

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

JULY 13, 2020

AGENDA

PLACE: In Accordance with the Governor's Executive Order N-29-20 (3), the Members of the Board will be participating via teleconference. Pursuant to Government Code §54954.3, members of the public, to the extent required by law, will have the opportunity to directly address the Board concerning the below mentioned business.

TIME: 9:00 a.m.

The public may listen to the Public Session and offer comments by calling: 213-338-8477, using Meeting ID: 911-0121-7980#. Persons may also submit written comments to publiccomment@vcera.org prior to and during the Board meeting. Please include your name, agenda item, the last 4 numbers of the telephone number that will be used to call in, and your comment. Public comment emails will be read into the record or summarized if lengthy.

ITEM:

- | | Master Page No. |
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| I. <u>CALL TO ORDER</u> | |
| II. <u>APPROVAL OF AGENDA</u> | 1 – 3 |
| III. <u>APPROVAL OF MINUTES</u> | |
| A. Business Meeting of June 22, 2020. | 4 – 10 |
| IV. <u>RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT</u> | 11 – 49 |
| V. <u>APPLICATIONS FOR DISABILITY RETIREMENT</u> | |
| A. Application for Service-connected Disability Retirement – Myers, Christopher M.; Case No. 18-015 – Consideration of County's Request for Board to Order Applicant to Undergo Further Medical Examination and Determination on Selection of Evaluating Physician. | |
| 1. Staff letter to Board of Retirement, dated July 13, 2020. | 50 – 51 |
| 2. Letter to VCERA and Stephen Roberson filed by Jane Oatman, Attorney for Applicant, dated July 7, 2020. | 52 – 54 |
| 3. Letter with attachments from Respondent, County of Ventura-Risk Management, filed by Stephen Roberson, Attorney for Respondent, dated July 7, 2020. | 55 – 59 |
| 4. Letter filed by Jane Oatman, Attorney for Applicant, dated May 15, 2020. | 60 |

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| 5. | Notice of Board Action filed by VCERA, dated May 6, 2020. | 61 |
| 6. | Approved minutes from the Board of Retirement Disability Meeting on May 4, 2020. | 62 – 65 |
| 7. | Response to County of Ventura-Risk Management's request filed by Jane Oatman, Attorney for Applicant, dated April 8, 2020. | 66 – 67 |
| 8. | Request with attachments from Respondent, County of Ventura-Risk Management, to require Applicant to attend medical appointment with Dr. Lawrence Richman from Respondent, County of Ventura-Risk Management, filed by Stephen Roberson, Attorney for Respondent, dated April 6, 2020. | 68 – 78 |
| 9. | Approved minutes from the Board of Retirement Disability Meeting on February 10, 2020. | 79 – 84 |
| 10. | Hearing Notice, dated July 7, 2020. | 85 – 86 |
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B. Romney, Scott; Case No. 02-044 – Determination on Incapacity Following Disability Retirement Medical Re-Evaluation Under Government Code 31729. | | |
| 1. | Staff letter to Board of Retirement, dated July 13, 2020. | 87 – 89 |
| 2. | Letter from Tracey Pirie, Sheriff's Bureau Manager, dated June 24, 2020. | 90 |
| 3. | Independent Medical Evaluation Report filed by Dr. Mark Ganjianpour, dated December 19, 2020. | 91 – 106 |
| 4. | Staff letter to Board of Retirement, dated May 6, 2019. | 107 – 109 |
| 5. | Hearing Notice, dated July 8, 2020. | 110 – 111 |

VI. OLD BUSINESS

- | | | |
|--|---|-----------|
| A. SACRS Election Ballot Slates and Designation of Voting Proxy.
RECOMMENDED ACTION: Designate Board's Voting Proxy and Direct Voting Proxy on Chosen Ballot for SACRS Board of Directors. | | |
| 1. | Staff Letter. | 112 |
| 2. | SACRS Board of Director Elections 2020-2021 - Notice of Electronic Voting and Final Ballot. | 113 – 143 |
| 4. | Solicitation from Mr. Edward Robinson for Support for SACRS Board of Directors Election. | 144 – 145 |

VII. NEW BUSINESS

- | | |
|----|--|
| A. | Review and Approval of Amended Conflict of Interest Code.
RECOMMENDED ACTION: Approve. |
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VII. NEW BUSINESS (continued)

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| 1. | Staff Letter. | 151 – 154 |
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| 3. | VCERA Board of Retirement Disability Hearing Procedures (1999). | 161 – 179 |
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| 5. | VCERA's New Disability Model Process Flowchart. | 187 |
| 6. | Questions and Responses from Meeting with Risk Management on June 25, 2020. | 188 – 192 |

VIII. INFORMATIONAL

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| A. | VCERA COVID Plan Update. | |
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IX. PUBLIC COMMENT

X. STAFF COMMENT

XI. BOARD MEMBER COMMENT

XII. ADJOURNMENT

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

BUSINESS MEETING

JUNE 22, 2020

MINUTES

TRUSTEES
PRESENT:

William W. Wilson, Chair, Public Member
Arthur E. Goulet, Vice-Chair, Retiree Member
Steven Hintz, Treasurer-Tax Collector
Steve Bennett, Public Member
Mike Sedell, Public Member
Robert Ashby, Safety Employee Member
Jordan Roberts, General Employee Member
Will Hoag, Alternate Retiree Member

TRUSTEES
ABSENT:

STAFF
PRESENT:

Linda Webb, Retirement Administrator
Henry Solis, Chief Financial Officer
Julie Stallings, Chief Operations Officer
Dan Gallagher, Chief Investment Officer
Lori Nemiroff, General Counsel
Leah Oliver, Chief Technology Officer
Shalini Nunna, Retirement Benefits Manager
Josiah Vencel, Retirement Benefits Manager
Rebekah Villalobos, Retirement Benefits Manager
Jess Angeles, Communications Officer
Chris Ayala, Program Assistant

PLACE:

In Accordance with the Governor's Executive Order N-29-20 (3), the Members of the Board will be participating via teleconference. Pursuant to Government Code §54954.3, members of the public, to the extent required by law, will have the opportunity to directly address the Board concerning the below mentioned business.

TIME:

9:00 a.m.

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ITEM:

I. CALL TO ORDER

Chair Wilson called the Business Meeting of June 22, 2020, to order at 9:01 a.m.

II. APPROVAL OF AGENDA

MOTION: Approve.

