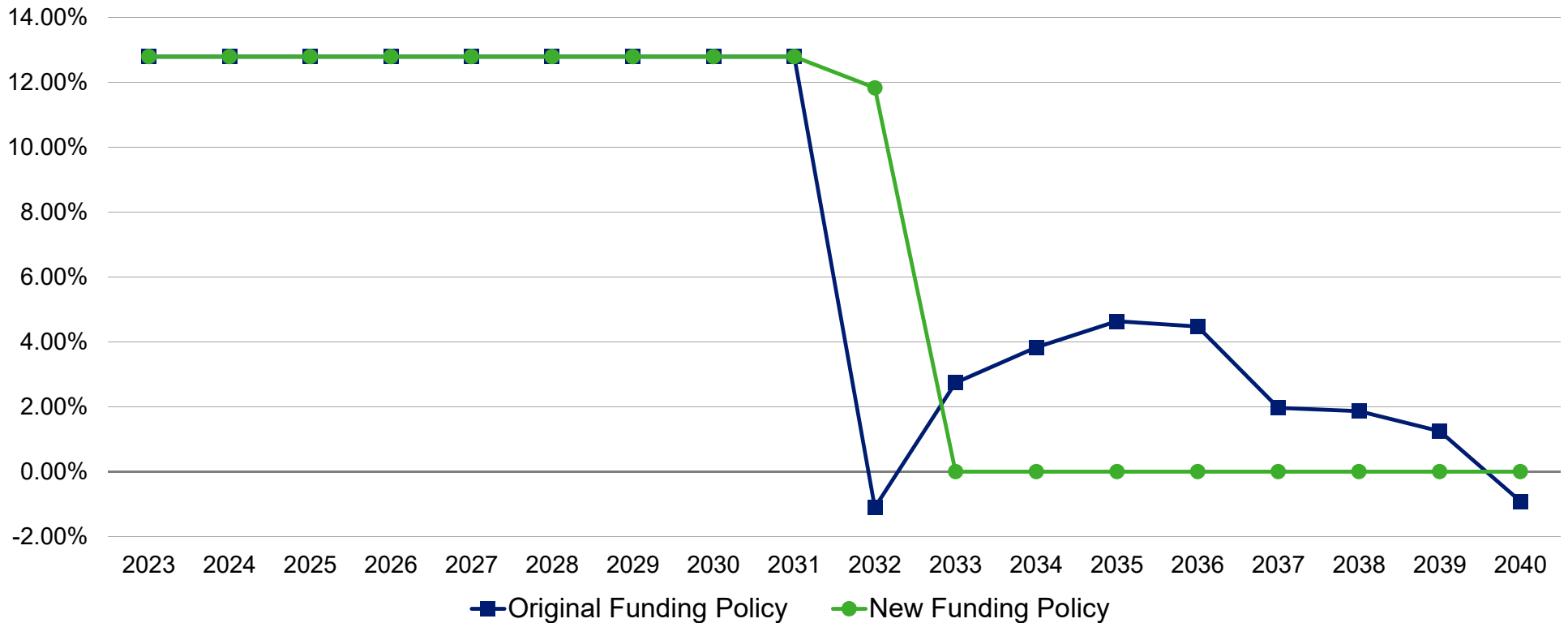
# OCERS' UAAL layers

*Including an upcoming contribution cliff*



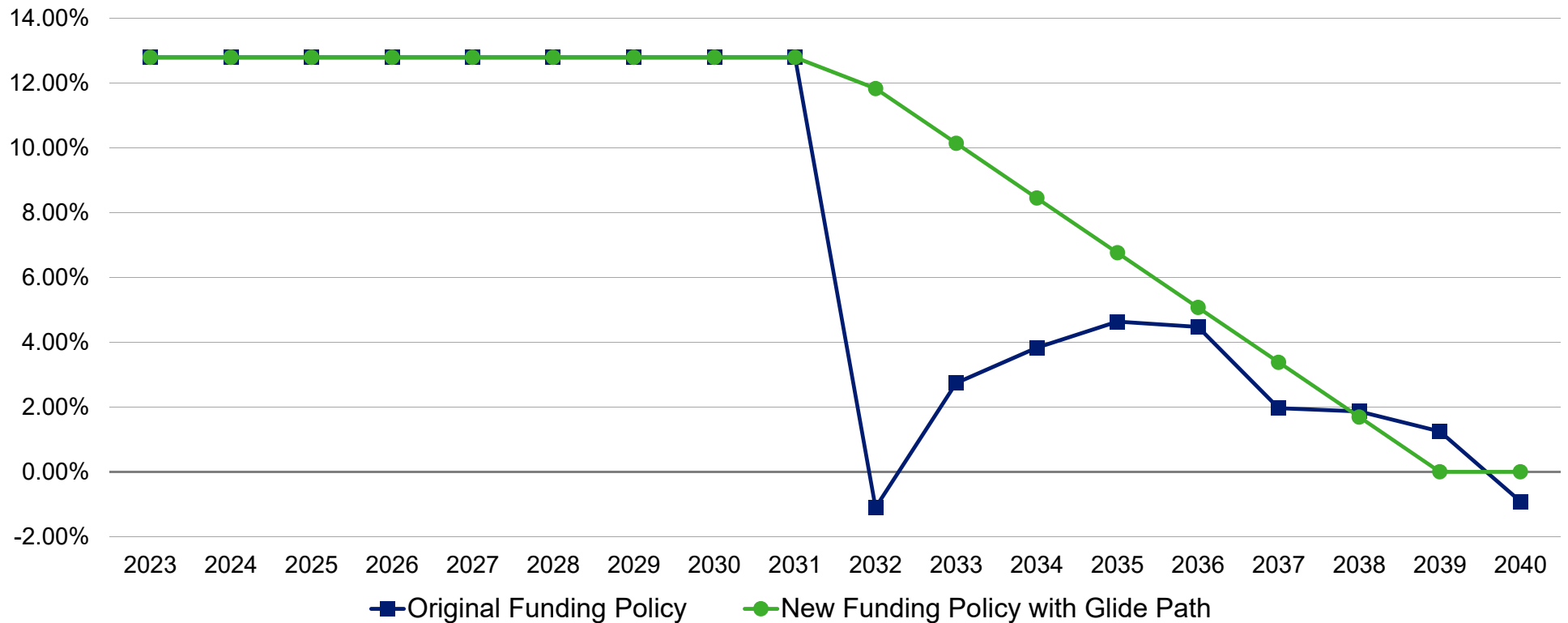
# Tail Volatility Example (another system)

*Projection of