



Alameda County Employees' Retirement Association
BOARD OF RETIREMENT

NOTICE and AGENDA

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 16, 2025
2:00 p.m.

LOCATION AND TELECONFERENCE	BOARD OF RETIREMENT TRUSTEES	
ACERA C.G. "BUD" QUIST BOARD ROOM 475 14 TH STREET, 10 TH FLOOR OAKLAND, CALIFORNIA 94612-1900 MAIN LINE: 510.628.3000 FAX: 510.268.9574 The public can observe the meeting and offer public comment by using the below Webinar ID and Passcode after clicking on the below link or calling the below call-in number. Link: https://zoom.us/join Call-In: 1 (669) 900-6833 US Webinar ID: 879 6337 8479 Passcode: 699406 For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193	OHELIA BASGAL CHAIR	APPOINTED
	KELLIE SIMON FIRST VICE-CHAIR	ELECTED GENERAL
	TARRELL GAMBLE SECOND VICE-CHAIR	APPOINTED
	KEITH CARSON	APPOINTED
	ROSS CLIPPINGER	ELECTED SAFETY
	HENRY LEVY	TREASURER
	ELIZABETH ROGERS	ELECTED RETIRED
	STEVEN WILKINSON	APPOINTED
	GEORGE WOOD	ELECTED GENERAL
	CYNTHIA BARON	ALTERNATE RETIRED ¹
KEVIN BRYANT	ALTERNATE SAFETY ²	

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. at least 72 hours before the meeting at accommodation@acera.org or at 510-628-3000.

Public comments are limited to four (4) minutes per person in total. The order of items on the agenda 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 posted online at www.acera.org and also may be inspected at 475 14th Street, 10th Floor, Oakland, CA 94612-1900.

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

4. ELECTION OF BOARD OFFICERS FOR 2025:

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 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:

Appendix D

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:

December 19, 2024 Minutes of the Regular Board Meeting

December 19, 2024 Retirees Committee Minutes

H. MISCELLANEOUS:

- *Operating Expenses as of 11/30/24*
- *Approve Staff Recommendation regarding New Pay Item/Code from AHS: Missed Meal Penalty – 421*
- *Approve Staff Recommendation regarding New Pay Item/Code from AHS: Missed Break Penalty – 422*
- *Approve Staff Recommendation regarding Amendment to Pay Item/Code from County: Lead & Training Responsibility SCADA System – 40Y*

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

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

6. DISABILITY, DEATH AND OTHER BENEFIT CLAIMS:

- A. The following Item will be addressed in Closed Session, pursuant to Gov't Code § 54957(b):**

Service-Connected Disability Retirement Application of Eric Williams, Deputy Probation Officer III, Alameda County Probation Department: Consideration of Hearing Officer's Proposed Findings of Fact and Recommended Decision, per Gov't Code § 31534.

7. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:

- A. Investment: [See January 8, 2025 Investment Committee Agenda Packet for public materials related to the below listed items.]**

1. Summary of January 8, 2025 Meeting.

8. NEW BUSINESS:

- A.** Discussion and possible motion to revise the *Error Correction Policy* per the redline in agenda backup.
- B.** Proposed 2025 Operations Committee Work Plan.
- C.** Motion to approve the 2024 Discharge Request of Benefits Overpayments.
- D.** Chief Executive Officer's Report.

- 9. CONFERENCE/ORAL REPORTS**
- 10. ANNOUNCEMENTS**
- 11. BOARD INPUT**
- 12. ESTABLISHMENT OF NEXT MEETING:**
Thursday, February 20, 2025 at 2:00 p.m.
- 13. CLOSED SESSION:**
 - A. See Item 6A above.**
- 14. REPORT ON ACTION TAKEN IN CLOSED SESSION**
- 15. ADJOURNMENT**

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

ADAMS, Lisette
Effective: 10/12/2024
Sheriff's Office

GARCIA, Ana
Effective: 10/1/2024
Alameda Health System

AUSTIN, Allison
Effective: 10/22/2024
Alameda Health System

GOGNA, Anthony C.
Effective: 10/15/2024
Sheriff's Office

BAUTISTA, Rolando
Effective: 10/1/2024
Alameda Health System

GOLDE, Matthew R.
Effective: 10/26/2024
District Attorney

BERNART, Kathy
Effective: 11/18/2024
Superior Court

GONZALGO, Neil L.
Effective: 10/26/2024
Sheriff's Office

BINDER, Kevin
Effective: 10/12/2024
Alameda Health System

HENNESSEY, Mary
Effective: 10/12/2024
Social Services Agency

BOYINGTON, Brian S.
Effective: 10/13/2024
Sheriff's Office

HINES, Zendolyn
Effective: 10/12/2024
Social Services Agency

BROWN, Donna
Effective: 10/26/2024
County Administrator's Office

KIM, Young
Effective: 10/2/2024
Alameda Health System

CHANG, Priscilla
Effective: 10/26/2024
Alameda County Health

MC GROARTY, Mirian
Effective: 10/1/2024
Alameda Health System

DANIELS, Leonard
Effective: 10/12/2024
Alameda Health System

MENNUTI, Michael
Effective: 10/3/2024
General Services Agency

DEBBS, Louis
Effective: 10/12/2024
Alameda Health System

NIETO, Michael
Effective: 10/29/2024
District Attorney

ELIAS, Youseef
Effective: 10/12/2024
Public Defender

PERRY, Mark A.
Effective: 9/28/2024
Sheriff's Office

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

PLUNKETT, Steven
Effective: 10/12/2024
Alameda County Health

TAYLOR, Alisa
Effective: 10/12/2024
Superior Court

RYAN, Melissa
Effective: 10/12/2024
Social Services Agency

THOMAS, Tojo
Effective: 10/12/2024
Probation

SAVANT, Dominic A.
Effective: 11/1/2024
Alameda Health System

TORRES CURTIS, Gloria E.
Effective: 11/9/2024
Child Support Services

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

JOHNS, Jim
Alameda Health System
Effective Date: 10/7/2024

PENA-GAVINO, Salvador
General Services Agency
Effective: 9/27/2024

LOY, Nicholas
General Services Agency
Effective: 9/13/2024

PIEDADE, Chastity
Alameda County Health
Effective: 10/10/2024

MACLAREN, Hanan
Alameda Health System
Effective: 10/9/2024

PROUTY, Jenny
Alameda Health System
Effective: 9/30/2024

MATA, Carmen
Alameda Health System
Effective: 9/20/2024

SILVIA, Michele
Superior Court
Effective: 10/11/2024

MCCLENDON, Christina
Social Services Agency
Effective: 10/9/2024

THIRUMALAI, Ramanujan
Human Resource Services
Effective: 10/11/2024

MERRIWEATHER, Santana
Social Services Agency
Effective: 9/3/2024

VIKHLIANTSEVA, Natalia
Alameda Health System
Effective: 10/16/2024

**APPENDIX C
LIST OF DECEASED MEMBERS**

ADAMS, John H.
District Attorney
12/12/2024

LATIFI, Farhad
Social Services Agency
12/2/2024

ALLEN, Jackie W.
Public Works Agency
11/28/2024

LITTLE, Douglas R.
Public Works Agency
12/7/2024

ALVAREZ, Madelyn
Non-Member DRO Recipient of
Rafael Alvarez
12/8/2024

LOZANO, Louis
Sheriff's Office
11/26/2024

BAILLIE, Nancy
Survivor of Alvin Baillie
12/11/2024

MARUYAMA, Alice
Survivor of Michael Maruyama
12/10/2024

BRAY, Sallie M.
Superior Court
11/11/2024

RHONE, Alice
Alameda County Health
12/14/2024

CAMPBELL, Etoile S.
Social Services Agency
12/10/2024

RICHARD, Dorothy
Alameda Health System
12/11/2024

COMPTON, Russell
Survivor of Sara Compton
12/4/2024

SANCHEZ, Larry
Social Services Agency
12/3/2024

EVANS, Roy
Survivor of Doris Evans
11/25/2024

SMITH, Richard
Auditor-Controller
12/8/2024

GARCIA, Debra L.
Social Services Agency
12/3/2024

STANCIL, Doris L.
Social Services Agency
2/27/2023

HADNOT, Norma J.
Alameda Health System
12/20/2024

STOCKBRIDGE, Kenneth
Sheriff's Office
11/28/2024

HOLLOWAY, Betty J.
Alameda County Health
11/30/2024

TATEO, Sonja M.
Probation
12/8/2024

**APPENDIX C
LIST OF DECEASED MEMBERS**

TAYLOR, Barbara A.
Sheriff's Office
12/3/2024

WITHERSPOON, Linda
Alameda Health System
12/14/2024

WITTKOPP, Elfriede
Sheriff's Office
7/20/2024

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

BARBERINI, Julie
Government Code § 31641.5 Part Time & Days Prior

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

Name: **Guarda, Bryan**
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. Guarda's application for a service-connected disability, and waiving annual medical examinations and questionnaires at this time.

Name: **Hesselein, 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, denying Mr. Hesselein's application for a service-connected disability.

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

Name: Hopkins, Darian
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. Hopkins’ application for a service-connected disability, and waiving annual medical examinations and questionnaires.

Name: Hughes, Tonya
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. Hughes’ application for a service-connected disability, and waiving annual medical examinations and questionnaires.

Name: McMann, Chris
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. McMann’s application for a service-connected disability, and waiving annual medical examinations and questionnaires at this time.

Based on the Medical Advisor’s finding regarding Mr. McMann’s ability to ascertain the permanency of his incapacity on or before the date following the day for which he last received regular compensation, to deny Mr. McMann’s request for an earlier effective date.

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

Name: **Martinez, Kenneth**
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 Mr. Martinez’s application for a service-connected disability, granting him a non-service-connected disability and waiving annual medical examinations and questionnaires.

Name: **Newsome, Tristan**
Type of Claim: Service-Connected

The Board granted Mr. Newsome a service-connected disability on July 18, 2024, but postponed its decision regarding his request for an earlier effective date.

Staff’s Recommendations:

Based on the Medical Advisor’s finding regarding Mr. Newsome’s ability to ascertain the permanency of his incapacity on or before the date following the day for which he last received regular compensation, to deny Mr. Newsome’s request for an earlier effective date.

Name: **Sullivan, Stephanie**
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. Sullivan’s application for a service-connected disability, and waiving annual medical examinations and questionnaires at this time.

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

Name: (McKinsey) Swafford, Paula
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. Swafford’s application for a service-connected disability, and waiving annual medical examinations and questionnaires at this time.

Based on Ms. Swafford’s ability to ascertain the permanency of her incapacity on or before the date following the day for which she last received regular compensation, to deny Ms. Swafford’s request for an earlier effective date.

Name: Thompson, Gail
Type of Claim: Non-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. Thompson’s application for a non-service-connected disability, and waiving annual medical examinations and questionnaires.

Based on the Medical Advisor’s finding regarding Ms. Thompson’s inability to ascertain the permanency of her incapacity until after the date following the day for which she last received regular compensation, to grant Ms. Thompson’s request for an earlier effective date.



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

Thursday, December 19, 2024

Chair Ophelia Basgal called the meeting to order at 2:00 p.m.

Trustees Present: Ophelia Basgal
Keith Carson (*Arrived After Roll Call*)
Tarrell Gamble
Henry Levy
Elizabeth Rogers
Kellie Simon
Steven Wilkinson
George Wood
Cynthia Baron (*Alternate*)

Trustees Excused: Ross Clippinger
Kevin Bryant (*Alternate*)

Staff Present: Victoria Arruda, Human Resource Officer (via Zoom)
Carlos Barrios, Assistant Chief Executive Officer-Benefits
Angela Bradford, Executive Secretary
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: Sandra Dueñas-Cuevas, Benefits Manager
Erica Haywood, Fiscal Services Officer

Before Public Comment, Trustee Basgal welcomed newly appointed ACERA Trustee Steven Wilkinson to the ACERA Board and asked that he introduce himself. Trustee Wilkinson gave a brief history regarding his background and qualifications stating that he owns Wilkinson Wealth Management Investment Firm located in the Frank Ogawa Plaza. Trustee Wilkinson stated he is a member of the Oakland Police and Fire Board and that he is also a member of the Northern California Financial Development Corporation (Investment Banking Division). Therefore, he is familiar with the pension world. The Board and Staff welcomed Trustee Wilkinson to the ACERA Board.

PUBLIC INPUT

During the “Board Input” portion of today’s meeting, ACRE President Pete Albert announced that the ACRE Holiday Luncheon is rescheduled to Thursday, January 23 2025 and that details will be forwarded to ACERA Staff.

**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**

None

**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

November 21, 2024 of the Regular Board Meeting

November 21, 2024 Governance Committee Minutes

November 21, 2024 Operations Committee Minutes

December 4, 2024 Investment Committee Minutes

MISCELLANEOUS

- *Operating Expenses as of 10/31/24*
- *Quarterly Report on Member Underpayments and Overpayments*
- *3rd Quarter Call Center Report*
- *Approve Staff Recommendation regarding Alameda Health System’s Reinstated and Renamed Pay Item/Code RN Training Pay – 221*
- *2025 Travel Allotment*

24-80

It was moved by Henry Levy and seconded by Elizabeth Rogers that the Board adopt the Consent Calendar. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

DISABILITY, DEATH AND OTHER BENEFIT CLAIMS

The following Item was addressed in Closed Session, pursuant to Gov't Code § 54957(b):

Non-Service-Connected Disability Retirement Application of Shauna White, Eligibility Services Technician III, Social Services Agency for the County of Alameda: Consideration of Hearing Officer's Proposed Findings of Fact and Recommended Decision, per Gov't Code § 31534.

