



Alameda County Employees' Retirement Association  
BOARD OF RETIREMENT

**NOTICE and AGENDA**

**THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE  
[GOV'T CODE § 54953(e)]**

**ACERA MISSION:**

***To provide ACERA members and employers with flexible, cost-effective, participant-oriented benefits through prudent investment management and superior member services.***

**Thursday, January 20, 2022  
2:00 p.m.**

<b>ZOOM INSTRUCTIONS</b>	<b>BOARD OF RETIREMENT - MEMBERS</b>	
<p>The public can view the Teleconference and comment via audio during the meeting. To join this Teleconference, please click on the link below.  <a href="https://zoom.us/join">https://zoom.us/join</a>  <b>Webinar ID: 879 6337 8479</b>  <b>Passcode: 699406</b>  <b>Call-In Number:</b>  <b>1 (669) 900-6833 US</b></p> <p>For help joining a Zoom meeting, see:  <a href="https://support.zoom.us/hc/en-us/articles/201362193">https://support.zoom.us/hc/en-us/articles/201362193</a></p>	<b>DALE AMARAL</b>	<b>ELECTED SAFTEY</b>
	<b>CHAIR</b>	
	<b>JAIME GODFREY</b>	<b>APPOINTED</b>
	<b>FIRST VICE-CHAIR</b>	
	<b>LIZ KOPPENHAVER</b>	<b>ELECTED RETIRED</b>
	<b>SECOND VICE-CHAIR</b>	
	<b>OPHELIA BASGAL</b>	<b>APPOINTED</b>
	<b>KEITH CARSON</b>	<b>APPOINTED</b>
	<b>TARRELL GAMBLE</b>	<b>APPOINTED</b>
	<b>HENRY LEVY</b>	<b>TREASURER</b>
<b>KELLIE SIMON</b>	<b>ELECTED GENERAL</b>	
<b>GEORGE WOOD</b>	<b>ELECTED GENERAL</b>	
<b>NANCY REILLY</b>	<b>ALTERNATE RETIRED<sup>1</sup></b>	
<b>DARRYL WALKER</b>	<b>ALTERNATE SAFETY<sup>2</sup></b>	

1 The Alternate Retired Member votes in the absence of the Elected Retired Member, or, if the Elected Retired Member is present, then votes if both Elected General Members, or the Safety Member and an Elected General Member, are absent.

2 The Alternate Safety Member votes in the absence of the Elected Safety Member, either of the two Elected General Members, or both the Retired and Alternate Retired Members.

*Note regarding accommodations:* The Board of Retirement will provide reasonable accommodations for persons with special needs of accessibility who plan to attend Board meetings. Please contact ACERA at (510) 628-3000 to arrange for accommodation.

*Note regarding public comments:* Public comments are limited to four (4) minutes per person in total.

The order of agendized items is subject to change without notice. Board and Committee agendas and minutes, and all documents distributed to the Board or a Committee in connection with a public meeting (unless exempt from disclosure), are available online at [www.acera.org](http://www.acera.org).

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PUBLIC COMMENT**

**4. ELECTION OF BOARD OFFICERS FOR 2022:**

*Chair*

*First Vice-Chair*

*Second Vice-Chair*

**5. CONSENT CALENDAR:**

The Board will adopt the entire Consent Calendar by a single motion, unless one or more Board members remove one or more items from the Consent Calendar for separate discussion(s) and possible separate motion(s).

**A. REPORT OF SERVICE RETIREMENTS:**

*Appendix A*

**B. APPROVE APPLICATIONS FOR RETIREMENT, DEFERRED:**

*Appendix B*

*Appendix B-1*

**C. APPROVE APPLICATIONS FOR DEFERRED TRANSFER:**

*None*

**D. LIST OF DECEASED MEMBERS:**

*Appendix D*

**E. APPROVE REQUEST(S) FOR UP TO 130 BI-WEEKLY PAYMENTS TO RE-DEPOSIT CONTRIBUTIONS AND GAIN CREDIT:**

*Appendix E*

**F. APPROVE STAFF RECOMMENDATIONS (UNCONTESTED) FOR DISABILITY RETIREMENTS:**

*Appendix F*

**G. APPROVE HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS:**

*None*

**H. APPROVAL of BOARD and COMMITTEE MINUTES:**

*December 16, 2021 Minutes of the Regular Board Meeting*

*January 12, 2022 Investment Committee Minutes*

**I. MISCELLANEOUS MATTERS:**

- *Proposed Findings Regarding State of Emergency Pursuant to Gov't Code §54953(e)(3):*  
*Staff Recommendation: The Board finds that it has reconsidered the circumstances of the state of emergency and (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (2) state or local officials continue to impose or recommend measures to promote social distancing.*
- *Operating Expenses as of November 30, 2021.*

-----End of Consent Calendar-----  
(MOTION)

**REGULAR CALENDAR**  
**REPORTS AND ACTION ITEMS**

**6. DISABILITIES, RECOMMENDATIONS AND MOTIONS:**

None.

**7. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:**

**A. Investment: [See January 12, 2022 Investment Committee Agenda Packet for public materials related to the below listed items.]**

1. Summary of January 12, 2022 Meeting.
2. Motion to adopt an up to \$60 Million investment in Great Hill Partners Fund VIII as part of ACERA's Private Equity Portfolio – Buyout, pending completion of Legal and Investment due diligence and successful contract negotiations.
3. Motion to adopt an Implementation Plan for its ESG Policy.

**8. NEW BUSINESS:**

- A.** Discussion and possible motion regarding Mark McGoldrick's claim for exemption from the Board's June 17, 2021 decisions regarding the inclusion of vacation sell back and cash out in "final compensation" and discussion and possible motion regarding other similarly situated members.

This item will be addressed in Open Session (materials are included in the public agenda packet), but the Board may go into Closed Session to receive advice from counsel, per Gov't Code § 54956.9(d)(2) (Conference With Legal Counsel—Anticipated Litigation: Significant Exposure to Litigation).

- B.** Chief Executive Officer's Report.

- 9. CONFERENCE/ORAL REPORTS**
- 10. ANNOUNCEMENTS**
- 11. BOARD INPUT**
- 12. ESTABLISHMENT OF NEXT MEETING:**  
**Thursday, February 17, 2022 at 2:00 p.m.**
- 13. CLOSED SESSION:**
  - A.** Consider the Purchase of Particular, Specific Pension Fund Investments (Cal. Gov. Code § 54956.81) (3 fund-of-hedge-funds investments – (i) BlackRock; (ii) GCM Grosvenor; and (iii) Morgan Stanley).
  - B.** Existing Litigation pursuant to Government Code Section 54956.9(d)(1):  
*Alameda Health System v. ACERA*, San Francisco County Superior Court, Case No. CGC-19-516795.
- 14. REPORT ON ACTION TAKEN IN CLOSED SESSION**
- 15. ADJOURNMENT**

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**APPENDIX A  
APPLICATION FOR SERVICE RETIREMENT**

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ALIZIO, David  
Effective: 10/16/2021  
Sheriff's Office

RITTER, Kyle  
Effective: 11/1/2021  
Non-Member

ALLEN, Linda  
Effective: 10/16/2021  
Social Services Agency

RUPPELT, Patricia  
Effective: 11/4/2021  
Health Care Services Agency

BAGLEY, Laurie  
Effective: 11/3/2021  
Alameda Health System

SCHWIMMER, Valerie  
Effective: 10/30/2021  
Health Care Services Agency

BAILEY, Lisa  
Effective: 10/30/2021  
Dept. of Child Support Svcs

SENDAYDIEGO, Carlo  
Effective: 10/21/2021  
Public Works Agency

BYRNS, Diana  
Effective: 10/19/2021  
Alameda Health System

STEVENS, Nikki  
Effective: 10/23/2021  
Auditor-Controller

CLOVER, Jon  
Effective: 11/13/2021  
Probation Department

VAZQUEZ, Benjamin  
Effective: 11/1/2021  
Assessor

DEMARTINI, Donna  
Effective: 11/16/2021  
Probation Department

WINFREY, Lisa  
Effective: 11/1/2021  
Assessor

DIAL, Lazandra  
Effective: 10/2/2021  
Social Services Agency

WOO, Michael  
Effective: 10/30/2021  
District Attorney

MCKINNEY, Raymond  
Effective: 11/6/2021  
Alameda Health System

WU, Tsu-Loong  
Effective: 10/16/2021  
Assessor

PREVOST, Ethel  
Effective: 10/30/2021  
Social Services Agency

YOUNG, Remedios  
Effective: 11/1/2021  
Alameda Health System

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**APPENDIX B**  
**APPLICATION FOR DEFFERED RETIREMENT**

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ALLISON, Lauren M.  
Health Care Services Agency  
Effective Date: 11/12/2021

HERNANDEZ, Rodolfo R.  
Health Care Services Agency  
Effective: 11/12/2021

AMOS, Wayneatta F.  
Social Services Agency  
Effective: 7/9/2021

LU, Hong A.  
Health Care Services Agency  
Effective: 11/20/2021

COADY HEIKKILA, Kimberly A.  
Health Care Services Agency  
Effective: 11/12/2021

SILVA, Karina R.  
District Attorney  
Effective: 11/19/2021

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**APPENDIX B-1**  
**APPLICATION FOR NON-VESTED DEFFERED**

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BRUMFIELD, Jason  
General Services Agency  
Effective Date: 10/28/2021

KLEIN, Meryl B.  
County Administrator  
Effective: 11/26/2021

CALVERT, Corrine M.  
Library  
Effective: 10/16/2021

LE, Kim Anh T.  
Social Services Agency  
Effective: 11/5/2021

CEN, Yihong  
Health Care Services Agency  
Effective: 10/16/2021

MAIDLOW, Hong X.  
Sheriff's Office  
Effective: 11/28/2021

DUMLAO, Teofil  
Superior Court  
Effective: 10/15/2021

SAM-KING, Nyanda A.  
Health Care Services Agency  
Effective: 11/19/2021

IVERSEN, Sharon A.  
Alameda Health System  
Effective: 11/4/2021

TERHUNE, Benjamin W.  
Superior Court  
Effective: 12/22/2021

VAZQUEZ-GALVAN, Guillermo F.  
Health Care Services Agency  
Effective: 11/18/2021

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**APPENDIX D  
LIST OF DECEASED MEMBERS**

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ADAMS, Marilyn  
Superior Court  
10/31/2021