sample UAAL contribution rates (% of pay)*



# Tail Volatility Example (another system)

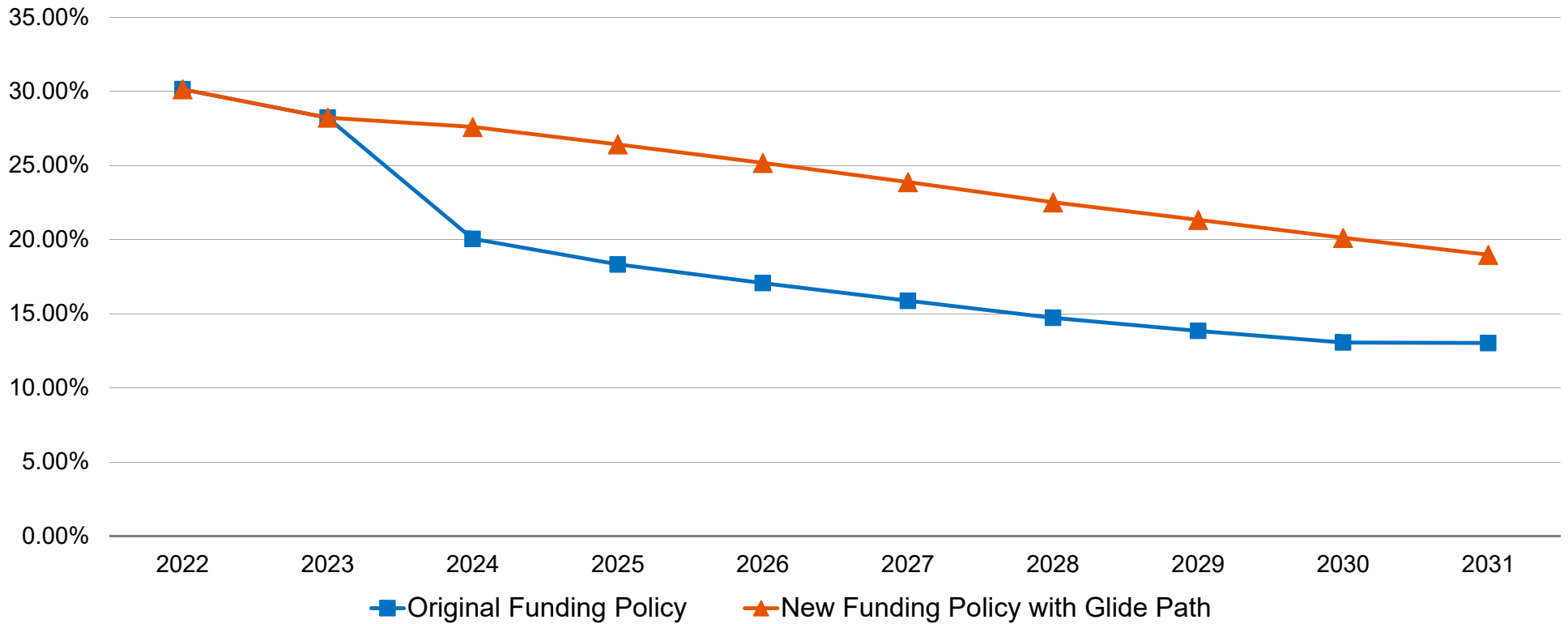
*Projection of sample UAAL contribution rates with Glide Path (% of pay)*