(See 12A below, Motion No. 24-87).

COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS

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

Investment:

Trustee Wood reported that the Investment Committee met on December 4, 2024 and that Investment Committee was presented with and discussed the 2024 Private Equity Investment Plan.

24-81

It was moved by George Wood and seconded by Tarrell Gamble that the Board approve the 2024 Private Equity Investment Plan, as recommended by the Investment Committee. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

Trustee Wood reported that the Investment Committee was presented with and discussed the following Qualified List of Candidates for ACERA's Emerging Markets Equity Manager Search – Public Equities: *1) Arga, 2) Acadian, 3) Pzena and 4) ABS.*

24-82

It was moved by George Wood and seconded by Kellie Simon that the Board approve *1) Arga, 2) Acadian, 3) Pzena and 4) ABS* as the Qualified List of Candidates for ACERA's Emerging Markets Equity Manager Search – Public Equities, as recommended by the Investment Committee. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

The Investment Committee was presented with and discussed NEPC's Ownership Changes.

24-83

It was moved by George Wood and seconded by Kellie Simon that the Board i) Consent to the Assignment of NEPC's Investment Consulting Services Agreement to HighTower Advisors, LLC (HighTower); and ii) Place NEPC on Watchlist as a Result of its Organization Change per ACERA's *General Investment Policy*, effective immediately, as recommended by the Investment Committee. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

The Investment Committee was presented with and discussed the following Information Items: **1) Report on Investment Made Under Delegated Authority - Summit Growth Equity Partners XII; 2) Notice of Change in Distribution Frequency for Informational Reports from Quarterly to Semiannual; 3) Semiannual Performance Review for the Period Ending June 30, 2024: a) Real Estate, b) Private Equity, c) Private Credit, and d) Real Assets; and 4) CA Gov. Code § 7514.7 Information Report.**

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

Retirees:

Elizabeth Rogers reported that the Retirees Committee met earlier today and that the Retirees Committee was presented with and discussed the 2025 Medicare Part B Reimbursement Plan (MBRP) benefit for eligible retirees.

24-84

It was moved by Elizabeth Rogers and seconded by Kellie Simon that the Board continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2025, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$185.00. 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 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

Trustee Rogers reported that the Retirees Committee was presented with and discussed Staff's proposed revisions to the Board's 401(h) Resolution and Appendix A.

24-85

It was moved by Elizabeth Rogers and seconded by Kellie Simon 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 2025, as recommended by the Retirees Committee. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

Trustee Rogers reported that the Retirees Committee was presented with and discussed Staff's proposed revisions to the Supplemental Retiree Benefit Reserve Policy.

24-86

It was moved by Elizabeth Rogers and seconded by Kellie Simon that the Board adopt Staff's proposed revisions to the Supplemental Retiree Benefit Reserve Policy, as recommended by the Retirees Committee. The motion carried 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions. *Trustee Carson was not present for the motion.*

Chief Counsel Jeff Rieger reported that ACERA's current practice is aligned with Internal Revenue Service Rules [Section 213(d)] and that the Supplemental Retiree Benefit Reserve Policy was revised to align with ACERA's current practice.

The Retirees Committee was presented with and discussed the following Information Items: *1) Annual Retired Member (Lump Sum) Death Benefit Report; and 2) Retiree Health and Wellness Fair Results and Open Enrollment Activity.*

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the January 16, 2025 Board meeting.

NEW BUSINESS:

Discussion and Possible Motion Regarding Chief Executive Officer Compensation

This item was discussed in Closed Session (See 12B below).

Chief Executive Officer's Report

Mr. Nelsen presented his December 19, 2024 written CEO Report which provided an update on: *1) Committee and Board Action Items; 2) Other Items: a) Business Planning; b) Legislation; c) Pension Administration System; d) Budget; e) SACRS Business Meeting and 3) Key Performance Indicators.*

Mr. Nelsen reported that the next Operating Expense Report will reflect the budget adjustment that was approved by the Board at the November 21, 2024 Board meeting.

Mr. Nelsen announced that he has been elected for the third year as the California Association of Public Retirement Systems' (CALAPRS) President. The Board and Staff congratulated Mr. Nelsen.

Mr. Nelsen reported that there is a record number of new people entering into legislation and as a result, legislative Staff will be the only people who will have the history and knowledge of the Public Employees' Pension Reform Act (PEPRA). Mr. Nelsen noted that it can be very challenging for legislative Staff to explain PEPRA to the incoming legislators.

CONFERENCE/ORAL REPORTS

None.

ANNOUNCEMENTS

Trustee Tarrell Gamble welcomed Trustee Wilkinson to the Board.

BOARD INPUT

Trustee Basgal expressed her appreciation to Staff for all their hard work in dealing with Cyber Security issues, as there are many scams taking place. Trustee Basgal reported that Marin County Housing Authority paid out approximately \$1 million to whom they thought was for a Federal Grant for properties they were working on. However, it turned out to be a scam. Marin County was not reimbursed for their loss.

CLOSED SESSION

The Board adjourned into Closed Session to discuss the following:

Item 12:

- A.** Non-Service-Connected Disability Retirement Application of member Shauna White, Eligibility, Services Technician II (See Motion No. 24-87 below).
- B.** Conference with Designated Representative (Ophelia Basgal) regarding Compensation Negotiations with the Chief Executive Officer (Cal. Gov't Code § 54957.6).

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

Outside Counsel Ashley Dunning of Nossaman reported that the Board took the following action in Closed Session on item 12A above:

24-87

It was moved by Kellie Simon and seconded by Elizabeth Rogers that the Board refer the matter back to the Hearing Officer for further proceedings with the following instructions: 1) Permit Ms. White to put on her evidence in accordance with ACERA’s normal rules; 2) Permit Ms. White to bring with and speak for her another person who is not a lawyer; 3) That the hearing be conducted within a reasonable period of time; and 4) Return to the Board for consideration (Hearing Officer’s Proposed Findings of Fact and Recommended Decision). The motion carried 8 yes (*Basgal, Carson, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions.

Trustee Basgal reported that the Board took no reportable action in Closed Session on item 12B above. Further discussion will take place on this item.

The Board and Staff wished everyone a happy and safe holiday season.

To view the December 19, 2024 Board meeting YouTube video in its entirety, go to ACERA’s Website at: <https://youtu.be/bSj5eSdd1N4>.

ADJOURNMENT

The meeting was adjourned at approximately 3:34 p.m.

Respectfully Submitted,



David Nelsen
Chief Executive Officer

01/16/25

Date Adopted

APPENDIX A
REPORT ON SERVICE RETIREMENTS

ADKINS, Marlene
Effective: 9/14/2024
Sheriff's Office

GELICO, Juliet
Effective: 9/17/2024
Social Services Agency

ARANGUREN, Michael
Effective: 9/28/2024
Alameda Health System

GLANN, John
Effective: 9/28/2024
General Services Agency

AYALA, Diana
Effective: 9/17/2024
Child Support Services

GREVIOUS, Vernon
Effective: 9/21/2024
Social Services Agency

BILETNIKOFF, John
Effective: 9/21/2024
District Attorney

HARLESS, Cindy
Effective: 9/7/2024
Alameda Health System

CAMPBELL, Linda
Effective: 9/17/2024
Probation

HEMPILL, Thomas
Effective: 9/29/2024
Zone 7 Water Agency

CHASE, Roger
Effective: 9/14/2024
Information Technology Department

HERRERA, Caroline
Effective: 9/28/2024
Social Services Agency

CLARK, Doris
Effective: 8/30/2024
Auditor-Controller

KERR, Dorothy
Effective: 9/13/2024
Sheriff's Office

COUGHLIN, Mary
Effective: 8/19/2024
Alameda Health System

LEOCARIO, Brenda
Effective: 9/28/2024
County Administrator's Office

DEMARTINI, Ginny
Effective: 9/14/2024
Board of Supervisors

LI, Su
Effective: 9/28/2024
Community Development Agency

DENNIS, Regina
Effective: 9/14/2024
Superior Court

MENDOZA, Luzviminda
Effective: 8/31/2024
Alameda Health System

DOUGLAS, Lucinda
Effective: 9/28/2024
General Services Agency

NG, Paul
Effective: 9/14/2024
Information Technology Department

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

NGUYEN, Yasmin
Effective: 9/28/2024
Alameda County Health

SALEHI, Behzad
Effective: 8/31/2024
Information Technology Department

NI, Wenshi
Effective: 9/13/2024
Alameda Health System

SANGHERA, Ranvir
Effective: 8/30/2024
Sheriff's Office

ROXAS, Ana
Effective: 9/14/2024
Child Support Services

TSANG, Josephine
Effective: 9/14/2024
Social Services Agency

SALAZAR, Kimberly
Effective: 9/28/2024
Probation

WILLIAMS, Carla
Effective: 10/1/2024
Superior Court

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

AHMAD, Maryam
District Attorney
Effective Date: 8/16/2024

BRAMBILA, Alessandra
District Attorney
Effective: 8/30/2024

ALLEN-KANG, Sandra
Public Defender
Effective: 9/6/2024

CANFIELD, Heather
Superior Court
Effective: 9/6/2024

ARDILA CORZO, Sergio
Board of Supervisors
Effective: 8/30/2024

CESPEDES, Rafael
Human Resource Services
Effective: 8/12/2024

ARROYO, Marietta
Social Services Agency
Effective: 8/9/2024

CHITWOOD, Jason
Alameda Health System
Effective: 9/12/2024

AVIST, Antionique
Superior Court
Effective: 9/20/2024

CREE, Katie
Social Services Agency
Effective: 8/30/2024

BANKS, Khalil
Social Services Agency
Effective: 8/16/2024

CRENSHAW, David
Public Works Agency
Effective: 8/26/2024

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

CRUZ, Noelle Kristine
Library
Effective: 8/30/2024

GARLIN, Amy
Alameda County Health
Effective: 9/13/2024

FERNANDEZ, Randy
Sheriff's Office
Effective: 8/31/2024

GRAMLICH, David
Assessor
Effective: 8/22/2024

FERREIRA WHELAN, Christian
Social Services Agency
Effective: 9/9/2024

GRIER, Pamela
Social Services Agency
Effective: 8/30/2024

FOO, Christopher
Sheriff's Office
Effective: 8/30/2024

HOWARD, Shani
Alameda Health System
Effective: 9/19/2024

GAINES, Joyce
Alameda Health System
Effective: 8/11/2024

KIVALU, Mele
Social Services Agency
Effective: 8/7/2024

GARCIA LUNA, Michelle
Superior Court
Effective: 9/6/2024

LINDSAY, Russell
Alameda Health System
Effective: 8/30/2024

GARCIA-MORON, Hilario
Social Services Agency
Effective: 8/9/2024

LOAYZA, Rosa
Alameda Health System
Effective: 8/30/2024

NUYDA, Andrea
Alameda Health System
Effective: 8/27/2024

**APPENDIX C
LIST OF DECEASED MEMBERS**

BONANNO, Philip B.
Alameda Health System
11/13/2024

CLEVINGER, Evelyn
Survivor of James Clevenger
11/7/2024

CASTILLO, Estela
Human Resource Services
10/21/2024

CONTRERAS, Gloria J.
Superior Court
11/2/2024

**APPENDIX C
LIST OF DECEASED MEMBERS**

DIXON, Ann
Survivor of Albert V. Dixon
10/16/2024

LEONG, Nai J.
Public Works Agency
10/20/2024

GARCIA, Dardinella L.
Sheriff's Office
10/30/2024

PETROVITCH, Pierre
Public Works Agency
11/4/2024

GARDELLA, Kathryn M.
Behavioral Health Care Services
11/6/2024

PHILLIPS, Herbie D.
Probation
10/30/2024

GREEN, Helen
Survivor of Paul D. Green
10/29/2024

ROBINSON, Jerry
Public Works Agency
10/26/2024

HUDNALL, Posey Virginia
Superior Court
11/1/2024

SANDERS, Charles R.
Alameda Health System
11/13/2024

JAMES, Autrey B.
District Attorney
11/9/2024

TRAPP, Reiko
Survivor of Gerald Trapp
10/26/2024

JEONG, Anna
Housing Authority
10/31/2024

VICERAL, Val
Sheriff's Office
10/29/2024

LANDER, Frank D.
Social Services Agency
11/6/2024

WARDE, Dennis S.
Human Resource Services
10/10/2024

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

Name: **Hughey, Ti’Nika**
Type of Claim: Service-Connected

Staff’s Recommendations:

Adopt the findings, conclusions and recommendations in the Medical Advisor’s report, including but not limited to, granting Ms. Hughey’s application for a service-connected disability retirement and requiring annual medical examinations and/or questionnaires at this time.

Name: **Moshier, Emily**
Type of Claim: Service-Connected

Staff’s Recommendations:

Adopt the findings, conclusions and recommendations in the Medical Advisor’s report, including but not limited to, granting Ms. Moshier’s application for a service-connected disability retirement and waiving annual medical examinations and questionnaires at this time.

Based on Ms. Moshier’s inability to ascertain the permanency of her incapacity until after the date following the day for which she last received regular compensation, to grant Ms. Moshier’s request for an earlier effective date.

Name: **McCullough, Sakeena**
Type of Claim: Non-Service-Connected

The Board granted Ms. McCullough a non-service-connected disability on July 18, 2024, but postponed its decision regarding medical examinations/questionnaires and her request for an earlier effective date.

Staff’s Recommendations:

Based on the recommendation of the Medical Advisor, to require annual medical examinations and/or questionnaires at this time.