Moved by Goulet seconded by Hintz

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

III. APPROVAL OF MINUTES

A. Disability Meeting of June 8, 2020

Ms. Webb offered a few corrections to the minutes of June 8th. Master Page (MP) 4, substitute "Roberts" for "Jordan"; MP 6, third sentence of third paragraph, substitute, "Mr. Ornelas" for, "His Client"; MP 7, in the third sentence of the second complete paragraph, "MMII", should read, "MMI"; MP 8, in the last sentence of first paragraph, substitute the word "were" for "was" and in the first sentence of the fourth paragraph, "doctor's statement" should be "doctor"; MP 11, first sentence of first paragraph, remove, "that while the" in the Board Member Comments and replace, "said" with "asked", in the Adjournment section, as well as removing, "at the conclusion of Closed Session" and to list Trustee Wilson as Chair.

Trustee Bennett left at 9:02 a.m., prior to the vote in this item.

After discussion by the Board, the following motion was made:

MOTION: Approve with Corrections.

Moved by Sedell seconded by Roberts

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett

Abstain: -

Trustee Bennett return at 9:05 a.m.

IV. CONSENT AGENDA

A. Approve Regular and Deferred Retirements and Survivors Continuances for the Month of May 2020.

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- B. Receive and File Report of Checks Disbursed in May 2020.
- C. Receive and File Budget Summary for FY 2019-20 Month Ending May 31, 2020.
- D. Receive and File Statement of Fiduciary Net Position, Statement of Changes in Fiduciary Net Position, Schedule of Investments, Cash, and Cash Equivalents, and Schedule of Investment Management Fees for the Period Ending April 30, 2020.

MOTION: Receive and File.

Moved by Hintz seconded by Sedell

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

V. INVESTMENT MANAGER PRESENTATIONS

- A. Receive Annual Investment Presentation from UBS Real Estate, Paul Canning and Mia Dennis.

Paul Canning and Mia Dennis reviewed UBS Real Estate's organizational changes, and discussed the firm's investment outlook, portfolio strategy, composition and performance.

Following UBS' presentation, CIO Dan Gallagher said that he and NEPC intended to bring a report to the next business meeting recommending Board approval of a UBS offered fee discount.

- B. Receive Annual Investment Presentation from Parametric, Justin Henne and Joe Zeck.

Justin Henne and Joe Zeck reviewed Parametric's organizational changes, and discussed the firm's investment outlook, portfolio strategy, composition and performance.

VI. INVESTMENT INFORMATION

NEPC – Allan Martin.

VCERA – Dan Gallagher, Chief Investment Officer.

- A. Recommendation to Change Asset Allocation.

RECOMMENDED ACTION: Approve.

1. Staff Letter by Chief Investment Officer, Dan Gallagher.
2. Joint Recommendation Memorandum from NEPC.
3. Asset Allocation Analysis Report from NEPC.

Mr. Gallagher said the proposed changes to the asset allocation targets included two percent increases in Private Equity, Private Credit and U.S. Treasury securities. Increases in private equity and private credit allocation targets were intended to enhance returns. The increase to US Treasuries allocation target was intended to provide for increased liquidity if needed, as well as a

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hedge against increased private equity and private credit risk. The cover letter's attachment labeled "Exhibit" was recommended for Board approval following Mr. Martin's presentation.

Mr. Martin made a brief presentation regarding the recommended changes to the Asset Allocation.

After discussion by the Board, staff, and consultant, the following motion was made:

MOTION: Approve the Asset Allocation Recommendation as Presented in the CIO Cover Memo's Attached Exhibit.

Moved by Sedell, seconded by Roberts

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

B. Preliminary Performance Report Month Ending May 31, 2020.

RECOMMENDED ACTION: Receive and file.

After discussion by the Board, staff, and consultant, the following motion was made:

MOTION: Receive and File.

Moved by Bennett, seconded by Goulet.

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

VII. OLD BUSINESS

A. None.

VIII. NEW BUSINESS

A. Recommendation for Proposed Suspension of Mailing of Pay Advices.

RECOMMENDED ACTION: Approve.

1. Letter from Chair Wilson and Vice-Chair Goulet.

Trustee Goulet noted that the mailing of the pay advices was of little benefit, given that the statements are readily available to retirees online. Thus, he believed it was worth not mailing them, and would save VCERA an estimated \$55,000 a year.

Ms. Webb said that the most likely time for a retiree's benefit net amount to change was in January due to potential in federal and state tax tables and also health insurance deduction amounts. For retirees who received a COLA, that could trigger a change for them in April. Therefore, if the Board directed staff to send out statements on an annual basis, January would be the best month. Also, if

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the Board wished, staff could implement a waiver process for retired members to request to receive their pay advices by mail, if they were unable to access them online.

Trustee Sedell remarked that although he did not have an issue with the recommendation, he did not favor the wording of the it, which was to authorize the Retirement Administrator to permanently discontinue the mailing of paper earnings statements to retirees and beneficiaries. He believed the administration of the retirement system was the responsibility of the Retirement Administrator and that the Board's responsibility was in regard to policy. For the Board to authorize the Retirement Administrator to change the policy, it seemed to blur the line of distinction. Therefore, he would prefer to have the recommendation reworded so that the Board's responsibility to amend policies was not delegated.

Ms. Webb said that she understood the distinction in Trustee Sedell's argument and asked Trustee Sedell if he would prefer the recommendation to be to direct the Retirement Administrator as opposed to authorize.

Trustee Sedell replied that change would be satisfactory.

After discussion by the Board, the following motion was made:

MOTION: Direct Retirement Administrator to Permanently Discontinue the Practice of Mailing Monthly Paper Earnings Statements to Retirees and Beneficiaries, Except that a Statement Shall be Sent in January of Each Year and Monthly Statements May be Sent to a Payee that can Show, to the Satisfaction of the Retirement Administrator, Lack of Computer Access.

Moved by Sedell, seconded by Bennett.

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

Trustee Sedell thanked Vice-Chair Goulet for proposing the change in policy to the Board.

B. Recommendation to Approve Prepaid Block of 1,000 Hours for Vitech.

RECOMMENDED ACTION: Approve.

1. Staff Letter from Chief Technology Officer, Leah Oliver.

Ms. Webb said that staff recommended pre-paying for a block of support hours from Vitech and noted that the costs for support hours in the recently approved budget but did not reflect the lower negotiated block discount. She noted that the previous discount offered by Vitech for pre-paid support hours was not deemed by the Board to be significant enough to support the purchase, given the assumed earnings of the system. However, staff believed that the newly negotiated discount was significant enough to warrant the purchase of the pre-paid block of hours. She credited Ms. Oliver for negotiating the larger discount.

Trustee Roberts noted the staff letter stated that VCERA had not used all of the previously purchased support hours and asked how many hours had VCERA used or the last two fiscal years and were those good for 12 or 15 months.