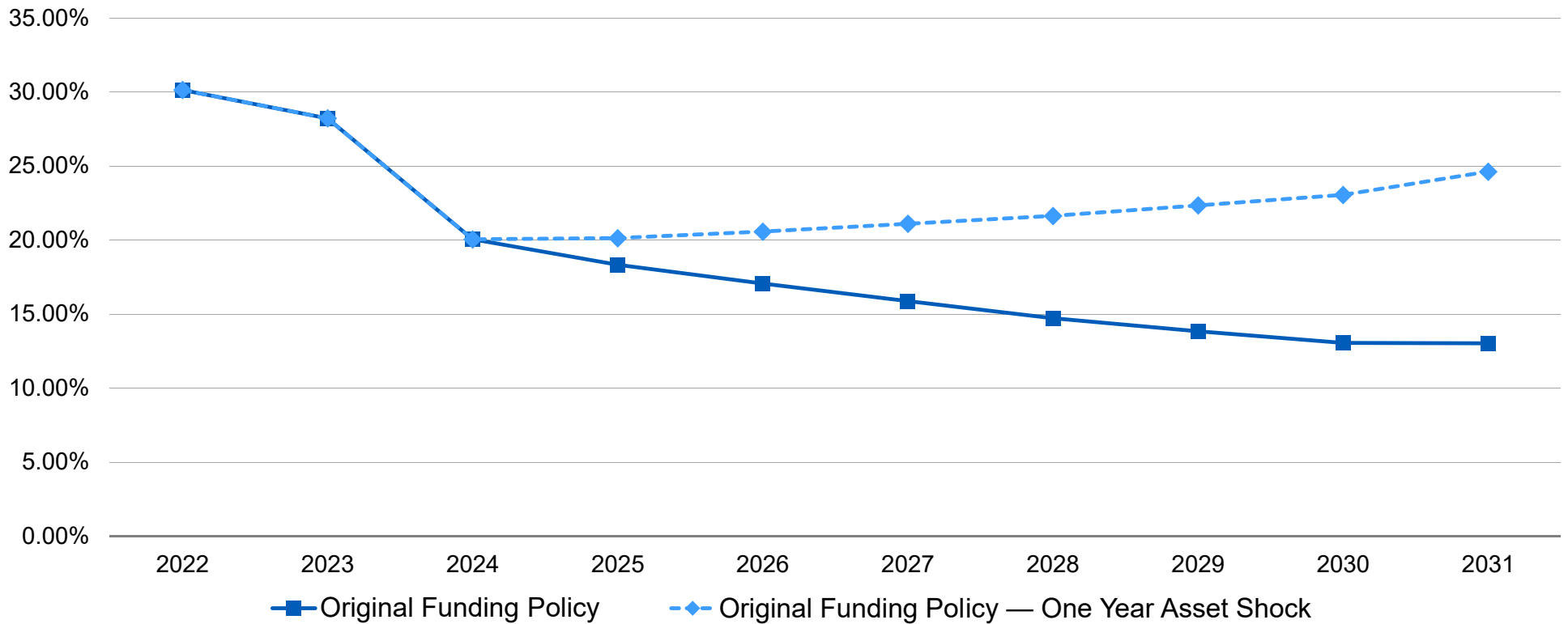
# Surplus Management Case Study Example

*A City Plan's 7-year linear glide path