Based on the Medical Advisor’s finding regarding Ms. McCullough’s inability to ascertain the permanency of her incapacity until after the date following the day for which she last received regular compensation, to grant Ms. McCullough’s request for an earlier effective date.



MINUTES OF DECEMBER 19, 2024 RETIREES COMMITTEE MEETING

To: Members of the Retirees Committee

From: Elizabeth Rogers, Chair

Subject: Summary of the December 19, 2024 Retirees Committee Meeting

Committee Chair Elizabeth Rogers called the December 19, 2024 Committee meeting to order at 1:02 p.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Elizabeth Rogers and Kellie Simon. Also present were Ophelia Basgal (Board Chair serving as Committee member), George Wood, and alternate member Cynthia Baron. Committee member Henry Levy, Tarrell Gamble and Steven Wilkinson joined the meeting after roll call.

Staff present were Carlos Barrios, Assistant Chief Executive Officer; 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.

ACTION ITEMS

1. Adoption of Medicare Part B Reimbursement Plan Benefit for 2025

Staff and Segal, ACERA's Benefits Consultant, provided information on ACERA's Medicare Part B Reimbursement Plan (MBRP) benefit, including retirees' out-of-pocket costs, and the percentage of retirees affected at each of the designated income levels, based on the retirees' ACERA retirement allowances only. Staff recommended to continue the benefit for 2025 based on the reimbursement at the lowest standard premium rate of \$185.00.

It was moved by Ophelia Basgal and seconded by Kellie Simon that the Committee recommend to the Board of Retirement to continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2025, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$185.00. 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 5 yes (*Basgal, Rogers, Simon, Wilkinson, Wood*), 0 no, 0 abstention.

2. Adoption of Updates to Appendix A of 401(h) Account Resolutions

Staff stated that in order for Resolution No. 07-29 to remain current for the upcoming 2025 Plan Year, Appendix A was amended to reflect the Board of Retirement's (Board) decisions regarding the Monthly Medical Allowance amounts for Group and Individual plans; and medical, dental, and vision premium amounts as adopted by the Board.

It was moved by George Wood and seconded by Ophelia Basgal that the Committee recommend to the Board of Retirement (Board) to 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 2025.

The motion carried 5 yes (*Basgal, Rogers, Simon, Wilkinson, Wood*), 0 no, 0 abstention.

3. Amend Supplemental Retiree Benefit Reserve Policy to Align with Individual Medical Plans Practices

Staff provided a redline copy of the Supplemental Retiree Benefit Reserve (SRBR) Policy, which was revised to align the language with the eligible reimbursements of medical costs through the Health Reimbursement Arrangement (HRA) that were established at the inception of the Individual Medical Plans.

It was moved by Ophelia Basgal and seconded by George Wood that the Committee recommend to the Board of Retirement that it adopt the Supplemental Retiree Benefit Reserve Policy with Staff's recommended revisions, which are shown in the redline included in the agenda backup.

The motion carried 5 yes (*Basgal, Rogers, Simon, Wilkinson, Wood*), 0 no, 0 abstention.

INFORMATION ITEMS

1. Annual Retired Member (Lump Sum) Death Benefit Report

Staff provided information on the number and amount of the Retired Member (lump sum) Death Benefit payments made to eligible beneficiaries of retirees for the twelve-month period December 1, 2023 through November 30, 2024, including the payments made by reciprocal agencies. In addition, Staff provided a five-year comparison of the total death benefits paid. This \$1,000 benefit is funded by the Supplemental Retiree Benefit Reserve and is considered a vested benefit, as long as there are funds available.

2. Retiree Health and Wellness Fair Results and Open Enrollment Activity

Staff provided a report on the results of the hybrid Retiree Health and Wellness Fair, which was held through Zoom and in person at the Hilton Garden Inn in Emeryville, CA on October 24, 2024. There were live presentations from ACERA, Kaiser, and Delta Dental, as well as a Qigong presentation from Wudang West. These presentations were recorded and posted on ACERA's website. Two hundred members attended the hybrid event virtually, and 193 attended in person, for a total of 393 attendees. Staff also reviewed the health fair survey results.

In response to Trustee Levy's question, Staff stated whether to hold next year's health fair as a hybrid event will be discussed when planning for next year's health fair. Trustee Simon congratulated Staff on the success of the event.

TRUSTEE REMARKS

Trustee Rogers expressed her appreciation to everyone who handles retiree matters, and particularly to Mike Fara who does a lot of work with retirees.

FUTURE DISCUSSION ITEMS

- Annual Supplemental Cost of Living Adjustment (COLA)
- Proposal to Study the Impact of Higher MMA Payments for Members Enrolled in the Group Plans

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for February 5, 2025, at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 1:24 p.m.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025

TO: Members of the Board of Retirement

FROM: Erica Haywood, Fiscal Services Officer *EH*

SUBJECT: Year-to-Date Operating Expenses & Budget Summary for November 30, 2024

ACERA's year-to-date operating expenses are \$77K over budget for the period ended November 30, 2024. Budget overages and surpluses worth noting are as follows:

Budget Overages

1. *Staffing*: Staffing is \$296K over budget. This amount comprised overages in temporary staffing of \$260K, and 5% staff vacancies adjustment of \$807K, offset by surpluses in salaries & wages expenses of (\$344K), and fringe benefits of (\$427K).
2. *Office Expense*: Office Expense is \$22K over budget. This amount comprised overages in building expenses of \$28K, communications of \$12K, equipment lease & maintenance of \$16K, offset by surpluses in bank charges of (\$13K), minor equipment & furniture of (\$4K), office supplies & maintenance of (\$10K) and printing and postage of (\$7K).
3. *Member Services*: Member Services are \$58K over budget. This amount comprised overages in disability legal arbitration & transcripts of \$37K, and member printing & postage of \$25K, offset by surplus in disability claims management of (\$4K).
4. *Systems*: Systems are \$70K over budget. This amount comprised overages in minor computer hardware of \$29K, and GASB 96 of \$80K, offset by surpluses in business continuity of (\$3K), county data processing of (\$3K), and software maintenance & support of (\$33K).
5. *Depreciation*: Depreciation expense is \$2K over budget from purchase of new equipment.

Budget Surpluses

1. *Staff Development*: Staff Development is \$130K under budget for staff training and conferences.
2. *Professional Fees*: Professional Fees are \$97K under budget. This amount comprised surpluses in actuarial fees of (\$4K), legal fees of (\$99K), and external audit of (\$3K), offset by overage in consultant fees of \$9K.

Operating Expenses Budget Summary for the period ended November 30, 2024

3. *Board of Retirement:* Board of Retirement is \$144K under budget. This amount comprised surpluses in board compensation of (\$6K), board conferences & training of (\$84K), board election of (\$42K), board miscellaneous expenses of (\$10K), and board software maintenance & support of (\$2K).

Staffing Detail

Vacant positions as of November 30, 2024:

Department	Position	Qty	Comments
Administration	Supply Clerk II	1	Vacant - currently budgeted for the year
	Total Positions	1	

Pension Administration System Project - as of November 30, 2024

	Year-To-Date			2024 Budget	2019-23 Actual
	Actual	Budget	Variance		
Consultant Fees					
Levi, Ray and Shoup	\$2,179,106	\$1,787,500	\$391,606	\$1,950,000	\$3,231,571
Segal and other consultant fees	617,701	543,583	74,118	593,000	2,323,470
Other expenses	-	-	-	-	1,500
Leap Technologies	-	-	-	-	98,970
Total	2,796,807	2,331,083	465,724	2,543,000	5,655,511
Staffing	717,490	706,750	10,740	771,000	2,845,789
TOTAL	\$3,514,297	\$3,037,833	\$476,464	\$3,314,000	\$8,501,300

Attachments:

- Total Operating Expenses Summary
- Professional Fees – Year-to-Date – Actual vs. Budget
- Actual Operating Expenses comparison with last year



**ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL OPERATING EXPENSES SUMMARY**

YEAR TO DATE - ACTUAL VS. BUDGET					
<u>November 30, 2024</u>					
	<u>Actual</u>	<u>Budget</u>	<u>YTD</u>	<u>2024</u>	<u>% Actual to</u>
	<u>Year-To-Date</u>	<u>Year-To-Date</u>	<u>(Under)/Over</u>	<u>Budget</u>	<u>Annual Budget</u>
Staffing	\$ 16,017,313	\$ 15,721,310	\$ 296,003	\$ 17,332,000	92.4%
Staff Development	205,166	334,720	(129,554)	351,000	58.5%
Professional Fees (Next Page)	976,871	1,073,880	(97,009)	1,141,000	85.6%
Office Expense	447,641	425,960	21,681	468,000	95.6%
Insurance	581,041	581,880	(839)	637,000	91.2%
Member Services	672,366	614,830	57,536	708,000	95.0%
Systems	1,252,232	1,182,650	69,582	1,288,000	97.2%
Depreciation	104,733	102,330	2,403	112,000	93.5%
Board of Retirement	526,055	668,944	(142,889)	707,000	74.4%
Uncollectable Benefit Payments	-	-	-	78,000	0.0%
Total Operating Expense	\$ 20,783,418	\$ 20,706,504	\$ 76,914	\$ 22,822,000	91.1%



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

November 30, 2024

	<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>2024</u> <u>Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
Professional Fees					
Consultant Fees - Operations and Projects ¹	\$ 331,903	\$ 322,880	\$ 9,023	\$ 356,000	93.2%
Actuarial Fees ²	\$ 464,817	468,500	(3,683)	490,000	94.9%
External Audit ³	\$ 141,618	145,000	(3,382)	145,000	97.7%
Legal Fees ⁴	\$ 38,533	137,500	(98,967)	150,000	25.7%
Total Professional Fees	\$ 976,871	\$ 1,073,880	\$ (97,009)	\$ 1,141,000	85.6%

	<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>2024 Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
¹ CONSULTANT FEES - OPERATIONS AND PROJECTS:					
Benefits					
Alameda County HRS (Benefit Services)	\$ 126,583	115,500	11,083	126,000	100.5%
Segal (Benefit Consultant/Retiree Open Enrollment)	\$ 110,834	121,880	(11,046)	133,000	83.3%
Total Benefits	\$ 237,417	237,380	37	259,000	91.7%
Fiscal Services					
Cashlog	\$ -	15,000	(15,000)	20,000	0.0%
Total Fiscal Services	\$ -	15,000	(15,000)	20,000	0.0%
Human Resources					
Lakeside Group (County Personnel)	\$ 94,486	70,500	23,986	77,000	122.7%
Total Human Resources	\$ 94,486	70,500	23,986	77,000	122.7%
Total Consultant Fees - Operations	\$ 331,903	322,880	9,023	356,000	93.2%

² ACTUARIAL FEES					
Actuarial Valuation	\$ 87,500	87,500	-	87,500	100.0%
GASB 67 & 68 Valuation	\$ 53,500	53,500	-	53,500	100.0%
GASB 74 & 75 Actuarial	\$ 16,000	16,000	-	16,000	100.0%
Actuarial Standard of Practice 51 Pension Risk	\$ 30,838	30,000	838	30,000	102.8%
Supplemental Consulting	\$ 231,979	236,500	(4,521)	258,000	89.9%
Supplemental Retiree Benefit Reserve valuation	\$ 45,000	45,000	-	45,000	100.0%
Total Actuarial Fees	\$ 464,817	468,500	(3,683)	490,000	94.9%

³ EXTERNAL AUDIT					
External audit	\$ 121,133	122,000	(867)	122,000	99.3%
GASB 67 & 68 audit	\$ 10,721	11,000	(279)	11,000	97.5%
GASB 74 & 75 audit	\$ 9,764	12,000	(2,236)	12,000	81.4%
Total External Audit Fees	\$ 141,618	145,000	(3,382)	145,000	97.7%

⁴ LEGAL FEES					
Fiduciary & Litigation	\$ 23,436	55,000	(31,564)	60,000	39.1%
Tax and Benefit Issues	\$ 13,927	23,100	(9,173)	25,000	55.7%
Miscellaneous Legal Advice	\$ 1,170	59,400	(58,230)	65,000	1.8%
Total Legal Fees	\$ 38,533	137,500	(98,967)	150,000	25.7%

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL
For the Eleven Months Ending 11/30/2024

