



# *Withdrawing Employer Policy*

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## I. Purpose

This Policy establishes guidelines to be applied when a participating ACERA employer ceases to provide ACERA membership for its active ACERA members. This policy contemplates that the withdrawing employer will continue to be financially able to satisfy its obligation to timely pay all Unfunded Actuarial Accrued Liability (“UAAL”) attributable to its active, retired and deferred employees by reason of their prior service as ACERA’s members. This Policy is not intended to apply to the County of Alameda as a participating employer.

## II. Objectives

- A. To ensure compliance with County Employees Retirement Law of 1937, California Government Code §§31450 et seq., as amended (“CERL”) and other applicable provisions of law:
  1. Pursuant to CERL §§31564.2, 31580.1, 31584, 31585, and other applicable provisions of law, a withdrawing employer remains liable, and must make the required appropriations and transfers, to ACERA for the employer’s share of liabilities attributable to its officers and employees who are and may be entitled to receive retirement, disability and related benefits from ACERA.
  2. CERL §31564.2(d) provides, in part, that “[t]he funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency or the board of supervisors. Notwithstanding any other provision of the law, no contracting agency shall fail or refuse to pay the employer’s contributions required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system.”

- B. The general principle applied in this policy is to establish the funding obligation of withdrawing employers as:
1. The value of future benefits to be paid by ACERA to the withdrawing employer's employees, retirees, beneficiaries and terminated members as of the withdrawal date; minus
  2. The value of ACERA assets allocated to the withdrawing employer as of the withdrawal date.
  3. In cases involving members who worked at more than one ACERA employer or who earned service at a County department before it was spun off into a District, the Board of Retirement retains discretion on how liabilities for such members should be allocated to the withdrawing employer.
- C. It is the Board of Retirement's intent to allow a withdrawing employer to satisfy its funding obligation in a manner which provides the employer reasonable flexibility. However, primary consideration will be given to ensuring the funding obligation of the withdrawing employer is properly determined and satisfied. This will generally require redetermination of the funding obligation of the employer for several years following the date the employer initiates its withdrawal.
- In lieu of the ongoing redetermination of the funding obligations, the withdrawing employer may request that a market valuation approach be used to determine the value of the future benefits to be paid and the value of the assets allocated by ACERA.
- D. This policy covers only those withdrawing employers (i) who cease to provide ACERA membership for their active employees (i.e., both current actives and new hires), (ii) who are financially viable entities when the withdrawal is initiated, and (iii) for whom ACERA expects thereafter to continue to be financially viable entities. This policy does not cover any other situation – whether a withdrawing employer, a terminating employer or otherwise – including, without limitation, an employer going out of business by reason of bankruptcy, loss of funding, or merger, or an employer who gradually winds down its active employees' continued participation in ACERA either through attrition or through a decision to have employees hired after a specific date to not become members of ACERA (e.g., to participate in a retirement arrangement other than ACERA).

### III. Guidelines

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

- A. The governing body of a participating employer must adopt, in an open, public meeting, an intent to withdraw from ACERA before ACERA will calculate the cost of the withdrawal. The participating employer must provide ACERA with a copy of the formal action evidencing an intention to withdraw.
- B. Upon notice that a participating employer seeks to terminate ACERA's membership for its active employees' future service, and on the advice and recommendation of its actuary, ACERA will segregate on its books all assets and liabilities attributable to the employer as determined by ACERA's actuary, and shall maintain such separate accounting for the employer until all of its liabilities have been fully satisfied.
- C. ACERA and the withdrawing employer will enter into a Continuing Contribution Agreement, the purposes of which are to:
  1. evidence the withdrawing employer's obligations as of the date the employer initiates its withdrawal, as well as its continuing funding obligations for the ongoing benefits owed to its retired, deferred and disabled officers and employees and their surviving beneficiaries, for their accumulated ACERA service and related benefits;
  2. provide a funding mechanism acceptable to ACERA for the withdrawing employer to timely satisfy its existing and continuing funding obligations to ACERA, the payment of which must be over a period which is not longer than the period over which ACERA's remaining unfunded liability is being amortized (see CERL section 31564.2(c)). However, except in exigent circumstances, the amortization schedule for payment of the employer's initial funding obligation will not exceed a period of five (5) years.
  3. require the withdrawing employer to provide ACERA with updated employee census and payroll data requested by ACERA in the years following the date the employer initiates its withdrawal;