to phase out UAAL rate (% of pay)*



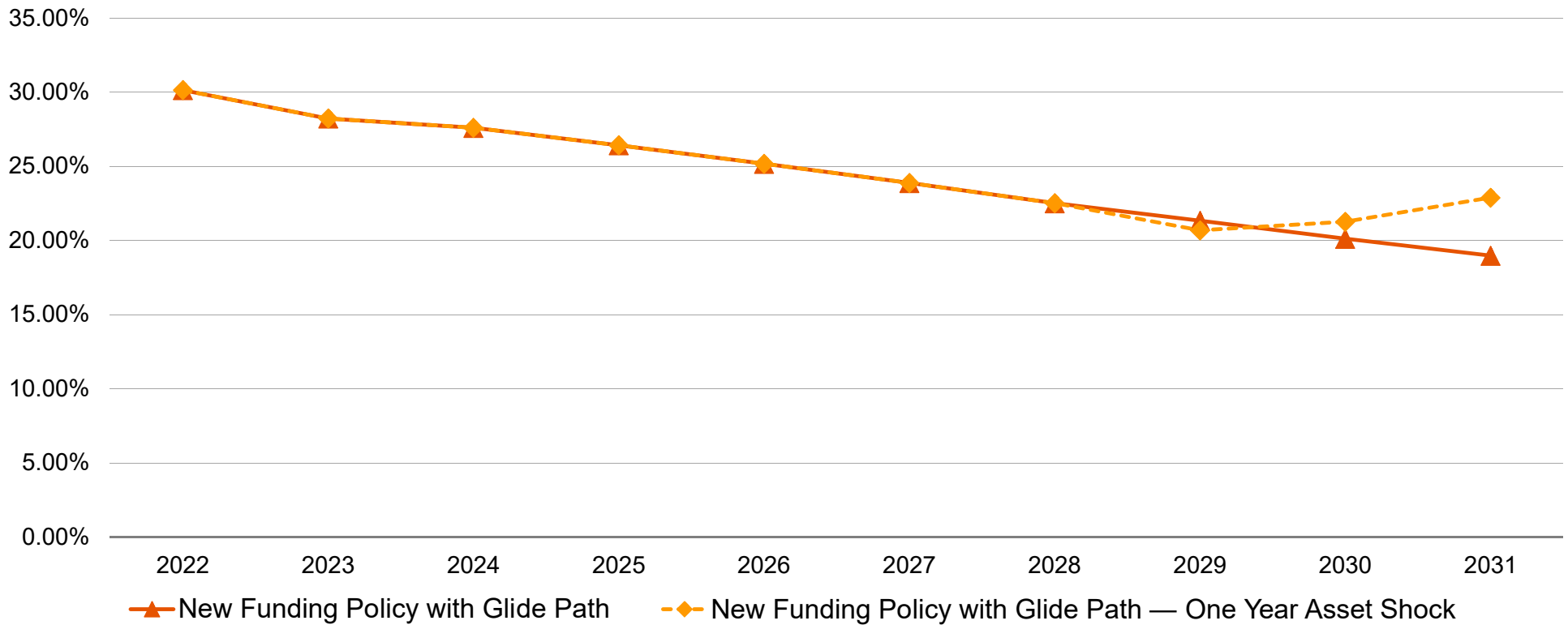
# Surplus Study – Managing Asset Volatility