	<u>For the Month of November 2024</u>	<u>For the Month of November 2023</u>	<u>Variance</u>	<u>Year-To-Date 2024</u>	<u>Year-To-Date 2023</u>	<u>Variance</u>
STAFFING						
Salaries	967,430	926,257	41,173	10,437,222	9,645,782	791,440
Fringe Benefits	429,121	410,030	19,091	5,136,697	4,678,832	457,865
Temporary Staffing Cost	32,989	37,631	(4,642)	443,394	454,621	(11,227)
Staffing Total	<u>1,429,540</u>	<u>1,373,918</u>	<u>55,622</u>	<u>16,017,313</u>	<u>14,779,235</u>	<u>1,238,078</u>
STAFF DEVELOPMENT	23,795	24,928	(1,133)	205,166	201,901	3,265
PROFESSIONAL FEES						
Actuarial Fees	21,500	25,900	(4,400)	464,817	516,199	(51,382)
Consultant Fees - Operations	32,781	27,667	5,114	331,903	311,109	20,794
Consultant Fees - Legal	5,334	32,287	(26,953)	38,533	149,164	(110,631)
External Audit	0	0	0	141,618	138,765	2,853
Professional Fees Total	<u>59,615</u>	<u>85,854</u>	<u>(26,239)</u>	<u>976,871</u>	<u>1,115,237</u>	<u>(138,366)</u>
OFFICE EXPENSE						
Bank Charges & Misc. Admin	5,439	5,692	(253)	64,905	73,634	(8,729)
Building Expenses	6,394	3,260	3,134	62,693	30,705	31,988
Communications	11,432	10,010	1,422	119,060	97,337	21,723
Equipment Lease/Maintenance	26,771	7,895	18,876	141,869	90,868	51,001
Minor Equipment and Furniture	565	303	262	7,507	8,541	(1,034)
Office Supplies/Maintenance	2,860	1,938	922	37,215	34,467	2,748
Printing & Postage	1,621	1,481	140	14,392	13,587	805
Office Expense Total	<u>55,082</u>	<u>30,579</u>	<u>24,503</u>	<u>447,641</u>	<u>349,139</u>	<u>98,502</u>
INSURANCE	53,725	51,590	2,135	581,041	540,879	40,162
MEMBER SERVICES						
Disability - Legal Arbitration & Transcripts	8,000	0	8,000	124,507	(482)	124,989
Disability Medical Expense	7,325	2,000	5,325	197,830	136,645	61,185
Disability Claims Management	3,850	3,850	0	38,500	42,350	(3,850)
Health Reimbursement Acct. (HRA)	5,541	5,403	138	64,993	63,931	1,062
Member Training & Education	1,246	510	736	24,708	7,560	17,148
Printing & Postage - Members	18,247	4,439	13,808	162,819	125,274	37,545
Virtual Call Center	5,054	5,422	(368)	59,009	59,605	(596)
Member Services Total	<u>49,263</u>	<u>21,624</u>	<u>27,639</u>	<u>672,366</u>	<u>434,883</u>	<u>237,483</u>

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL
For the Eleven Months Ending 11/30/2024


	<i>For the Month of November 2024</i>	<i>For the Month of November 2023</i>	<i>Variance</i>	<i>Year-To-Date 2024</i>	<i>Year-To-Date 2023</i>	<i>Variance</i>
SYSTEMS						
Business Continuity Expense	21,550	18,623	2,927	225,062	220,113	4,949
County Data Processing	(18,250)	12,935	(31,185)	124,602	121,837	2,765
Minor Computer Hardware	3,319	887	2,432	67,610	82,964	(15,354)
Intangible right to use SBITA - GASB96	7,348	74,128	(66,780)	79,565	74,128	5,437
Software Maintenance & Support	117,939	18,857	99,082	755,393	636,810	118,583
Systems Total	<u>131,906</u>	<u>125,430</u>	<u>6,476</u>	<u>1,252,232</u>	<u>1,135,852</u>	<u>116,380</u>
DEPRECIATION						
Depreciation Expense	8,703	10,409	(1,706)	104,733	110,472	(5,739)
BOARD OF RETIREMENT						
Board Compensation	1,800	1,500	300	20,200	20,800	(600)
Board Conferences & Training	17,142	8,046	9,096	123,532	143,060	(19,528)
Board Election	0	0	0	1,500	0	1,500
Board Employer Reimbursement	31,570	29,660	1,910	347,570	330,860	16,710
Board Miscellaneous Expense	1,192	889	303	10,361	17,256	(6,895)
Board Software Maint. & Support	1,335	2,509	(1,174)	14,506	13,650	856
Board Strategic Planning	900	0	900	8,386	0	8,386
Board of Retirement Total	<u>53,939</u>	<u>42,604</u>	<u>11,335</u>	<u>526,055</u>	<u>525,626</u>	<u>429</u>
GRAND TOTALS	<u>1,865,568</u>	<u>1,766,936</u>	<u>98,632</u>	<u>20,783,418</u>	<u>19,193,224</u>	<u>1,590,194</u>



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Exclusion of AHS Pay Code 421 from “Pensionable Compensation” and Deferral of Decision on “Compensation Earnable”**

Alameda Health System (AHS) requested that new pay item/code Missed Meal Penalty – 421 be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation.” This new pay code was established to comply with SB 1334, which was signed into law on September 29, 2022. SB 1334 aligns the meal and rest period provisions in public hospitals with those of the private sector. It only applies to non-exempt (hourly) employees. AHS plans to implement the changes to comply with SB-1334 on or after December 20, 2024.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that this new pay code is excluded from “pensionable compensation” because it cannot reasonably be characterized as part of a “normal monthly rate of pay or base pay,” per Government Code Section 7522.34(a). Also, it is an “ad hoc” payment excluded by Section 7522.34(c)(3) and it is arguably excluded under other subdivisions of Section 7522.34 (attached).

Chief Counsel is seeking further information from AHS and internally before making a final recommendation on “compensation earnable,” so that issue will return at a future meeting (likely next month).

Staff informed AHS that its determination will be included on the Board’s Consent Calendar for its January 16, 2025 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 Missed Meal Penalty – 421 from “pensionable compensation” under Government Code Section 7522.34 (for PEPPRA members) and defer a decision on “compensation earnable” to a future meeting.

Attachments



Request for ACERA's Review of a New Pay Item

Employer Name:	Alameda Health System
Date of Request:	11/7/2024
Employer Department Submitting the Request:	payroll
Contact Person/Employer (include title/position):	Marylou Mayo-Payroll Mgr
Contact Person Telephone (include area code):	510-346-7506
Contact Person Email Address:	mlestro@alamedahealthsystem.org
Pay Item Name and Pay Code/Number:	421-MISSED MEAL PENALTY
Pay Item Effective Date per Authorization:	1/1/2023
Pay Item End Date (if applicable/known):	N/A

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 and return with all of the supporting documentation prior to issuing (paying) the pay item to any employee who is an ACERA member.

Please attach the approving document from your agency (Board Letter, Salary Ordinance, Side Letter, MOU Agreement, or Approving Memo from Department Head; include resolution, or similar document) that verifies the formal adoption of the new pay item.

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 NON-EXEMPT EMPLOYEES

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

RESPONSE #2: ALL NON-EXEMPT EMPLOYEES

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 NON-EXEMPT EMPLOYEES

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

RESPONSE #4: THIS IS A PENALTY

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

RESPONSE #5: IT WILL BE 1 HOUR PER DAY FOR A MISSED MEAL

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

RESPONSE #6: WILL BE PAID WHEN EMPLOYEE ACKNOWLEDGES THEY MISSED A MEAL

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: THIS IS NOT AN AD HOC PAYMENT

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

RESPONSE #8: THIS IS NOT A REIMBURSEMENT

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: ALL REGULAR FULLTIME AND PARTTIME EMPLOYEES ARE ELIGIBLE

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: THIS IS NOT WORKED HOURS

11. State whether the pay item if for deferred compensation

RESPONSE #11: THIS IS NOT A DEFERRED COMP PAY

12. State whether the pay item is for retro payments

RESPONSE #12: THIS IS NOT A RETRO PAYCODE

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 THIS IS NOT FOR ACCRUED LEAVE

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: THIS A NEW PAYCODE TO COMPLY WITH SB1334

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: THIS IS NOT FOR SEVERANCE

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

RESPONSE #16: IT WILL BE PAID BIWEEKLY AS APPLICABLE

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: IF THE EMPLOYEE MISSES THEIR MEAL, THEY WILL RECEIVE 1 HOURS OF PAY AS PENALTY

TO: All AHS Staff and All Medical Staff

FROM: Arleen Gomez, Interim Chief Human Resource Officer

DATE: November 15, 2024

SUBJECT: SB 1334 Changes

The California Legislature passed SB1334, aligning the meal and rest period provisions in public hospitals with those of the private sector. This legislation only applies to non-exempt (hourly) employees. This memo provides an overview of the law, permissible waivers, and new UKG processes when breaks are missed.

AHS plans to begin implementation of the changes below on or after December 20, 2024. If you have any questions, please contact the HR Service Center at hrrservicecenter@alamedahealthsystem.org.

Section 512.1 requires the following:

Meal Period

All non-exempt employees are entitled to a 30-minute unpaid meal period for shifts of five (5) hours or more and a second 30-minute unpaid meal period for shifts over ten (10) hours.

Employer must authorize and permit an employee to take their 30-minute unpaid meal period(s). If an employee is unable to take the meal period(s) due to work requirements, the employer will pay the employee one (1) hour at the employee's regular rate of compensation.

Rest (Break) Period

All non-exempt employees are entitled to a 10-minute paid rest period for every four (4) hours worked or major fraction thereof. Rest periods cannot be waived or combined with a meal period or taken at the end of a shift.

Employer must authorize and permit an employee to take their 10-minute paid rest period(s). If an employee is unable to take a rest period due to work requirements to take one or both rest periods, the employer will pay the employee one (1) hour pay at the employee's regular rate of pay.

Waivers

There are two (2) types of permissible meal period waiver:

- Meal Period Waiver
 - o An employee who works a shift of 10 hours or more may voluntarily waive one of the two (2) authorized meal periods.
 - o An employee whose shift is no more than six (6) hours may waive the meal period by mutual consent of employee and employer.
- On Duty Meal Agreement

- When the nature of the work prevents an employee from being relieved of all duty, an On Duty Meal Agreement may be agreed on by written agreement between employee and employer. The written agreement must state that the employee may revoke the waiver at any time. Execution of an On Duty Meal Agreement means that an employee is waiving their right to an unpaid and uninterrupted meal period. Employees with a signed On Duty Meal Agreement may still take meal period(s) but are no longer entitled to a missed meal penalty if they work during the meal period.

Missed Meal and Rest (Break) Period Pay

Missed meal and rest period pay is paid based on the employee's regular rate of pay.

An employee who misses a meal period and one or both rest periods will be paid maximum of two (2) hours pay at the employee's regular rate of pay.

Collective Bargaining Agreement Exemption

Employees covered by a valid collective bargaining agreement that provides for meal and rest periods, and, if the employee does not receive a meal or rest period as required by the agreement, includes a monetary remedy that, at a minimum, is equivalent to one additional hour of pay at the employee's regular rate of pay.

Changes will be implemented to ensure that AHS facilities align in providing the entitlements provided under Section 512.1. Existing language in MOUs describing procedures for missed meal and rest periods will be superseded by the additional changes.

Rest and Meal Penalty Pay from January 1, 2023 - Present

AHS will be calculating the difference between the rest and meal penalty pay employees should have received under Section 512.1 and the pay employees received for missed meal and rest breaks under relevant MOUs.

AHS has calculated the difference from January 2023 to October 2023 and will pay this calculated amount on November 22, 2024. The difference from November 2023 to present will be paid to employees on a later date after calculations are complete. Once all differences are paid, AHS will provide employees with instructions on how to communicate any disputes of the calculated amount to AHS for consideration. Questions or concerns regarding the difference payment will be considered after all differences have been paid.

Attestation for Rest (Break) or Meal Penalty Pay

As part of the updated payroll process, AHS employees will be required to answer an attestation when clocking out of their shift. The attestation will ask the employee to answer whether the employee received a meal or rest period and if not, whether it was the employee's decision or the company's request.

Attestations are formal declaration by employees as to whether their rest periods and meal period were permitted to be taken or if a meal and/or rest period was missed due to work requirements or by employee's choice.

“My Decision”

- Employee has signed a valid ON Duty Meal Agreement
- Employee working a ten (10) hour shift or more has waived one of the meal periods by signing a meal period waiver.

“Company request”

- Employee is responding to an emergency such as a Code Blue
- An operational need necessitates an employee to work through, miss part of, or have a late meal or rest break.

Supervisors may reach out to employees who frequently attest to missing meals or rest breaks to investigate why breaks/meal periods are being missed. Findings of an employee falsely attesting to missing rest or meal breaks may result in disciplinary action up to and including termination.

The Penalty pay pursuant to Section 512.1 will show up on employee paychecks as “Rest Penalty” or “Meal Penalty” depending on the type of break missed. As stated earlier, there is a maximum of 2 additional hours of penalty pay for missed meal or rest periods per workday.

The following section provides examples of the attestation and how to complete them.

Completing UKG Attestation

REST BREAK ATTESTATION QUESTIONS 8-Hour Shift

Did you take your REST BREAK today?*

Yes

No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If employee's answer is "NO", then second question will be asked. (see below)

Why didn't you take your REST BREAK?
*

My decision

Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No BREAK penalty pay will be paid.

If employee's answer is "Company request", then One (1) BREAK penalty will automatically be added to the employee's timecard.
Employee's will receive One (1) BREAK penalty each day, regardless of the number of breaks missed.

MEAL BREAK ATTESTATION QUESTIONS (8-Hour Shift)

Did you take your MEAL BREAK today?
*

Yes

No

Submit

Cancel

If employee's answer is "YES", no other action needed.

If employee's answer is "NO", then second question will be asked. (see below)



Why didn't you take your MEAL BREAK?*

My decision

Company request

Submit

Cancel

If employee's answer is "My decision", no other actions is needed. No MEAL penalty pay will be paid.

If employee's answer is "Company request", UKG will automatically add One (1) MEAL penalty to the employee's timecard. Employee's will receive One (1) MEAL penalty each day, regardless of the number of meal periods missed.



REST BREAK ATTESTATION QUESTIONS 10-Hour Shift and 12-Hour Shift

Did you take your REST BREAK today?*

Yes

No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If answer is "NO" then second question is asked (see below)

Why didn't you take your REST BREAK?

*

My decision

Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No BREAK penalty pay will be paid.

If employee's answer is "Company request" for ANY of the breaks, UKG will automatically add One (1) BREAK penalty to the employee's timecard.

Employee's will receive One (1) BREAK penalty each day, regardless of the number of breaks missed.

MEAL BREAK ATTESTATION QUESTIONS 10-Hour Shift and 12-Hour Shift

Did you take your MEAL BREAK today?
*

Yes
 No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If answer is "NO" then second question is asked (see below)

Why didn't you take your MEAL BREAK?*

My decision
 Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No MEAL penalty pay will be paid.

