



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, February 16, 2023
2:00 p.m.**

ZOOM INSTRUCTIONS	BOARD OF RETIREMENT - MEMBERS	
The public can view the Teleconference and comment via audio during the meeting. To join this Teleconference, please click on the link below. https://zoom.us/join Webinar ID: 879 6337 8479 Passcode: 699406 Call-In Number: 1 (669) 900-6833 US For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193	JAIME GODFREY	APPOINTED
	CHAIR	
	OPHELIA BASGAL	APPOINTED
	FIRST VICE-CHAIR	
	KELLIE SIMON	ELECTED GENERAL
	SECOND VICE-CHAIR	
	KEITH CARSON	APPOINTED
	ROSS CLIPPINGER	ELECTED SAFETY
	TARRELL GAMBLE	APPOINTED
	HENRY LEVY	TREASURER
	ELIZABETH ROGERS	ELECTED RETIRED
	GEORGE WOOD	ELECTED GENERAL
	CYNTHIA BARON	ALTERNATE RETIRED¹
KEVIN BRYANT	ALTERNATE SAFETY²	

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: If you require a reasonable modification or accommodation for a disability, please contact ACERA between 9:00 a.m. and 5:00 p.m. 72 hours prior to the meeting at accommodation@acera.org or at 510-628-3000.

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.

11. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

4. 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 ON SERVICE RETIREMENTS:

Appendix A

B. LIST OF DEFERRED RETIREMENTS:

Appendix B

C. LIST OF DECEASED MEMBERS:

Appendix C

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

None

E. APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON DISABILITY RETIREMENTS AND DEATH BENEFITS:

Appendix E

F. APPROVE UNCONTESTED HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS AND DEATH BENEFITS:

None

G. APPROVE MINUTES of BOARD and COMMITTEE MEETINGS:

January 19, 2022 Minutes of the Regular Board Meeting

February 1, 2023 Operations Committee Minutes

February 1, 2023 Retirees Committee Minutes

February 8, 2023 Investment Committee Minutes

H. MISCELLANEOUS:

- *Quarterly Report on Member Underpayments and Overpayments*
- *4th Quarter 2022 Call Center Report*
- *Approve Staff Recommendation regarding the County of Alameda's Pay Item/Code Shift 2 Straight Overtime – S2S*

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

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

5. DISABILITY, DEATH AND OTHER BENEFIT CLAIMS

None.

6. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:

A. Operations: [See February 1, 2023 Operations Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of February 1, 2023 Meeting.
2. Motion to approve the 2022 discharge request of benefits overpayments in the amount of \$33,647.12.

B. Retirees: [See February 1, 2023 Retirees Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of February 1, 2023 Meeting.
2. Motion to adopt the Supplemental Cost of Living Adjustment increase for Tier I members who retired on or before April 1, 1982, and Tier 2 members who retired on or before April 1, 2007, effective with the April 1, 2023 monthly retirement allowance. This annual supplemental benefit is non-vested and is funded by the Supplemental Retiree Benefit Reserve.

C. Investment: [See February 8, 2023 Investment Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of February 8, 2023 Meeting.
2. Motion to approve the Proposed New Manager Structure for the International Equity Asset Class.
3. Motion to adopt the 2023 – 2029 Investment Plan for ACERA’s Real Assets Asset Class.
4. Motion to adopt the 2023 - 2026 Updated Private Equity Investment Plan.

D. Audit: [See February 16, 2023 Audit Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of February 16, 2023 Meeting.
2. Motion to approve the external audit scope of work and timeline of services for the Financial Statements ended December 31, 2022, to be performed by Williams, Adley & Company-CA, LLP.

7. NEW BUSINESS:

- A. Discussion regarding Committee and Board Meeting logistics in March 2023 and thereafter.
- B. Presentation from Chief Counsel regarding new rules for Trustees' remote attendance at Board and Committee meetings.
- C. Chief Executive Officer's Report.

8. CONFERENCE/ORAL REPORTS

9. ANNOUNCEMENTS

10. BOARD INPUT

11. ESTABLISHMENT OF NEXT MEETING:

Thursday, March 16, 2023 at 2:00 p.m.

12. ADJOURNMENT

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

AINDOW, Dena M.
Effective: 9/17/2022
Social Service Agency

ALDRIDGE, Leonard E.
Effective: 12/10/2022
Public Works Agency

CHANG, Chi J.
Effective: 11/26/2022
Social Service Agency

CHENG, Kit Y.
Effective: 12/10/2022
Sheriff's Office

DOZIER, Cynthia S.
Effective: 11/24/2022
Social Service Agency

LASSO, Chanthal P.
Effective: 11/19/2022
Probation

LEWIS, Kevin
Effective: 11/29/2022
Sheriff's Office

LOCHIN, Glenford A.
Effective: 12/1/2022
Alameda Health System

MARAMREDDY, Neeraja
Effective: 11/19/2022
Alameda Health System

MCINTYRE, Jean L.
Effective: 11/27/2022
Alameda Health System

MEDEIROS, Brian K.
Effective: 12/9/2022
District Attorney

NOBLES, Donald R.
Effective: 12/7/2022
District Attorney

OZUNA, Luz
Effective: 12/10/2022
Alameda Health System

RODGER, Gary L.
Effective: 12/10/2022
Sheriff's Office

SAETEURN, Nai F.
Effective: 11/29/2022
Alameda Health System

SPROUL, Gary D.
Effective: 11/15/2022
Health Care Service Agency

SWISHER, Scott A.
Effective: 11/24/2022
District Attorney

TABET, Christine M.
Effective: 12/10/2022
Alameda Health System

VALENCIA, Carlos
Effective: 12/1/2022
Auditor-Controller

WALKER, Ellen
Effective: 11/29/2022
Health Care Service Agency

WILKINS, Vicki L.
Effective: 12/10/2022
Public Defender

WONG, Jack
Effective: 12/10/2022
Treasurer -Tax Collector

WU, Joanne
Effective: 12/13/2022
Treasurer -Tax Collector

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

BATES, Marcus D.
General Services Agency
Effective: 10/19/2022

MITLO, Jennifer G.
District Attorney
Effective: 11/7/2022

HERETH, Kristi L.
Superior Court
Effective: 10/31/2022

MOMOH, Imoudu
Health Care Services Agency
Effective: 11/11/2022

JACKSON, Malik R.
Sheriff's Office
Effective: 12/9/2022

NEVILLE, Nichele L.
Superior Court
Effective: 11/3/2022

JAUREGUI, Patricia E.
Alameda Health System
Effective: 11/21/2022

PETERSON-FISHER, Gretchen E.
Superior Court
Effective: 11/30/2022

JOHNSON, Jeaneen
Health Care Services Agency
Effective: 10/2/2022

PORTILLANO, Criza A.
Social Services Agency
Effective: 10/28/2022

KARANKI, Divya
Information Technology
Effective: 11/14/2022

QUINTERO, Raul I.
Sheriff's Office
Effective: 11/26/2022

KUDILIL, Nelson
Alameda Health System
Effective: 11/25/2022

RAJU, Justin
Housing Authority
Effective: 11/11/2022

LEMASTERS, Shannan R.
Alameda Health System
Effective: 11/29/2022

RAMOS, Giovanna F.
District Attorney
Effective: 12/16/2022

LOVILLE, La'jae S.
Social Services Agency
Effective: 11/1/2022

REYNOSO, Gladys
Probation
Effective: 11/29/2022

MANTERNACH, Bryan S.
Information Technology
Effective: 11/30/2022

RIAZ, Sheetal
Alameda Health System
Effective: 11/23/2022

MCGUINNESS, Sophie A.
Community Development Agency
Effective Date: 11/14/2022

ROMERO, Alex
Social Services Agency
Effective: 11/30/2022

MCNAMEE, Robert F.
Superior Court
Effective: 12/16/2022

RUIZ, Genesis M.
Probation
Effective: 12/13/2022

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

SANTAMARIA, Vicente
Public Works Agency
Effective: 12/30/2022

URZUA, Sonia
Community Development Agency
Effective: 1/6/2023

SIMPSON, Quintera K.
District Attorney
Effective: 12/26/2022

VONG, Vien J.
Human Resource Services
Effective: 12/23/2022

SMITH-GRADY, Tyrisha G.
Social Services Agency
Effective: 11/21/2022

WASTENEY, Lauren M.
Social Services Agency
Effective: 12/23/2022

SOU, Mary
Social Services Agency
Effective: 12/9/2022

WEEKES, Camille C.
Superior Court
Effective: 12/2/2022

TAI, Charlotte
Superior Court
Effective: 12/16/2022

WILCOX, Elizabeth A.
Human Resource Services
Effective: 1/6/2023

THOMAS, Shane D.
Probation
Effective: 12/9/2022

WILLIAMS, Tiffany G.
Social Services Agency
Effective: 11/28/2022

TING, Sarah W.
Board of Supervisors
Effective: 1/2/2023

WINTERS THOMAS, Liana K.
Human Resource Services
Effective: 1/6/2023

TUMMINGS, Bianca M.
Information Technology
Effective: 12/23/2022

WONG, Jay C.
Sheriff's Office
Effective: 12/23/2022

URBANO, Chona A.
Alameda Health System
Effective: 11/30/2022

YAN, Qi Y.
Public Works Agency
Effective Date: 11/25/2022

**APPENDIX C
LIST OF DECEASED MEMBERS**

ALEXANDER JR., Jason
Non-Mbr Survivor of Charlene Alexander
12/25/2022

LAUREL, Maria
Non-Mbr Survivor of John Laurel
1/7/2023

ANDERSON, David
Non-Mbr Survivor of Sharon M. Anderson
12/31/2022

MARR, Nancy
Non-Mbr Survivor of William Marr
11/20/2022

ANDERSON, David
Sheriff's Office
12/31/2022

MARTIN, Earnesteen
Alameda Health System
12/23/2022

BANNISTER, Rufina
Alameda Health System
12/8/2022

MATZEK, Mary
Non-Mbr Survivor of George Matzek
12/23/2022

BELLERIVE, James
District Attorney Office
1/24/2023

RAPP, Linda
Probation Department
9/10/2022

CAMPBELL, Jessie
Non-Mbr Survivor of Edward Campbell
12/10/2022

REID, Robert
Non-Mbr Survivor of Christel Reid
12/30/2022

CRARY, Eleanor
Library
12/24/2022

RENO, Deborah
Non-Mbr Survivor of Robert Reno
12/2/2022

FULLER, Lawrence
Sheriff's Office
1/10/2023

SERVATKA, Barbara
Superior Court
1/20/2023

JACOBS, Alberta
Behavioral Health Care Services
1/21/2023

SUURONEN, Norma
District Attorney Office
1/9/2023

VILLANUEVA, Amado
General Services Agency
1/8/2023

APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS

Name: Caron, William
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. Caron's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Name: Matheny, Thomas
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. Matheny's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Name: Mensinger, Maegan
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. Mensinger's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