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Ms. Oliver replied that over the last 5 fiscal years, since the V3 Retirement System went “live,” the number of hours had been significant due to bug fixes, defects, and enhancements, which required a higher number of hours. However, over the last 2 fiscal years, the number of support hours used had been around 800 to 900 a year, though it depended upon the requested enhancements. The hours used since V3 went live had been steadily decreasing and are now at just under 1,000 hours. Staff had also determined that given the enhancements needed, VCERA would need about 1,000 support hours to complete the work. As for the expiration date of the support hours, because VCERA had never purchased pre-paid support hours before, there were no unused or expired hours purchased, and VCERA was charged an hourly rate for time and materials.

Trustee Sedell noted the recommendation was to authorize the Retirement Administrator to execute an agreement for support hours that were previously included in the administrative budget that was adopted by the Board on June 8th and questioned why staff was now requesting authorization to administer the same number of hours that had already been allocated.

Ms. Webb explained that the Board had previously rejected a pre-purchase of hours, so she believed it proper to bring it back to the board. This was also in recognition of the significant cost of the pre-paid block of hours.

Trustee Sedell said that he understood that reasoning for bringing the item to the Board and was fine with the request.

After discussion by the Board, the following motion was made:

MOTION: Authorize Retirement Administrator to Execute an Agreement with Vitech for the Pre-Purchase of 1,000 Support Hours, to be Paid from the Allocation for Support Hours in the Previously-Approved Fiscal Year 2020/2021 Budget.

Moved by Bennett, seconded by Sedell.

Vote: Motion carried

Yes: Ashby, Bennett, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: -

Abstain: -

IX. INFORMATIONAL

A. SACRS Board of Director Elections 2020-2021 - Notice of Electronic Voting and Final Ballot.

Ms. Webb said that the item was inadvertently placed on the agenda as an informational item, but staff would be bringing it back at the Disability Meeting in July as an action item.

B. Solicitation from Mr. Edward Robinson for Support for SACRS Board of Directors Election.

X. PUBLIC COMMENT

None.

XI. STAFF COMMENT

Ms. Webb remarked that the Return Plan for VCERA was in Phase I, which included partial staffing of the office on a rotating basis, with Phase II scheduled to begin on July 6th which

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included the majority of staff working in the office, with telecommuting on a case by case basis. Member appointments would also resume, but by appointment only, while observing the social distancing requirements. Phase III would be a full opening of the office and was scheduled for July 27th, but while staff was holding to the schedule currently, they were also monitoring local COVID-19 cases carefully as it could change those dates.

Trustee Goulet asked, notwithstanding staff's plan to return to the office, if the Board would still be able to meet in the Board Room for meetings because of the inability to maintain social distancing.

Ms. Webb replied yes, and that staff had not planned to hold Board meetings in the Board Room until September at the earliest, and staff would be communicating in late August or early September to the Board about the conditions of COVID-19 and plans to hold Board meetings in that room. Also, a potential consideration was for some Trustees to attend in the Board Room, while others attend remotely on a rotating basis to maintain social distancing.

Ms. Webb also announced that Chief Financial Officer, Henry Solis had notified her of his intent to retire effective August 21st. She noted that he had served VCERA well and had done an outstanding job in overseeing the Fiscal department. She asked them to join her in congratulating Mr. Solis on his impending retirement. She also added that she would be returning to the Board with more information and a plan for filling Mr. Solis's position in the near future.

XII. BOARD MEMBER COMMENT

Trustee Goulet inquired about the status of the County of Ventura Auditor-Controller's project related to correcting payroll errors.

Ms. Webb replied that she had been expecting an update on their status from VCERA's Chief Operations Officer soon with the updated data on progress. It would also be detailed in the 2020 Business Plan's supplemental assessment.

XIII. ADJOURNMENT

The Chair adjourned the meeting at 10:31 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved,

WILLIAM W. WILSON, Chairman



July 13, 2020

Board of Retirement
Ventura County Employees' Retirement Association 1190 S.
Victoria Avenue, Suite 200
Ventura, CA 93003

SUBJECT: SACRS ELECTION BALLOT SLATES AND DESIGNATION OF VOTING PROXY

Dear Board Members:

As the Board is aware, the SACRS 2020-2021 Board of Directors Elections was to take place at the Spring Conference, but the elections were suspended when the Spring Conference was cancelled amid COVID-19 concerns.

The current SACRS Board of Directors has decided to conduct an election via electronic proxy voting. SACRS has requested that each system provide with both a completed Ballot Form and Voting Proxy Form.

In addition to the final ballot/slate issued by the SACRS Nominating Committee, two additional candidates have been submitted.

SACRS Nominating Committee Final Ballot:

- Vivian Gray, Los Angeles CERA President
- Roger Hilton, Orange CERS Vice President
- Harry Hagen, Santa Barbara, CERS Treasurer
- Kathryn Cavness, Mendocino CERA Secretary
- David MacDonald, MD, Contra Costa CERA Regular Member
- John Kelly, Sacramento CERS Regular Member

Additional Candidates Submitted:

- Vere Williams, San Bernardino CERA Regular Member
- Edward Robinson, Kern CERA Regular Member

RECOMMENDATION: DESIGNATE BOARD'S VOTING PROXY AND DIRECT VOTING PROXY ON CHOSEN BALLOT FOR SACRS BOARD OF DIRECTORS.

Sincerely,

Linda Webb
Retirement Administrator

From: Sulema Peterson
Sent: Monday, June 8, 2020 2:17 PM
To:
Elections 2020-2021 - Update/Action Required
Importance: High

CAUTION: If this email looks suspicious, DO NOT click. Forward to
Spam.Manager@ventura.org

SACRS Administrators/CEOs/Trustees,

SACRS 2020-2021 Board of Directors Elections was to take place at the Spring Conference, however since the conference was cancelled the elections were suspended until the next full meeting of the membership in November.

However, in light of COVID-19 social distancing requirements in place, we are unsure if the November conference will garner a full quorum of the Retirement System Member voting delegates.

In an effort to maintain current business continuity, the SACR Board of Directors have decided to move forward with an election via **electronic** proxy voting.

The attached information was sent on 3/24/2020 with information that reflected the cancellation of the Spring Conference/Elections in November.

SACRS Board of Directors ask that your Retirement Board provide SACRS with the following forms by July 31, 2020;

1. Completed Voting Proxy Form submitted to SACRS at Sulema@SACRS.org
2. Completed Ballot Form submitted to SACRS at Sulema@SACRS.org

During these unprecedented times, we appreciate your assistance with distribution of the information and your continued support and dedication to SACRS.