If employee's answer is "Company request" for any of the two meal breaks, UKG will automatically add One (1) MEAL penalty to the employees timecard.

Employee's will receive One (1) MEAL penalty each day, regardless of the number of breaks missed.

On Duty Meal Agreements and Meal Period Waivers

Meal Period Waivers Instructions.

1. Employees desiring to waive a meal period must request a Meal Period Waiver from their Supervisor.
2. Signed Meal Period Waivers will be sent to the HR Service Center to be filed into the employee's personnel file.
3. When the nature of the work prevents an employee from being relieved of all duty, an "On Duty Meal Agreement" paid meal period may be agreed on by written agreement between employee and employer. The written agreement must state that the employee may revoke the waiver at any time.

Revocation of the Meal Period Waiver

Employees may revoke Meal Period Waivers by providing written notice to their supervisor at least one day in advance of their desired revocation date.

On Duty Meal Agreement Instructions.

1. Employees requesting to have an on duty meal period must request and complete an On Duty Meal Agreement.
4. The supervisor will forward the request to Chief Human Resource Officer (CHRO).
2. The CHRO will determine whether an On Duty Meal Agreement is approved or denied.
3. If appropriate, the supervisor and employee will be provided with an On Duty Meal Agreement to sign.
4. Signed On Duty Meal Agreements will be sent to the HR Service Center to be filed into the employee's personnel file.

Revocation of the On Duty Meal Agreement

Employees may revoke Meal Period Waivers by providing written notice to their supervisor at least one day in advance of their desired revocation date.

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.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Exclusion of AHS Pay Code 422 from “Pensionable Compensation” and Deferral of Decision on “Compensation Earnable”**

Alameda Health System (AHS) requested that new pay item/code Missed Break Penalty – 422 be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation.” This new pay code was established to comply with SB-1334, which was signed into law on September 29, 2022. SB-1334 aligns the meal and rest period provisions in public hospitals with those of the private sector. It only applies to non-exempt (hourly) employees. AHS plans to implement the changes to comply with SB-1334 on or after December 20, 2024.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that this new pay code is excluded from “pensionable compensation” because it cannot reasonably be characterized as part of a “normal monthly rate of pay or base pay,” per Government Code Section 7522.34(a). Also, it is an “ad hoc” payment excluded by Section 7522.34(c)(3) and it is arguably excluded under other subdivisions of Section 7522.34 (attached).

Chief Counsel is seeking further information from AHS and internally before making a final recommendation on “compensation earnable,” so that issue will return at a future meeting (likely next month).

Staff informed AHS that its determination will be included on the Board’s Consent Calendar for its January 16, 2025 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 Missed Break Penalty – 422 from “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members) and defer a decision on “compensation earnable” to a future meeting.

Attachments



Request for ACERA’s Review of a New Pay Item

Employer Name:	Alameda Health System
Date of Request:	11/7/2024
Employer Department Submitting the Request:	payroll
Contact Person/Employer (include title/position):	Marylou Mayo-Payroll Mgr
Contact Person Telephone (include area code):	510-346-7506
Contact Person Email Address:	mlestro@alamedahealthsystem.org
Pay Item Name and Pay Code/Number:	422-MISSED BREAK PENALTY
Pay Item Effective Date per Authorization:	1/1/2023
Pay Item End Date (if applicable/known):	N/A

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 and return with all of the supporting documentation prior to issuing (paying) the pay item to any employee who is an ACERA member.

Please attach the approving document from your agency (Board Letter, Salary Ordinance, Side Letter, MOU Agreement, or Approving Memo from Department Head; include resolution, or similar document) that verifies the formal adoption of the new pay item.

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 NON EXEMPT EMPLOYEES

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

RESPONSE #2: ALL NON EXEMPT EMPLOYEES

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 NON EXEMOT EMPLOYEES

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

RESPONSE #4: THIS IS A PENALTY

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

RESPONSE #5: IT WILL BE 1 HOUR PER DAY FOR A MISSED BREAK

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

RESPONSE #6: WILL BE PAID WHEN EMPLOYEE ACKNOWLEDGES THEY MISSED A MEAL

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: THIS IS NOT AN AD HOC PAYMENT

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

RESPONSE #8: THIS IS NOT A REIMBURSEMENT

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: ALL REGULAR FULLTIME AND PARTTIME EMPLOYEES ARE ELIGIBLE

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: THIS IS NOT WORKED HOURS

11. State whether the pay item if for deferred compensation

RESPONSE #11: THIS IS NOT A DEFERRED COMP PAY

12. State whether the pay item is for retro payments

RESPONSE #12: THIS IS NOT A RETRO PAYCODE

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 THIS IS NOT FOR ACCRUED LEAVE

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 THIS IS A NEW PAYCODE TO COOMPLY WITH SB1334

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: THIS IS NOT FOR SEVERANCE

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

RESPONSE #16: IT WILL BE PAID BIWEEKLY AS APPLICABLE

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: IF THE EMPLOYEE MISSSES THEIR BREAK THEY WILL RECEIVE 1 HOURS OF PAY AS PENALTY

TO: All AHS Staff and All Medical Staff

FROM: Arleen Gomez, Interim Chief Human Resource Officer

DATE: November 15, 2024

SUBJECT: SB 1334 Changes

The California Legislature passed SB1334, aligning the meal and rest period provisions in public hospitals with those of the private sector. This legislation only applies to non-exempt (hourly) employees. This memo provides an overview of the law, permissible waivers, and new UKG processes when breaks are missed.

AHS plans to begin implementation of the changes below on or after December 20, 2024. If you have any questions, please contact the HR Service Center at hrrservicecenter@alamedahealthsystem.org.

Section 512.1 requires the following:

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All non-exempt employees are entitled to a 30-minute unpaid meal period for shifts of five (5) hours or more and a second 30-minute unpaid meal period for shifts over ten (10) hours.

Employer must authorize and permit an employee to take their 30-minute unpaid meal period(s). If an employee is unable to take the meal period(s) due to work requirements, the employer will pay the employee one (1) hour at the employee's regular rate of compensation.

Rest (Break) Period

All non-exempt employees are entitled to a 10-minute paid rest period for every four (4) hours worked or major fraction thereof. Rest periods cannot be waived or combined with a meal period or taken at the end of a shift.

Employer must authorize and permit an employee to take their 10-minute paid rest period(s). If an employee is unable to take a rest period due to work requirements to take one or both rest periods, the employer will pay the employee one (1) hour pay at the employee's regular rate of pay.

Waivers

There are two (2) types of permissible meal period waiver:

- Meal Period Waiver
 - o An employee who works a shift of 10 hours or more may voluntarily waive one of the two (2) authorized meal periods.
 - o An employee whose shift is no more than six (6) hours may waive the meal period by mutual consent of employee and employer.
- On Duty Meal Agreement

- When the nature of the work prevents an employee from being relieved of all duty, an On Duty Meal Agreement may be agreed on by written agreement between employee and employer. The written agreement must state that the employee may revoke the waiver at any time. Execution of an On Duty Meal Agreement means that an employee is waiving their right to an unpaid and uninterrupted meal period. Employees with a signed On Duty Meal Agreement may still take meal period(s) but are no longer entitled to a missed meal penalty if they work during the meal period.

Missed Meal and Rest (Break) Period Pay

Missed meal and rest period pay is paid based on the employee's regular rate of pay.

An employee who misses a meal period and one or both rest periods will be paid maximum of two (2) hours pay at the employee's regular rate of pay.

Collective Bargaining Agreement Exemption

Employees covered by a valid collective bargaining agreement that provides for meal and rest periods, and, if the employee does not receive a meal or rest period as required by the agreement, includes a monetary remedy that, at a minimum, is equivalent to one additional hour of pay at the employee's regular rate of pay.

Changes will be implemented to ensure that AHS facilities align in providing the entitlements provided under Section 512.1. Existing language in MOUs describing procedures for missed meal and rest periods will be superseded by the additional changes.

Rest and Meal Penalty Pay from January 1, 2023 - Present

AHS will be calculating the difference between the rest and meal penalty pay employees should have received under Section 512.1 and the pay employees received for missed meal and rest breaks under relevant MOUs.

AHS has calculated the difference from January 2023 to October 2023 and will pay this calculated amount on November 22, 2024. The difference from November 2023 to present will be paid to employees on a later date after calculations are complete. Once all differences are paid, AHS will provide employees with instructions on how to communicate any disputes of the calculated amount to AHS for consideration. Questions or concerns regarding the difference payment will be considered after all differences have been paid.

Attestation for Rest (Break) or Meal Penalty Pay

As part of the updated payroll process, AHS employees will be required to answer an attestation when clocking out of their shift. The attestation will ask the employee to answer whether the employee received a meal or rest period and if not, whether it was the employee's decision or the company's request.

Attestations are formal declaration by employees as to whether their rest periods and meal period were permitted to be taken or if a meal and/or rest period was missed due to work requirements or by employee's choice.

“My Decision”

- Employee has signed a valid ON Duty Meal Agreement
- Employee working a ten (10) hour shift or more has waived one of the meal periods by signing a meal period waiver.

“Company request”

- Employee is responding to an emergency such as a Code Blue
- An operational need necessitates an employee to work through, miss part of, or have a late meal or rest break.

Supervisors may reach out to employees who frequently attest to missing meals or rest breaks to investigate why breaks/meal periods are being missed. Findings of an employee falsely attesting to missing rest or meal breaks may result in disciplinary action up to and including termination.

The Penalty pay pursuant to Section 512.1 will show up on employee paychecks as “Rest Penalty” or “Meal Penalty” depending on the type of break missed. As stated earlier, there is a maximum of 2 additional hours of penalty pay for missed meal or rest periods per workday.

The following section provides examples of the attestation and how to complete them.

Completing UKG Attestation

REST BREAK ATTESTATION QUESTIONS 8-Hour Shift

Did you take your REST BREAK today?*

Yes

No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If employee's answer is "NO", then second question will be asked. (see below)

Why didn't you take your REST BREAK?
*

My decision

Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No BREAK penalty pay will be paid.

If employee's answer is "Company request", then One (1) BREAK penalty will automatically be added to the employee's timecard.
Employee's will receive One (1) BREAK penalty each day, regardless of the number of breaks missed.

MEAL BREAK ATTESTATION QUESTIONS (8-Hour Shift)

Did you take your MEAL BREAK today?
*

Yes
 No

Submit

Cancel

If employee's answer is "YES", no other action needed.

If employee's answer is "NO", then second question will be asked. (see below)



Why didn't you take your MEAL BREAK?*

My decision
 Company request

Submit

Cancel

If employee's answer is "My decision", no other actions is needed. No MEAL penalty pay will be paid.

If employee's answer is "Company request", UKG will automatically add One (1) MEAL penalty to the employee's timecard. Employee's will receive One (1) MEAL penalty each day, regardless of the number of meal periods missed.



REST BREAK ATTESTATION QUESTIONS 10-Hour Shift and 12-Hour Shift

Did you take your REST BREAK today?*

Yes

No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If answer is "NO" then second question is asked (see below)

Why didn't you take your REST BREAK?

*

My decision

Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No BREAK penalty pay will be paid.

If employee's answer is "Company request" for ANY of the breaks, UKG will automatically add One (1) BREAK penalty to the employee's timecard.

Employee's will receive One (1) BREAK penalty each day, regardless of the number of breaks missed.

MEAL BREAK ATTESTATION QUESTIONS 10-Hour Shift and 12-Hour Shift

Did you take your MEAL BREAK today?
*

Yes
 No

Submit

Cancel



If employee's answer is "YES", no other action needed.

If answer is "NO" then second question is asked (see below)

Why didn't you take your MEAL BREAK?*

My decision
 Company request

Submit

Cancel



If employee's answer is "My decision", no other actions is needed. No MEAL penalty pay will be paid.

If employee's answer is "Company request" for any of the two meal breaks, UKG will automatically add One (1) MEAL penalty to the employees timecard.

Employee's will receive One (1) MEAL penalty each day, regardless of the number of breaks missed.

On Duty Meal Agreements and Meal Period Waivers

Meal Period Waivers Instructions.

1. Employees desiring to waive a meal period must request a Meal Period Waiver from their Supervisor.
2. Signed Meal Period Waivers will be sent to the HR Service Center to be filed into the employee's personnel file.
3. When the nature of the work prevents an employee from being relieved of all duty, an "On Duty Meal Agreement" paid meal period may be agreed on by written agreement between employee and employer. The written agreement must state that the employee may revoke the waiver at any time.

Revocation of the Meal Period Waiver

Employees may revoke Meal Period Waivers by providing written notice to their supervisor at least one day in advance of their desired revocation date.

On Duty Meal Agreement Instructions.

1. Employees requesting to have an on duty meal period must request and complete an On Duty Meal Agreement.
4. The supervisor will forward the request to Chief Human Resource Officer (CHRO).
2. The CHRO will determine whether an On Duty Meal Agreement is approved or denied.
3. If appropriate, the supervisor and employee will be provided with an On Duty Meal Agreement to sign.
4. Signed On Duty Meal Agreements will be sent to the HR Service Center to be filed into the employee's personnel file.

Revocation of the On Duty Meal Agreement

Employees may revoke Meal Period Waivers by providing written notice to their supervisor at least one day in advance of their desired revocation date.