CONSENT CALENDAR ITEM

**January 19, 2023
Minutes of the Regular Board Meeting
For approval under February 16, 2023
Board “Consent Calendar”**



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT
MINUTES

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

Thursday, January 19, 2023

Chair Jaime Godfrey called the meeting to order at 2:01 p.m.

Trustees Present: Ophelia Basgal
Keith Carson
Ross Clippinger
Tarrell Gamble
Jaime Godfrey
Henry Levy
Elizabeth Rogers
Kellie Simon
George Wood
Cynthia Baron (*Alternate*)
Kevin Bryant (*Alternate*)

Staff Present: Carlos Barrios, Assistant Chief Executive Officer-Benefits
Angela Bradford, Executive Secretary
Sandra Dueñas-Cuevas, Benefits Manager
Erica Haywood, Fiscal Services Officer
Jessica Huffman, Benefits Manager
Harsh Jadhav, Chief of Internal Audit
Vijay Jagar, Retirement Chief Technology Officer, ACERA
Lisa Johnson, Assistant Chief Executive Officer-Operations
David Nelsen, Chief Executive Officer
Jeff Rieger, Chief Counsel
Betty Tse, Chief Investment Officer

Staff Excused: Victoria Arruda, Human Resource Officer

PUBLIC INPUT

None.

Board Chair Jaime Godfrey called for nominations regarding the election of the Board Chair for 2023.

23-01

Henry Levy nominated Jaime Godfrey (seconded by Ophelia Basgal) and Elizabeth Rogers nominated Ophelia Basgal (seconded by George Wood) to serve as the 2023 Board Chair. There were no further nominations.

Jaime Godfrey was elected as Chair of the Board of Retirement by a vote of 8 yes (*Basgal, Carson, Clippinger, Gamble, Levy, Rogers, Simon, Wood*), 0 no, and 1 abstention (*Godfrey*).

Board Chair Jaime Godfrey called for nominations regarding the election of the Board First-Vice-Chair for 2023.

23-02

Jaime Godfrey nominated Ophelia Basgal (seconded by Keith Carson) and Elizabeth Rogers nominated Kellie Simon to serve as the 2023 Board First-Vice Chair. There were no further nominations.

Ophelia Basgal was elected as First-Vice Chair of the Board of Retirement by a vote of 9 yes (*Basgal, Carson, Clippinger, Gamble, Godfrey, Levy, Rogers, Simon, Wood*), 0 no, and 0 abstentions.

Board Chair Jaime Godfrey called for nominations regarding the election of the Board Second-Vice-Chair for 2023.

23-03

Henry Levy nominated Kellie Simon (seconded by Ophelia Basgal) to serve as the 2023 Board Second-Vice Chair. There were no further nominations.

Kellie Simon was elected as Second Vice-Chair of the Board of Retirement by a vote of 9 yes (*Basgal, Carson, Clippinger, Gamble, Godfrey, Levy, Rogers, Simon, Wood*), 0 no, and 0 abstentions.

CONSENT CALENDAR
REPORTS AND ACTION ITEMS

REPORT ON SERVICE RETIREMENTS

Appendix A

LIST OF DEFERRED RETIREMENTS

Appendix B

LIST OF DECEASED MEMBERS

Appendix C

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

Appendix D

APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON DISABILITY RETIREMENTS AND DEATH BENEFITS

Appendix E

APPROVE UNCONTESTED HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS AND DEATH BENEFITS

None

APPROVE MINUTES of BOARD and COMMITTEE MEETINGS

December 14, 2022 Investment Committee Minutes

December 15, 2022 Minutes of the Regular Board Meeting

January 11, 2023 Investment Committee Minutes

MISCELLANEOUS

- *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, 2022*

23-04

It was moved by Ophelia Basgal and seconded by Keith Carson that the Board adopt the Consent Calendar. The motion carried 9 yes (Basgal, Carson, Clippinger, Gamble, Godfrey, Levy, Rogers, Simon, Wood), 0 no, and 0 abstentions.

**REGULAR CALENDAR
REPORTS AND ACTION ITEMS**

DISABILITY AND DEATH BENEFIT CLAIMS

None.

COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS

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

Investment:

Tarrell Gamble reported that the Investment Committee met on January 11, 2023 and that there were no Action Items. Trustee Gamble stated that the Committee was presented with the following Information Items: *1)* Semiannual Performance Review for the Period Ending June 30, 2022 for *a)* Real Estate, *b)* Private Equity, *c)* Private Credit, and *d)* Real Assets; and *2)* Proposed 2023 Investment Committee Workplan.

Trustees inquired about the current occupancy at the 475 14th Street Building (Oakland, CA) (an ACERA real property asset). Mr. Nelsen reported that the building is approximately between 70% and 75% occupied. Staff was instructed to perform an inventory of the building to determine the current occupancy/vacancies and the expiration dates of any current leases. For detailed information regarding this issue, refer to the Appendix in Callan's Real Estate Report. Trustee Carson reported that the Alameda County Board of Supervisors just had a discussion about employees returning to the Office post-COVID.

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

NEW BUSINESS:

Chief Counsel Presentation: New Rules for Trustee Remote Attendance at Meetings

Chief Counsel Jeff Rieger presented information on and explained the new rules for Trustee remote attendance at Committee and Board meetings stating that as of February 28, 2023, the Governor will lift the State of Emergency Order, which would require Board Trustees to attend Committee/Board meetings in person starting in March 2023. Mr. Rieger also explained that Board Trustees could still attend a Committee/Board meeting remotely under the following exceptions: *1)* Emergency Circumstances (the Board is notified and approves); and *2)* Just Cause (this exception can only be used twice in a calendar year) or *3)* the Board Trustee complies with the previous *Brown Act* rules (identification of the remote meeting site location in order for the public to attend, posting the agenda in the remote location, etc.). Mr. Rieger and Mr. Nelsen responded to Trustees' questions.

If a Board Trustee needs to participate in a Committee/Board meeting remotely, he/she should contact ACERA Staff for assistance. ACERA will continue to allow the Public to participate in Committee/Board meetings via Zoom. For detailed information on the new rules, see Mr. Rieger’s memo that was distributed with the January 19, 2023 Board Packet. The new rules will be incorporated into the *Remote Access to Meetings Policy* for the Governance Committee’s consideration.

There were questions about how the limitations on a Trustee’s use of the new rules would apply to the Board and each Committee under certain circumstances. Mr. Rieger stated that he would provide further analysis at a future meeting.

David Nelsen, Chief Executive Officer’s Report

Mr. Nelsen presented his January 19, 2023 written CEO Report which provided an update on: **1) Committee and Board Action Items; 2) Other Items: a) COVID-19 Responses; b) Pension Administration System; c) Business Planning Update; d) Virtual Meetings; e) Committee Assignments; and 3) Key Performance Indicators.**

Mr. Nelsen announced that he will send each Trustee a document asking them which Committees they would like to be a part of and/or lead. Once Mr. Nelsen receives that information, he will forward the document with the Committee assignments to Chair Godfrey for his consideration.

Mr. Nelsen reported that the 2023 Trustee Conference Allotment is \$16,906.00 and according to the *Board Travel Policy*, the State Association of County Retirement Systems (SACRS) Conferences are not excluded from the allotment amount.

Chief Executive Officer Compensation

Before the Board adjourned into Closed Session, Mr. Rieger announced that Chair Jaime Godfrey is the Board’s Designated Representative regarding compensation negotiations with Chief Executive Officer Dave Nelsen.

CONFERENCE/ORAL REPORTS

Trustee Levy reported he attended a Conference in Sacramento, CA (in his capacity as Treasure/Tax-Collector) wherein there was a presentation by Michael Cohen, CalPERS Interim Chief Operating Investment Officer, and discussion regarding partnerships with County Pension Plans and direct investments. Trustee Levy stated he would like the ACERA Board to have these types of discussions.

Trustee Levy reported he attended the Opal Group Public Funds Summit and stated that former Board Trustee Darryl Walker presented at one of the sessions. Trustee Levy further reported that there was also a discussion regarding Independent Investment Consulting.

ANNOUNCEMENTS

None.