HARDMAN, Jeffrey  
Health Care Services Agency  
12/19/2021

BACON, Barbara  
LARPD  
12/15/2021

HARRIS, Sandra  
Social Services Agency  
12/10/2021

BENSON, Margarita  
Social Services Agency  
12/15/2021

HARVEY, Frederic  
Non-Mbr Survivor of Marietta Harvey  
12/22/2021

BRYANT, Billy  
Non-Mbr Survivor of Mary L. Bryant  
9/15/2021

HICKLING, Madeleine  
Non-Mbr Survivor of Douglas Hickling  
12/2/2021

CARSCH, Gerta  
Non-Mbr Survivor of Harry Carsch  
12/16/2021

HOWERTON, Rita  
Social Services Agency  
12/4/2021

CRAWFORD, Tommie  
Alameda Health Systems  
11/8/2021

HUTCHINSON, Alberta  
Public Health Care Services  
10/23/2021

DE MARIA, Gerald  
Superior Court  
12/26/2021

LAVENGOOD, Pauline  
Alameda Health Systems  
12/1/2021

DIEDRICK, Ione  
Non-Mbr Survivor of Gayle Diedrick  
11/18/2021

LEIGHTON, Jamie  
Alameda Health Systems  
11/3/2021

FORBES, Phillys  
Non-Mbr Survivor of Glenn Forbes  
1/24/2021

MC NULTY, Theresia  
Non-Mbr Survivor of Francis Mc Nulty  
12/7/2021

FRALEY, William  
Public Works Agency  
11/4/2021

MORTENSON, Earl  
Non-Mbr Survivor of Helen Mortenson  
12/11/2021

GARDNER, Ernestine  
Probation Department  
12/9/2021

REED, Gwendolyn  
Assessor  
12/14/2021

GLANZ, Genevieve  
Superior Court  
12/2/2021

ROGERS, Alice  
Alameda Health Systems  
11/17/2021

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**APPENDIX D  
LIST OF DECEASED MEMBERS**

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SALEM, Angela  
Alameda Health Systems  
12/7/2021

SCHNEIDER, Stephen  
Non-Mbr Survivor of Francisca Schneider  
11/16/2021

SANTOS, Norman  
Probation Department  
12/4/2021

SLOWLEY, Stewart  
Alameda Health Systems  
12/16/2021

SUZUKI, Betty  
Social Services Agency  
11/16/2021

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**APPENDIX E  
REQUEST FOR 130 BI-WEEKLY PAYMENTS TO RE-DEPOSIT  
CONTRIBUTIONS AND GAIN CREDIT**

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SICAM, Rose Virginie  
Government Code § 31652 Redeposit

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**APPENDIX F  
APPLICATION FOR DISABILITY RETIREMENT**

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**Name:** Randa, Dalen  
**Type of Claim:** Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, granting Mr. Randa's application for a service-connected disability, and waiving future annual medical examinations and questionnaires.

Based on the Medical Advisor's and Staff's review and determination of Mr. Randa's ability to determine the permanency of his incapacity, to deny Mr. Randa's request for an earlier effective date.

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**APPENDIX F**  
**APPLICATION FOR DISABILITY RETIREMENT**

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**Name:** Skinner, Derrick  
**Type of Claim:** Service-Connected

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report, including but not limited to, granting Mr. Skinner’s application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Based on the Medical Advisor’s and Staff’s review and determination of Mr. Skinner’s ability to determine the permanency of his incapacity, to deny Mr. Skinner’s request for an earlier effective date.

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**Name:** Switala, Jamie  
**Type of Claim:** Service-Connected

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report, including but not limited to, granting Ms. Switala’s application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

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**December 16, 2021**  
**Minutes of the Regular Board Meeting**  
**For approval under January 20, 2022**  
**Board “Consent Calendar”**



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
*BOARD OF RETIREMENT*  
MINUTES

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**THIS MEETING WAS CONDUCTED IN-PERSON and VIA TELECONFERENCE WITH VIDEO**

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**Thursday, December 16, 2021**

Chair Dale Amaral called the meeting to order at 2:03 p.m.

Trustees Present: Dale Amaral  
Ophelia Basgal (*Arrived After Roll Call*)  
Keith Carson  
Tarrell Gamble  
Jaime Godfrey  
Henry Levy  
Darryl Walker  
George Wood  
Nancy Reilly (*Alternate*)

Trustees Excused: Liz Koppenhaver

Staff Present: Angela Bradford, Executive Secretary  
Sandra Dueñas-Cuevas, Benefits Manager  
Kathy Foster, Assistant Chief Executive Officer  
Jessica Huffman, Benefits Manager  
Harsh Jadhav, Chief of Internal Audit  
Vijay Jagar, Retirement Chief Technology Officer, ACERA  
David Nelsen, Chief Executive Officer  
Jeff Rieger, Chief Counsel  
Betty Tse, Chief Investment Officer

Staff Excused: Victoria Arruda, Human Resource Officer

**PUBLIC INPUT**

During the discussion under the New Business agenda item concerning vacation sell back and cash out in final compensation, Messrs. Michael O'Connor and Eric Von Geldern expressed their concerns stating they are not challenging the Straddling issue, but asked that they be excluded from the Board's June 17, 2021 decision regarding the reduction of vacation sell back and cash out concerning their final compensation, because when they made plans to retire, they relied on receiving a certain retirement benefit allowance based on the information they received from ACERA Staff and from the ACERA Website.

**CONSENT CALENDAR  
REPORTS AND ACTION ITEMS**

**APPROVAL of APPLICATIONS FOR SERVICE RETIREMENT**

*Appendix A*

**APPROVAL of APPLICATIONS FOR RETIREMENT, DEFERRED**

*Appendix B  
Appendix B-1*

**APPROVAL of APPLICATIONS FOR DEFERRED TRANSFER**

*None*

**LIST OF DECEASED MEMBERS**

*Appendix D*

**APPROVAL of REQUEST FOR 130 BI-WEEKLY PAYMENTS TO RE-DEPOSIT  
CONTRIBUTIONS AND GAIN CREDIT**

*Appendix E*

**APPROVAL of STAFF RECOMMENDATIONS (UNCONTESTED) FOR  
DISABILITY RETIREMENTS**

*Appendix F*

**APPROVAL of HEARING OFFICER RECOMMENDATIONS FOR DISABILITY  
RETIREMENTS**

*None*

**APPROVAL of COMMITTEE and BOARD MINUTES**

*November 18, 2021 Operations Committee Meeting  
November 18, 2021 Minutes of the Regular Board Meeting  
December 1, 2021 Operations Committee Minutes  
December 1, 2021 Retirees Committee Minutes  
December 8, 2021 Investment Committee Minutes*

**MISCELLANEOUS MATTERS**

- *Proposed Findings Regarding State of Emergency Pursuant to Gov't Code § 54953(e)(3):  
**Staff Recommendation:** The Board finds that it has reconsidered the circumstances of the state of emergency and (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (2) state or local officials continue to impose or recommend measures to promote social distancing.*
- *Approve Staff Recommendation regarding the County of Alameda's New Pay Item/Code Explosive Ordinance Disposal Team-Bomb Technician & Special Duties – 42T.*

**21-91**

It was moved by Keith Carson and seconded by Jaime Godfrey that the Board adopt the Consent Calendar, with a correction to Appendix F, which should read: “Based on the Medical Advisor’s and Staff’s review and determination of Ms. Young’s ability to determine the permanency of his incapacity, to grant Ms. Young’s request for an earlier effective date.” The motion carried 8 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Wood*), 0 no, and 1 abstention (*Walker*).

**REGULAR CALENDAR  
REPORTS AND ACTION ITEMS**

**DISABILITIES, RECOMMENDATIONS AND MOTIONS**

None.

**COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS**

*This month’s Committee reports were presented in the following order:*

***Operations:***

Jaime Godfrey gave an oral report stating that the Operations Committee met on December 1, 2021 and that the Committee discussed the annual agreement for Segal, ACERA’s Benefits consultants.

**21-92**

It was moved by Jaime Godfrey and seconded by Ophelia Basgal that the Board approve the annual agreement for \$127,200, effective January 1, 2022 for Segal, ACERA’s Benefits Consultant. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.

Staff reported on the following Information Items: *1) Operating Expenses as of October 31, 2021; 2) Changes and enhancements to benefits processing, member services, and the ACERA website; and 3) the 2022 Medical Advisor Services Request for Information.*

Minutes of the meeting were approved as part of the Consent Calendar.

***Retirees:***

Henry Levy gave an oral report stating the Retirees Committee met on December 1, 2021 and that the Committee discussed ACERA’s Medicare Part B Reimbursement Plan (MBRP) benefit.

21-93

It was moved by Henry Levy and seconded by Nancy Reilly to continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2022, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$170.10. The MBRP benefit is a non-vested benefit funded by contributions from ACERA Employers to the 401(h) account. After contributions are made, in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve assets as employer contributions for pensions. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.

Trustee Levy further reported that the Committee discussed the revised and updated Appendix A to Resolution No. 07-29.

21-94

It was moved by Henry Levy and seconded by Nancy Reilly that the Board adopt the revised and updated Appendix A to Resolution No. 07-29, which reflects the changes approved by the Board to the Monthly Medical Allowance amounts for Group and Individual Plans as well as the Retiree Health Benefit contribution amounts for Plan Year 2022. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.

Staff reported on the following Information Items: 1) Hearing Aid Benefits; 2) Annual Retired Member (Lump Sum) Death Benefits; 3) Virtual Retiree Health and Wellness Fair Results and Open Enrollment Activity; and 4) Miscellaneous Updates.

Minutes of the meeting were approved as part of the Consent Calendar.

***Investment:***

George Wood gave an oral report stating the Investment Committee met on December 8, 2021 and that the Committee discussed an up to \$30 million investment in Tiger Infrastructure Partners Fund III as part of ACERA's Real Asset Portfolio – Infrastructure.

21-95

It was moved by George Wood and seconded by Jaime Godfrey that the Board adopt an up to \$30 million investment in Tiger Infrastructure Partners Fund III as part of ACERA's Real Asset Portfolio – Infrastructure, pending completion of Legal and Investment due diligence and successful contract negotiations. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.

Trustee Wood further reported that the Committee discussed an up to \$75 million investment in Monroe Capital Private Credit Fund IV as part of ACERA's Private Credit Portfolio.

**21-96**

**It was moved by George Wood and seconded by Jaime Godfrey that the Board adopt an up to \$75 million investment in Monroe Capital Private Credit Fund IV as part of ACERA's Private Credit Portfolio, pending completion of Legal and Investment due diligence and successful contract negotiations. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.**

Staff reported on the following Information Items: *1)* Discussion regarding ESG implementation for ACERA; *2)* Semiannual Performance Review for the Period Ending September 30, 2021 for: *a)* Equities and Fixed Income, *b)* Absolute Return, and *c)* Real Estate; and *3)* Semiannual Performance Review for the Period Ending June 30, 2021 for: *a)* Real Assets, *b)* Private Equity, *c)* Private Credit; and *4)* CA Gov. Code § 7514.7 Alternative Investment Vehicles Information Report (there was no discussion on this item.)