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.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Amendment to Pay Item/Code Lead & Training Responsibility SCADA System – 40Y**

The County of Alameda (County) requested an amendment to pay item/code Lead & Training Responsibility SCADA System – 40Y, which is for pay that is included in “compensation earnable” but is excluded from “pensionable compensation.” Pay code 40Y was initially approved at the Board of Retirement’s (Board) March 20, 2014 meeting. This pay code established a footnote for additional compensation of 5% of the base pay to be paid to an employee in the job classification of Stationary Engineer (Job Code 9671NM) in the Public Works Agency, when serving as a Lead to other line staff in providing training and guidance in the area of electrical engineer and systems management repairs for the SCADA system. Because this pay code was originally for one employee, it was determined to be excluded from “pensionable compensation.”

The requested amendment expands the use of pay code 40Y to two employees in the job classification of Stationary Engineer, and also increases the employees’ job responsibilities to include serving as a Lead to field staff or providing lead assistance to the Bridge and Pump Supervisor (Job Code 9521SM). This amendment was effective June 2, 2019.

Staff and Chief Counsel reviewed the required supporting documentation (attached), and made the determination that since the amendment expands the use of this pay code to more than one employee in the job classification, it will now qualify as “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members). This pay code increases the employees’ base pay in all pay periods for similarly situated employees in a classification like a normal salary increase. Under the Board of Retirement’s (Board) historical practices, this kind of pay code has been included in both “compensation earnable” and “pensionable compensation.” The two relevant Government Code sections are attached.

Staff informed the County that its determination will be included on the Board’s Consent Calendar for its January 16, 2025 meeting. If this item is not pulled from the Consent Calendar for discussion, then the Board will approve Staff’s determination that the amendment to pay item/code Lead & Training Responsibility SCADA System – 40Y is included as “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members), and continues to be included as “compensation earnable” under Government Code Section 31461 (for Legacy members).

Attachments



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

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

Employer Name:	County of Alameda
Date of Request	12/18/24
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)	40Y – Lead & Training Responsibility SCADA System
Pay Item Effective Date per authorization:	6/2/2019
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: 9617NM – Stationary Engineer, PWA

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

RESPONSE #2: Full 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: Not to exceed two (2) positions under Job Code 9671NM (Stationary Engineer) when serving as a Lead to other line staff.

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

RESPONSE #4: Regular Base Pay

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

RESPONSE #5: Percentage – 5% of Base Pay

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: 40.0 Hour Work Week

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: No

11. State whether the pay item if 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: Board Letter

SECTION II

Article 3, sub-section 21 of Section 3-15 of the County of Alameda Salary Ordinance is hereby amended as follows, effective June 2, 2019.

3-15.21 - ~~Effective February 16, 2014~~ June 2, 2019, not to exceed ~~one~~ two (2) positions under Job Code 9671NM (Stationary Engineer, Public Works Agency), in the Public Works Agency, when serving as a Lead to other line staff in providing training and guidance in the area of electrical engineer and systems management repairs for the SCADA system or when serving as a Lead to field staff or providing lead assistance to Job Code 9521SM (Bridge and Pump Supervisor), the incumbents shall receive an additional five percent (5%) compensation.

Salary Ordinance

3-15.21 – Effective June 2, 2019, not to exceed two (2) positions under Job Code 9671NM (Stationary Engineer, Public Works Agency), in the Public Works Agency, when serving as a Lead to other line staff in providing training and guidance in the area of electrical engineer and systems management repairs for the SCADA system or when serving as a Lead to field staff or providing lead assistance to Job Code 9521SM (Bridge and Pump Supervisor), the incumbents shall receive an additional five percent (5%) compensation. (BOS approved 2/11/14) (BOS approved amendment 5/21/19)



Human Resource Services

May 7, 2019

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, California 94612-4305

SUBJECT: SALARY ORDINANCE AMDENDMENTS: 1) ESTABLISH FOUR (4) CLASSIFICATIONS (#0244CA, #0248PA, AND #0256SM IN THE COUNTY ADMINISTRATOR'S OFFICE and #0321PA IN THE ASSESSOR'S OFFICE); AND 2) UPDATE SECTION 3-15.21

Dear Board Members:

RECOMMENDATION:

Adopt Salary Ordinance amendments to: 1) establish a total of four (4) new classifications: Local Agency Formation Commission (LAFCo) Clerk (0244CA), LAFCo Analyst (0248PA), and LAFCo Executive Officer (0256SM) located in the County Administrator's Office (CAO), and Assessor's Communications Coordinator (0321PA) located in the Assessor's Office; and 2) amend Section 3-15.21 to include a total of two (2) positions under Job Code 9671NM (Stationary Engineer, Public Works Agency) in the Public Works Agency to be eligible to receive additional compensation when assigned to serve in a lead capacity.

DISCUSSION/SUMMARY:

We recommend that your Board establish the new classification series of LAFCo Clerk (0244CA), LAFCo Analyst (0248PA), and LAFCo Executive Officer (0256SM) in the CAO. Staff conducted an analysis of the County's current LAFCo structure, which included a survey of other LAFCo structures throughout California and determined the need for a classification series that specializes in the technical work and has oversight of boundary changes to cities, special districts, and the formation of new agencies including the incorporation of new cities and consolidation of existing agencies. The LAFCo Clerk will be responsible for a wide range of specialized secretarial and administrative services in support of the LAFCo staff, including the processing of applications and proposals for boundary change. The LAFCo Analyst will perform the full range of analytical, technical and support services for the LAFCo, and will serve as project manager for studies to evaluate the availability, adequacy, and performance of local government services related to current and future needs of the community. The LAFCo Executive Officer will be responsible for administering the day-to-day business of the Commission including supervision of staff and reviewing and analyzing all proposals.

We also recommend establishing the new classification of Assessor's Communications Coordinator (0321PA) in the Assessor's Office. This position will report to the Assessor and/or the Chief Deputy Assessor and will advise and assist management in all communications activities. This classification will have oversight of multiple positions that will develop, maintain and coordinate the communications program for the Assessor's Office. Further, this position will be responsible for community outreach, individual services and creating the public written communications to be disseminated to internal and external stakeholders, related to the services offered in the Assessor's Office.

Lastly, we recommend amending Section 3-15.21 of the Salary Ordinance to allow for a total of two (2) positions under Job Code 9671NM (Stationary Engineer, PWA) in the Department of Public Works to receive the additional five percent (5%) compensation when serving as a Lead to other line staff. Incumbents eligible for this additional compensation will assist the supervisor with lead responsibility of staff as a result of increased statutory requirements mandated by the Health and Safety codes, the California Code of Regulations, Cal OSHA, and updated workplace safety policies and procedures.

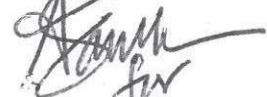
FINANCING:

Funds are available in the 2018-2019 and 2019-2020 Approved Budgets and will be included in future years' requested budgets to cover the costs associated with these actions.

VISION 2026 GOAL:

The Salary Ordinance amendments meet the 10x goal pathways of **Employment for All** in support of our shared vision of a **Prosperous and Vibrant Economy**.

Very truly yours,

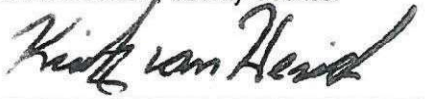


Joe Angelo, Director
Human Resource Services

c: CAO
 Auditor-Controller
 County Counsel
 Assessor
 Director of Public Works

SECOND READING - CONTINUED FROM 05/07/2019

Approved as to Form
DONNA ZIEGLER, County Counsel

By 
Kristy van Herick, Asst. County Counsel

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE 2018 – 2019 COUNTY OF ALAMEDA SALARY ORDINANCE

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Article 1, Section 1-2, Subsection 1-2.2 of the County of Alameda Salary Ordinance is hereby amended by the addition thereto of the following job codes, titles and salaries, to be effective June 2, 2019.

Job Code		Title	STEP 01	STEP 02	STEP 03	STEP 04	STEP 05
0244	CA	Local Agency Formation Commission Clerk	2504.00				3075.20
0248	PA	Local Agency Formation Commission Analyst	3501.60				5367.20
0256	SM	Local Agency Formation Commission Executive Officer	3873.60				5904.00
0321	PA	Assessor's Communications Coordinator	2182.40				2784.80

SECTION II

Article 3, sub-section 21 of Section 3-15 of the County of Alameda Salary Ordinance is hereby amended as follows, effective June 2, 2019.

3-15.21 - **Effective February 16, 2014 June 2, 2019**, not to exceed one-two (2) positions under Job Code 9671NM (Stationary Engineer, Public Works Agency), in the Public Works Agency, when serving as a Lead to other line staff in providing training and guidance in the area of electrical engineer and systems management repairs for the SCADA system or when serving as a Lead to field staff or providing lead assistance to Job Code 9521SM (Bridge and Pump Supervisor), the incumbents shall receive an additional five percent (5%) compensation.

SECTION III

This ordinance shall take effect immediately, and before the expiration of fifteen days after its passage, shall be published once with the names of the members voting for and against it in the Inter-City Express, a newspaper published in the County of Alameda.

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.



To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: January 16, 2025
Subject: **Proposed Revisions To Error Correction Policy**

Staff is bringing to the Board proposed revisions to the Error Correction Policy to account for Gov't Code § 31541.2, which was effective January 1, 2025. A copy of Section 31541.2 is attached to this memorandum.

Proposed Changes Arising From Section 31541.2

Some terms of Section 31541.2 are consistent with ACERA's historical policies and procedures, but it requires the following changes:

1. In general, ACERA must collect overpaid benefits from the member/beneficiary who received the overpaid benefits (plus appropriate interest). Section 31541.2 now requires ACERA to collect those amounts from the employer, through a direct payment or amortized UAAL payments, under some (but not all) circumstances.
2. Under some circumstances, if benefits must be reduced, the employer will now have to pay the member/beneficiary 20 percent of the actuarially projected value of the reduction.
3. Under some circumstances, credits for overpaid employer contributions must applied against future employer contributions.

Proposed Resolution Of Ambiguities In Section 31541.2

The proposed revisions reflect Staff's best judgment regarding two ambiguities in Section 31451.2. First, Section 31451.2 does not reference the application of interest to the amounts at issue. The proposed revisions apply the spirit of ACERA's existing policies regarding interest to the new requirements of Section 31541.2. Second, the 20 percent payment (No. 2 above) is triggered when the compensation is determined to be disallowed "after the date of retirement." In 2021, the Board exercised its authority under Gov't Code §§ 31670(b) (general) and 31662.2(b) (safety) to determine that a member "retired" as of the date ACERA issues the first retirement allowance payment. Staff also believes applying that definition of "retired" is consistent with the apparent legislative intent of the 20 percent payment to compensate members/beneficiaries who are already in pay status and therefore have likely formed more concrete expectations regarding future income.¹

¹ The other possible reading is to consider a member "retired" as of the effective date of retirement (or death in the case of a beneficiary). Staff believes, however, that is less consistent with the Board's past practices and the legislative intent of Section 31541.2.

Other Proposed Revisions

Historically, ACERA's Error Correction Policy has stated that it does not apply to corrections of overpayments of contributions. Some of the new requirements of Section 31541.2 relate to such corrections and I is unclear why overpayments of contributions were historically carved out of the Error Correction Policy. Thus, Staff is recommending that the Board enhance the Error Correction Policy to include policies and procedures for the correction of overpaid contributions. These additions are consistent with well-developed procedures that are already in place and Section 31541.2.

Some minor revisions that are unrelated to Section 31541.2 are proposed to improve the Error Correction Policy.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** (Title 3 added by Stats. 1947, Ch. 424.)**DIVISION 4. EMPLOYEES [31000 - 33017]** (Division 4 added by Stats. 1947, Ch. 424.)**PART 3. RETIREMENT SYSTEMS [31200 - 33017]** (Part 3 added by Stats. 1947, Ch. 424.)**CHAPTER 3. County Employees Retirement Law of 1937 [31450 - 31898]** (Chapter 3 added by Stats. 1947, Ch. 424.)**ARTICLE 3. Retirement Board [31520 - 31543]** (Article 3 added by Stats. 1947, Ch. 424.)**31541.2.** (a) For purposes of this section, the following definitions apply:

- (1) "Agreement" means a memorandum of understanding or collective bargaining agreement between the employer and an exclusive representative pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).
- (2) "Alameda" means the Supreme Court case of Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032 and its holding.
- (3) "Disallowed compensation" means nonpensionable compensation reported for a member of the retirement system that the system subsequently determines is not in compliance with PEPRA, the holding in Alameda, other provisions of this part, or the system's administrative regulations or policies through no fault of the member.

For purposes of this paragraph, "disallowed compensation" also includes nonpensionable compensation that was previously included in an agreement.

- (4) "Employer" means the appropriate applicable county, county agency, or special district standing in relationship between the employee and the system.
- (5) "Initiated a process" means a system has formally adopted a resolution or made an administrative determination for a correction process on identified disallowed compensation that has required or will require collecting any portion of an overpayment from, or refunding member contributions to, any affected active member, retired member, survivor, or beneficiary, or adjusting the retirement allowance of any affected retired member, survivor, or beneficiary due to the determination of disallowed compensation by the system, including a determination by the system that is consistent with PEPRA, the holding in Alameda, and other provisions of this part.
- (6) "PEPRA" means the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1).
- (7) "System" means a retirement association or system established pursuant to the County Employees Retirement Law of 1937 (commencing with Section 31450).

(b) If the system determines that the compensation reported for a member is disallowed compensation, it shall require the employer to discontinue reporting the disallowed compensation.

- (1) (A) In the case of an active member, the system shall credit all employer contributions made on the disallowed compensation against future contributions to the benefit of the employer that reported the disallowed compensation, and shall return any member contribution paid by, or on behalf of, that member, to the member directly or indirectly through the employer that reported the disallowed compensation, except as provided by subparagraph (B).