4. provide a mechanism for adjusting the withdrawing employer's obligations and payments due to ACERA based on periodic actuarial experience analysis; and
  5. provide a mechanism by which ACERA will consider the transfer of any Final Surplus, as defined below, to the withdrawing employer or a successor retirement system, as appropriate.
- D. Pursuant to the terms of the Continuing Contribution Agreement, ACERA's actuary will determine, and certify to the Board of Retirement, the withdrawing employer's initial funding obligation for its UAAL calculated as of the date of withdrawal.
- E. A detailed description of the methodology that will be used in determining the initial value of the assets is provided in Exhibit One. The initial value of the assets used to determine the withdrawing employer's initial funding obligation for its UAAL will be based on the valuation value of assets (VVA) (a smoothed value) allocated to the withdrawing employer determined as of the end of the prior calendar year, adjusted to the date the employer initiated its withdrawal (or later date if the Continuing Contribution Agreement so provides), based upon all of ACERA's then current actuarial assumptions and methodologies. Later values (i.e., those used in "true-ups" described below) shall be determined by rolling forward the initial VVA, adding contributions, deducting benefit payments, and crediting earnings at the Total ACERA smoothed (VVA) earnings rate.
- No consideration will be given to current assets that are accumulated in the Supplemental Retiree Benefit Reserve (SRBR) to pay future Board of Retirement provided benefits paid out of the SRBR.
- F. The present value of future benefits owed to the withdrawing employer's retired, deferred and disabled officers and employees and their surviving beneficiaries (present value of accrued benefits, or "liabilities") will be determined using ACERA's then current actuarial assumptions and methodologies. In determining the present value of accrued benefits, benefit service shall be frozen for the withdrawing employer's active employees but, for members who transfer to a system that has reciprocity with ACERA, pay shall be projected based on ACERA's then salary growth assumptions.
- No consideration will be given to future Board of Retirement provided benefits paid out of the SRBR.

- G. Periodically after the date the employer initiated its withdrawal, in periods not to exceed three (3) years' duration, following an experience analysis, ACERA's actuary will re-measure (true-up), and certify to the Board of Retirement, any additional obligation of the withdrawing employer for UAAL. In accordance with the terms of the Continuing Contribution Agreement and applicable law, the withdrawing employer is liable for, and must contribute, any new UAAL determined in the true-up experience analysis, based upon an amortization schedule recommended by the actuary and adopted by ACERA. Absent exigent circumstances, the amortization schedule for payment of the employer's periodic true-up funding obligations will not exceed a period of three (3) years. ACERA will hold any negative UAAL (Surplus) to be applied against any future UAAL of the withdrawing employer.
- H. If any Surplus remains after the withdrawing employer has satisfied all of its UAAL obligations (Final Surplus), ACERA will distribute the Final Surplus in accordance with the terms of the Continuing Contribution Agreement and applicable law.
- I. Notwithstanding anything to the contrary herein, the ACERA Board of Retirement hereby reserves the right to pursue any other remedies under applicable law that, depending on the circumstances, may be available to "ensure the actuarial soundness of the retirement system" (CERL §31564.2(d)). For example, notwithstanding the employer's obligations under the Continuing Contribution Agreement, if concerns arise regarding the employer's ongoing existence as a financially viable entity, the Board of Retirement may assess the projected entire amount of the employer's UAAL (as recommended by the fund's actuary and approved by the Board) using a lower discount rate and payable in a single sum immediately due.

#### IV. Policy Review

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

#### V. Policy History

- A. The Board of Retirement adopted this Policy on October 18, 2018.