Minutes of the meeting were approved as part of the Consent Calendar.

**NEW BUSINESS:**

***Discussion and Possible Motion re Vacation Sell Back and Cash Out in Final Compensation***

Chief Counsel Jeff Rieger reminded the Board that an in-depth discussion took place at the June 2, 2021 Operations Committee meeting and at the June 17, 2021 Board meeting about changes regarding the amount of vacation sell back and cash out that is allowed to be included in retired members' final compensation. The language in a California Supreme Court decision is inconsistent. As a result, Mr. Rieger advised the Board use its best judgement in making its decision and on June 17, 2021, the Board made the decision to implement the same changes as most other systems by reducing the amount of vacation sell back and cash out that is allowed in retired members' final compensation. Mr. Rieger reported that approximately 19 ACERA members who had submitted retirement applications as of June 17, 2021 were negatively impacted by the Board's June 17<sup>th</sup> decision and seven members, including Messrs. O'Connor and Von Geldern (who were present at the meeting), submitted written claims asking that the Board exempt them from the June 17, 2021 changes, because when they made plans for their retirements, they relied on an expected retirement benefit allowance that was calculated under ACERA's prior rules. One of the seven claims was by, Mr. McGoldrick who did not have an application on file as of June 17, 2021. The Board adjourned into Closed Session to discuss this issue. For detailed information regarding this issue, **see** Mr. Rieger's December 16, 2021 memo.

The Board reconvened into Open Session: Staff explained the retirement application process as it pertains to the estimated retirement benefit allowance to be received by a retiree and ACERA Outside Counsel Harvey Leiderman answered questions. After discussion, the following motion was made:

**21-97**

**It was moved by George Wood and seconded by Darryl Walker that the Board grant relief (claims) to the 19 members who had their retirement applications on file as of June 17, 2021 and who were negatively impacted by the Board’s June 17, 2021 decision. The motion carried 7 yes (*Amaral, Basgal, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.**

Mark McGoldrick’s claim will be considered at the January 20, 2022 or later Board meeting.

**Discussion and Possible Motion to Approve Issuance of a Request For Information (RFI) for Medical Advisor and Disability Claims Management Services**

Trustee Basgal reported that the Operations Committee discussed this issue at its December 1, 2021 meeting and now recommends approval to issue a Request for Information for Medical Advisor and Disability Claims Management Services.

**21-98**

**It was moved by George Wood and seconded by Jaime Godfrey that the Board approve issuance of a Request for Information for Medical Advisor and Disability Claims Management Services. The motion carried 7 yes (*Amaral, Basgal, Godfrey, Levy, Reilly, Walker, Wood*), 0 no, and 0 abstentions.**

**Board Election Results**

Chief Executive Officer Dave Nelsen announced the results of the 2021 Board Election stating that Kellie Blumin Simon was elected to Seat 2 (General Member) as ACERA’s new Board Trustee, effective January 1, 2022. Ms. Dana Hodge and Ms. Stacey R. Perry also ran for Seat 2. Ms. Hodge came in second and Ms. Perry came in third. Mr. Nelsen expressed his appreciation regarding the candidates’ desire to serve on the ACERA Board and stated he looks forward to working with Ms. Blumin Simon.

**David Nelsen, Chief Executive Officer’s Report**

Chief Executive Officer Dave Nelsen presented his December 16, 2021 written CEO Report which provided an update on: **1)** Senior Manager Recruitment for Assistant CEO of Operations; **2)** Committee and Board Action Items; **3)** Other Items: **a)** COVID-19 Responses; **b)** Pension Administration System Project; **c)** Board Elections; **d)** SACRS Business Vote; **e)** Other Recruitments for: **i)** an Investment Operations Officer; and **ii)** two Retirement Benefit Specialist positions; and **5)** Key Performance Indicators.

Mr. Nelsen reported on the status of the recruitment for the Assistant Chief Executive Officer of Operations stating that interviews of the candidates will take place after the holiday season and that there are some really good candidates to choose from.



**Discussion and Possible Motion regarding Chief Executive Officer Compensation**

The Board adjourned into Closed Session for discussions with its designated representative, Chair Amaral. No reportable action was taken in Closed Session.

The Board reconvened into Open Session and the following motion was made:

**21-99**

**It was moved by Dale Amaral and seconded by Ophelia Basgal that the Board approve a 1.1% increase to Chief Executive Officer Dave Nelsen’s compensation, which takes Mr. Nelsen to the top of his salary range, in addition to any cost of living increases to his base salary, effective the first full pay period in January 2022 (January 9, 2022). The motion carried 6 yes (*Amaral, Basgal, Godfrey, Levy, Reilly, Wood*), 0 no, and 0 abstentions.**

**CONFERENCE/ORAL REPORTS**

Trustee Nancy Reilly reported she attended Nossaman’s Public Pension & Investments Fiduciaries' Forum stating she forwarded materials she received from the Forum to Mr. Nelsen, as the materials may be useful to ACERA’s Human Resources, Information Technology and Investment Departments.

**ANNOUNCEMENTS**

None.

**BOARD INPUT**

Trustee Wood stated that Mr. Von Geldern sent him a text expressing his appreciation to the Board for allowing him to address the vacation sell back and cash out in final compensation issue.

**CLOSED SESSION**

- A.** Government Code Section 54957(b)(1): Public Employee Evaluation (Chief Executive Officer).

The Board took action on this matter [See Motion No. **21-99** above.]

**ADJOURNMENT**

The meeting was adjourned at approximately 5:00 p.m.

Respectfully Submitted,



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David Nelsen  
Chief Executive Officer

01/20/22

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Date Adopted

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**APPENDIX A  
APPLICATION FOR SERVICE RETIREMENT**

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AVEN, Irma  
Effective: 9/30/2021  
Superior Court

JOHNSON, Dexter  
Effective: 7/14/2021  
Social Services Agency

AZIZIAN, Angel  
Effective: 10/2/2021  
Alameda Health System

JONROWE, Stefanie  
Effective: 10/26/2021  
Superior Court

BROWN, Andrea  
Effective: 10/2/2021  
Superior Court

KITAGAWA, Elenita  
Effective: 10/2/2021  
Social Services Agency

BROWN, Stephanie  
Effective: 10/2/2021  
Assessor

LANG, Rita  
Effective: 10/2/2021  
Health Care Services Agency

CHEUNG, Belinda  
Effective: 10/1/2021  
Alameda Health System

MARKS, Jay  
Effective: 9/30/2021  
Sheriff's Office

CODD, Frank  
Effective: 10/2/2021  
Public Works Agency

MORGAN, Janetta  
Effective: 10/2/2021  
Health Care Services Agency

CUNNINGHAM, Jason  
Effective: 10/2/2021  
Sheriff's Office

OKERBERG, Carma  
Effective: 9/8/2021  
Health Care Services Agency

DOAN, Mary  
Effective: 9/16/2021  
First 5

OSUR, Micahel  
Effective: 10/1/2021  
Health Care Services Agency

DOHERTY, Cornelius  
Effective: 10/2/2021  
Health Care Services Agency

OWENS, Kenneth  
Effective: 10/20/2021  
Probation Department

GREENAN, Kelly  
Effective: 10/2/2021  
Auditor-Controller

REGENT, Robert  
Effective: 10/2/2021  
Health Care Services Agency

HATTAWAY, Veronica  
Effective: 10/2/2011  
District Attorney

SMITH, Anthony  
Effective: 10/1/2021  
Health Care Services Agency

HOLDEN-GURIN, Tamara  
Effective: 9/25/2021  
Information Technology

WONG, Helen  
Effective: 10/17/2021  
General Services Agency

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**APPENDIX B  
APPLICATION FOR DEFERRED RETIREMENT**

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COSTA, Samantha N.  
Human Resource Services  
Effective Date: 10/1/2021

LOPEZ, Ludmyrna  
Human Resource Services  
Effective: 10/29/2021

GRUNDY, Yvonne L.  
Community Development Agency  
Effective: 10/25/2021

MEZA, Derek K.  
Sheriff's Office  
Effective: 10/22/2021

JARRATT, Richard C.  
Alameda Health System  
Effective: 10/2/2021

QUINN, Kelly  
Alameda Health System  
Effective: 10/18/2021

JOHNSON, Jessica D.  
Social Services Agency  
Effective: 9/15/2021

QUINTERO, Raul  
Superior Court  
Effective: 10/8/2021

KENNETH, Lester A.  
Alameda Health System  
Effective: 10/29/2021

RANDOLPH, Melanie L.  
Alameda Health System  
Effective: 9/3/2021

KNAPP, Saunyei A.  
Probation Department  
Effective: 10/29/2021

SANCHEZ, Claudia R.  
Social Services Agency  
Effective: 10/1/2021

LECA, Andrew J.  
Sheriff's Office  
Effective: 11/12/2021

SIMS, Seneschel L.  
District Attorney  
Effective: 11/12/2021

LEFF, Amy A.  
Health Care Services Agency  
Effective: 10/1/2021

TRAN, Phong  
Social Services Agency  
Effective: 10/15/2021

LEYVA, Carlos  
Sheriff's Office  
Effective: 10/18/2021

TRAN-GARDE, Lilly L.  
Superior Court  
Effective: 11/4/2021

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**APPENDIX B-1  
APPLICATION FOR NON-VESTED DEFERRED**

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BROWN, Tyla  
Social Services Agency  
Effective Date: 10/1/2021

CORCORAN, Frances A.  
Health Care Services Agency  
Effective: 10/13/2021

CALLEJAS, Doris  
First 5  
Effective: 9/30/2021

ELGART, Sarah M.  
Alameda Health System  
Effective: 10/5/2021

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**APPENDIX B-1  
APPLICATION FOR NON-VESTED DEFERRED**

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JONES, Christina K.  
Social Services Agency  
Effective: 10/26/2021