## *One year of asset shock in 2025 (% of pay) – Original Policy*



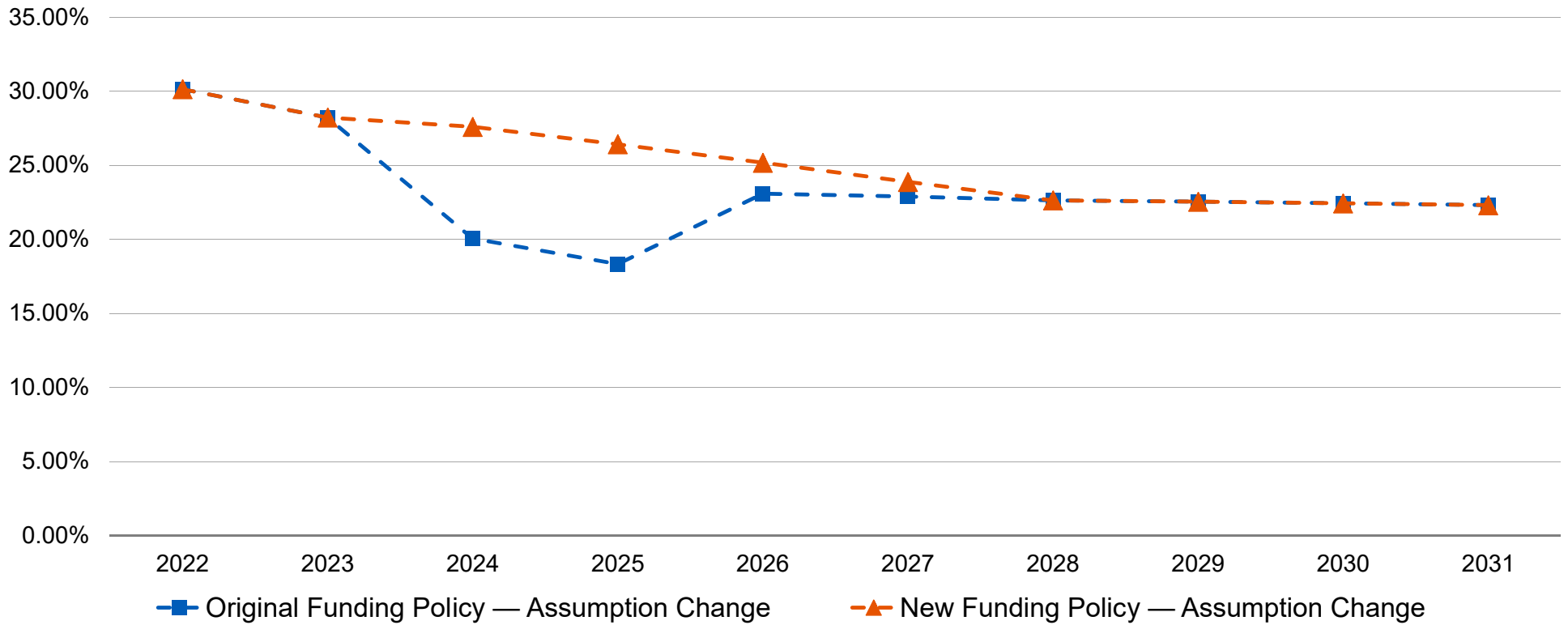
# Surplus Study – Managing Asset Volatility

## *One year of asset shock in 2025 (% of pay) – New Policy*



# Surplus Study – Managing Liability Changes

*Assumption changes in 2026 (% of pay)*



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# In Conclusion

*Opportunity to proactively prepare for a future surplus position*

## **Build a Surplus Management Policy (SMP) into your Funding Policy**

- Minimize political influence in advance
- Evaluate ways to reduce risk to the plan
  - Examine assumptions
  - Consider funding and contribution volatility mitigation techniques allowed under PEPRA
  - Amortize surplus over long periods to preserve it
- Educate stakeholders on the importance of a holistic Funding Policy
- Prepare by building a SMP at least five years prior to the contribution cliff
  - Proactively sets plan up for long term stability
  - Builds lead time into financial planning

# Thank You

**Todd Tauzer, FSA, CERA, FCA, MAAA**  
National Public Sector Retirement Practice Leader  
Senior Vice President & Actuary

T 415.263.8279 | M 916.834.7994  
ttauzer@segalco.com

segalco.com





## OCERS Board Policy

# Actuarial Funding Policy

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### Purpose and Background

The Orange County Employees Retirement System (OCERS) is charged with administering defined benefit plans for its members. Administering the system includes establishing systematic funding of current and future benefit payments for members of OCERS. In doing so, the Board of Retirement engages the services of an actuary to assist in establishing contributions that will fully fund the System's liabilities, and that, as a percentage of payroll, will remain as level as possible for each generation of active members. In order for the actuary to perform the requested services, the Board must approve specific funding objectives, methods, and assumptions to be used in the actuarial valuation for the purpose of funding member benefits.

### Policy Objectives

- Achieve long-term full funding of the cost of benefits provided by OCERS;
- Seek reasonable and equitable allocation of the cost of benefits over time;
- Minimize volatility of the plan sponsor's contribution to the extent reasonably possible, consistent with other policy goals; and,
- Support the general public policy goals of accountability and transparency by being clear as to both intent and effect, allowing for an assessment of how and when plan sponsors will meet the funding requirements of the plan.