BOARD INPUT

During the Investment Committee discussion, Trustee Levy inquired about the November 30, 2022 Operating Expense Budget as it pertains to the Strategic Planning and the Supplemental Consulting Fees. Mr. Nelsen reported that the *Strategic Plan* was paid for via the 2022 Operating Expense Budget and that the Supplemental Consulting Fees are related to Segal's actuarial expenses.

CLOSED SESSION

Conference with Designated Representative (Jamie Godfrey) regarding Compensation Negotiations with the Chief Executive Officer (Cal. Gov't Code § 54957.6).

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

The Board reconvened into Open Session and the following Trustees returned:
Baron, Basgal, Carson, Clippinger, Gamble, Godfrey, Levy, Rogers, and Simon

Chair Godfrey announced that there was no reportable action taken regarding the two Closed Session items listed above.

After the Board reconvened into Open Session, the following motion was made:

23-05

It was moved by Tarrell Gamble and seconded by Ophelia Basgal that the Board approve Chief Executive Officer Dave Nelsen's request to work remotely five (5) days per month from February through July 2023. The motion carried 8 yes (*Basgal, Carson, Clippinger, Gamble, Godfrey, Levy, Rogers, Simon*), 0 no, and 0 abstentions. *Trustee Wood was not present for the vote on the motion.*

To view the January 19, 2023 Board meeting in its entirety, click on the link below:
<https://youtu.be/zke8fmn01uk>.

ADJOURNMENT

The meeting was adjourned at approximately 3:25 p.m.

Respectfully Submitted,



David Nelsen
Chief Executive Officer

02/16/23

Date Adopted

APPENDIX A
REPORT ON SERVICE RETIREMENTS

ARCAYENA, Raymond
Effective: 11/13/2022
Information Technology Department

JONES, Yvonne
Effective: 10/15/2022
Health Care Services Agency

BLACK, Nancy
Effective: 4/1/2018
Non-Member

KELLMAN, Bernie
Effective: 10/31/2022
Alameda Health System

BROUILLETTA, Leslie
Effective: 11/15/2022
Health Care Services Agency

KRIEBL, Olivia
Effective: 10/5/2022
Alameda Health System

BURNLEY, Deborah
Effective: 10/15/2022
Health Care Services Agency

LE, Tuan
Effective: 10/22/2022
Social Services Agency

COLLINS, Classie
Effective: 11/11/2022
Superior Court

LEE, Hiram
Effective: 10/30/2022
Alameda Health System

DANIELS, Michael
Effective: 10/29/2022
Probation Department

LEVINE, Hal
Effective: 10/29/2022
Health Care Services Agency

FISHER, Linda
Effective: 10/15/2022
Superior Court

LINDER, Sarah
Effective: 12:00:00 AM
Health Care Services Agency

FONG, Debra
Effective: 10/15/2022
Probation Department

LOCKHART, Noli
Effective: 10/11/2022
District Attorney

GALLAHER, Ellen
Effective: 10/29/2022
Superior Court

MARTINEZ, Denise
Effective: 10/8/2022
Superior Court

GURO, Gina
Effective: 10/25/2022
Social Services Agency

MARTINEZ, Frederick
Effective: 10/15/2022
Sheriff's Office

HOWARD, Cecelia
Effective: 10/19/2022
Alameda Health System

MCDANIEL, Pamela
Effective: 10/29/2022
Child Support Services

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

NAAMANI, Amy
Effective: 10/15/2022
Zone 7

SPENCER, Shalom
Effective: 11/15/2022
Alameda Health System

PERETTI, Adrienne
Effective: 10/29/2022
Superior Court

TAYLOR, Jeanette
Effective: 11/1/2022
Sheriff's Office

RENDRADJAJA, Ivo
Effective: 10/29/2022
Health Care Services Agency

THOMAS, David
Effective: 10/29/2022
Sheriff's Office

ROSAS, Gonzalo
Effective: 10/12/2022
General Services Agency

VIGIL, Rebecca
Effective: 11/10/2022
Sheriff's Office

SO, Lai
Effective: 10/29/2022
Auditor-Controller

WILLIS, Kevin
Effective: 10/30/2022
Sheriff's Office

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

ARCHIE, Temia S.
Social Services Agency
Effective Date: 10/5/2022

DIAZ CONTRERAS, Ellit J.
Sheriff's Office
Effective: 10/15/2022

BALASUBRAMANIAN, Priyamvadha
Health Care Services Agency
Effective: 10/28/2022

FARRAR, Loren M.
First 5
Effective: 10/3/2022

BALDERAMA SANCHEZ, Charles P.
Social Services Agency
Effective: 10/7/2022

FOLTA, Jennette Y.
Social Services Agency
Effective: 9/16/2022

BONACORSO, James R.
Alameda Health System
Effective: 9/24/2022

GAMIAO, Rocel Grace M.
Social Services Agency
Effective: 10/14/2022

CHERR, Sara E.
Health Care Services Agency
Effective: 10/21/2022

GONZALEZ, Blanca C.
Sheriff's Office
Effective: 10/9/2022

CULBERTSON, Angelique A.
Human Resource Services
Effective: 10/7/2022

GRANT, Erica K.
Human Resource Services
Effective: 10/28/2022

APPENDIX B
LIST OF DEFERRED RETIREMENTS

HA, Monica J.
District Attorney
Effective: 10/21/2022

HOLMES, Kevin
Superior Court
Effective: 10/14/2022

HARE, Milele C.
Social Services Agency
Effective: 9/2/2022

IMARA, Charsina H.
Sheriff's Office
Effective: 9/23/2022

APPENDIX C
LIST OF DECEASED MEMBERS

ASTEN, Elfriede
Non-Mbr Survivor of Vernon Asten
12/13/2022

HALL, Geraldine
Social Services Agency
11/30/2022

BONETE, Jesus
Non-Mbr Survivor of Josefina Bonete
11/25/2022

HAMILTON, Bernice
Information Technology Department
12/1/2022

BULLOCK, Norman
Non-Mbr Survivor of Dolores Bullock
11/29/2022

HARLAN, William
Sheriff's Office
12/9/2022

COLBERT Leslie
Probation Department
12/1/2022

HOLLOWAY, Marjorie
Behavioral Health Care Services
12/6/2022

COLLINS, Russell
Non-Mbr Survivor of Isabell Collins
11/28/2022

HULL, Jay
Social Services Agency
12/24/2022

CURRY Joan
Alameda Health System
12/4/2022

JONES, Liza
Non-Mbr Survivor of Terence Jones
11/29/2022

CUTERRY, Grandville
Probation Department
11/24/2022

LAZANEO, Michael
General Services Agency
12/5/2022

FOSTER, Barbara
Non-Mbr Survivor of Clyde Foster
11/29/2022

MAHAN, Helen
Sheriff's Office
12/9/2022

**APPENDIX C
 LIST OF DECEASED MEMBERS**

MC KONE, Richard Probation Department 12/3/2022	QUAN, Jane Sheriff's Office 12/12/2022
MORENO, Jesus Public Works Agency 12/7/2022	SITZMANN, Robert Sheriff's Office 11/23/2022
MURRAY, Marie Health Care Services Agency 12/9/2022	TUBBY, Janice Alameda Health System 11/23/2022
PETERSEN, Donna Alameda Health System 11/22/2022	WILLIAMS, Rosemary Social Services Agency 12/7/2022

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

KOHYAR, Jila
 Government Code § 31641.5 Part Time & Days Prior

**APPENDIX E
 APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
 DISABILITY RETIREMENTS AND DEATH BENEFITS**

Name: De La Cruz, Tamara
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, denying Ms. De La Cruz's application for a service-connected disability.

* THIS DOCUMENT IS UNCLASSIFIED AND IS NOT SUBJECT TO THE FOIA PROVISIONS OF 5 U.S.C. 552, UNLESS INDICATED OTHERWISE. *
 * THIS DOCUMENT IS UNCLASSIFIED AND IS NOT SUBJECT TO THE FOIA PROVISIONS OF 5 U.S.C. 552, UNLESS INDICATED OTHERWISE. *

**APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS**

Name: Maria, Craig
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. Maria's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

CONSENT CALENDAR ITEM

**February 1, 2023
Operations Committee Minutes
For approval under February 16, 2023
Board “Consent Calendar”**



MINUTES OF FEBRUARY 1, 2023 OPERATIONS COMMITTEE MEETING
THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

To: Members of the Operations Committee

From: Kellie Simon, Chair

Subject: Summary of the February 1, 2023 Operations Committee Meeting

Committee Chair Kellie Simon called the February 1, 2023 Operations Committee meeting to order at 9:32 a.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Kellie Simon, Ophelia Basgal, and Elizabeth Rogers. Also present were Tarrell Gamble, Jaime Godfrey, and alternate members Cynthia Baron and Kevin Bryant. Keith Carson and George Wood arrived after roll call.

Staff present were David Nelsen, Chief Executive Officer; Lisa Johnson, Assistant Chief Executive Officer; Carlos Barrios, Assistant Chief Executive Officer; Jeff Rieger, Chief Counsel; Sandra Dueñas-Cuevas, Benefits Manager; Jessica Huffman, Benefits Manager; Betty Tse, Chief Investment Officer; Vijay Jagar, Chief Technology Officer; Erica Haywood, Fiscal Services Officer; and Harsh Jadhav, Chief of Internal Audit.

PUBLIC INPUT

None

Action Items

1. Discussion and Possible Motion to Recommend to the Board of Retirement to Approve the 2022 Discharge of Benefits Overpayments

Recommendation

Staff recommends that the Operations Committee recommend to the Board of Retirement to approve the 2022 discharge request of benefits overpayments in the amount of \$33,647.12.