NOORZAD, Maiwan S.  
Sheriff's Office  
Effective: 9/20/2021

JONES, Saleemah S.  
Community Development Agency  
Effective: 11/12/2021

OBERDORFER, Lilian  
Health Care Services Agency  
Effective: 10/11/2021

KELLEY, Aueska M.  
General Services Agency  
Effective: 10/21/2021

PANGANIBAN, Raymond J.  
Information Technology  
Effective: 10/8/2021

KUZARA, Phoenix  
Alameda Health System  
Effective: 9/25/2021

PETERSON, Everett D.  
Social Services Agency  
Effective: 10/22/2021

LINCHEY, Jennifer K.  
Probation Department  
Effective: 10/21/2021

ROBERTS, Vernon R.  
Human Resource Services  
Effective: 10/11/2021

LITTLETON, Tracey R.  
Alameda Health System  
Effective: 11/4/2021

RUBIN, Jessica  
Alameda Health System  
Effective: 10/22/2021

LUONG, William L.  
Health Care Services Agency  
Effective: 10/22/2021

RUIZ, Leticia  
Alameda Health System  
Effective: 10/27/2021

MARROQUIN, Eralda  
Alameda Health System  
Effective: 10/6/2021

SIMPSON, Alyssia M.  
Social Services Agency  
Effective: 10/4/2021

MARTINEZ, Sandra  
Superior Court  
Effective: 11/1/2021

SORIA, David L.  
General Services Agency  
Effective: 10/28/2021

MASSEY, Oliver  
Information Technology  
Effective: 10/15/2021

SOTIROPULOS, Julia R.  
Alameda Health System  
Effective: 10/27/2021

MAYENO, Amy  
Health Care Services Agency  
Effective: 10/15/2021

SOUNGPANYA, Linda A. L.  
County Counsel  
Effective: 10/8/2021

MOORE, Marqueeta C.  
Social Services Agency  
Effective: 9/24/2021

TABELIN, Kirstie  
Superior Court  
Effective: 10/29/2021

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**APPENDIX B-1  
APPLICATION FOR NON-VESTED DEFERRED**

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TILLMAN, Jan C.  
Superior Court  
Effective: 11/5/2021

TIMM, Kelly  
Superior Court  
Effective: 10/29/2021

VANASSE, TRISTA M.  
Alameda Health System  
Effective: 10/3/2021

VOSGUERITCHIAN, Karin  
Health Care Services Agency  
Effective: 10/29/2021

WONG, Annie Y.  
Assessor  
Effective: 10/22/2021

WONG, Kristina B.  
Health Care Services Agency  
Effective: 11/3/2021

YOUNG, Ayana  
Dept. of Child Support Svcs  
Effective: 11/3/2021

YOUNG, Juary  
Alameda Health System  
Effective: 10/27/2021

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**APPENDIX D  
LIST OF DECEASED MEMBERS**

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BAPTISTA, Anthony  
Probation Department  
11/21/2021

CLARK, Mary G.  
Superior Court  
10/19/2021

BOSTICK, Robin  
Health Care Services Agency  
10/22/2021

COLLINS, Isabell  
Sheriff's Office  
10/29/2021

CHANDLER, Jo Anne  
Superior Court  
10/4/2021

EIDEN, Robert  
Sheriff's Office  
10/6/2021

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**APPENDIX D  
LIST OF DECEASED MEMBERS**

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FUCLES, Lessie  
Social Services Agency  
11/1/2021

SHAHID, Sonia  
Non-Mbr Survivor of Rafat A. Shahid  
10/13/2021

HANSEN, Arija  
Probation Department  
9/12/2021

SHELDON, Robert S.  
Human Resource Services  
11/10/2021

HESS, Carol  
Sheriff's Office  
10/26/2021

STANTON, Gail H.  
Public Works Agency  
10/5/2021

HUDSON, Jeffery  
Sheriff's Office  
11/14/2021

SWANN, Marietta  
Non-Mbr Survivor of William H. Swann  
10/2/2021

MOORE, Maryland  
Probation Department  
11/18/2021

THOMPSON, James  
Sheriff's Office  
10/18/2021

RAYMUNDO, Myrla  
Health Care Services Agency  
11/13/2021

TOBIAS, James  
Public Works Agency  
10/21/2021

RICE, Helene  
Non-Mbr Survivor of Harold B.Rice  
10/30/2021

TRAINI, Frederika  
Library  
10/12/2021

SALES, Frank B.  
Non-Mbr Survivor of Perlita G.Sales  
11/7/2021

TROLLINGER, Socorra  
Probation Department  
10/20/2021

SANCHAS, David  
Sheriff's Office  
10/28/2021

WHITE, Jerry  
Sheriff's Office  
11/23/2021

SEARS, Mary  
Alameda Health System  
11/14/2021

WONG, Don  
Social Services Agency  
11/13/2021

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**APPENDIX E**  
**REQUEST FOR 130 BI-WEEKLY PAYMENTS TO**  
**RE-DEPOSIT CONTRIBUTIONS AND GAIN CREDIT**

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AGUILAR, Antonio  
Government Code § 31641.5 Part Time & Days Prior

KAUR, Karmjeet  
Government Code § 31641.5 Part Time & Days Prior

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**APPENDIX F**  
**APPLICATION FOR DISABILITY RETIREMENT**

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**Name:** Collins, April  
**Type of Claim:** Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, granting Ms. Collin's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

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**Name:** Young, Vicki  
**Type of Claim:** Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, granting Ms. Young's application for a service-connected disability, and waiving future annual medical examinations and questionnaires.

Based on the Medical Advisor's and Staff's review and determination of Ms. Young's ability to determine the permanency of her incapacity, to grant Ms. Young's request for an earlier effective date.

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**January 12, 2022  
Investment Committee Minutes  
For approval under January 20, 2022  
Board “Consent Calendar”**

**The January 12, 2022 Investment Committee  
Minutes will be distributed  
under separate cover**

## **CONSENT CALENDAR ITEM**

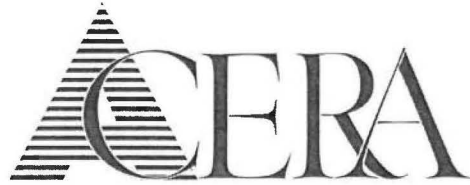
**Proposed Findings Regarding State of Emergency**

**Pursuant to Gov't Code §54953(e)(3):**

**Staff Recommendation: The Board finds that it has reconsidered the circumstances of the state of emergency and (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (2) state or local officials continue to impose or recommend measures to promote social distancing.**

**CONSENT CALENDAR ITEM**

**Operating Expenses as of November 30, 2021**



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MEMORANDUM TO THE BOARD OF RETIREMENT

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DATE: January 20, 2022

TO: Members of the Board of Retirement

FROM: David Nelsen, Chief Executive Officer *DN*

SUBJECT: Operating Expenses and Budget Summary for the period ended November 30, 2021

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ACERA's operating expenses are \$1,986K under budget for the period ended November 30, 2021. Budget overages and surpluses worth noting are as follows:

**Budget Overages**

1. *Professional Fees:* Professional Fees are \$49K over budget. This amount comprises overage in actuarial fees of \$116K mainly due to consultancy for County and LARPD additional UAAL contributions, offset by surpluses in legal fees of (\$60K) partially due to transfer from contingency fund, benefit consultant fees of (\$2K), and external audit fees of (\$5K).
2. *Depreciation:* Depreciation is \$2K over budget.

**Budget Surpluses**

3. *Staffing:* Staffing is \$1,235K under budget. This amount comprises surpluses in staff vacancies of (\$398K), and fringe benefits of (\$1,034K), offset by an overage in temporary staffing of \$197K due to vacant positions filled by temporary staff.
4. *Staff Development:* Staff Development is \$112K under budget due to savings from unattended staff trainings and conferences.
5. *Office Expense:* Office Expense is \$128K under budget. This amount comprises surpluses in printing and postage of (\$15K) and office maintenance and supplies of (\$46K) both due to savings in usage, communication expenses of (\$12K), building expenses of (\$2K), interest and amortization expense of (\$2K), bank charges and miscellaneous administration of (\$18K) mainly due to savings from security expense of investment committee meetings and active for life expenses, equipment lease and maintenance of (\$20K) mainly due to savings from overall equipment maintenance, and minor equipment and furniture of (\$13K) due to savings from ergonomic equipment and furniture expenses.
6. *Insurance:* Insurance is \$137K under budget due to significant decrease in Alameda County Risk Management and Workers' Compensation programs charges.

7. *Member Services:* Member Services are \$58K under budget. This amount comprises surpluses in disability legal arbitration and transcripts of (\$50K) due to reduction in legal arbitration cases, members' printing and postage of (\$19K), and member training and education of (\$16K) due to open enrollment event held virtually this year, offset by overages in virtual call center of \$22K due to increase in usage and additional functionality added, health reimbursement account of \$1K, and disability medical expense of \$4K.
8. *Systems:* Systems are \$67K under budget. This amount comprises surpluses in software maintenance and support of (\$100K) mainly due to delay in IT projects and capitalization of Great Plains upgrade expenses, offset by overages in business continuity expense of \$26K due to increase in usage of amazon workspaces, and county data processing of \$7K.
9. *Board of Retirement:* Board of Retirement is \$300K under budget. This amount comprises surpluses in board conferences and trainings of (\$126K) mainly due to unattended trainings and conferences, board employer reimbursement of (\$150K) mainly due to adjustment of prior year overpayments, board miscellaneous expenses of (\$16K), board software maintenance and support of (\$1K), board strategic planning of (\$10K) due to no offsite event occurred this year, and board compensation of (\$1K), offset by overage in board election of \$4K due to timing difference.

#### Staffing Detail

Permanent vacant positions as of November 30, 2021:

Department	Position	Qty	Comments
Administration	Administrative Assistant	1	Vacant - currently budgeted until 12/2021
Administration	Assistant Chief Executive Officer	1	Vacant - currently budgeted until 12/2021
Benefits	Administrative Specialist II	1	Vacant - currently budgeted until 12/2021
Benefits	Retirement Benefit Specialist	1	Vacant - currently budgeted until 12/2021
Fiscal	Retirement Accountant II <sup>1</sup>	1	Vacant - currently budgeted until 12/2021
Investments	Investment Operation Officer	1	Vacant - currently budgeted until 12/2021
Investments	Investment Analyst	1	Vacant - currently budgeted until 12/2021
<b>Total Positions</b>		<b>7</b>	

<sup>1</sup> The Financial Services Specialist II vacancy is reallocated to Retirement Accountant II position.