If you have any questions or would like additional information, please feel free to contact me directly – Sulema@SACRS.org or 916-701-5158 or Dan McAllister, SACRS President, at dan.mcallister@sdcounty.ca.gov

Thank you,
Sulema

Sulema H. Peterson
SACRS Executive Director
1225 8th St., Suite 550
Sacramento, CA 95814



March 24, 2020

To: SACRS Trustees & SACRS Administrators/CEO's
 From: Ray McCray, SACRS Immediate Past President, Nominating Committee Chair
 SACRS Nominating Committee
 Re: SACRS Board of Director Elections 2020-2021 Elections – Final Ballot

SACRS BOD 2020-2021 election process began January 2020. Please provide the final ballot and voting instructions to your Board of Trustees and Voting Delegates.

DEADLINE	DESCRIPTION
March 1, 2020	Any regular member may submit nominations for the election of a Director to the Nominating Committee, provided the Nominating Committee receives those nominations no later than noon on March 1 of each calendar year regardless of whether March 1 is a Business Day. Each candidate may run for only one office. Write-in candidates for the final ballot, and nominations from the floor on the day of the election, shall not be accepted.
March 25, 2020	The Nominating Committee will report a final ballot to each regular member County Retirement System prior to March 25
November 10-13, 2020 (Exact date TBD)	Nomination Committee to conduct elections during the SACRS Business Meeting at the Fall Conference, November 10-13, 2020
November 10-13, 2020	Board of Directors take office for 1 year (until Spring 2021 Elections)

Per SACRS Bylaws, Article VIII, Section 1. Board of Director and Section 2. Elections of Directors:

Section 1. Board of Directors. *The Board shall consist of the officers of SACRS as described in Article VI, Section 1, the immediate Past President, and two (2) regular members*

A. Immediate Past President. *The immediate Past President, while he or she is a regular member of SACRS, shall also be a member of the Board. In the event the immediate Past President is unable to serve on the Board, the most recent Past President who qualifies shall serve as a member of the Board.*

B. Two (2) Regular Members. *Two (2) regular members shall also be members of the Board with full voting rights.*

Section 2. Elections of Directors. *Any regular member may submit nominations for the election of a Director to the Nominating Committee, provided the Nominating Committee receives those nominations no later than noon on March 1 of each calendar year regardless of whether March 1 is a Business Day. Each candidate may run for only one office. Write-in candidates for the final ballot, and nominations from the floor on the day of the election, shall not be accepted.*

The Nominating Committee will report its suggested slate, along with a list of the names of all members who had been nominated, to each regular member County Retirement System prior to March 25. The Administrator of each regular member County Retirement System shall be responsible for communicating the Nominating Committee's suggested slate to each trustee and placing the election of SACRS Directors on his or her board agenda. The Administrator shall acknowledge the completion of these responsibilities with the Nominating Committee.



Providing insight. Fostering oversight.

Director elections shall take place during the first regular meeting of each calendar year. The election shall be conducted by an open roll call vote, and shall conform to Article V, Sections 6 and 7 of these Bylaws.

Newly elected Directors shall assume their duties at the conclusion of the meeting at which they are elected, with the exception of the office of Treasurer. The incumbent Treasurer shall co-serve with the newly elected Treasurer through the completion of the current fiscal year.

Due to the cancellation of the Spring Conference because of COVID-19 (Coronavirus) the elections will be held at the SACRS Fall Conference November 10-13, 2020 at the Renaissance Esmeralda Resort & Spa, Indian Wells. Elections will be held during the Annual Business meeting, date TBD, November 10-13, 2020.

SACRS Nominating Committee Final Ballot:

- | | |
|--|----------------|
| • Vivian Gray, Los Angeles CERA | President |
| • Roger Hilton, Orange CERS | Vice President |
| • Harry Hagen, Santa Barbara, CERS | Treasurer |
| • Kathryn Cavness, Mendocino CERA | Secretary |
| • David MacDonald, MD, Contra Costa CERA | Regular Member |
| • John Kelly, Sacramento CERS | Regular Member |

Additional Candidates Submitted:

- | | |
|--------------------------------------|----------------|
| • Vere Williams, San Bernardino CERA | Regular Member |
| • Edward Robinson, Kern CERA | Regular Member |

Please prepare your voting delegate to have the ability to vote by the recommended ballot and by each position separately.

If you have any questions, please contact me at Ray McCray, raym1@sbcglobal.net or (209) 471-4472.

Thank you for your prompt attention to this timely matter.

Sincerely,

Ray McCray

Ray McCray, San Joaquin CERA Trustee
SACRS Nominating Committee Chair

CC: SACRS Board of Directors
SACRS Nominating Committee Members
Sulema H. Peterson, SACRS Executive Director

VIVIAN GRAY

300 N. LAKE AVENUE, SUITE 820 ~PASADENA, CA 91101 ~ VGRAY@LACERA.COM

February 14, 2020

VIA EMAIL

SACRS Nominating Committee
Mr. Ray McCray, Chair

Dear Mr. McCray and Members of the Nominating Committee:

I would like to express my interest in becoming SACRS' President for 2020/2021.

I have been honored to serve SACRS and its members as Vice President and Chair of the Program Committee for the past two years. Previously I chaired the Bylaws Committee and remain an active member.

Through the years, I have worked diligently with various committees, the SACRS Board of Directors, Administrative staff and membership to continue to develop the SACRS organization as a well-recognized organization among defined benefit plans in California and the nation.

It is my belief that by continuing its strong leadership, SACRS can continue to become the premier entity in the direct education of trustees. SACRS is a viable organization within the retirement system community. As president, together we can continue to secure our presence not only in our CERL 37 Act Systems, but as a world class organization.

Your consideration of me for president would be an honor.

I have attached the SACRS Nomination Form containing my brief bio.