It was moved by Elizabeth Rogers and seconded by Ophelia Basgal that the Operations Committee recommend to the Board of Retirement to approve the 2022 Discharge of Benefits Overpayments in the amount of \$33,647.12.

The motion carried 7 yes (*Basgal, Gamble, Godfrey, Rogers, Simon, Wood, and Bryant*), 0 no, and 0 abstentions. Keith Carson was not present at time of vote.

INFORMATION ITEMS

1. Un-Audited Financial Statements as of 12/31/2022

Staff presented the Unaudited Financial Statement for the period ending December 31, 2022. Staff stated the net position held in trust and the change in Fiduciary net position compared to the same period in 2021 decreased by \$1.5 billion.

2. Operating Expenses as of 12/31/2022

Staff presented end-of-year Budget vs. Actual Operating Expense Report. As of December 31, 2022, actual expenses were \$1,855K under budget. Budget overages noted were Depreciation (\$8k over budget). Budget surpluses noted were Staffing (\$1,317K under budget) with 6 vacant positions, Staff Development (\$28K under budget), Professional Fees (\$71K under budget), Office Expense (\$211K under budget), Insurance (\$3K under budget), Member Services (\$55K under budget), Systems (\$63K under budget), Board of Retirement (\$94K under budget), and Uncollectable Benefits Payments (\$22K under budget).

3. Actual Cash Report as of 12/31/2022

Staff presented the Actual Negative Cash Position for 2022. For the year ending December 31, 2022, with the exception of the months having three-pay-periods, the average monthly negative cash position for the period is (\$26,369,582).

4. Board Member Conference Expense Report for 4th Qtr. 2022

Staff presented the Board Member Conference and Training Report for the period January 1, 2022 to December 31, 2022. Reported expenses for the period were \$94,577.

5. Senior Manager Conference and Training Expense Report for 4th Qtr. 2022

Staff presented the Senior Manager Conference and Training Expense Report for the period January 1, 2022 to December 31, 2022. Reported expenses for the period were \$44,438.

6. Proposed 2023 Operations Committee Work Plan

Staff presented the draft work plan for the 2023 Operations Committee.

7. Board Travel Policy-Annual Board travel increase by the Consumer Price Index

Staff presented that the 2023 Trustee Conference Allotment is \$16,906.00.

8. Technology Report

Staff presented the 2022 Cybersecurity Report.

TRUSTEE INPUT AND DIRECTION TO STAFF

Trustees requested that an additional graph showing the negative cash balance for the past ten years. The graph should highlight events that are relevant, for example, changes in county contributions.

Trustees directed staff to look into expense management programs like Expensify.

Operations Committee Meeting Summary

February 1, 2023

Page 3 of 3

FUTURE DISCUSSION ITEMS

March

- Operating Expenses as of 01/31/23 (to be presented at the March Board meeting)

April

- Operating Expenses as of 02/29/23
- Statement of Reserves as of 12/31/22
- Board Effects Presentation

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for Wednesday April 5, 2023 at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 10:13 a.m.

CONSENT CALENDAR ITEM

**February 1, 2023
Retirees Committee Minutes
For approval under February 16, 2023
Board “Consent Calendar”**



MINUTES OF FEBRUARY 1, 2023 RETIREES COMMITTEE MEETING

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

To: Members of the Retirees Committee

From: Elizabeth Rogers, Chair

Subject: Summary of the February 1, 2023 Retirees Committee Meeting

Committee Chair Elizabeth Rogers called the February 1, 2023 Committee meeting to order at 10:33 a.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Elizabeth Rogers, Ophelia Basgal, and Kellie Simon. Also present were Cynthia Baron, Kevin Bryant, Tarrell Gamble, Jaime Godfrey, and George Wood.

Staff present were Carlos Barrios, Assistant Chief Executive Officer; Sandra Dueñas-Cuevas, Benefits Manager; Mike Fara, Communications Manager; Jessica Huffman, Benefits Manager; Harsh Jadhav, Chief of Internal Audit; Vijay Jagar, Chief Technology Officer; Lisa Johnson, Assistant Chief Executive Officer; David Nelsen, Chief Executive Officer; Jeff Rieger, Chief Counsel and Betty Tse, Chief Investment Officer.

PUBLIC INPUT

None.

INFORMATION ITEMS

Chair Rogers moved the following information item to the top of the agenda to provide for more complete background before considering the action item:

1. Annual Cost of Living Adjustment (COLA)

Staff reported that based on information provided by Segal, ACERA's actuaries, the Cost of Living Adjustment effective April 1, 2023 results in the maximum increase of 3.0% for all Tier 1 and Tier 3 retirees/payees, and all Tier 2 and Tier 4 retirees/payees will receive 2.0%. The Consumer Price Index (CPI) calculation resulted in a change of 4.88%. According to Government Code Sections 31870 and 31870.1, the percentage change should be rounded to the nearest one-half percent, which is 5.0%. The difference between the 5.0% and the maximum COLA adjustment allowed for each Tier group will be banked.

ACTION ITEMS

1. Annual Supplemental Cost of Living Adjustment (COLA)

Staff provided information regarding the Supplemental Cost of Living Adjustment (COLA) benefit. The Supplemental COLA is provided to retirees who have an accumulated loss of purchasing power of 15% due to inflation. For 2022, there were approximately 649 retirees/payees receiving this benefit at a cost of \$941,730.91. Based on the accumulated loss of purchasing power as of December 31, 2022, those Tier 1 members who retired on or before April 1, 1982, and those Tier 2 members who retired on or before April 1, 2007, will receive the Supplemental COLA increase effective with their April 1, 2023 monthly allowance.

In response to Trustee Basgal's request, Staff will look into providing a five-year demographic survey of the number of payees and cost by Tiers who will be eligible for the Supplemental COLA.

In response to Trustee Wood's question, Staff will provide an analysis of the factors that cause the differences between when Tier 1 and Tier 2 payees become eligible for the Supplemental COLA, to include the increases and decreases in the population based on the retirement dates and Tiers.

It was moved by Jaime Godfrey and seconded by Ophelia Basgal that the Retirees Committee recommend to the Board of Retirement that it adopt the Supplemental Cost of Living Adjustment increase for Tier 1 members who retired on or before April 1, 1982, and Tier 2 members who retired on or before April 1, 2007, effective with the April 1, 2023 monthly retirement allowance. This annual supplemental benefit is non-vested and is funded by the Supplemental Retiree Benefit Reserve.

The motion carried 7 yes (*Basgal, Bryant, Gamble, Godfrey, Rogers, Simon, Wood*), 0 no, 0 abstentions

INFORMATION ITEMS.

2. 2023 Annual Retirees Committee Work Plan Review

Staff provided a proposed 2023 Retirees Committee Work Plan highlighting three changes from last year's work plan: 1) a proposal to conduct a Request for Information for Individual Medical Plans coverage and services; 2) a review of the potential alternatives to the discontinued Active Death Equity Benefit (ADEB) program; and 3) a review of the Supplemental Retiree Benefit Reserve Policy. In response to Trustee Rogers' question, Staff clarified that the Active Death Equity Benefit (ADEB) agenda item for the April meeting is a discussion item.

3. Annual Health Care Planning Meeting with Retiree Representatives/Date Announcement

Staff presented information regarding the purpose and plans for ACERA's annual health care planning meeting with Trustees, retiree representatives, Benefits Consultants, and the County of Alameda, which is tentatively scheduled for April 5, 2023. Unless the Alameda County Retired Employees (ACRE) and Retired Employees of Alameda County (REAC) Board representatives prefer to meet in person, this meeting will be held virtually again this year.

4. Proposal to Conduct a Request for Information (RFI) for Individual Medical Plans Coverage and Services

Staff and Segal, ACERA's Benefits Consultant, provided a proposed plan to conduct a request for information (RFI) for individual medical plans coverage and services. Conducting an RFI in advance of a request for proposal (RFP) will allow ACERA to assess the interest and capabilities of the limited number of prospective exchanges that provide the services currently provided by Via Benefits, to determine if there is value in looking at alternatives and in making a change before going through the RFP process. Staff will plan to proceed with conducting an RFI.

5. Report on 1099-R Processing

Staff reported that the 2022 1099-R forms were mailed to retirees/payees the week of January 17th prior to the IRS deadline of January 31st.

6. Report on Open Enrollment Activity

Staff provided information on the Plan Year 2023 Open Enrollment activity for ACERA and Via Benefits. Out of the total 293 group change forms the members submitted, 61% were submitted via DocuSign.

7. Semi-Annual Report on ACERA's Wellness Program

Staff provided a report on ACERA's 2022 virtual wellness offerings, and plans for the 2023 wellness program. Based on the survey results from the 2022 virtual Retiree Health and Wellness Fair, the limited Staff resources due to the Pension Administration System project work, and concerns of spreading COVID-19 among our at-risk retiree population, the 2023 Retiree Health and Wellness Fair will be held again virtually.

In response to Trustee Basgal's suggestion to look into hosting at least one in person event, like a walk around Lake Merritt, Staff will assess the necessary resources to plan such an event. Also, based on Trustee Rogers' suggestion, Staff will find out from the ACRE and REAC retiree associations if there is interest in participating in a walk around Lake Merritt.

TRUSTEE REMARKS

None.

FUTURE DISCUSSION ITEMS

- Review of Potential Alternatives to the Discontinued Active Death Equity Benefit (ADEB) Program

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for April 5, 2023 at 10:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 11:12 a.m.