<b>Pension Administration System Project as of November 30, 2021</b>					
All amounts are in \$	Year-To-Date			2021 Budget	2019-20 Actual
	Actual	Budget	Variance		
<b>Consultant Fees</b>					
Levi, Ray and Shoup	956,427	627,000	329,427	683,000	1,085,179
Segal	372,035	352,000	20,035	384,000	800,450
Other expenses	-	46,200	(46,200)	50,000	1,500
Leap Technologies	-	-	-	-	98,970
<b>Total</b>	<b>1,328,462</b>	<b>1,025,200</b>	<b>303,262</b>	<b>1,117,000</b>	<b>1,986,099</b>
<b>Staffing</b>	<b>561,969</b>	<b>571,750</b>	<b>(9,781)</b>	<b>627,000</b>	<b>881,052</b>
<b>TOTAL</b>	<b>1,890,431</b>	<b>1,596,950</b>	<b>293,481</b>	<b>1,744,000</b>	<b>2,867,151</b>

## Attachments:

- Total Operating Expenses Summary
- Professional Fees – Year-to-Date – Actual vs. Budget



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

TOTAL OPERATING EXPENSES SUMMARY

YEAR TO DATE - ACTUAL VS. BUDGET					
<u>November 30, 2021</u>					
	Actual	Budget	YTD	2021	% Actual to
	<u>Year-To-Date</u>	<u>Year-To-Date</u>	<u>Variance</u>	<u>Annual</u>	<u>Annual Budget</u>
			<u>(Under)/Over</u>	<u>Budget</u>	
Staffing	\$ 13,375,408	\$ 14,610,000	\$ (1,234,592)	\$ 16,049,000	83.3%
Staff Development	147,331	259,805	(112,474)	274,000	53.8%
Professional Fees (Next Page)	1,157,750	1,108,320	49,430	1,178,000	98.3%
Office Expense	396,503	524,550	(128,047)	574,000	69.1%
Insurance	615,844	753,160	(137,316)	825,000	74.6%
Member Services	375,110	432,800	(57,690)	464,000	80.8%
Systems	1,038,274	1,105,550	(67,276)	1,202,000	86.4%
Depreciation	110,216	108,340	1,876	118,000	93.4%
Board of Retirement	290,543	590,930	(300,387)	675,000	43.0%
Uncollectable Benefit Payments	-	-	-	68,000	0.0%
<b>Total Operating Expense</b>	<b>\$ 17,506,979</b>	<b>\$ 19,493,455</b>	<b>\$ (1,986,476)</b>	<b>\$ 21,427,000</b>	<b>81.7%</b>



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

November 30, 2021

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2021</u> <u>Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
<b>Professional Fees</b>					
Consultant Fees - Operations and Projects <sup>1</sup>	\$ 303,467	\$ 305,150	\$ (1,683)	\$ 333,000	91.1%
Actuarial Fees <sup>2</sup>	514,736	399,130	115,606	415,000	124.0%
External Audit <sup>3</sup>	152,127	157,000	(4,873)	157,000	96.9%
Legal Fees <sup>4</sup>	187,420	247,040	(59,620)	273,000	68.7%
<b>Total Professional Fees</b>	<b>\$ 1,157,750</b>	<b>\$ 1,108,320</b>	<b>\$ 49,430</b>	<b>\$ 1,178,000</b>	<b>98.3%</b>

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2019 Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
<b><sup>1</sup> CONSULTANT FEES - OPERATIONS AND PROJECTS:</b>					
<b>Benefits</b>					
Alameda County HRS (Benefit Services)	115,500	115,500	-	126,000	91.7%
Segal (Benefit Consultant/Retiree Open Enrollment)	116,800	119,150	(2,550)	130,000	89.7%
<b>Total Benefits</b>	<b>232,100</b>	<b>234,650</b>	<b>(2,550)</b>	<b>256,000</b>	<b>90.7%</b>
<b>Human Resources</b>					
Lakeside Group (County Personnel)	71,367	70,500	867	77,000	92.7%
<b>Total Human Resources</b>	<b>71,367</b>	<b>70,500</b>	<b>867</b>	<b>77,000</b>	<b>92.7%</b>
<b>Total Consultant Fees - Operations</b>	<b>\$ 303,467</b>	<b>\$ 305,150</b>	<b>\$ (1,683)</b>	<b>\$ 333,000</b>	<b>91.1%</b>
<b><sup>2</sup> ACTUARIAL FEES</b>					
Actuarial valuation	79,000	79,000	-	79,000	100.0%
GASB 67 & 68 Valuation	49,000	49,000	-	49,000	100.0%
GASB 74 & 75 Actuarial	14,500	15,000	(500)	15,000	96.7%
Actuarial Standard of Practice 51 Pension Risk	25,000	40,000	(15,000)	40,000	62.5%
Supplemental Consulting	305,236	174,130	131,106	190,000	160.7%
Supplemental Retiree Benefit Reserve valuation	42,000	42,000	-	42,000	100.0%
<b>Total Actuarial Fees</b>	<b>\$ 514,736.00</b>	<b>\$ 399,130</b>	<b>\$ 115,606</b>	<b>\$ 415,000</b>	<b>124.0%</b>
<b><sup>3</sup> EXTERNAL AUDIT</b>					
External audit	131,940	132,000	(60)	132,000	100.0%
GASB 67 & 68 audit	10,819	13,000	(2,181)	13,000	83.2%
GASB 74 & 75 audit	9,368	12,000	(2,632)	12,000	78.1%
<b>Total External Audit Fees</b>	<b>\$ 152,127</b>	<b>\$ 157,000</b>	<b>\$ (4,873)</b>	<b>\$ 157,000</b>	<b>96.9%</b>
<b><sup>4</sup> LEGAL FEES</b>					
<b><u>Fiduciary Counseling &amp; Litigation</u></b>					
Nossaman - Fiduciary Counseling	18,314	19,733	(1,419)	44,000	
Reed Smith - Fiduciary Counseling	5,905	12,833	(6,929)	10,000	
Nossaman - Litigation	35,255	36,533	(1,279)	42,000	
Reed Smith - Litigation	68,615	89,000	(20,385)	80,000	
<b>Subtotal</b>	<b>128,088</b>	<b>158,100</b>	<b>(30,012)</b>	<b>176,000</b>	<b>72.8%</b>
<b><u>Tax and Benefit Issues</u></b>					
Hanson Bridgett	14,138	26,600	(12,462)	29,000	
<b>Subtotal</b>	<b>14,138</b>	<b>26,600</b>	<b>(12,462)</b>	<b>29,000</b>	<b>48.8%</b>
<b><u>Miscellaneous Legal Advice</u></b>					
Meyers Nave	45,194	62,340	(17,146)	68,000	
<b>Subtotal</b>	<b>45,194</b>	<b>62,340</b>	<b>(17,146)</b>	<b>68,000</b>	<b>66.5%</b>
<b>Total Legal Fees</b>	<b>\$ 187,420</b>	<b>\$ 247,040</b>	<b>\$ (59,620)</b>	<b>\$ 273,000</b>	<b>68.7%</b>




## **NEW BUSINESS**

- 7.A. Discussion and possible motion regarding Mark McGoldrick's claim for exemption from the Board's June 17, 2021 decisions regarding the inclusion of vacation sell back and cash out in "final compensation" and discussion and possible motion regarding other similarly situated members.**

**This item will be addressed in Open Session (materials are included in the public agenda packet), but the Board may go into Closed Session to receive advice from counsel, per Gov't Code § 54956.9(d)(2) (Conference With Legal Counsel—Anticipated Litigation: Significant Exposure to Litigation).**



To: ACERA Board of Retirement  
From: Jeff Rieger, Chief Counsel   
Meeting: January 20, 2022  
Subject: Mark McGoldrick Claim Re June 17, 2021 Board Decisions

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At the Board's December 16, 2021 meeting, the Board considered the claims of 20 members who sought exemption from the Board's June 17, 2021 changes to how much vacation sell back and cash out can be included in member's "final compensation." A copy of the memorandum (without exhibits) that was before the Board is attached as Exhibit A. At that meeting, the Board granted relief to the 19 members who filed their retirement applications on or before June 17, 2021, but deferred making any decision on the claim of Mark McGoldrick, who filed his retirement application on July 5, 2021.


The materials Mr. McGoldrick submitted for the December 16, 2021 meeting are attached as Exhibit B. Additional materials Mr. McGoldrick submitted for the January 20, 2022 meeting are attached as Exhibit C. The amount at issue for Mr. McGoldrick, based on an "Unmodified" retirement allowance, is approximately \$70 per month, which is approximately 0.8% of his retirement allowance.

Per Exhibit A, the Legal Office advises that the Board would have a strong defense if it denied Mr. McGoldrick's claim and he challenged that denial in court, but the Board has broad discretion to modify the application of its June 17, 2021 decisions. The primary issue regarding Mr. McGoldrick's claim is the potential precedential impact of the Board's decision. At the December 16, 2021 meeting, the Board drew a hard line for members who filed their applications on or before June 17, 2021. For the reasons stated in Exhibit A, the Board may consider the individual merits of Mr. McGoldrick's claim and grant the relief he requests if the Board determines that is appropriate. If the Board grants relief, however, there will no longer be a hard line based on the Board's decisions, which may raise questions about whether to grant similar relief to other members and, if so, which criteria to apply to make such decisions. Mr. McGoldrick filed his retirement application on July 5, 2021 and his effective retirement date is September 18, 2021. Approximately 22 members filed their applications between June 18 and July 5, 2021, and approximately 100 members have an effective retirement date between June 18 and September 18, 2021.

Mr. McGoldrick has been invited to present to the Board at the January 20, 2022 meeting. This matter will be addressed in open session, but the Board may also receive legal advice in closed session, as necessary.

# EXHIBIT A



To: ACERA Board of Retirement  
From: Jeff Rieger, Chief Counsel   
Meeting: December 16, 2021  
Subject: Member Claims Re June 17, 2021 Board Decisions

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### INTRODUCTION

On June 17, 2021, after substantial public discussion at the June 2, 2021 Operations Committee meeting and the June 17, 2021 Board meeting, the Board made changes to the amount of vacation sell back and cash out ACERA will include in the "final compensation" upon which members' retirement allowances are based. The Board applied the changes prospectively only, to members with an effective retirement date on or after June 18, 2021.

As ACERA implemented the changes, five members asserted claims that the Board's decisions should not apply to them because, when making their retirement plans, they relied on expected retirement allowances that were calculated under the prior rules. Those five claims are attached as Exhibits 1-5. ACERA staff also notified all members who had their retirement applications on file with ACERA as of June 17, 2021 and were impacted by the Board's June 17, 2021 decisions that the Board will be considering the five claims at its December 16, 2021 meeting. There were 15 such members and two of those members submitted claims to ACERA, which are attached as Exhibits 6 and 7.

As explained below, based on information developed since the Board took action on June 17, 2021, it is within the Board's discretion to determine whether to adjust the application of its June 17, 2021 decisions with respect to some or all of the 20 members at issue. A reasonable exercise of discretion might include: (1) leaving the Board's June 17, 2021 decisions unaltered and denying all claims; (2) deciding each claim on its individual merits; (3) modifying the effective date of the Board's decisions to include those retirements for which applications were made by June 17, 2021; or (4) making other appropriate adjustments to the Board's June 17, 2021 decisions.

The 20 members have been invited to attend the December 16, 2021 meeting and present to the Board, subject to the Chair's control of the meeting. If the Board believes it needs more information before it makes a decision, it may seek further information from staff, the claimants or any other relevant resource to be brought back for consideration at a future Board meeting.