Sincerely,

Vivian Gray

Vivian Gray

cc: Sulema Peterson, SACRS



SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: VIVIAN GRAY
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	Mailing Address: 300 N. Lake Ave., Ste. 820 Pasadena, CA 91101 Email Address: viviangray@aol.com , vgray@lacera.com Phone: 213.440.0142
Name of Retirement System Candidate Currently Serves On	System Name: Los Angeles County Employees Retirement Assoc. (LACERA)
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input type="radio"/> Chair <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input checked="" type="radio"/> Other - Vice Chair
Applying for SACRS Board of Directors Position (select only one)	<input checked="" type="radio"/> President <input type="radio"/> Vice President <input type="radio"/> Treasurer <input type="radio"/> Secretary <input type="radio"/> Regular Member
Brief Bio	2018 Chair, LACERA Board of Retirement 2017 Chair, SACRS Bylaws Committee 2019 Vice Chair, SACRS President Elected general member trustee since 2012 35 years of service to Los Angeles County 10 years in Law Enforcement 25 years as an attorney for Los Angeles County 6 years in private law practice Education/Pension Trustee Certificates - Bachelors of Arts: UCLA - JD: UWLA - New York Law School - Public Pension Trustee Fiduciary Program - Stanford Law School (CALAPRS) - Principles of Pension Management - Harvard Law School Program - Trustee Work Life - UC Berkeley (SACRS) - Modern Investment Theory & Practice for Retirement Systems - IFEBP - Trustee Master's Program - NCPERS - Public Pension Funding Forum - Wharton Business School - Portfolio Concepts and Management (Pending) - National Assoc. of Corporate Directors (NACD) Board Leadership Fellow



**SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021**

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: Roger Hilton
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	2223 East Wellington Ave. Suite 100 Santa Ana, CA 92701 rhilton@ocers.org , roger@aocds.org 714-325-9295
Name of Retirement System Candidate Currently Serves On	System Name: Orange County Employees Retirement System (OCERS)
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input checked="" type="radio"/> Chair <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input type="radio"/> Other _____
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> President <input checked="" type="radio"/> Vice President <input type="radio"/> Treasurer <input type="radio"/> Secretary <input type="radio"/> Regular Member
Brief Bio	<input type="checkbox"/> Currently serving as SACRS Regular Board Member 2018-2020 <input type="checkbox"/> OCERS: Chair of the board; elected 2012 - present. <input type="checkbox"/> Association of Orange County Deputy Sheriffs (AOCDS) Board of Directors: Currently serving as Political Action Chairman, Secretary, and Trustee for medical trust, 2011 - present. <input type="checkbox"/> California Fraternal Order of Police Executive Board: Currently serving as Sergeant-at-Arms, 2019 - present <input type="checkbox"/> Association of Deputy Marshals Board of Directors, 1992-2000, Served as President 1996-2000, Treasurer 1993-1996. Public Pension Trustee certificates: -Modern Investment Theory & Practice – UC Berkeley; -Portfolio concepts and Management -Wharton School of Business; -Certificate in Public Plan Policy I and II; -Principles of Pension Management - Stanford University; -Advanced Principles of Pension Management - UCLA; -Labor and Worklife Program, Harvard Law School

February 04, 2020

2223 East Wellington Ave. Suite 100
Santa Ana, CA 92701

Ray McCray, SACRS Nominating Committee Chair

Dear Mr. McCray:

Please accept this letter as my intent to run for the Board of Directors for the position of Vice-President. I would request that my name be included in the 2020-2021 SACRS Nomination Slate at the upcoming elections in May 2020.

I believe my years of experience leading employee labor organizations, OCERS Board of Retirement and SACRS have uniquely prepared me for this challenge. I have 31 years of experience in law enforcement, 27 years serving in the leadership of employee labor organizations, 7 ½ years on the OCERS Board of Retirement, and two years on the SACRS Board. My experience is further outlined in the Nomination Submission form attached to this letter.

Since elected to OCERS, I have made it a point to attend the SACRS conferences. Through these conferences, I have learned a great deal about pensions and have found many friends and mentors. I believe that SACRS is the most effective and important conference '37 Act trustees should attend, because of its relevant content and top-notch presenters. My primary goal is to keep SACRS as the premier public pension organization. I plan to utilize my extensive leadership experience by reaching out to and communicating with our members so they fully understand the many benefits of SACRS. My focus will be on continuing successful conferences and keeping SACRS a professional organization.

It would be an honor to continue to serve on the SACRS Board of Directors and I appreciate the consideration.

Sincerely,

Roger Hilton

OCERS Board of Directors

February 14, 2020

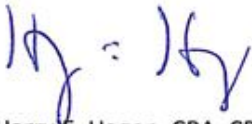
To Ray McCray , SACRS Nominating Committee Chair,

I would like to continue serving on the SACRS Board of Directors and am submitting my letter of intent to run for the position of Treasurer.

I believe I am well qualified for the position based upon my educational and work experience. I am a 24-year employee of Santa Barbara County and the current Vice-Chair of the Santa Barbara County Employees Retirement System. I have served as the ex-officio member of SBCERS for over nine years. I was also an alternate member to the board for eight years as the Assistant Treasurer-Tax Collector-Public Administrator.

Should you have any questions, please don't hesitate to call me directly.

Thank you for your consideration.



Harry E. Hagen, CPA, CPFA, CPFO, CFIP, CGIP, ACPFIM
Treasurer-Tax Collector-Public Administrator-Public Guardian
County of Santa Barbara
(805) 568-2490
hhagen@co.santa-barbara.ca.us



Providing insight. Fostering oversight.

SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: Harry E. Hagen
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	Mailing Address: P.O. Box 579 Santa Barbara, CA 93102 Email Address: hhagen@co.santa-barbara.ca.us Phone: 805-568-2490
Name of Retirement System Candidate Currently Serves On	System Name: SBCERS (Santa Barbara)
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input type="radio"/> Chair <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input checked="" type="radio"/> Other Ex-Officio Member, Vice-Chair
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> President <input type="radio"/> Vice President <input checked="" type="radio"/> Treasurer <input type="radio"/> Secretary <input type="radio"/> Regular Member
Brief Bio	See Attachment

Harry E. Hagen
Bio for SACRS Nomination Submission Form

I am the current Santa Barbara County Treasurer-Tax Collector-Public Administrator. I was first elected in 2010 and am currently serving in my third four-year term.

I am responsible for overseeing and investing a \$1.6 billion investment pool for local schools, general County government, and special districts. I manage the collection of taxes and general collections, administer Public Administrator estates and Public Guardian conservatorships, and oversee Veterans' Services programs. My duties also include serving as Chair of the County Debt Advisory Committee, implementing and managing the County's municipal financing program, and administering the County's deferred compensation program.

I hold a Bachelor's degree in Business Economics from UCSB, am a 28-year California Certified Public Accountant, and have completed the Certificate in Public Treasury Management from USC. Additionally, I have earned the designations of CPFO from the Government Finance Officers Association, CPFA and ACPFIM from the Association of Public Treasurers, CGIP from the Government Investment Officers Association, and CFIP from the Fixed Income Academy.



SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: Kathryn Cavness
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	Mailing Address: 6500 Ridgewood Road, Willits CA 95490 Email Address: K24u2figure@gmail.com Phone: Home (707) 459-2215 Cell (707) 354-8105
Name of Retirement System Candidate Currently Serves On	System Name: Mendocino County Employee Retirement Association (MCERA)
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc.)	<input checked="" type="radio"/> MCERA Chair, General Elected <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input type="radio"/> Other _____
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> President <input type="radio"/> Vice President <input type="radio"/> Treasurer <input checked="" type="radio"/> Secretary <input type="radio"/> Regular Member
Brief Bio	<p>My education and professional experience provides qualifications ideally suited for taking on the responsibilities of Secretary of the SACRS Board of Directors:</p> <ul style="list-style-type: none"> • Three years as Secretary for SACRS Board of Directors • Chair on the MCERA Board and MCERA Auditing Committee Member • County of Mendocino District Attorney's Office Administrative Services Manager • Executive Education Investment Program, Hass School of Business, UC Berkeley • Principles of Pension Management for Trustees, Graziadio Business School, Pepperdine University • Advanced Principles of Pension Management for Trustees, UCLA • MBA/Accounting Emphasis • Administrative Services Manager Mendocino County District Attorney's Office

Kathryn Cavness
6500 Ridgewood Road
Willits, CA 95490
(707) 459-2215
k24u2figure@gmail.com

January 28, 2020

Ray McCray, Chair
SACRS Nominating Committee
1415 L St., Suite 1000,
Sacramento, CA 95814

Dear Nominating Committee:

Please consider my request to run for Secretary of the State Association of County Retirement Systems (SACRS) Board of Directors in the upcoming May 2020 election. If elected, this will be my fourth term to serve as SACRS Secretary. I am also currently the Chair, as an Elected Trustee, of the Mendocino County Employee Retirement Association (MCERA) and member of the MCERA Audit Committee.

My interest in seeking the position of Secretary on the SACRS Board of Directors is to continue representing the interests of all 1937 Act County Trustees and to reach out to Trustees to attain greater participation in SACRS activities; my commitment to 1937 Act Trustees and Members is to carry out the goals and objectives of the SACRS strategic plan. If elected, my focus will be on improving our Trustee participation at the Spring and Fall Conferences, the UC Berkeley Educational Programs, and increasing membership on SACRS' Committees, including the Legislative, Program, Education and Bylaws Committees.

I wish to persist in my efforts to attain greater parity for the smaller, rural, central and northern 1937 Act systems; I am Chair of MCERA, the smallest, northernmost, rural SACRS retirement system. I have had the pleasure of visiting a few of the retirement systems in Northern California and I look forward to engaging in more of these relationship building activities to discover what individual retirement systems are seeking from SACRS.

My educational background and professional experience has provided me with a strong administrative/financial background ideally suited for taking on the responsibilities of Secretary of the SACRS Board of Directors:

- Three years as Secretary for SACRS Board of Directors
- Chair on the MCERA Board and MCERA Auditing Committee Member
- County of Mendocino District Attorney's Office Administrative Services Manager
- Executive Education Investment Program, Hass School of Business, UC Berkeley
- Principles of Pension Management for Trustees, Graziadio Business School, Pepperdine University
- Advanced Principles of Pension Management for Trustees, UCLA
- MBA/Accounting Emphasis
- Administrative Services Manager Mendocino County District Attorney's Office

Sincerely,

Kathryn Cavness



**SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021**

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	David J. MacDonald, MD
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	255 Ramsgate Way Vallejo, CA 94591 dmacdcccera@gmail.com 510-409-4458 (mobile)
Name of Retirement System Candidate Currently Serves On	System Name: CCCERA
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input type="radio"/> Chair <input type="radio"/> Alternate <input checked="" type="radio"/> General Elected X <input type="radio"/> Retiree <input type="radio"/> Other – serving as Secretary, Board of Retirement
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> President <input type="radio"/> Vice President <input type="radio"/> Treasurer <input type="radio"/> Secretary <input checked="" type="radio"/> Regular Member X
Brief Bio	* Secretary, CCCERA Board of Retirement * Elected general member trustee of CCCERA since 2016 * President, Physicians' and Dentists' of Contra Costa (PDOCC), since 2010 (Union for health care providers working at Contra Costa County). * 15 years serving on the PDOCC Executive Board (including several years as Vice President) prior to being elected President. * 29 years of service to Contra Costa County as a physician working in the Department of Health Services. * Education/Pension Trustee Certificates: - Bachelors of Science – UC Irvine - Doctor of Medicine – UC Irvine - UC Berkeley (SACRS) – Modern Investment Theory & Practice for Retirement Systems - Wharton Business School – Portfolio Concepts & Management - IFEBP – CAPPP program - CALAPRS Trustee Education – Principles of Pension Governance

David J MacDonald, MD

255 Ramsgate Way
Vallejo, CA 94591
dmacdcccera@gmail.com
510-409-4458 (mobile)

February 7, 2020

SACRS Nominating Committee
Mr. Ray McRay, Chair

Dear Mr. McRay,

I would like to express my interest in serving as a Regular Member of the SACRS' Board for the 2020/2021 year.

I was elected to the CCCERA Retirement Board in 2016 and currently serve as Board Secretary. It has been an honor to serve on the CCCERA Board. I appreciate the level of responsibility entrusted to me in looking after our members' retirement plan. I understand the incredible value of a defined benefit plan for my coworkers and our retirees.

I have a long history of dedicated service to my coworkers and union members and I carry this spirit into my role as an elected trustee. My work on CCCERA has exposed me to SACRS, receiving further education and inspiration from the SACRS organization via its conferences and programs. SACRS has enhanced my abilities to serve as an effective CCCERA trustee.

I now seek an opportunity to serve in the SACRS organization, as I have on the CCCERA Board. Being on the SACRS Board would dovetail with my charge as CCCERA trustee and allow me to further promote, protect and build upon pension programs under CERL for county public employees statewide.

Thank you for your time and consideration.

Sincerely and Respectfully,

David J MacDonald, MD

David J MacDonald, MD



SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Vere Williams
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	8379 Icicle Drive, Pinon Hills CA 92372 verevlw@aol.com 760 486-6311
Name of Retirement System Candidate Currently Serves On	San Bernardino County Employees' Retirement Association (SB cera)
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<u>General Elected</u>
Applying for SACRS Board of Directors Position (select only one)	<u>Regular Member</u>
Brief Bio	<p>I was elected to SB cera's Board in January 2015 and has served on the Administrative, Audit and Investment Committees. My community involvement includes serving on the governing Boards of the Teamsters Local 1932, California State Conference of the NAACP, Working Assembly of Governmental Employees (WAGE) and other organizations. I am a past president of the San Bernardino County Association of African-American Employees and currently serves as treasurer for the Hispanic Employees Alliance. I have earned an MBA in Information Management/Accounting and has completed certification on Retirement System Management courses at UCLA, Pepperdine and Wharton. I have been an enrolled Agent for over 20 years along with over 25 years working in the finance department at Arrowhead Regional Medical Center. I have been trained in conflict resolution and have completed various workshops and seminars on organization dynamics and interplay. I am currently a member of the SACRS Audit Committee.</p> <p>A guiding quote – "I always wondered why somebody didn't do something about that, then I realized I was somebody." – Lily Tomlin</p>