CONSENT CALENDAR ITEM

**February 8, 2023
Investment Committee Minutes
For approval under February 16, 2023
Board “Consent Calendar”**

**The February 8, 2023
Investment Committee Minutes
will be distributed under separate cover**

CONSENT CALENDAR ITEM


**Quarterly Report on Member
Underpayment and Overpayments**



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: February 16, 2023

TO: Members of the Board of Retirement

FROM: Jessica Huffman, Retirement Benefits Manager 

SUBJECT: **Quarterly Report on Member Underpayments and Overpayments**

Attached are the quarterly reports regarding member contributions and overpayments of retirement allowance due to death for the most current six-month period. The report regarding staff errors contains the cases initially presented that have not yet been resolved, along with recently discovered errors. The information below provides more specifics in each of these categories.

Overpayments of Retirement Allowance Due to Death

This report provides any payments (including HRA (Health Reimbursement Arrangements) payments) made after the death of a retiree. In instances where a death is not reported timely, an overpayment occurs. For the six-month reporting period April 3, 2022 through October 1, 2022, 179 deaths occurred. There are nine overpayments due to unreported deaths to report at this time. Staff is actively attempting to collect on these overpayments.

Staff Errors

There are no staff errors to report.

Overpayments and Underpayments of Member Contributions

This report, which is for the period April 03, 2022 through October 01, 2022, shows discrepancies in member contribution amounts resulting in an underpayment or overpayment above the \$50 threshold, average time to resolve, and an explanation of the error type. For this reporting period, staff identified ten members who underpaid their mandatory employee contributions and no members who overpaid their mandatory employee contributions. Staff reviewed and resolved each of the ten cases of incorrect payment. There were a total of 2,934 exceptions from all Participating Employers. The most common exception type was underpayments due to the Employers withholding retirement contributions based on the incorrect salary.

Attachments

Overpayments of Retirement Allowance Due to Unreported Death April 3, 2022 thru October 1, 2022

Benefit Type	Date of Death	Date ACERA Notified of Death	Last Check Issued	Net Receivable Owed	Staff's Comment
Service Retirement	4/25/2022	5/5/2022	4/29/2022	\$3,076.67	Staff initiated a reversal request with Wells Fargo but was unsuccessful at collecting. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Service Retirement	5/28/2022	6/6/2022	5/31/2022	\$3,912.20	Staff initiated a reversal request with Wells Fargo but was unsuccessful at collecting. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Service Retirement	6/25/2022	7/5/2022	6/30/2022	\$2,044.82	Staff initiated a reversal request with Wells Fargo but was unsuccessful at collecting. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Service Retirement	6/19/2022	7/15/2022	6/30/2022	\$1,801.15	Staff initiated an ACH Letter of Indemnity request with Wells Fargo but was unsuccessful in collecting overpayment. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Continuance	7/24/2022	8/5/2022	7/29/2022	\$2,170.56	Staff initiated a reversal request with Wells Fargo but was unsuccessful at collecting. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Service Retirement	8/22/2022	9/1/2022	8/31/2022	\$3,876.53	Staff initiated a reversal request with Wells Fargo but was unsuccessful at collecting. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Service Retirement	8/15/2022	9/9/2022	8/31/2022	\$2,131.41	Staff initiated an ACH Letter of Indemnity request with Wells Fargo but was unsuccessful in collecting overpayment. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.

Overpayments of Retirement Allowance Due to Unreported Death – Continued

Benefit Type	Date of Death	Date ACERA Notified of Death	Last Check Issued	Net Receivable Owed	Staff's Comment
Service Retirement	8/26/2022	9/14/2022	8/31/2022	\$3,678.54	Staff initiated an ACH Letter of Indemnity request with Wells Fargo but was unsuccessful in collecting overpayment. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Duty Disability Retirement	8/28/2022	9/15/2022	8/31/2022	\$2,475.09	Staff initiated an ACH Letter of Indemnity request with Wells Fargo but was unsuccessful in collecting overpayment. Two unsuccessful attempts have been made to collect the overpayment from the family. Staff will continue to attempt collection of overpayment.
Total Receivable				\$25,166.97	

**Active Members - Overpayments and Underpayments of Member Contributions
April 3, 2022 thru October 1, 2022**

Alameda County					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments:	No Overpayments to Report				
Underpayments:	No Underpayments to Report				
Summary	Most Common Exception Type: N/A Total Exceptions: 1,341 % Above Exceptions of Total Exceptions: 0.00%				

Alameda County Housing Authority					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments:	No Overpayments to Report				
Underpayments:	No Underpayments to Report				
Summary	Most Common Exception Type: N/A Total Exceptions: 56 % Above Exceptions of Total Exceptions: 0.00%				

Alameda Health Systems					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments	No Overpayments to Report				
Underpayments: 1	\$49.17	6/2/2022	6/2/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 2	\$69.13	6/2/2022	6/2/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 3	\$63.56	6/16/2022	6/16/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 4	\$24.88	8/1/2022	8/1/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 5	\$71.22	8/1/2022	8/1/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Summary	Most Common Exception Type: Employer Withheld Contribution Based at Incorrect Salary Total Exceptions: 1129 % Above Exceptions of Total Exceptions: 0.44%				

First 5 Alameda County					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments	No Overpayments to Report				
Underpayments	No Underpayments to Report				
Summary	Most Common Exception Type: N/A Total Exceptions: 1 % Above Exceptions of Total Exceptions: 0.00%				

Livermore Area Recreation and Park District					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments	No Overpayments to Report				
Underpayments	No Underpayments to Report				
Summary	Most Common Exception Type: N/A Total Exceptions: 2 % Above Exceptions of Total Exceptions: 0.00%				

Alameda Superior Courts					
	Amount	Date Discovered/ Received	Date Completed	# of days to complete	Cause
Overpayments	No Overpayments to Report				
Underpayments: 1	\$753.63	8/11/2022	8/11/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 2	\$753.63	8/11/2022	8/11/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 3	\$753.63	8/11/2022	8/11/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 4	\$718.07	8/11/2022	8/11/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Underpayments: 5	\$688.02	8/26/2022	8/26/2022	1	Employer Withheld Contribution Based at Incorrect Salary
Summary	Most Common Exception Type: Employer Withheld Contributions Based at Incorrect Salary Total Exceptions: 405 % Above Exceptions of Total Exceptions: 1.23%				

CONSENT CALENDAR ITEM

4th Quarter Call Center Report



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: February 16, 2023
TO: Members of the Board of Retirement
FROM: Ismael Piña, Assistant Benefits Manager
SUBJECT: **4th Quarter 2022 Call Center Report**

Attached is the Service Level Report for the 4th quarter of 2022. Our service levels exceeded our benchmark this past quarter. The team handled a total of 3,819 incoming calls this past quarter, 95.06% of which were answered within 60 seconds. The team also responded to a total of 145 member voicemails within 1 business day or less.

The matrix below provides the five highest call volume categories for Q3 2022 and Q4 2022.

Q3 2022 Highest Volume	Categories of Calls	Q4 2022 Highest Volume	Categories of Calls
40%	Retiree Payroll Change Requests	34%	Health/Dental/ Vision related Q's
31%	Retirement/Membership/ Job Status Change Related Q's	28%	Retirement/Membership/ Job Status Change Related Q's
16%	Health/Dental/ Vision related Q's	24%	Retiree Payroll Change Requests
9%	Award Letter/EFT Statement/1099R Requests	10%	Award Letter/EFT Statement/1099R Requests
4%	Service Purchase/Retirement Estimate Requests	4%	Service Purchase/Retirement Estimate Requests

Attachment

ACERA

YTD 2022 Member Services Service Level Report

Performance Indicators	January 2022 Member Services	February 2022 Member Services	March 2022 Member Services	April 2022 Member Services	May 2022 Member Services	June 2022 Member Services
KPI - Service Level (% of calls answered within 60 seconds)	98.20%	97.63%	97.46%	97.37%	98.84%	98.95%
Total Number of Call Offered	1562	1571	1940	1654	1389	1246
Call Center Agent Handled Calls	1556	1562	1931	1636	1383	1238
Number of Abandoned Calls	6	9	10	18	16	8
Average Hold Time Before Abandoned (minutes:seconds)	00:57	01:02	00:28	1:09	0:13	0:14
Abandoned Call Rate (Goal: 3% or less)	0.38%	0.57%	0.52%	1.0%	0.80%	0.60%
Average Talk Time (minutes:seconds)	05:23	05:03	04:55	4:34	4:46	4:48

Performance Indicators	July 2022 Member Services	August 2022 Member Services	September 2022 Member Services	October 2022 Member Services	November 2022 Member Services	December 2022 Member Services
KPI - Service Level (% of calls answered within 60 seconds)	97.27%	98.50%	99.50%	95.04%	95.10%	95.04%
Total Number of Call Offered	1281	1342	1057	1391	1358	1156
Call Center Agent Handled Calls	1246	1322	1052	1322	1347	1150
Number of Abandoned Calls	5	6	4	9	11	6
Average Hold Time Before Abandoned (minutes:seconds)	1:35	1:34	0:24	0:51	1:01	0:19
Abandoned Call Rate (Goal: 3% or less)	0.40%	0.40%	0.30%	0.60%	0.80%	0.50%
Average Talk Time (minutes:seconds)	4:37	4:45	4:32	4:34	4:28	4:23

YTD 2022
16745

Total Call Center Agent Handled Calls

CONSENT CALENDAR ITEM


Approve Staff Recommendation regarding the County of Alameda's New Pay Item/Code Shift 2 Straight Overtime – S2S



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: February 16, 2023

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Exclusion of Pay Item/Code from “Compensation Earnable” and “Pensionable Compensation” – County of Alameda**

The County of Alameda (County) requested that pay item/code Shift 2 Straight Overtime – S2S be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation.” This pay code established a provision for compensation of 5% of base pay to be paid to employees who receive straight overtime in classifications covered under the various Memorandums of Understanding (MOUs) between the County and the unions. Although the attached supporting documentation only refers to employees in classifications covered under the Service Employees International Union Local 1021 (SEIU), the County subsequently clarified that this pay code is used for employees covered under other MOUs, and that this pay code has been in use for years.