## GENERAL BACKGROUND

The background of the issues that were before the Board on June 17, 2021 are complex and arise from a quarter-century of history that includes ACERA litigation, changing published case law, a court-approved settlement agreement and legislative changes to ACERA's governing law that was effective on January 1, 2013. A memorandum outlining that complex quarter-century of history is attached as Exhibit 8.<sup>1</sup> As that memorandum explains, in *Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* (2020) 209 Cal.5th 1032 ("ACDSA Litigation"), the California Supreme Court made two apparently contradictory statements. One statement supported ACERA's practices that were in place at that time<sup>2</sup>; the other suggested that ACERA needed to change those practices.<sup>3</sup>

The Board made its decisions after much discussion and consideration of both the law and the facts presented. In that process, the California Attorney General claimed that a change was legally required for all ACERA members who retired on or after January 1, 2013, and threatened to seek judicial relief to that effect in the remand proceedings of the ACDSA Litigation. Further, ACERA's litigation counsel publicly expressed his understanding (which turned out to be correct) that the California Attorney General would not challenge the calculation of pre-June 18, 2021 retirees' allowances if the Board changed its practices for members who retired on or after June 18, 2021.

Throughout the Board's process, ACERA's participating employers never took a position on the issues. Members and union representatives urged the Board not to eliminate "straddling," which was the most significant issue before the Board. After the Board made changes for members with effective retirement dates on or after June 18, 2021, the California Attorney General formally abandoned any effort to challenge ACERA's practices as applied to members with effective retirement dates before June 18, 2021.

## NATURE OF CLAIMS BEFORE THE BOARD

The thrust of all seven claims before the Board is that the claimants planned their retirements (how long to continue working, how much retirement income to expect, etc.), based on ACERA's practices in place before the Board's June 17, 2021 decisions. Further, they assert that ACERA staff should have done more to notify them of the possibility that the Board might change its practices. They claim that, if they had been notified of that possibility, they would have retired earlier to take advantage of the old practices.

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<sup>1</sup> A copy of the memorandum that includes its exhibits can be found in the public packet for the Board's June 17, 2021 meeting, at [https://www.acera.org/sites/main/files/file-attachments/061721\\_board\\_packet\\_public.pdf?1623379589](https://www.acera.org/sites/main/files/file-attachments/061721_board_packet_public.pdf?1623379589).

<sup>2</sup> "A better reading requires 'earned and payable' to refer to the amount of leave time that can be accrued during the final compensation period." *Id.* at 1096, fn.31.

<sup>3</sup> "By limiting the inclusion of cashed out leave time to that 'earned and payable' in a '12-month period,' subdivision (b)(2) and (4) prevent this [straddling] practice." *Id.* at 1062-63.

Fundamentally, all of the claims are based on a legal doctrine called “equitable estoppel.” Claimant Micheal O’Connor makes an equitable estoppel argument explicitly, but all of the claims fairly fall under that doctrine. Further, the individual claimants raise additional points about their particular circumstances, including for example:

- Vella Black-Roberts, Mark McGoldrick and Ronald Rettig-Zucchi all state that they delayed their retirements out of a sense of obligation due to the COVID, without knowing that their delay might result in a lower retirement allowances.
- Ronald Rettig-Zucchi explains that, if he had retired on or before April 1, 2021, as he had initially planned before the COVID crisis, he would have received a 2% COLA, which would have exceeded the amounts he seeks based on the old rules for inclusion of vacation sell back and cash out.
- Mark McGoldrick explains that, after delaying his originally planned retirement from in 2020, he would have retired in March 2021, but he further delayed retirement because another supervisor in his office was retiring and he felt obligated to avoid having two supervisors leave at the same time. He also describes medical conditions that prevented him from continuing to work after learning about application of the new rules, so he was unable to achieve the higher allowance he previously expected.
- Eric von Geldern and Micheal O’Connor detail how carefully they planned their retirement dates and the difficulty they would have had changing those dates.
- Timothy Murphy describes an injury he suffered that caused him to delay his retirement date (initially planned for March 31, 2021), because of concerns he had about medical coverage. Also, due to the injury, he could not delay retirement longer than he did in order to achieve the higher allowance he previously expected.

All but one of the claimants had their retirement applications on file with ACERA as of June 17, 2021. Mark McGoldrick, one of the original five claimants, filed his application with ACERA on July 5, 2021.

### **SCOPE OF CLAIMS**

Seven Individual Claims: The estimated impact (based on “Unmodified” allowances) of ACERA’s new practices on the members who submitted claims to ACERA are as follows:

- Eric von Geldern: \$345 per month (about 2% of allowance)
- Micheal O’Connor: \$342 per month (about 1.9% of allowance)
- Timothy Murphy: \$298 per month (about 2% of allowance)
- Mark McGoldrick: \$70 per month (about 0.8% of allowance)
- Ronald Rettig-Zucchi: \$55 per month (about 1.3% of allowance)
- Vella Black-Roberts: \$89 per month (about 2% of allowance)
- Darryl Cheung: \$287 per month (about 2.4% of allowance)

Total For All 20 Members: The total amount at issue for all members who submitted claims or had applications on file as of June 17, 2021 is about \$2,367 per month—an average of about \$118 per month per member (based on “Unmodified” retirement allowances).

Dollar Range For All 20 Members: The impact ranges from about \$2 to about \$345 per month. Most of the total impact is due to four of the members who made claims to ACERA (\$345, \$342, \$298, \$287) and two Tier 1 members with one-year final compensation that increases the impact of “straddling” (\$282, \$162). The impact on the other 14 members is less than \$100 per month each (seven are under \$50 per month each).

Percentage of Allowances: 17 of the 20 members are impacted by less than 2% of their retirement allowance. One is impacted by about 2.4% (higher than average vacation sell rights) and two are impacted by about 3.7% each (Tier 1 members).

## ANALYSIS

### The Board’s Defense Of The Claims In Court Would Be Strong

The claims are best characterized as claims for equitable estoppel. Under that doctrine, a claimant may be entitled to prior expectations when the claimant relies to his or her detriment on another’s conduct or representations. Here, the claimants allege that they relied on ACERA’s prior practices, and alleged failure to inform them about a possible change to those practices, when planning their retirements. In the Alameda Litigation, the California Supreme Court explained:

The doctrine of equitable estoppel is founded on concepts of equity and fair dealing. It provides that a person may not deny the existence of a state of facts if he intentionally led another to believe a particular circumstance to be true and to rely upon such belief to his detriment. The elements of the doctrine are that (1) the party to be estopped [ACERA] must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel [members] has a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury. Although equitable estoppel is a well-accepted remedy among private parties, it has been applied sparingly when the party sought to be estopped is a governmental entity. The government may be bound by an equitable estoppel in the same manner as a private party, but the doctrine is invoked only in those exceptional cases where justice and right require — that is, when the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from the raising of an estoppel. In short, **equitable estoppel will not apply against a governmental body except in unusual instances when necessary to avoid grave injustice and when the result will not defeat a strong public policy.** *Alameda County Deputy Sheriff’s Association, 9 Cal.5th at 1072* (internal marks and citations omitted) (emphasis added).

Further, "principles of estoppel are not invoked to contravene statutes and constitutional provisions that define an agency's powers." *Fleice v. Chualar Union Elementary School Dist.* (1988) 206 Cal.App.3d 886, 893). Numerous cases have declined to apply equitable estoppel against a retirement system to expand member's rights beyond those provided by law. See, e.g., *Barrett v. Stanislaus County Employees Retirement Assn.* (1987) 189 Cal.App.3d 1593, 1608; *Medina v. Board of Retirement* (2003) 112 Cal.App.4th 864, 870; *Molina v. Board of Administration, etc.* (2011) 200 Cal.App.4th 53, 64; *City of Pleasanton v. Board of Administration* (2012) 211 Cal.App.4th 522, 543; *Chaidez v. Board of Administration* (2014) 223 Cal.App.4th 1425, 1431-32; *McGlynn v. State of California* (2018) 21 Cal.App.5th 548, 561-62.

Here, a reduction in benefits of less than 4% (less than 2% for most) likely would not qualify as the kind of "grave injustice" that would qualify for the application of equitable estoppel against ACERA. In the above-cited cases where the courts rejected equitable estoppel claims the additional amounts the members expected were greater than the additional amounts the members expected here.<sup>4</sup> Further, this Board's June 17, 2021 decisions were based on the Board's review of a California Supreme Court opinion that upheld the Legislature's efforts to eliminate perceived pension manipulation and abuse. The Board made this decision at a time when the California Attorney General was publically asserting that the Board was legally required to change its practices, which the Attorney General claimed permitted abusive pension spiking. Under those circumstances, it is hard to see how a court would find that application of the Board's decisions to the claimants was a "grave injustice," especially in light of the precedent rejecting estoppel against public retirement systems in cases with more significant amounts at issue.<sup>5</sup>

In sum, if the Board decides to deny all of the claims and leave its June 17, 2021 decision unaltered, it will have a strong defense to any claims that might be pursued in court.

### **The Board Has Authority To Adjust Its Own June 17, 2021 Decisions**

The California Constitution entrusts the exclusive fiduciary responsibility for administering ACERA to the Board. See Cal. Const., art. XVI, § 17. Under Gov't Code § 31520.1, this Board is comprised of the county Treasurer, four independent trustees appointed by the county board of supervisors, three active members of the system elected by the system's active members, one retired member of the system elected by the system's retired members and two alternates (active safety member and retired member). The California Supreme Court described a California public retirement board's decision-making process:

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<sup>4</sup> *Barrett, Medina and McGlynn* related to the tiers in which the members belonged. *City of Pleasanton* and *Molina* analyzed "compensation earnable" claims that were substantially more significant than 4% of the members' allowances. *Chaidez* related to most of the value of eight years of service credit.

<sup>5</sup> There are serious questions about whether the factual elements of estoppel could be established for any of the claimants, given that (a) retirement estimates are never guaranteed, and (b) ACERA staff did not know what decisions, if any, the Board would make on June 17, 2021 (or what would happen in the ACDSA Litigation thereafter). The main point, though, is that, even if all of the factual elements for equitable estoppel were met, as a matter of law it is unlikely equitable estoppel would be available to the claimants.



"[T]hrough the representation of all stakeholders, fair and wise decisions will [ ] emerge." *Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1096.