February 28, 2020

VIA Email

Ray McCray, Chair

SACRS Nominating Committee

Dear Mr. McCray,

Please accept this letter as my letter of intent to be a candidate for the position of Regular Member in SACRS Board of Directors Elections 2020-2021

I am a Trustee with the San Bernardino County Employees' Retirement Association (SBcera). Elected to the SBcera's Board in January 2015, I attended my first SACRS conference that year. I found the sessions to be very informative and educational with the presenters being experts or thought leaders in their field. Since then, I have attended several conferences sponsored by other organizations that are single topic focused and I have also completed certification programs at Wharton, Pepperdine and UCLA. In comparison, SACRS conferences provide a comprehensive insight into the "nuts and bolts" of the functioning of the retirement systems with an emphasis on current application of the topics. SACRS provides attendees an opportunity to understand different perspectives thereby encouraging clearer lines of communication and to hear about what works and what may be problematic. The networking and information sharing opportunities with colleagues at SACRS is immensely valuable.

SACRS recent expansion of the Board to include additional members was a very good strategic move that has helped to expand the experience pool and knowledge base. If elected as a Regular Member, I would work to ensure that SACRS remain the preeminent educational organization for the CERL 37 Act Systems by maintaining the high caliber of our conferences (both as formal seminars and networking opportunities.) Additionally, I would seek to encourage even greater participation from the trustees and staff of the 37 Act Systems. I strongly believe in getting involved as demonstrated by my volunteering to lead a CALAPRS Roundtable after attending only a few sessions. Over the years, I have served on the governing Boards of the Teamsters Local 1932, the Working Assembly of Governmental Employees and other organizations. Currently, I am a member of the SACRS Audit committee.

I would like very much to contribute, based on my education and experience, to SACRS - a superlative organization: *"Providing insight. Fostering oversight."*

I thank you in advance for your kind consideration and support. It would be a high honor for me to be elected to serve as a Regular Member on the SACRS Board for the 2020-2021 term.

Please find attached the completed SACRS nomination form.

Respectfully,



Vere Williams, MBA

SBcera Board of Directors – General Member

cc: Sulema Peterson, SACRS



SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: John Kelly
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	Mailing Address: Email Address: investorsdaddie@gmail.com Phone: 916-342-9279
Name of Retirement System Candidate Currently Serves On	System Name: SCERS Sacramento County Employee's Retirement System
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input type="radio"/> Chair <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input type="radio"/> Other - Appointed Trustee, Vice President
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> President <input type="radio"/> Vice President <input type="radio"/> Treasurer <input type="radio"/> Secretary <input checked="" type="radio"/> Regular Member
Brief Bio	Bio: - 22+years SCERS Board; VP - 40+ years Independent Registered Investment Advisor - 12 years Ca. State employee under Reagan and Brown - 3 years on SACRS Board previous - 22 years First Tee of Greater Sacramento; President - 2016 induction into the Sacramento Region Golf Hall of Fame - Produced three publications regarding investment management and retirement planning as 'The Investor's Caddie'

From: [John Kelly](#)
To: [Sulema Peterson](#)
Cc: [Ray McCray](#)
Subject: Letter of Intent: SACRS Board
Date: Thursday, February 6, 2020 1:04:19 PM

Nomination Committee,

Please refer to the attached SACRS application information.

It is my intent to re-join the SACRS Board after four years of absence. At that time I was serving on the board over three years leaving as Vice President upon my wife's passing.

I have been inactive for the last four years.

I have however continued to serve as Trustee, Vice President for the Sacramento County Employee Retirement System for 22 years.

I have an ongoing interest in helping public employees successfully grow and maintain their benefits.

In addition, as a state employee for 12 years I understand the challenges associated with this activity.

I hope to assist with the education and networking challenges trustees face.

I have produced three different publications associated with investment management challenges for retirees.

Please consider my nomination/election to the SACRS Board.

My best,

John B. Kelly, CFP, MPA
'Values Based Financial Advisor'
The Investors Caddie, Inc.
investorscaddie@gmail.com
916-342-9279

From: [John Kelly](#)
To: [Ray McCray](#); [Sulema Peterson](#)
Subject: SACRS Support Information
Date: Thursday, February 6, 2020 1:23:32 PM

Name of Retirement System Candidate Currently Serves On: SCERS Sacramento County Employee's Retirement System

List Current Position: Appointed Trustee; Vice President

Applying for: Regular Member

Bio: - 22+years SCERS Board; VP

- 40+ years Independent Registered Investment Advisor

- 12 years Ca. State employee under Reagan and Brown

- 3 years on SACRS Board previous

- 22 years First Tee of Greater Sacramento; President

- 2016 induction into the Sacramento Region Golf Hall of Fame

- Produced three publications regarding investment management and retirement planning as 'The Investor's Caddie'

John B. Kelly, CFP, MPA
'Values Based Financial Advisor'
The Investors Caddie, Inc.
investorscaddie@gmail.com
916-342-9279

Sent from iPhone
John B. Kelly, CFP, MPA
'Values Based Financial Advisor'
The Investors Caddie, Inc.
investorscaddie@gmail.com
916-342-9279



SACRS Nomination Submission Form
SACRS Board of Directors Elections 2020-2021

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2020.** Please submit to the Nominating Committee Chair at raym1@sbcglobal.net AND to SACRS at sulema@sacrs.org. If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

Name of Candidate	Name: EDWARD ROBINSON
Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)	Mailing Address: 11710 WALDERI ST, BAKERSFIELD, CA 93311 Email Address: ROBINSONE@KERNCOUNTY.COM Phone: (C) 757-320-8659 (O) 661-868-0928
Name of Retirement System Candidate Currently Serves On	System Name: KERN COUNTY EMPLOYEES RETIREMENT ASSOCIATION
List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)	<input type="radio"/> (3 RD)General Elected
Applying for SACRS Board of Directors Position (select only one)	<input type="radio"/> Regular Member
Brief Bio	Edward Robinson is a candidate to serve on the SACRS retirement Board in this May's election. He graduated from Hampton University in 2016 with a B.S. in Criminal Justice/Criminology obtained with honors. Who is Edward: <ul style="list-style-type: none"> - Social Worker II at Kern County Aging & Adult Services - KCERA 3RD general Trustee -Army Infantry Veteran Who participated in Operation Iraqi freedom. -Past Council Appointed board member. - Union supporter and member. Why you should vote for Edward: <ul style="list-style-type: none"> -Has more than 12 years of experience in public service.