Employees are not entitled to overtime pay (typically time-and-a-half) until they have satisfied the workweek requirement and with actual work hours. Paid vacation, sick leave and holiday leave are not actual work hours. Thus, employees receive straight overtime when their paid vacation, sick leave or holiday leave puts them over their total required hours, but they have not yet actually worked their total required hours. Rather than overtime pay (typically time-and-a-half), those employees receive their normal pay, plus the additional 5% paid under this pay code.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that the pay code does not qualify as “compensation earnable” under Government Code Section 31461 (for Legacy members), or “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members).

Payments for overtime are excluded from both “compensation earnable” (Government Code Section 31461(b)(3); *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483, 504) and “pensionable compensation” (Government Code Section 7522.34(c)(6)(8)). The two relevant Government Code sections are attached for the Board’s reference.

Staff informed the County that its determination will be included on the Board’s Consent Calendar for its February 16, 2023 meeting. If this item is not pulled from the Consent Calendar for discussion, then the Board will approve Staff’s determination to exclude pay item/code Shift 2 Straight Overtime – S2S from “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members).

Attachments



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

REQUEST FOR ACERA'S REVIEW OF A NEW PAY ITEM/CODE

Employer Name:	County of Alameda
Date of Request	12/28/22
Employer Department Submitting the Request	Auditor-Controller's Agency
Contact Person/Employer (include title/position)	Stephanie Tsurumoto
Contact Person Telephone incl area code	(510)272-6581
Contact Person Email address	stephanie.tsurumoto@acgov.org
Pay Item Name (and code Number)	S2S – Shift 2 Straight OT
Pay Item Effective Date per authorization:	3/13/2016
State if additional documentation is attached	Yes – Board Letter

NOTE: The following information is required before ACERA can review and respond to the request. To meet ACERA's requirements, please provide substantive responses below or on a separate paper and return, with this form, all of the supporting documentation prior to issuing (paying) the pay item to any employee who is an ACERA member.

1. State the job classification of employees eligible for the pay item (i.e. Job Code 0499-Nurse Practitioners II may receive this pay item)

RESPONSE #1: All classifications covered under Services Employees International Union (SEIU) eligible for Straight Overtime

2. State employment status of employees eligible to receive the pay item (i.e. full time employees, part time employees)

RESPONSE #2: Full Time, Part Time

3. State the number of members or employees who are eligible to receive the pay item (i.e. all members or employees in a job classification eligible to receive the pay item, or "not to exceed one employee")

RESPONSE #3: All members

4. State whether pay item is for overtime or regular base pay

RESPONSE #4: Overtime

5. State whether pay item is calculated as a fixed amount or percentage of the base pay

RESPONSE #5: Percentage of Base Pay - 5% of Straight Overtime Paid (OTS)

6. State whether the pay item is paid one time (i.e. incentive pay, referral pay, bonus, award)

RESPONSE #6: No

7. State whether the pay item is an ad hoc payment (i.e, stipend, payment for attending a meeting during the working hours, payment for attending a meeting during non-working hours)

RESPONSE #7: No

8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance)

RESPONSE #8: No

9. State regular working hours of the employees who will receive the pay item (i.e., 37.5 hour workweek employees, 40 hour workweek employees)

RESPONSE #9: 37.5 and 40.0 hour workweek employees

10. State whether pay item is for work performed outside of the regular workweek (i.e., payment for work or services performed outside of the employee's 37.5 hour workweek, or outside the employee's 40 hour workweek)

RESPONSE #10: Yes

11. State whether the pay item is for deferred compensation

RESPONSE #11: No

12. State whether the pay item is for retro payments

RESPONSE #12: No

13. State whether the pay item is for accrued unused leaves (i.e., sick leave, annual leave, floating holiday, vacation, comp time)

RESPONSE #13: No

14. State whether the payment is compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee

RESPONSE #14: No

15. State whether the payment is severance or other payment in connection with or in anticipation of a separation from employment (and state if this payment is made while employee is working)

RESPONSE #15: No

16. State whether the pay item is paid in one lump sum or biweekly (or over some other time period-monthly, quarterly, annually)

RESPONSE #16: Biweekly

17. State the basis for eligibility for the pay item (i.e., certification of completion of training program conducted by an accredited university, or employee assigned as supervisor of badge distribution)

RESPONSE #17:

Based on 7.B. of the SEIU MOU, Employees who have used paid vacation, sick leave or holiday leave are not entitled to premium overtime pay (OTP) until they have satisfied the workweek. Employees are eligible to be paid straight overtime (OTS) to compensate them for the hours worked over their normal schedule until they have satisfied the workweek. Employees who are eligible for shift pay (5/8ths of normal daily tour of duty occurs after 4:30pm) on the straight overtime hours are paid shift at straight rate.

7.B. OVERTIME WORK DEFINED. Overtime work shall be defined as all work performed in a workweek pursuant to subsection 7.A. of this Section 7. (Overtime) in excess of the normal full-time workweek for the job classification. Holidays which fall on an employee's regularly scheduled day off shall not count towards the accumulation of the workweek. Holidays worked, holidays which fall on an employee's regularly scheduled workday and paid time off shall count toward the accumulation of the workweek. Effective March 13, 2016, paid vacation, sick leave or holiday leave shall not count towards the accumulation of the workweek.



Human Resource Services

Lakeside Plaza Building
1401 Lakeside Drive, Suite 200
Oakland, CA 94612-4305
TDD: (510) 272-3703

January 12, 2016

Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Subject: Adopt a New Memorandum of Understanding, Salary Ordinance Amendments and Nine Sideletters of Agreement

Dear Board Members:

Recommendation:

Adopt an Ordinance approving the December 21, 2015 through December 14, 2019 Memorandum of Understanding between the Northern California Public Sector Region Local 1021 of the Service Employees International Union (SEIU), Change to Win (CTW) and the County of Alameda, (2) amend Salary Ordinance Sections 3-21.8, 3-21.23 and 3-17.39 to implement changes agreed to with SEIU and (3) adopt nine Sideletters of Agreement.

Discussion/Findings:

Your representatives and representatives of the Service Employees International Union have reached agreement on a new Memorandum of Understanding with a term date of December 21, 2015 through December 14, 2019. The agreement calls for the following cost-of-living wage increases: 4% effective July 3, 2016; 3.25% effective July 2, 2017; 3.5% effective July 1, 2018; and 3.25% effective June 30, 2019, with special adjustments ranging from 1% to 5% for selected classifications, commencing two pay-periods following adoption of the MOU through the term of the agreement.

Also, for the remainder of the MOU, SEIU will continue to pay 10% of the medical premiums for all HMO plans and that the County will pay 90% of the lowest cost HMO premium towards the PPO plan and that the employee will pay the remainder of the PPO premium. Additionally, the following provisions were agreed upon: the "Discrimination" section was updated to ensure compliance with federal and state laws; Effective two pay periods following adoption, paid vacation, sick leave or holiday pay shall not be counted towards the accumulation of "Overtime" for the workweek; Institution of a Hard Cap on vacation accrual for employees hired on or after January 31, 2016 through the term of the MOU; Effective two pay periods following adoption of the MOU, Bilingual Pay is being increased from \$40 to \$55 for a person occupying a position designated as requiring fluency in a language other than English, 2 or more languages is being increased from \$45 to \$60 and Social Services Agency employees carrying a caseload at least 25% of which comprised of non-English speaking clients is being increased from \$40 to \$55.

In addition, the agreement includes provisions: to limit SEIU represented employees from covering a child who is a County employee within the same medical plan; Add "gross misconduct" as defined in the Alameda County Workplace Violence Policy to the list of exceptions for reasons of less than a two week notice of termination; for the Grievance Process added additional language to increase the Informal Review by the Director time limit to 20 days, the Union has 30 days following Informal Review to request movement to arbitration or grievance shall be abandoned; Effective July 1, 2016 the Educational Stipend is being increased from \$650 per employee to \$700 per employee, per Fiscal Year; Effective January 1, 2017 the Uniform Allowance is being increased by \$50 and Effective January 1, 2018 the amount is being increased by an additional \$25 for select classifications; Effective January 2017, the Boot Allowance is being increased by an additional range of \$30 to \$50 for select classifications; As soon as administratively possible, Basic Life Insurance coverage is being increased from \$9,000 to \$20,000 and Effective Plan Year 2017, each full-time employees will be eligible to purchase additional Supplemental Life Insurance in increments of \$10,000, not to exceed the lesser of three times the annual base salary or a max of \$300,000.

The Salary Ordinance amendment calls for the following changes: Sections 3-21.8 and 3-21.23 are being amended to provide provisions for a one-time lump sum buy-out payment of \$1,000 for eligible employees receiving the word processing differential, and that upon payment, all provisions of the text will no longer apply to SEIU represented employees; also Section 3-17.39 is being amended to provide provisions for a one-time lump sum buy-out payment of \$600.00 for employees who are eligible to receive Admissions and Columbus Day Holiday pay as outlined in Section 9A of the 2008-2015 MOU, and that upon payment, all SEIU represented employees shall receive Holidays as defined in the 2015-2019 MOU Section 9.