For decades, Gov't Code § 31461 has outlined the parameters of "compensation earnable" and stated that a members' "compensation earnable" ultimately shall be "determined by the board." In so doing, the Board must "discharge [its] duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims." Cal. Const., art. XVI, § 17(c). As one court explained: "Section 17 imposes various fiduciary duties on the board. Given the breadth of those duties, section 17 necessarily vests the board with discretion in the manner in which it fulfills those duties." *Nasrawi v. Buck Consultants* (2014) 231 Cal.App.4th 328, 342.<sup>6</sup>

On June 17, 2021, the Board was presented with uniquely challenging questions, in the context of a complex legal and factual history, including two apparently contradictory statements from the California Supreme Court in the ACDSA Litigation. Indeed, on the primary question that was before the Board regarding "straddling," the ACERA Legal Office made no recommendation and advised the Board to exercise its best judgment based on all of the facts and circumstances. None of ACERA's employers took a position on the issues before the Board on June 17, 2021. The California Attorney General argued that the Board needed to change its practices, but formally abandoned any claim that the Board was required to apply those changes to members with effective retirement dates before June 18, 2021.

Further, while the litigation risk of denying the present claims is low, litigation risk can never be completely eliminated<sup>7</sup> and the Board has broad discretion with respect to potential litigation. See *Fireman's Fund Insurance Company v. Workers' Compensation Appeals Board* (2010) 181 Cal.App.4th 752, 770-71 (broad authority by public entities to settle uncertain questions of law); *Nasrawi*, 231 Cal.App.4th at 340-43 (retirement board immune for claims it should have pursued litigation). The total amount at issue here is less

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<sup>6</sup> This is not to say that the Board's discretion is unfettered. The Board must follow its governing law. In the present case, however, there was substantial uncertainty about what the Board's governing law required. The ambiguity in the law is crucial to the analysis in this memorandum. Without that ambiguity, the Legal Office would have made substantially different recommendations both at the June 17, 2021 meeting and with respect to the present claims.

<sup>7</sup> Claimant Micheal O'Connor cites to the recent case *Nowicki v. Contra Costa County Employees' Retirement Association* (2021) 67 Cal.App.5th 736. From a legal perspective, that case is off point, because it turned on the proper construction of governing law, rather than the rules of equitable estoppel. From a practical perspective, however, the case illustrates the risks that are inherent in litigation. That appellate court overruled a trial court decision in the retirement system's favor and reinstated large amounts for Nowicki, even as the appellate court "recognize[d] that Nowicki's preretirement efforts to increase his compensation earnable in the period before his retirement, which allowed him to maximize his pension, epitomize pension spiking." *Id.* at 769.

than a single typical service-connected disability application and the impact is distributed among 20 members, so the cost of litigation could easily surpass the value of the claims.<sup>8</sup>

Based on the current claims, the Board has learned new facts about how the application of the Board's June 17, 2021 decisions impacted ACERA's members to whom the Board owes fiduciary duties. See *O'Neal v. Stanislaus County Employees' Retirement Association* (2017) 8 Cal.App.5th 1184, 1204. Thus, based on its broad authority over the administration of ACERA, if the Board determines it would have applied its June 17, 2021 decisions differently had it known everything it knows now, then the Board may adjust the application of its decisions to account for the new facts it has learned.

### RECOMMENDATION

The Board should exercise its best judgment as to whether it should reverse the application of its June 17, 2021 decisions to some or all of the 20 members who have either made claims or who had their retirement applications on file as of June 17, 2021. This might include:

- Denying all claims and leaving the June 17, 2021 decisions unaltered.
- Granting some or all of the seven claims before the Board.
- Granting some or all of the seven claims before the Board and granting the same relief to the other 13 members who had their applications on file with ACERA as of June 17, 2021.
- Altering the applicability of the Board's June 17, 2021 decisions in some other way that the Board finds appropriate and consistent with its fiduciary duties.

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<sup>8</sup> This is not to say that the Board should always consider granting claims that may lead to litigation costs that are greater than the claims are worth. As previously explained, the legal ambiguity surrounding the issues that were before the Board on June 17, 2021 looms large in this memorandum.

# EXHIBIT B

Mark McGoldrick



October 7, 2021

Jeff Rieger, Chief Counsel  
ACERA  
475 14<sup>th</sup> Street  
Suite 1000  
Oakland, CA 94612-1900

Dear Mr. Rieger,

I write to appeal the ACERA application as to me of the changes to the "straddling" rules on how much vacation sell back (during employment) and vacation cash out (at termination) can be included in the "compensation earnable" used to calculate benefits for retirement.

I am retiring after nearly 27 years (24.5 years service credit) at the Office of the Public Defender. For the last several years, I have been the supervisor of our Homicide Unit. In that capacity, I evaluated all the homicides that came through our office and also carried my own caseload of about dozen murder cases. My intent was to retire by the end of last year (2020), but stayed on because the Covid pandemic created a staffing crisis, and my particular caseload is hard to extricate oneself from – complex cases lasting many years. Then, I planned for the end of March, but another supervisor announced he was retiring and I did not want the Office to suffer two supervisors leaving at the same time.

I am retiring at my young age, 56, for a complex of reasons. Mostly, my health and my family's well being. I broke my neck in the 1980s and am a quadriplegic (though to the untrained eye, I pass as paraplegic). I use a wheelchair. I am more vulnerable to upper respiratory infections, like Covid 19, as my lungs are paralyzed and I breath via my diaphragm. I have two young children (6 and 9) who are not old enough to be vaccinated. I cannot afford to get sick with Covid as it could greatly affect my health and independence, and I cannot ethically pass it on to my children. This has led me and my family to live more cautiously than most.

But, living cautiously at work has proven difficult. Most of my clients have refused the vaccine. Litigating in court for hours next to an unvaccinated person, among sheriff's deputies who are casual in their mask wearing, has been a real challenge. I cannot avoid the elevators in the courthouse. In the Rene C. Davidson Courthouse where I worked, the accessible bathroom is in the basement. This means I had to rely on the closed-space of the elevators much more than others. The Covid-mitigation measures in court have the side effect of reducing accessibility for me: speaking through a mask for hours; addressing a jury spread throughout the whole room instead of concentrated into the jury box; more plexiglass in my way, etc. (Oddly, the courts overall have gotten slightly less accessible over the years.) To do the job properly, I would go to the jail often to visit clients, as I did for 25 years, but since the pandemic I am very hesitant to go inside the jail where I am locked in with deputies and clients who do not take the pandemic or mask wearing seriously.

Thus, for many reasons, I cannot simply continue working to accrue more time in service and attain the retirement allowance I would have previous to the rule change.

On April 15, 2021 my wife and I met with an ACERA representative to begin the formal process. Eventually, I settled on leaving work by the end of June. My last formal day of work was July 2, 2021, although I held back a couple homicides that I am working at no cost to the County.

In late June, I received word that the ACERA Board had adopted the new "straddling" rule, announced June 21 but retroactive to June 17, 2021. It was thus adopted effective immediately, including to people like myself who were already scheduled to leave.

As you appreciate, normal rule making is prospective, announcing a rule change and allowing people to understand it and plan accordingly. I know the Board was under some pressure when it adopted the new rule, but this is problematic. By the time I learned of the new rule change, I had long relied on the existing rules and managed my vacation and leave times accordingly. My successor had been named and the complicated process of training that attorney to the new tasks of the position and transferring a homicide caseload was underway. There was no going back, no extending.

Attached please find the ACERA estimations of retirement allowance from May 6, 2021 and from August 20, 2021. The May 6 estimation was based on the possibility of my retiring by June 26, 2021, with 24.31228 years of service credit. The August 20 estimate is based on my finalized plan to retire September 18, 2021. Even though the service credit has accrued to 24.50190 years service credit, the monthly allowance under the new rule would be diminished several hundred dollars. This is not fair.

I am requesting that the new rule not apply to me.

Thank you,



Mark McGoldrick



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION [www.acera.org](http://www.acera.org)  
475 14<sup>th</sup> Street, Suite 1000, Oakland, CA 94612-1900 (800) 838-1932(510) 628-3000 FAX (510) 268-9574

May 6, 2021

Mark McGoldrick



Dear Mark McGoldrick,

This letter contains information about the estimated monthly lifetime retirement allowance you will receive if you choose to retire from ACERA on **June 26, 2021**. We estimate that you will have **24.31228** years of service credit with ACERA on this date. Please see below for estimated retirement benefit amounts:

- **Unmodified Option:** \$7,708.65 gross per month. Upon your death, your qualified spouse would receive \$4,625.19 gross per month.
- **Option 1:** \$7,640.11 gross per month. Upon your death, your qualified spouse would receive a one-time lump sum payment of any remaining contributions in your account.
- **Option 2:** \$6,790.37 gross per month. Upon your death, your qualified spouse would receive \$6,790.37 gross per month.
- **Option 3:** \$7,220.43 gross per month. Upon your death, your qualified spouse would receive \$3,610.21 gross per month.

The final average salary used for the calculation of this estimate is \$20,145.57 (Tier 2). This final average salary includes 120 hours of vacation sellback that were paid during your highest calculated compensation period. Your total current account balance with ACERA is \$488,710.99.

Included below is an additional retirement estimate which is calculated based on your projected remaining leave balances with your employer. If you use any of your projected remaining balances of vacation, PTO, and/or sick leave, the estimated retirement benefit amounts listed below may be overstated. Please see below for estimated retirement benefit amounts:

- **Unmodified Option:** \$8,315.79 gross per month. Upon your death, your qualified spouse would receive \$4,989.47 gross per month.
- **Option 1:** \$8,247.25 gross per month. Upon your death, your qualified spouse would receive a one-time lump sum payment of any remaining contributions in your account.
- **Option 2:** \$7,325.18 gross per month. Upon your death, your qualified spouse would receive \$7,325.18 gross per month.
- **Option 3:** \$7,789.12 gross per month. Upon your death, your qualified spouse would receive \$3,894.56 gross per month.

The final average salary used for the calculation of this estimate is \$21,347.36 (Tier 2). This final average salary includes 80 hours of vacation sellback that were paid during your highest calculated compensation period AND 400 hours of projected vacation sellback that are typically paid to you on your last employer paycheck. This estimate includes your remaining sick leave balance of 1789.890 hours which will approximately convert to an additional 0.430262 years of service credit, bringing your total projected years of service credit to 24.74254 for the date of retirement indicated above.

**These estimates are only an approximation of your retirement allowance. Your actual retirement allowance will be based on your total audited years of service credit with ACERA, your age at retirement, and your final**

**average salary. Estimates are provided as a courtesy for your use and they are provided without benefit of a complete audit of your files or an actuarial review of the calculations.**

If you plan to retire, you must submit an Application for Service Retirement, all other required forms, and all required supporting documentation prior to the date of retirement. All required forms must be submitted **within 90 days prior** to your retirement date. Please visit <https://www.acera.org/applying-retire> for detailed instructions on how to complete the retirement process.