(B) A system that has initiated a process prior to January 1, 2024, to recalculate an active member's compensation earnable pursuant to Section 31461 to exclude disallowed compensation and return contributions, either directly to the member or indirectly through the employer, may continue to use that process to ensure compliance with PEPRA, and that is consistent with, and pursuant to, the holding in Alameda.

- (2) In the case of a retired member, survivor, or beneficiary whose final compensation at the time of retirement was predicated upon the disallowed compensation, the system shall credit the employer contributions made on the disallowed compensation against future contributions, to the benefit of the employer that reported the disallowed compensation, shall return any member contributions paid by, or on behalf of, that member, to the member directly, and the system shall permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation.

- (3) (A) In the case of a retired member, survivor, or beneficiary whose final compensation at the time of retirement was predicated upon the disallowed compensation as described in paragraph (2), the repayment and notice requirements described in this paragraph and paragraph (4) shall apply only if all of the following conditions are met:

- (i) The employer reported the compensation to the system and made contributions on that compensation while the member was actively employed.
- (ii) The system determined after the date of retirement that the compensation was disallowed.
- (iii) The member was not aware that the compensation was disallowed at the time the employer reported it.



Error Correction Policy

I. Purpose

This Policy establishes standards and procedures for ~~recovery or~~ resolution of overpayments or underpayments of benefits ~~and underpayments of~~ member contributions. ~~This policy does not apply to overpayments of member contributions, which are resolved according to IRS requirements.*~~

II. Objectives

- A. To meet the Board's fiduciary obligation to conserve fund assets and protect the integrity of the fund for the benefit of the members and beneficiaries.
- B. To make reasonable efforts to restore the Plan to the position it would have been in had no error occurred.
- C. To maintain the tax-qualified status of the pension plan and avoid making any gift of public funds.

III. Assumptions

- A. These ~~procedures and outcomes~~ are intended to comply with applicable requirements of the Internal Revenue Code (IRC) and Internal Revenue Service (IRS) regulations, ~~including the IRS Employee Plans Compliance Resolution System (EPCRS)~~. If there is a conflict between applicable law and this policy, the law shall govern.
- ~~B.~~ This policy applies when an error affects an individual member's or beneficiary's benefits or contributions. In the event of a system-wide error that affects multiple members'/beneficiaries' benefits or contributions, the Board may implement a system-wide correction process that it determines appropriate under the circumstances.

~~B.~~

IV. Guidelines & Procedures

- A. Investigation and Reporting.

*~~In general, employers refund overpaid member contributions to active members and ACERA refunds overpaid member contributions to inactive or retired members.~~

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1. Investigation: When an error is identified, Staff shall promptly notify the CEO (or designee), who shall ensure that an appropriate and timely investigation is undertaken into the facts and circumstances surrounding the error and that all necessary corrective actions are taken.
2. Reporting: The CEO shall make periodic reports to the Board on errors and corrections results at least annually.
3. Overpayment based upon fraud:
 - a. Staff shall be vigilant for any indications of fraud as a cause for overpayment, whether by the payee or a third party.
 - b. ~~In the event that~~If fraud is suspected, Staff shall immediately notify the Legal Department and the CEO who will investigate whether evidence of fraud exists.
 - c. Further investigation may include retention of a private investigator or other outside resources as may be deemed appropriate under the circumstances.
 - d. Based on the evidence uncovered, Staff and the Legal Department may notify law enforcement and pursue criminal action.
 - e. If justified and reasonable, Staff and the Legal Department may undertake civil action to recover fraudulently obtained ACERA funds.

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B. Overpaid Benefits and Underpaid Contributions: Correction and Recovery

1. As soon as possible after an error is discovered, ACERA staff shall determine:
 - a. The appropriate date of correction;
 - b. The ~~amount of the~~ correct benefit or contribution ~~amount~~ starting from the date of correction;
 - c. The amount of the error starting from the beginning of the erroneous payment to the date of correction;
 - d. The “appropriate interest” related to the error as defined below.
 - e. Whether Gov’t Code § 31541.2 applies to any benefit overpayments and, if so, the impact such application has on the member/beneficiary and employer.
2. ACERA shall promptly notify the member/beneficiary in writing of the following:

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- a. The amount and starting date of any prospective adjustment to benefits or contributions ~~reflecting the corrected amount.~~ The starting date must be no less than 30 days after ACERA sends the notice to the member/beneficiary, unless ACERA's Chief Counsel determines that there is good cause to make the correction sooner.
 - b. The circumstances of the error and the means used to calculate the corrected amount.
 - c. The amount of any overpaid benefits or underpaid contributions plus the amount of appropriate interest. If Gov't Code § 31541.2 applies, ACERA shall explain how such application impacts the member/beneficiary and employer.
 - d. Repayment options, which may include a lump sum payment, installment payments or an offset against future benefits; and
 - e. The right of the member/beneficiary to appeal the ~~ACERA~~ staff determination. ~~ACERA Staff~~ will make the necessary adjustments on a ~~going-forward~~ prospective basis regardless of whether an appeal is filed. If the staff determination is overturned, ~~the ACERA Board may direct staff to refund any amounts withheld during the appeal process will be paid to the member/beneficiary.~~
3. Appropriate Interest
- a. If the evidence shows that the benefit overpayment or contribution underpayment resulted from fraud or dishonest conduct by the member/beneficiary or because the member/beneficiary provided, or caused to be provided, inaccurate information to ACERA or the member's employer, then "appropriate interest" will be as follows:
 - 1) ACERA's smoothed, semi-annual interest returns on its investments from the time of the error until the last period of smoothed semi-annual interest returns before discovery of the error (investment losses will not result in any reduction to the principal amount the member owes ACERA).
 - 2) ACERA's assumed annual effective rate of return, compounded monthly (e.g., monthly interest of 0.56541% when the assumed rate of

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return is 7% annually) from the last period of smoothed semi-annual interest returns (per No. 1 immediately above) until such amounts are fully repaid.

- b. If the benefit overpayment or contribution underpayment was solely the result of an error by ACERA or the member's employer and the member/beneficiary is not relieved of a repayment obligation under Gov't Code § 31541.2, then "appropriate interest" will be as follows:
 - 1) No interest shall be charged from the time of the error until ACERA notifies the member/beneficiary of the error. Any liability created by this action shall be part of ACERA's unfunded liability.
 - 2) ACERA's assumed annual effective rate of return, compounded monthly (e.g., monthly interest of 0.56541% when the assumed rate of return is 7% annually) from the time the member is notified of the error until such amounts are fully repaid.
4. In structuring a repayment methodology, ACERA staff shall take into consideration the financial circumstances of the member/beneficiary affecting their ability to make payments. The repayment schedule will not exceed 10 years except in cases of extreme hardship as defined below.
5. ~~In the event of the death of~~ if the member/beneficiary dies before full repayment has been made, ACERA shall use all reasonable efforts to recover the unpaid amount from the member/beneficiary's estate or trust, survivors, heirs, and/or beneficiaries.
6. If no agreement can be reached with the member/beneficiary for repayment, or if the member/beneficiary fails to respond to communications from ACERA staff, ACERA may take action to recover ~~of~~ the unpaid amount, including through reductions to future benefit payments, subject to Board review if the member appeals to the Board.
7. Overpaid benefits that are not recovered from the member per Gov't Code § 31541.2 will be paid through recognition in the actuarial accrued liability if doing so will impact only the employer of the overpaid member. Otherwise, the employer must pay ACERA the overpaid amounts, plus interest at ACERA's assumed annual effective rate of return, compounded monthly (e.g., monthly interest of 0.56541%

when the assumed rate of return is 7% annually) from the time of each overpayment until such amounts are fully repaid.

8. ACERA interprets “time of retirement” and “date of retirement” in Gov’t Code § 31541.2 (b)(3)(B), as the date that ACERA issues the first allowance payment based on disallowed compensation. ACERA will not apply Section 31541.2(b)(3)(B) (which requires the employer to pay the member/beneficiary 20% of the projected value of the reduction in benefits) to an error that is corrected before such an allowance payment is made.

~~6-2.~~ When applying Gov’t Code § 31541.2, ACERA will determine interest on overpaid employer contributions using ACERA’s assumed annual effective rate of return, compounded monthly (e.g., monthly interest of 0.56541% when the assumed rate of return is 7% annually) from the time of each overpayment until such amounts are fully repaid.

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C. Compromise & Settlement.

1. In some circumstances, ACERA may agree to receive less than the full amount in repayment. The recovery options may include:
 - a. Using a discounted interest rate;
 - b. Waiving interest altogether; or
 - c. Accepting less than full repayment of the principal.
2. Factors to be considered in compromising any recovery shall include, but not limited to:
 - a. The likelihood of collection;
 - b. The cost of collection;
 - c. The amount of possible recovery;
 - d. The relative fault of the member/beneficiary, ACERA and employer; and
 - e. Extreme hardship to the member/beneficiary or to his/her estate or heirs.
3. For purposes of this policy, “extreme hardship” will be determined as follows:
 - a. The member bears the burden of establishing any claimed “extreme hardship.”

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- b. “Extreme hardship” is not a bright line test, and a finding of “extreme hardship” depends on the facts and circumstances presented by the member.
- c. ACERA will consider the following factors in determining whether the member has established an “extreme hardship” justifying compromise of the amount owed by the member:
 - 1) Net worth of member and spouse.
 - 2) Amounts and sources of all income to the member and spouse. In general, ACERA will consider that an “extreme hardship” is established if the member’s gross income is no more than 400% of the current federal poverty level based on the member’s household composition of single, married or family.
 - 3) Monthly expenses.
 - 4) Existence and value of real estate and personal assets.
 - 5) Divorce or legal separation.
 - 6) Current or pending catastrophic financial events.
 - 7) Other factors presented by the member.
- 4. If the member’s gross income is no more than 400% of the federal poverty level as defined above, ACERA will not collect more than 15% of the member’s gross income.
- 5. In consultation with the Chief Counsel the CEO is authorized to compromise recovery of error amounts of \$15,000.00 or less, excluding interest. The CEO shall apply the standards for compromise set forth in this Section. The CEO is also authorized to waive recovery of claims of \$500.00 or less. All other compromises must be approved by the Board.
- 6. ACERA shall maintain a record of all error corrections, payments, collection efforts and compromises and releases related to those errors.

D. Underpayment of Benefits

- 1. When ACERA has underpaid benefits to the member/beneficiary, the member/beneficiary shall be entitled to a prospective adjustment to his or her

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retirement benefits necessary to correct the error, as well as a lump sum payment for all past amounts owed as a result of the error.

- 2. If the underpayment was due to an ACERA error, as determined by the CEO in consultation with the Chief Counsel, ACERA will pay interest at ACERA’s assumed annual effective rate of return, compounded monthly (e.g., monthly interest of 0.56541% when the assumed rate of return is 7% annually) from the time of underpayment to the time the member/beneficiary is made whole for the underpayment.
- 3. If the member/beneficiary who was underpaid dies before payment of the lump sum amount due, the payment will be made in accordance with ACERA’s process for paying residual amounts following the death of the member.

E. Underpayment of Member Contributions:

For underpaid member contributions (which includes completely missed contributions), ACERA will follow the procedures outlined in the Membership Policy for members who are currently employed with a participating employer and will follow the procedure outlined in Sections IV(B) and (C) above for members who are no longer employed by a participating employer.

F. Overpaid Member Contributions

- 1. For active members, ACERA will calculate the total overpaid member contributions, plus any related interest that was credited to the member’s account. That total amount will be applied to the employer’s future contributions to ACERA and the employer must pay the total amount to the member.
- 2. For deferred and retired members, ACERA will return directly to the member all overpaid member contributions plus any related interest that was credited to the member’s account.

~~F.G.~~ Appeals/Due Process.

The member/beneficiary may appeal any staff decision regarding corrective actions consistent with the ~~Board~~ Administrative Appeals-Hearing Policy.

V. Policy Review

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

VI. Policy History

- A. The Board adopted this policy on September 17, 2015.
- B. The Board reviewed and affirmed this policy, with revisions on June 21, 2018²
- C. The Board reviewed and affirmed this policy, with revisions on ~~April 20, 2023~~ January 16, 2025.

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² *The Board adopted the Recovery of Overpayment of Member Benefits & Underpayment of Member Contributions Policy on September 17, 2015. The Board reviewed and affirmed, with revisions, May 19, 2016, June 21, 2018, ~~and~~ September 17, 2020 and April 20, 2023.*

(B) If the disallowed compensation meets the conditions of subparagraph (A), the employer that reported contributions on it shall do all of the following:

(i) Pay to the system, as a direct payment, or through recognition in the actuarial accrued liability, as determined by the system, the full cost of any overpayment of the prior paid benefit made to an affected retired member, survivor, or beneficiary resulting from the disallowed compensation.

(ii) Pay to the affected retired member, survivor, or beneficiary, as appropriate, an amount that is 20 percent of the amount calculated by the system representing the actuarial equivalent present value of the difference between the monthly allowance that was predicated on the disallowed compensation and the adjusted monthly allowance calculated pursuant to paragraph (2) for the duration the system projects to pay that allowance to the retired member, survivor, or beneficiary. The employer shall begin payment within six months of notice from the system as prescribed in paragraph (4) and may have up to four years to complete the payment. The system may charge the employer the actual costs of actuarial services provided under this paragraph.

(4) The system shall provide a written notice to the employer that reported contributions on the disallowed compensation and to the affected retired member, survivor, or beneficiary, including, at a minimum, all of the following:

(A) The overpayment amount that the employer shall pay to the system as described in subparagraph (B) of paragraph (3).