The nine sideletters of agreement have the following provisions: (1) as soon as administratively possible, all eligible Sheriff Office and Zone-7 employees who receive Admissions Day and Columbus Day Holiday Pay, shall be paid a one-time payout out of \$600.00 and that Effective January 1, 2016 eligible employees will instead receive two Floating Holidays; (2) within sixty days following adoption of the MOU, SEIU employees receiving the word processing differential under Salary Ordinance Section 3-21.8 or 3-21.23 shall receive a one-time lump sum payment of \$1,000.00; additionally, upon payment of the buy-out, any and all provisions of the Word Processing differential shall no longer apply to SEIU represented employees; (3) agreement to change the work week for employees in the Alameda County Library (ACL), to include Saturday and Sunday hours and to establish a joint task force to discuss appropriate staffing levels at the various branch locations, the use of part-time vs. full-time positions and the method of assigning work schedules; (4) implement a Quarterly Labor Management Committee in the Alameda County Library, to discuss issues of concern; (5) two-sideletters of agreement for the Social Services Agency providing for: (a) Labor Management Committee discussion regarding Dependency Investigation caseload and (b) Adoption Assistance Program and the monthly Age Reassessment Program; (7) increase the monthly Share the Savings stipend similar to all other represented groups in effective Plan Year 2017 which totals \$200 for employees declining all medical coverage, \$150 for employees declining Family coverage and electing Single coverage, \$100 for employees declining Family coverage and electing 2-party coverage and \$100 for employees declining 2-party coverage and electing Single coverage; (8) Effective January 1, 2013 through December 31, 2016, the County shall contribute \$900 annually toward a Cafeteria Benefit Plan for full-time employees and Effective January 1, 2017, through the remaining term of the MOU, the contribution will be increased to \$1,100 annually for full-time employees; (9) update Social Services Agency Children and Family Services Caseload sideletter.

Financing:

Funds are available in the 2015-2016 budget appropriation to pay the cost of these actions.

Additionally, the County would like to express our thanks and gratitude to SEIU representatives for leading such a successful negotiations and reaching an agreement that both sides felt was fair and equitable.

Very truly yours,



Mary Welch,
Interim Director Human Resource Services

MW:vb
Z:\Board Letters\2016\01.26.16\SEIU MOU 2015-2019

Cc: CAO
Auditor-Controller
County Counsel
Agency/Department Heads
SEIU Local 1021

SECTION 7. OVERTIME

7.A. HOW OVERTIME IS AUTHORIZED. Work for the County by an employee at times other than those scheduled pursuant to subsection 6.A. shall be approved in advance in writing by the Agency/Department Head, or in cases of unanticipated emergency, shall be approved by the Agency/Department Head, after such emergency work is performed. No employee shall perform overtime work unless such overtime work has been approved by the Agency/Department Head or his/her designee.

7.B. OVERTIME WORK DEFINED. Overtime work shall be defined as all work performed in a workweek pursuant to subsection 7.A. of this Section 7. (Overtime) in excess of the normal full-time workweek for the job classification. Holidays which fall on an employee's regularly scheduled day off shall not count towards the accumulation of the workweek. Holidays worked, holidays which fall on an employee's regularly scheduled workday and paid time off shall count toward the accumulation of the workweek. Effective March 13, 2016, paid vacation, sick leave or holiday leave shall not count towards the accumulation of the workweek.

7.C. RATES DEFINED.

1. For the purposes of this subsection, the hourly rate shall be defined as follows:
 - a. For employees working a thirty-seven and one-half (37.5) hour workweek or thirty-seven and one-half (37.5) hour workweek base, the hourly rate shall be the biweekly rate divided by 75.
 - b. For employees working a forty (40) hour workweek, or forty (40) hour workweek base, the hourly rate shall be the biweekly rate divided by 80.
 - c. For employees working on an hourly rate basis, the hourly rate is reflected in Appendices attached hereto.
 - d. For employees working on a daily rate basis, the daily rate is reflected in Appendices attached hereto.
2. For purposes of this subsection, the Fair Labor Standards Act (FLSA) regular rate shall be defined as follows:

An employee's regular rate shall include in addition to his/her hourly rate as defined in C. 1., any applicable salary ordinance footnote and any applicable premium payment pursuant to Section 12. (Premium Conditions), subsection 13.A. and 13.C. of this MOU.

7.D. OVERTIME PAYMENT. Employees shall be compensated for overtime work either in cash or in compensatory time at the option of the Agency/Department Head as follows and consistent with subsection 7.F. herein:

1. For classifications with a thirty-seven and one-half (37.5) hour workweek or a thirty-seven and one-half (37.5) hour workweek base, employees shall be compensated at time and one-half (1/2) for all time worked in excess of thirty-seven and one-half (37.5) hours.
2. For classifications with a forty (40) hour workweek or a forty (40) hour workweek base, excluding employees in classifications enumerated in Appendix D (Part-Time and Services-As-

Gov. Code Sec. 31461. (a) "Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence. Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid.

(b) "Compensation earnable" does not include, in any case, the following:

(1) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(A) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned in each 12-month period during the final average salary period regardless of when reported or paid.

(2) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned in each 12-month period during the final average salary period, regardless of when reported or paid.

(3) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(4) Payments made at the termination of employment, except those payments that do not exceed what is earned in each 12-month period during the final average salary period, regardless of when reported or paid.

Gov. Code Sec. 7522.34. (a) "Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) "Pensionable compensation" does not include the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.

(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

NEW BUSINESS

- 7.A. Discussion regarding Committee and Board Meeting logistics in March 2023 and thereafter (ORAL).**

NEW BUSINESS

- 7.B. Presentation from Chief Counsel regarding new rules for Trustees' remote attendance at Board and Committee meetings.**



*Office of the Chief Executive Officer
Office of Administration*

DATE: February 16, 2023
TO: Members of the Board of Retirement
FROM: Dave Nelsen, Chief Executive Officer *DN*
SUBJECT: **Committee/ Board Meetings Post Covid Emergency Executive Order**

Background: As discussed previously, the Governor's Emergency Executive Order on COVID, which relaxed the *Brown Act* requirements for virtual attendance by Trustees at public meetings, will be lifted effective February 28, 2023.


Beginning in March, Committee and Board Meetings will be held on-site at ACERA for Trustees and most Staff. The following are some expected provisions for these meetings:

- The meetings will still be broadcast via Zoom, so remote attendance by customers and other partners will continue.
- We have large dividers available for Trustees sitting in the Board seating area if needed.
- We will have air purifiers running to contribute to positive air quality.
- At this time, masks will still be required for Trustees and Staff during the meetings.
- We will space out public seating to maintain some distance in the Board room.
- We will discuss the questions about the new remote attendance provisions in the CERL. A memo from Chief Counsel Rieger is included.
- We will also evaluate whether Board Room revisions in layout and technology will be necessary to better facilitate these hybrid meetings.

Summary: We will be looking for feedback and suggestions regarding the future meetings to ensure a smooth transition back to on-site attendance.



To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: February 16, 2023
Subject: **New Rules For Trustees' Remote Participation In Public Meetings**



Effective January 1, 2023, new legislation relaxed some of the rules regarding Trustees' remote participation in Board and Committee Meetings. At the January 19, 2023 Board meeting, the Board discussed the new rules that relieve the Trustees and ACERA staff from some of the normal requirements for Trustees to attend a meeting remotely. A copy of the memorandum presented at the January 19, 2023 meeting is attached hereto.

Under the new rules, a Trustee can invoke the "just cause" exception twice for a "legislative body" in a calendar year. There is no specific limit to how many times a Trustee can invoke the "emergency circumstances" exception, but a Trustee may not use the new exceptions ("just cause" or "emergency circumstances") for more than three consecutive months for meetings of a "legislative body" or more than 20% of the meetings of a "local agency." Also, the exceptions cannot be used more than twice in a calendar year for a "legislative body" that meets less than 10 times per year.

At the January 19, 2023 meeting, Trustees asked questions about how those limitations will be administered with respect to ACERA's Board Committees, particularly given that most Committee meetings become Board meetings because a quorum of the Board attends. This memorandum provides my analysis.

Two "Just Cause" Limit

The Brown Act's remote attendance provisions in Government Code Section 54953 describe what is required with respect to meetings of "legislative body." The Board is a "legislative body." Further, Government Code Section 54952(b) defines "legislative body" to include "standing committees of a legislative body." That is why ACERA's standing Committees are subject to the Brown Act.

The "just cause" limit states: "The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year." As already noted, the Board is a "legislative body" and each Committee is a "legislative body." Thus, for the purpose of the "just cause" limit, ACERA should determine each Trustee's rights separately for each "legislative body." This means that each Trustee can attend remotely

for “just cause” (1) two Board meetings each calendar year, and (2) two meetings of a Committee each calendar year, *if the Trustee is a member of that Committee*.¹

Three-Consecutive-Month Limit And 20% Total Limit

The new rules also include the following limits:

The provisions of this subdivision shall not serve as a means for any member of a **legislative body** to participate in meetings of the **legislative body** solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the **local agency** within a calendar year, or more than two meetings if the **legislative body** regularly meets fewer than 10 times per calendar year.

The Legislature tied most of the limits to a “legislative body” but tied the 20% limit to a “local agency.” Government Code Section 54951 defines “local agency” as “a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.” In the context of ACERA’s operations, I conclude that this definition refers to ACERA (“local public agency”), and that definition is distinct from the definition of “legislative body” under Section 54952, which refers to the ACERA Board and Committees. Thus, the apparent intent of the Legislature was to apply the 20% limit to all ACERA meetings, rather than each of its “legislative bodies” separately.²

The three-month limit, however, applies separately to each “legislative body” (the Board and each Committee). Similarly, the final clause in the excerpt quoted above (“or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year”) also applies separately to each “legislative body.” That final clause applies to all ACERA Committees except the Investment Committee because those other Committees meet fewer than 10 times per calendar year.