If you are planning for a different date of retirement, you can use ACERA's Benefit Estimator in ACERA Web Member Services to estimate your retirement benefit amount. This Benefit Estimator provides you with an estimate immediately by using your personal account information from our retirement database to give you an accurate and personalized retirement estimate. Simply go to [www.acera.org](http://www.acera.org) and click on the "Account Login" button (top right hand side). If you have not already created your personal account, you will need to sign up for one before you can log in. Once you are logged into your personal account, click on the Benefit Estimator link.

If you would like more information or if you have any questions, please send an email to [info@acera.org](mailto:info@acera.org).


Sincerely,

Patricia Ortega  
Sr. Retirement Technician



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION [www.acera.org](http://www.acera.org)  
475 14<sup>th</sup> Street, Suite 1000, Oakland, CA 94612-1900 (800) 838-1932 (510) 628-3000 FAX (510) 268-9574

August 20, 2021

Mark Mc Goldrick  


Dear Mr. Mc Goldrick,

An estimate of the Unmodified Retirement Allowance that you are eligible to receive beginning **September 18, 2021** is **\$8,089.35** per month. Upon your death, your qualified spouse would receive **\$4,853.61** per month. We estimate that you will have **24.50190** years of service on this date. If you plan to retire on this date, you must submit an Application for Service Retirement prior to the date of retirement, however, no more than 90 days in advance.

The final average salary used for this estimate is \$20,720.73 (Tier II). It includes:

\* 240.0 hours Vacation Sell/ Vacation Cash Out (Check your MOU for maximum allowable)

**These estimates are only an approximation of your retirement allowance. Your actual retirement allowance will be based on an audit of your service record and will use total days of actual membership in the retirement system, age at retirement and final average compensation. Estimates are provided as a courtesy for your use and they are provided without benefit of a complete audit of your files or an actuarial review of the calculations.**

If you have planned other dates of retirement than the above, you can use ACERA's Benefit Estimator in our Web Member Services. This Benefit Estimator can provide you with an estimate immediately by using your personal account information from our retirement database to give you an accurate personal retirement estimate(s). Simply go to [www.acera.org](http://www.acera.org) and click on the "Your Personal Account" button (top right hand side). If you have not already created your personal account, you may need to complete this step first. Once you are in your personal account, click on the Benefit Estimator link.

If you would like more information or have additional questions, please feel free to contact ACERA at 510-628-3000.

Sincerely,

ACERA Staff



# EXHIBIT C

Mark McGoldrick  
(Address and phone on record with ACERA)

January 10, 2021

Dale E. Amaral  
ACERA Board Chair  
475 14<sup>th</sup> Street  
Suite 1000  
Oakland, CA 94612-1900

Dear Mr. Amaral,

An attorney for ACERA, Jeff Rieger, was kind enough to inform me the Board granted relief to the other appealing retirees at the December meeting and deferred any decision on mine based on the date of my application to retire. First, I'm glad relief was granted to the others!

If the Board wants to focus on the date of the application, I can understand why that's a convenient demarcation. But, it does not take into account the actual process of retiring and the public notice I had already made before the Board's announcement of the rule change.

My retirement was a lengthy process, not a singular event. It began in the fall of 2020 when I told my Department Head I would be leaving in a matter of months, when my caseload and the office could best deal with it. Such advance notice is necessary with supervising attorneys.

After the April, 2021 pre-retirement consultation with ACERA, I submitted to my Department Head my letter of intent to retire, with my last working day being July 2, 2021. This was submitted May 3, 2021. See attached. My replacement was selected and my caseload transition began, as did disclosures of my leaving to certain personnel within the office.

On June 17, 2021, a department-wide notice was sent by the Chief Assistant naming my replacement and informing the office that my last day of work would be July 2, 2021, with my last day on the books being September 17, 2021. See attached.

For the purposes of retiring, the July 5, 2021 submission of the application was certainly timely, as the only notice on the application was that it be submitted by the date of retirement, for me September 18, 2021.

In any event, by the time the Board announced its rule change, my retirement was well under way and publicly announced.

Thank you for your service and I wish you Happy New Year.



Mark McGoldrick



**BRENDON D. WOODS**  
*Public Defender*  
**YOUSEEF J. ELIAS**  
*Chief Assistant Public Defender*

May 3, 2021

Brendon Woods  
Public Defender  
Office of the Public Defender, Alameda County  
1401 Lakeside, 4<sup>th</sup> Floor  
Oakland, CA 94612

Dear Brendon,

I am providing formal notice of my intent to retire. It has been an enormous privilege to work for this office and to represent the many clients I have had pleasure of knowing over the years. I want to thank you personally for the comradeship and the supervision you have provided. I also want to thank you for giving me opportunities within the office, such as promotion and participation in the Homicide Unit. I appreciate what you have done for our office during your tenure as Public Defender, and for the role you have played in my own career.

I am sorry to leave the office during such a challenging time. My leaving now is in keeping with a timetable I have long held and which is in the best interests of my family and personal life.

I will work my cases until June 18, 2021. The week of June 21-25, 2021, I intend to take as vacation. I plan to return to work the week of June 28, with my last day in the office being Friday, July 2, 2021. After that, I would stay on the books until my vacation runs out, whenever that pencils out to be.

This office and our work mean the world to me. My passion for this mission has never dimmed. I have dear friends from my years here. I started in my 20s and leave in my 50s. We have shared work triumphs and catastrophes -- as well as births, marriages, deaths, and everything else in between.

I wish you all the best in your continued stewardship of the office. Peace.

Sincerely,

ALAMEDA COUNTY PUBLIC DEFENDER



Mark McGoldrick  
Attorney at Law

**INTERIM TRANSFER LIST**  
**6/17/21**

**7/06/21**

[REDACTED]  
Jane Brown  
Mark McGoldrick

[REDACTED]  
Juvenile to 187 team head  
187 team head to retire (last day on books September 17th)

[REDACTED]

[REDACTED]

**8/01/21**

[REDACTED]

[REDACTED] le  
[REDACTED]  
[REDACTED]

# **NEW BUSINESS**

**7.B. Chief Executive Officer's Report.**



*Office of the Chief Executive Officer  
Office of Administration*

DATE: January 20, 2022  
TO: Members of the Board of Retirement  
FROM: Dave Nelsen, Chief Executive Officer *DN*  
SUBJECT: Chief Executive Officer's Report

**Senior Manager Recruitment**

Assistant CEO for Operations: This is to fill the duties due to Margo's acceptance of the position at Sacramento CRS. We have interviewed six very qualified candidates and will be choosing from them shortly.

**Committee/Board Action Items**

**ASSIGNED FOLLOW-UP ITEMS**

<b>Follow-Up Board Item</b>	<b>Assigned Senior Leader</b>	<b>Estimated Completion Date</b>	<b>Completion Date</b>	<b>Notes</b>
Develop ACERA Re-Opening Plan.	Dave Nelsen	July 2021	On-going	The general guidelines of the Plan have been developed and implemented. We are responding to changes as necessary based on new information.

**Conference/Event Schedule**

None.

**Other Items**

COVID-19 Responses

The County requires all employees to report their COVID-19 vaccination status. There is no vaccine mandate at this time. ACERA is largely vaccinated, with nearly all of our team members at least having the initial vaccination. While this is good, the spread of the Omicron variant is still having a significant impact on staffing and the ability to bring people to the office. When you combine the transmissibility of this variant with a lack of testing resources, a number of our people are infected or are forced to quarantine because they can't get tested if exposed or showing symptoms.

We are considering scaling back on in-person services for the short term. While we were open on Tuesdays and Thursdays for appointments, not many members are coming in. We have averaged less than five appointments per month since opening in June. We currently only have two appointments scheduled for January. We will continue to monitor the situation and let you know of any changes to the operations.

### *Pension Administration System Update*

The project is continuing to work through its phases. We have completed the first two deliverables, and we are now working on Deliverable three. We continue to work with the other employers on the new transmittal file layout. Additionally, we are working our On-Base enhancements and integration into the PAS project schedule.

### *Board Operations*

We began hybrid Board meetings last September in anticipation of the Governor removing the Executive Order that limited the *Brown Act* restrictions on virtual meetings. With the legislation passing that gives us the choice to continue with virtual meetings if certain conditions are met, the need to hold hybrid meetings is lessened. Given the current rise in COVID cases and the transmissibility of the new variant, the Chair and I felt that holding a virtual only Board meeting in January was prudent. I will work with the next Chair to determine whether hybrid or virtual Board meetings will be held going forward.

Additionally, last year we postponed a Strategic Planning event by the Board due to the inability to meet in person. I will also be working with the next Chair on moving this initiative forward in spite of the in-person restrictions. The facilitator I had been speaking with completed a strategic planning process with the San Joaquin Retirement Board last fall that was completely virtual. The input I received from a Trustee and their CEO was that the process went very well.

### *Other Recruitments:*

We have made an offer and it has been accepted for the Investment Operations Officer position. We have interviewed and promoted internal candidates for two Retirement Benefit Specialists. These are lead positions within the Benefits Unit.

**Key Performance Indicators**

Below are the high level performance indicators for ACERA, with the latest scores included:

Scorecard KPI	2020 Performance Goal
<b>PRUDENT INVESTMENT PRACTICES</b>	
<b>Portfolio Performance vs. Policy Benchmark</b>	<i>Annualized 10-year return will meet or exceed Policy benchmark at the total fund level</i> <b>Through November of 2021: We were at the benchmark.</b>
<b>EFFECTIVE PLAN ADMINISTRATION</b>	
<b>Actual Spent vs. Approved Budget</b>	<i>On budget or 10% below 2021 approved budget</i> <b>As of end of November 2021: 9.9% under budget.</b>
<b>COMPREHENSIVE ORGANIZATION DEVELOPMENT</b>	
<b>Employee Engagement Survey Results</b>	<i>80% of responses in top two rating boxes on the question: "Is ACERA a great place to work?"</i> <b>As of the latest survey (October of 2021): 72.7%.</b>
<b>SUPERIOR CUSTOMER SERVICE</b>	
<b>Service Excellence Survey</b>	<i>80% of responses in top two rating boxes on the question: "Did ACERA meet or exceed my expectations for my customer service experience?"</i> <b>For 4th Quarter of 2021: 93%</b>



**13. CLOSED SESSION:**

- A. Consider the Purchase of Particular, Specific Pension Fund Investments (Cal. Gov. Code § 54956.81) (3 fund-of-hedge-funds investments – (1) BlackRock; (II) GCM Grosvenor; and (III) Morgan Stanley).**
- B. Existing Litigation pursuant to Government Code Section 54956.9(d)(1): Alameda Health System v. ACERA, San Francisco County Superior Court, Case No. CGC-19-516795.**

**IF THERE ARE ANY MATERIALS TO BE DISTRIBUTED FOR AGENDA ITEM 13.A. ABOVE, THEY WILL BE DISTRIBUTED UNDER SEPARATE COVER.**