### Definitions

1. **Actuarial Accrued Liability (AAL)** – The portion of the present value of projected benefits that is attributed to past service by the actuarial funding method.
2. **Actuarial Funding Method** – A process used to allocate present value of projected benefits among past and future periods of service.
3. **Actuarial Gains and Losses** – The changes in unfunded actuarial accrued liability or surplus due to actual experience different from what is assumed in the actuarial valuation. For example, if during a given year the assets earn more than the investment return assumption, the amount of earnings above the assumption will cause an unexpected reduction in unfunded actuarial accrued liability, or "actuarial gain" as of the next valuation.
4. **Actuarial Surplus** – The positive difference, if any, between the Valuation Value of Assets and the Actuarial Accrued Liability
5. **Actuarial Value of Assets (AVA)** – The market value of assets less or plus the net deferred investment gains or losses not yet recognized by the asset smoothing method.



## OCERS Board Policy Actuarial Funding Policy

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6. **Entry Age Method** – An actuarial cost method designed to fund a member's total plan benefit over the course of his or her career. This method is designed to produce stable employer and employee contributions in amounts that increase at the same rate as the members' payroll (i.e., level % of payroll).
7. **Market Value of Assets (MVA)** – The fair value of assets of the plan as reported under generally accepted accounting principles.
8. **Normal Cost** – The portion of the present value of projected benefits that is attributed to current service by the actuarial funding method.
9. **Unfunded Actuarial Accrued Liability (UAAL)** – The portion of the Actuarial Accrued Liability that is not currently covered by plan assets. It is calculated by subtracting the Valuation Value of Assets from the Actuarial Accrued Liability.
10. **Valuation Value of Assets (VVA)** – The value of assets used in the actuarial valuation to determine contribution rate requirements. It is equal to the Actuarial Value of Assets reduced by the value of any non-valuation reserves.
11. **Valuation Period** – The year for which the actuarial valuation is being performed, which is the calendar year preceding the December 31 actuarial valuation date.

### Policy Guidelines

OCERS annual funding requirement is comprised of a payment of the Normal Cost and a payment on the Unfunded Actuarial Accrued Liability (UAAL). The Normal Cost and the amount of payment on UAAL are determined by the following three components of this funding policy

- a. Actuarial Cost Method: the process used to allocate the total present value of future benefits to each year (Normal Cost), and all past years (Actuarial Accrued Liability);
- b. Asset Smoothing Method: the process used that spreads the recognition of investment gains or losses over a period of time for the purposes of determining the Actuarial Value of Assets used in the actuarial valuation process; and
- c. Amortization Policy: the decisions on how, in terms of duration and pattern, to reduce the difference between the Actuarial Accrued Liability and the Valuation Value of Assets in a systematic manner.

### Actuarial Cost Method

The Entry Age cost method with Normal Cost developed as a level percentage of pay shall be applied to each member's retirement benefit in determining the Normal Cost and the Actuarial Accrued Liability.





## OCERS Board Policy Actuarial Funding Policy

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### *Asset Smoothing Method*

The investment gains or losses of each Valuation Period, as a result of comparing the actual return on the Market Value of Assets at the end of the period with what the expected return on the Market Value of Assets would have been if the assumed rate of return on assets was realized during the period, shall be recognized in a level amount over a fixed five (5) years in calculating the Actuarial Value of Assets.

This policy anticipates that future circumstances may warrant adjustments to change the pattern of the recognition of the net deferred investment gains or losses after a period of significant market change followed by a period of market correction, upon receiving an analysis from OCERS' actuary. Such adjustments would be appropriate when the net deferred investment gains or losses are relatively small (i.e., the actuarial and market values are very close together), but the recognition of that net deferred amount is markedly non-level. Any such adjustment would be made subject to the following conditions:

- The net deferred investment gains or losses are unchanged as of the date of the adjustment; and,
- The period over which the net deferred investment gains and losses are fully recognized is unchanged as of the date of the adjustment.