(B) The actuarial equivalent present value that the employer owes to the retired member, survivor, or beneficiary as described in clause (ii) of subparagraph (B) of paragraph (3), if applicable.

(C) Written disclosure of the employer's obligations to the retired member, survivor, or beneficiary pursuant to this section.

(5) In lieu of the process described in paragraphs (3) and (4), a system that has initiated a process prior to January 1, 2024, to permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation pursuant to paragraph (2) may continue to use that process provided that it is consistent with PEPRA, and with the holding in Alameda.

(6) Upon the employer's request, the system shall provide the employer with contact information data in its possession of a relevant retired member, survivor, or beneficiary in order for the employer or agency to fulfill their obligations to that retired member, survivor, or beneficiary pursuant to this section. The recipient of this contact information data shall keep it confidential, shall use such contact data only to the extent necessary to carry out its duties under this section, and shall not be disclosable under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(c) (1) An employer or authorized employee representative may submit to the system for review an additional compensation item that a party to a proposed agreement requests be included, contained, adopted, or entered into that agreement, on and after January 1, 2025, that is intended to form the basis of a pension benefit calculation, in order for the system to review consistency of the proposal with PEPRA, the holding in Alameda, Section 31461, other provisions in the part, and the system's administrative regulations or policies.

(2) A submission to the system for review under paragraph (1) shall include all supporting documents or requirements the system deems necessary to complete its review.

(3) The system shall provide guidance regarding the submission within 90 days of the receipt of all information required to make a review.

(d) The system may periodically publish a notice of the proposed compensation language submitted to the system pursuant to this section for review and the guidance it provided.

(e) This section does not alter or abrogate an employer's responsibility to meet and confer in good faith with the employee organization regarding the impact of the disallowed compensation or the effect of any disallowed compensation on the rights of the employees and the obligations of the employer to its employees, including any employees who, due to the passage of time and promotion, may have become exempt from inclusion in a bargaining unit, but whose benefit was the product of collective bargaining.

(f) This section does not affect or otherwise alter a party's right to appeal any determination regarding disallowed compensation made by the system after July 30, 2020.

(g) The board of retirement or board of supervisors, as authorized pursuant to this chapter, may enter into any contracts for administrative purposes or as may be necessary and appropriate to carry out the provisions of this section.

(h) (1) It is the intent of the Legislature in enacting this section to fully comply with the provisions of the Internal Revenue Code, the Internal Revenue Service Employee Plans Compliance Resolution System (EPCRS), and any successor to such Internal Revenue Service program, that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the county employees' retirement systems.

(2) Systems that have initiated a process under this section that was or is intended to comply with the Internal Revenue Code and EPCRS requirements may revise the process as necessary to the extent required to comply with the Internal Revenue Code and EPCRS in order to maintain the tax exempt status of the system.


(Added by Stats. 2024, Ch. 427, Sec. 1. (AB 3025) Effective January 1, 2025.)



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025

TO: Members of the Board of Retirement

FROM: Lisa Johnson, Assistant Chief Executive Officer 

SUBJECT: **Proposed 2025 Operations Committee Work Plan**

The proposed 2025 Operations Committee Work Plan is attached for your consideration and review. A total of three meetings are scheduled. Two of the meetings contain action items and the other one contains an information item. The main action and information items for 2025 are listed below for quick reference:

- **March 5, 2025**
 - Discussion and possible motion to renew the Employer Reimbursement Policy with or without revision
- **June 18, 2025**
 - Operating Expenses as of 4/30/2025.
 - MMRO Annual Report
- **November 20, 2025**
 - Discussion and possible motion to approve the proposed 2026 ACERA Operating Expense Budget.
 - Discussion and possible motion to approve the annual agreement for the Segal Group, ACERA's Benefits Consultant.

Updates may be made to the work plan as the need arises during the year.



Proposed 2025 Operations Committee Work Plan

Date	Action Items	Information Items
January 16 Board	1. Error Correction Policy Review, discussion and possible motion to renew the Error Correction Policy.	<ul style="list-style-type: none"> • Operating Expenses as of 11/30/24 • Board Travel Policy CPI Update • Proposed 2025 OPS Committee Workplan
February 20 Board	1. Discussion and Possible Motion to Approve the 2024 Discharge Request of Benefits Overpayments.	<ul style="list-style-type: none"> • Un-Audited Financial Statements as of 12/31/24 • Operating Expenses as of 12/31/24 • Actual Cash Report as of 12/31/24 • Board Member Conference Expense Report for 4th Qtr. 2024 • Senior Manager Conference and Training Expense Report for 4th Qtr. 2024
March 5	1. Discussion and possible motion to renew the Employer Reimbursement Policy with or without revision.	<ul style="list-style-type: none"> • Operating Expenses as of 01/31/25 • Technology Report (update on software upgrades)
April 17 Board		<ul style="list-style-type: none"> • Operating Expenses as of 02/28/25 • Statement of Reserves as of 12/31/24
May 22 Board		<ul style="list-style-type: none"> • Quarterly Financial Statements as of 03/31/25 • Operating Expenses as of 03/31/25 • Quarterly Cash Forecast Report • Board Member Conference Expense Report for 1st Qtr. 2025 • Senior Manager Conference and Training Expense Report for 1st Qtr. 2025 • Election memo
June 18		<ul style="list-style-type: none"> • Operating Expenses as 04/30/25 • MMRO Annual Report
July 17 Board		<ul style="list-style-type: none"> • Operating Expenses as of 05/31/25



Proposed 2025 Operations Committee Work Plan

Date	Action Items	Information Items
August 21 Board		<ul style="list-style-type: none"> • Operating Expenses as of 06/30/25 • Quarterly Financial Statements as of 06/30/25 • Quarterly Cash Forecast Report • Board Member Conference Expense Report as of 06/30/25 • Senior Manager Conference and Training Expense Report as of 06/30/25
September 18 Board		<ul style="list-style-type: none"> • Operating Expenses as of 07/31/25
October 16 Board		<ul style="list-style-type: none"> • Operating Expenses as of 08/31/25 • Statement of Reserves as of 6/30/25 • Election Memo
November 20 (Special Operations meeting)	<ol style="list-style-type: none"> 1. Discussion and possible motion to approve the proposed 2026 ACERA Operating Expense Budget 2. Discussion and possible motion to approve the annual agreement for the Segal Group, ACERA's Benefits Consultant. 	<ul style="list-style-type: none"> • Quarterly Financial Statements as of 09/30/25* • Operating Expenses as of 09/30/25* • Quarterly Cash Forecast Report* • Board Member Conference Expense Report for 3rd Qtr. 2025* • Senior Manager Conference and Training Expense Report for 3rd Qtr. 2025* • Election memo (<i>if needed</i>)* <p>*Items to be presented at Board Meeting</p>
December 18 Board		<ul style="list-style-type: none"> • Operating Expenses as of 10/31/25 • Technology Report (update on software upgrades)

Note:

- 1) This work plan is subject to change without prior notice. Periodic rearrangements of agenda items will be made to the work plan to provide a reasonable length of time for each meeting.
- 2) Operations Committee Meeting date is assumed to be the first Wednesday of every other month, unless otherwise noted.
- 3) Board Policy and legislative updates will be added as directed by the Legal department.



Proposed 2025 Operations Committee Work Plan

Date

Action Items

Information Items

4) Technology updates will be added as directed by the PRISM department.

5) Dates in red indicate Board meetings while items highlighted in yellow refer to tentative committee meeting dates.

DRAFT



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: January 16, 2025
TO: Members of the Board of Retirement
FROM: Erica Haywood, Fiscal Services Officer *EH*
SUBJECT: 2024 Discharge Request of Uncollectable Benefit Overpayments

Executive Summary

For the 2024 financial reporting period, Benefits' management has deemed 32 accounts uncollectable, for a total net uncollectable amount of \$29,969.45. The following table summarizes the type, quantity, and respective accrual amounts of each uncollectable account type in this 2024 discharge request.

2024 Discharge Summary		
Type of Benefit Overpayment	QTY	Total Net Uncollectable
Continuance	6	\$ 11,177.32
Duty Related Disability Retirement	2	619.62
Non Duty Related Disability Retirement	-	-
Service Retirement	17	21,185.37
Survivorship	-	-
All Other Benefit Related Items	4	(2,686.00)
Prior Year Tax Overpayments	3	(326.86)
Total	32	\$ 29,969.45

Budget and Financial Statement Impact

In preparing the 2024 budget, fiscal services staff created a budget expense line item to discharge benefit overpayments in the amount of \$78,000. The Fiscal Services Officer is requesting approval to discharge \$29,969.45 of uncollectable accruals from ACERA's stated assets.

Recommendation

Staff recommends that the Board of Retirement approve the 2024 discharge request of benefit overpayments in the amount of \$29,969.45.

Attachment

- 1). Discharge of Benefits Overpayments Receivables Policy (January 18, 2024).



Discharge of Overpayments Policy

I. Purpose

- A. This policy sets forth procedures for discharge of uncollectable benefit overpayments. For purposes of this policy, “benefit overpayments” include retirement benefits, health care premiums, credit union deductions, and taxes.
- B. The primary objective of this policy is to ensure that uncollectable benefit overpayments to a member or a beneficiary are properly identified, tracked and, when appropriate, discharged from ACERA’s financial accounting records.
- C. The principal focus of this policy is to ensure that staff follows consistent, Board-approved guidelines to determine that an amount due is deemed uncollectable, and therefore qualifies to be discharged from ACERA’s financial accounting records.

II. Assumptions

- A. Benefit overpayments deemed uncollectable should be discharged from ACERA’s financial accounting records as “receivables” in accordance with generally accepted accounting principles.
- B. Discharging uncollectable benefit overpayments from ACERA’s financial accounting records does not prevent the Board from recouping the resulting shortfall by transferring the shortfall to ACERA’s unfunded liability.
- C. ACERA can later accept repayment from the member or beneficiary after a discharge.

III. Guidelines

- A. Upon discovery of an overpayment of benefits, the Benefits Department will proceed according to the ACERA Error Correction Policy.

- B. When the Benefits Department, in consultation with the Legal Department, determines that an overpayment is uncollectable following exhaustion of all reasonable efforts (taking into account the statute of limitations for court filings), the Benefits Manager shall notify the Fiscal Services Officer in writing.
- C. Included in that writing shall be name of the recipient, amount of the receivable, the cause of the overpayment, the date on which the Benefits Department initially became aware of the overpayment circumstance, the steps taken to collect the overpayment, and the determination that the overpayment is uncollectable consistent with applicable procedures.
- D. Upon receipt of the writing, the Fiscal Services Department shall track the uncollectable accrued overpayment until approval by the Board of Retirement to discharge the overpayment is received.
- E. At the beginning of each calendar year, the Fiscal Services Officer shall present a Notice of Uncollectable Receivables to the Operations Committee to request a recommendation to the Board of Retirement that it authorize the discharge of accounts that have been deemed uncollectable receivables for the previous calendar year ending December 31.

IV. Policy Review

The Operations Committee shall review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

V. Policy History

- A. The Board adopted this policy on November 17, 2016.
- B. The Board updated this policy on December 20, 2018 and January 18, 2024.



Office of the Chief Executive Officer

DATE: January 16, 2025
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
Discuss with Segal the use of AI in actuarial services	Dave Nelsen	November 2024	Segal will present to the Board on this issue in the coming year.	The Board Off-Site meeting raised the question of the use of AI in the actuarial profession, and whether there are any actuarial committees discussing AI standards.

Conference/Event Schedule

None

Other Items

Business Planning Update

Attached is the final reporting for the 2024 Business Plan. The Leadership team is finalizing the Business Plan for 2025 and will present it to the Board of Retirement in February.

Legislative Update

The monthly Legislative Update from the SACRS Lobbying Firm which discusses bills of interest and their status will be sent under separate cover.

Other Items

The new system continues to perform as expected. The last significant milestone of the new system is the creation of the 1099-Rs this month. So far, the 1099-R production is proceeding, one data issue has been identified and fixed, and we are on track to comply with the federal requirement to have all 1099-Rs available and in the mail prior to January 31, 2025.

Budget: As of the end of November we are still over budget by .37%. The \$400,000 budget adjustment you previously approved was allocated 50% in November and the remaining 50% will be allocated in December. We anticipate that the year end numbers will reflect being on budget.

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> As of November of 2024: 10 year return 7.56%, policy index 7.81%.
EFFECTIVE PLAN ADMINISTRATION	
Actual Spent vs. Approved Budget	<i>On budget or 10% below 2024 approved budget</i> As of November of 2024: 0.37% over 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 2024): 77%.
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 2024: 100%.

**ACERA 2023-2024 BUSINESS
PLANNING PROJECTS UPDATE**

1. Comprehensive Pension Administration System PG3 Training
Goal 2 (Complete – December 2024)

All final procedural updates that include PGV3 material was completed at the end of December. This is the final deliverable for this project. The final outputs of this project will inform a plan to develop On-the-Job Training and Cross-Training programs in the future.

2. Agency Intranet Solution Implementation
Goal 2 (Complete – December 2024)

An agency-wide introduction of ACERA Connect occurred in November. A soft production launch to all ACERA was scheduled for early December. The remaining deliverables include a project closing meeting to accept completed work as final for 2024 and a user engagement survey to inform design work for 2025. This project was completed as of December 31, 2024.

3. Great Plains Update Planning and Process Improvement Review
Goal 3 (Complete – December 2024)

This work was completed as of December 2024. Next steps are for Fiscal and PRISM to review the new OnBase capabilities for the General Ledger. A new phase of this initiative will be created for late 2025 through 2026, to upgrade the General Ledger software after a 2025 OnBase upgrade.