¹ Under ACERA’s Board and Committee Operations Policy, a Trustee may participate in a Committee meeting even though the Trustee is not a member of that Committee if a quorum of the Board attends a Committee meeting (and therefore the meeting becomes a Board meeting). I conclude that a Trustee does not have two “just cause” remote attendance opportunities for a Committee meeting if the Trustee is not a member of the Committee. Such a Trustee will be able to fully participate in such a meeting only if the meeting becomes a Board meeting. The Board is a different “legislative body” that is subject to a separate “just cause” attendance limit.

² There is logic to this nuanced distinction. For the Board and each Committee (and presumably almost every other California “legislative body”), three consecutive months of meetings would always be more than 20% of meetings for the calendar year. Thus, applying the 20% limitation to each “legislative body” would render the three-consecutive-month limit meaningless. We must avoid statutory constructions that render provisions in a statute meaningless. See *Woosley v. State of California* (1992) 3 Cal.4th 758, 775-76. Both limits have meaning if the 20% limit refers to ACERA generally, because then a Trustee can potentially invoke an exception for three or more meetings of the Board (or three or more meetings of the Investment Committee) and the three-consecutive-meeting limit prevents those three meetings from being consecutive. Also, the use of the phrases “*of* the legislative body” and “*for* the local agency” indicates an intentional use of the term “local agency.” A meeting “*of*” the Board or a Committee can refer only to that particular “legislative body,” whereas all Board and Committee meetings are “*for*” ACERA generally.

What This All Means For ACERA

Board Meetings: All Trustees can use the “just cause” provision twice for Board meetings and there is no limit to how many times a Trustee can use the “emergency circumstances” provision for Board meetings, so long as the Trustee does not exceed the “Total Limit” discussed below. No Trustee can use any of these provisions for more than three consecutive months.

Investment Committee Meetings: All Trustees can use the “just cause” provision twice for Investment Committee meetings and there is no limit to how many times a Trustee can use the “emergency circumstances” provision for Investment Committee Meetings, so long as the Trustee does not exceed the “Total Limit” discussed below. No Trustee can use any of these provisions for more than three consecutive months.

Other Committee Meetings: Members of the Committee can use the “just cause” and/or the “emergency circumstances” provision twice for that Committee. The other Trustees can use either provision, but only if there is a quorum of the Board such that the meeting becomes a Board meeting, in which case the above for rules for Board meetings apply.³

Total Limit: No Trustee can use the new exceptions for more than 20% of all the total ACERA meetings (all Board meetings and Committee meetings) in the calendar year. Based on current expectations, the total limit will be 10 meetings in 2023.

Normal Rules: If a Trustee reaches any of the above limits, the Trustee can still attend a meeting remotely by following the normal rules:

- Post agendas at all teleconference locations.
- Each teleconference location shall be identified in the notice and agenda.
- Each teleconference location shall be accessible to the public.
- During the teleconference, at least a quorum of the members of the Board shall participate from locations within Alameda County.


All Trustees Really Need To Know

If a Trustee wants to participate remotely in a meeting, that Trustee should contact the CEO or Chief Counsel as soon as the desire to participate remotely arises. The Chief Counsel will ensure compliance with the rules discussed in this memorandum.

³ The three-consecutive-month limitation is irrelevant to these Committees, because Trustees cannot use the new rules more than twice for each Committee (also, these Committees do not meet every month).



To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: January 19, 2023
Subject: **New Rules For Trustees' Remote Participation In Public Meetings**



Effective January 1, 2023, new legislation relaxed some of the rules regarding Trustees' remote participation in Board and Committee Meetings. This memorandum summarizes those new rules. The Governance Committee will consider revisions to the Remote Access to Meetings Policy at its first meeting in 2023, to reflect these new rules in that Policy.

At this January 19, 2023 Board meeting, the Board is operating under the rules that apply during a state of emergency. The below rules will be relevant once the Board is not operating under those emergency rules. This likely will occur, at the latest, at the March 16, 2023 meeting, because the state of emergency is set to end on February 28, 2023.

Normal Rules

Under Gov't Code Section 54953(b)(3), when a Trustee wishes to attend a public meeting remotely, ACERA and the Trustee normally are required to:

- Post agendas at all teleconference locations.
- Each teleconference location shall be identified in the notice and agenda.
- Each teleconference location shall be accessible to the public.
- During the teleconference, at least a quorum of the members of the Board shall participate from locations within Alameda County.

New Exceptions To The Normal Rules

Effective January 1, 2023, subdivision (f) of Section 54953 provides an exception to the requirements stated above if:

- At least a quorum the Board participates in person in the Board Room or other appropriate physical location that is open to the public.
- ACERA provides means by which the public can remotely hear, watch and participate in the meeting (e.g., Zoom) and the agenda explains how to do so.

A Trustee may participate remotely only in “emergency circumstances” or for “just cause.”

- “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person. The Board needs to approve a Trustee’s request at the beginning of the meeting for this exception to apply.
- “Just cause” means caring for family members, having a contagious illness that prevents attendance in person, having a need related to a physical or mental disability, or travel while on official business of the Board or another state or local agency. The Board does not need to approve “just cause” remote attendance (the Trustee just notifies the Board), but a Trustee can invoke the “just cause” basis only twice per calendar year.

When a Trustee attends remotely, the Trustee must:

- “Publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.”
- Participate through both audio and visual technology.

Remote attendance for Trustees is limited to no more than three consecutive months or 20 percent of the Board meetings within a calendar year.

The above is a summary of the new law, which includes other details not covered in this memorandum. The main takeaway is that, if a Trustee needs to attend a meeting remotely, the Trustee should inform the CEO or the Chief Counsel of that need as soon as possible. The Chief Counsel will then determine whether remote attendance is permitted and inform the Trustee about what steps need to be taken to comply with the law.

NEW BUSINESS

7.C. Chief Executive Officer's Report.



*Office of the Chief Executive Officer
Office of Administration*

DATE: February 16, 2023
TO: Members of the Board of Retirement
FROM: Dave Nelsen, Chief Executive Officer *DN*
SUBJECT: **Chief Executive Officer’s Report**

Senior Manager Recruitment

None

Committee/Board Action Items

ASSIGNED FOLLOW-UP ITEMS

Follow-Up Board Item	Assigned Senior Leader	Estimated Completion Date	Completion Date	Notes
Develop ACERA Re-Opening Plan.	Dave Nelsen	April 2023	On-going	We will be implementing our Post-Covid Staffing Plan in March.
ACERA Business Plan	Lisa Johnson	March of 2023		ACERA Senior leaders will develop the projects for the Business Plan to support the adopted strategic vision.

Conference/Event Schedule

None upcoming.

Other Items

COVID-19 Responses

We continue to move forward with our re-opening plan. We have opened for appointments and walk-ins on Tuesday through Thursday. We are planning to be at our new normal operations by the time the Governor’s COVID Emergency Declaration ends in February, but this is also contingent upon successful meet and confer with the employee unions. At this time, masks and social distancing awareness are still required in County Offices for employees and the public. Our customers are continuing to use alternative means of service, and feedback has been generally positive that their service needs are being met. We will continue to monitor the information available and consult with the County regarding opening plans.

As I have mentioned previously, our Post-COVID Staffing Plan for the organization will include remote work as a team member's work requirements allow. We are not planning to mandate a set number of days in the Office for all team members, such as Monday, Wednesday and Friday. Alternatively, we will allow eligible team members to work from home to the extent their work allows, based upon classification and acceptable performance. Some will need to be on-site more or less than others.

Pension Administration System (PAS) Update

User acceptance testing on Design Phase 3 was completed on time in January which included all benefit calculations. Requirements review for Design Phase 4 was completed on February 7th and designs will be completed by LRS with ACERA review beginning later in February. This design includes payroll and general ledger functionality. Five employers have submitted test transmittal files with one remaining employer to be submitted by the end of March. Additionally, we are working on our On-Base enhancements and integration into the PAS Project schedule.

Business Planning Update

The Strategic Plan was adopted in December. Staff has begun brainstorming potential projects to undertake to support the Strategic Plan. We will be looking at the projects with an eye to fulfilling the vision, while balancing resources which are strained due to the PAS Project. We will present this plan to the Board in the early Spring.

Virtual Meetings

The Governor has announced that he will be lifting the COVID Emergency Order effective February 28, 2023. At this time, the authority for Board members to meet virtually will be subject to the provisions of the *Brown Act*, which are significant. We will discuss this at the Board meeting.

Key Performance Indicators

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

Scorecard KPI	2022 Performance Goal
PRUDENT INVESTMENT PRACTICES	
Portfolio Performance vs. Policy Benchmark	<i>Annualized 10-year return will meet or exceed Policy benchmark at the total fund level</i> November of 2022: We were .05% short of the benchmark.
EFFECTIVE PLAN ADMINISTRATION	
Actual Spent vs. Approved Budget	<i>On budget or 10% below 2022 approved budget</i> As of end of November 2022: 8% under budget.
COMPREHENSIVE ORGANIZATION DEVELOPMENT	
Employee Engagement Survey Results	<i>80% of responses in top two rating boxes on the question: "Is ACERA a great place to work?"</i> As of the latest survey (October of 2022): 71%.
SUPERIOR CUSTOMER SERVICE	
Service Excellence Survey	<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> For 4th Quarter of 2022: 93%