### *Amortization Policy*

- a. The Unfunded Actuarial Accrued Liability, the difference between the Actuarial Accrued Liability and the Valuation Value of Assets, shall be amortized over various periods of time, depending on how the unfunded liability arose;
- b. The total Unfunded Actuarial Accrued Liability as of December 31, 2013 (which consists of the outstanding balance of the UAAL from the December 31, 2012 valuation and any new actuarial gains or losses from calendar year 2013) shall be amortized over twenty (20) years;
- c. Actuarial Gains or Losses incurred in a single year shall be amortized over twenty (20) years;
- d. Changes in actuarial assumptions and cost methods shall be amortized over twenty (20) years;
- e. Plan amendments other than Early Retirement Incentives shall be amortized over fifteen (15) years;
- f. Early Retirement Incentives shall be amortized over a period not to exceed five (5) years;
- g. Unfunded Actuarial Accrued Liabilities shall be amortized in multiple layers by source over "closed" amortization periods;
- h. Unfunded Actuarial Accrued Liabilities shall be amortized as a level percentage of payroll so that the amortization amount in each year during the amortization period shall be expected to be a level percentage of covered payroll, taking into consideration the current assumption for general payroll increase;
- i. If an overfunding or "surplus" exists (i.e., the Valuation Value of Assets is greater than the Actuarial Accrued Liability) and the amount of such surplus is in excess of 20% of the AAL and the other conditions of Section 7522.52 of the California Public Employee's Pension Reform Act are met, such actuarial surplus in excess of 20% of the AAL and any subsequent such surpluses will be amortized over an "open" amortization period of 30 years. Any prior UAAL amortization layers will be



## OCERS Board Policy Actuarial Funding Policy

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considered fully amortized, and any subsequent UAAL will be amortized as the first of a new series of amortization layers, using the above amortization periods.

- j. These amortization policy components will generally apply separately to each of OCERS' UAAL rate groups with the exception that the conditions of Section 7522.52 apply to the total plan.

### *Other Policy Considerations*

- a. In order to allow Plan Sponsors to more accurately budget for pension contributions and other practical considerations, the contribution rates determined in each actuarial valuation (as of December 31) will generally apply to the fiscal year beginning eighteen months after the Actuarial Valuation date. The UAAL contribution rates in the current actuarial valuation are adjusted to account for any shortfall or excess contributions as a result of the implementation lag;
- b. Any change in contribution rate requirement that results from a plan amendment is generally implemented as of the effective date of the plan amendment or as soon as administratively feasible. However, the Board may exercise its discretion to delay the change in contribution rate requirement by reflecting it in the next Actuarial Valuation following the effective date of the plan amendment if in the Board's judgement doing so would be in the best interest of the plan members. Consideration of any such delay will include the Board's review of the financial impact of the delay on the System as determined by the actuary;
- c. When calculating both employer and member contribution rates (basic and COLA portions) for Legacy members, the actuary shall include an assumption for the additional cash out of accumulated annual leave, sick leave or compensatory leave both earned and permitted to be cashed out during the final average measuring period, applied on a pooled basis (General, Safety-Probation, Safety-Law and Safety-Fire).
- d. The actuarial assumptions adopted by the Board for use in the actuarial valuation affect only the timing of contributions; the ultimate contribution level is determined by the benefits and the expense actually paid offset by actual investment returns. To the extent that actual experience deviates from the assumptions, experience gains and losses will occur. These gains (or losses) then serve to reduce (or increase) the future contribution requirements.

Actuarial assumptions are generally grouped into two major categories:

- Demographic assumptions – including rates of withdrawal, service retirement, disability retirement, mortality, etc.
- Economic assumptions – including price inflation, wage inflation, investment return, salary increase, etc.

The actuarial assumptions represent the Board's best estimate of anticipated experience under OCERS and are intended to be long term in nature. Therefore, in developing the actuarial assumptions, the Board considers not only past experience but also trends, external forces and future expectations. The Board will review all assumptions triennially. The current assumptions used by the actuary can be found in the latest actuarial valuation report available on OCERS' website..



## OCERS Board Policy Actuarial Funding Policy

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### Policy Review

The Board of Retirement will review this policy every three years or more frequently if recommended by the actuary to ensure that it remains relevant and appropriate.

### Policy History

The Board adopted this policy on January 21, 2014. This policy was revised on December 15, 2014, April 18, 2018, November 14, 2022, April 15, 2023, and April 15, 2024.

### Secretary's Certificate

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

A handwritten signature in blue ink that reads "Steve Delaney".

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Steve Delaney  
Secretary of the Board

4/15/2024

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Date