Providing insight. Fostering oversight.

	<p>-If elected, Edward would be the voice for all county employees and union members on the Retirement Board.</p> <p>Vote for</p> <ul style="list-style-type: none">✓ Experience✓ Retirement Security✓ a Committed, Career Service Employee✓ a Strong Voice for Employees & Retirees
--	---

From: [Edward Robinson](#)
To: raym1@sbcglobal.net; [Sulema Peterson](#)
Cc: [Sulema Peterson](#)
Subject: CANDIDATE LETTER OF INTENT & NOMINATION FORM.
Date: Friday, February 28, 2020 11:32:13 AM
Attachments: [Outlook-ezc4t0v.png](#)
[SACRS 2020-2021 Election Notice.pdf](#)

Good Morning,

I am writing this letter to share with you my interest in running for the SACRS Board of Directors position of Regular member in this coming May 2020 election. Having played a progressively more involved role in my current position as 3rd General Trustee to the Kern County Employee's Retirement Association, I am confident in taking the next step to expand my leadership skills and involvement with our great organization. In addition to the leadership skills I have gained though serving on my current board, the experience I received while serving as an Infantryman to the United States Army from 2004 to 2012 during Operation Iraqi Freedom have been invaluable. I learned how to keep my ears open, ask questions, chase what I want to know, and stay organized. Most importantly I learned to make it my business to play a part in identifying equitable solutions on behalf of membership, in order to advocate and foster confidence in our system by remaining accessible and transparent. Though there was a severe learning curve, I've learned how to chase solutions to challenges head on and to be willing to step into roles that I had not yet grown into. Among these are the reasons why I feel like I am an excellent candidate for the 2020-2021 SACRS Board of Directors as a Regular Member.

Please let me know of anything I can do to assist in this process. Thank you.

Respectfully,

Edward Robinson
Social Services Worker
In-Home Supportive Services
Phone: (661)868-0928
Fax: (661)868-0921
robinsons@kerncounty.com

"I know of no more encouraging fact than the unquestionable ability of man to elevate his life by conscious endeavor."

~Henry David Thoreau~



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Business Meeting Agenda - IX. INFORMATIONAL

From: Sulema Peterson
Sent: Monday, June 15, 2020 10:19 AM
To:

Cc:

Subject: RE: SACRS Board of Directors Elections 2020-2021 - Update/Action Required
Attachments: Nomination Submissions Elections 2020-2021.pdf; SACRS 2020-2021 Election Notice Final.pdf
Follow Up Flag: Follow up
Due By: Tuesday, June 16, 2020 4:00 PM
Flag Status: Flagged

CAUTION: If this email looks suspicious, DO NOT click. Forward to Spam.Manager@ventura.org

Good morning SACRS Systems,
Its been brought to our attention that you may have received a “solicitation for support” and documents from Trustee Edward Robinson, Kern CERA.

Mr. Robinson submitted an interest for a General Member position for the upcoming SACRS Board of Directors Elections 2020-2021.

At this time SACRS Bylaws do not address “solicitation of support” by candidates that are seeking a position on the board.

I’ve CCd Ray McCray, Chair of the nomination committee and the nomination committee members and Dominic Brown, Kern CERA Administrator, in case you’d like to discuss further with the committee or KCERA.

Let me know if I can provide any other information that might be helpful.

Thank you,
Sulema

Sulema H. Peterson
SACRS Executive Director
1225 8th St., Suite 550
Sacramento, CA 95814
(916) 701-5158 O
(916) 316-7632 M
sulema@sacrs.org

Business Meeting Agenda - IX. INFORMATIONAL

From: Edward Robinson
Sent: Monday, June 15, 2020 8:04 AM
Subject: Asking for your Board's support.

Dear Administrators and Trustees,

My name is Edward Robinson. I respectfully ask for your system's vote of support to serve as your next SACRS Board of Directors- Regular member.

I have dedicated my career as a social worker to serving the elderly, disabled, and blind community within the State of California. Unfortunately, this means that I get to see firsthand what it looks like when membership is uninformed about the benefits of managing and growing their retirement investment. It is my life's mission to continue to serve our respective memberships, by supporting our County systems as your newest SACRS Officer.

I have had the opportunity to speak with many trustees, and members, including retirees in order to get a clear understanding of what my role would be if elected. Currently, as a Trustee-Elect to the Kern County Employees' Retirement Association, I exercise discretionary authority and responsibility in the administration of the pension plan, and act in accordance with the standard of care established under ERISA, that is, the Acare, skill, prudence and diligence to ensure that the plan exclusively benefits our members. In short, I am a passionate advocate for continuing education and the implementation of "best practices" in order to simplify the content to the membership that we serve, as well as support board trustees in conveying the moxie of competence that we must to plan participants and sponsors as fiduciaries.

My belief is that serving on the SACRS board of directors is not a training ground, it's a proving ground. I've already proven my commitment to selfless service as a decorated combat veteran of Operation Iraqi Freedom, Trustee Elect to KCERA, and career Social Worker. If your board elects me as your public servant, the position is not about me, but more so about conveying at every opportunity that it is about the public to whom we serve. If elected I would cherish this responsibility by remaining accessible, and facilitating your board's success every chance I get.

I would appreciate your vote. Please distribute and/or forward the attached PDF flyer to your trustees and add this item to your next agenda for vote. If it is OK with your board, I would welcome the opportunity to introduce myself and answer any question prior to the board's vote. Please place this item on your next agenda. Thank you.

Respectfully,

Edward Robinson

Edward Robinson
Social Services Worker
In-Home Supportive Services



July 13, 2020

Board of Retirement
Ventura County Employees' Retirement Association
1190 South Victoria Avenue, Suite 200
Ventura, CA 93003

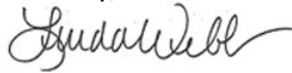
SUBJECT: 2020 CONFLICT OF INTEREST CODE

Government Code Section 87300 et. seq. requires that each agency review and submit a Conflict of Interest Code to the Code Reviewing Body by October 1 each even-numbered year.

Staff has no recommended changes to VCERA's current Conflict of Interest Code, which is provided.

RECOMMENDED ACTION: APPROVE VCERA'S CONFLICT OF INTEREST CODE FOR 2020.

Sincerely,



Linda Webb
Retirement Administrator

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CONFLICT OF INTEREST CODE

The Political Reform Act, Government Code Section 81000 et seq., requires local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (Cal. Code of Regs., tit. 2, sec. 18730) which contains the terms of a standard Conflict of Interest Code ("standard code"), which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

The terms of California Code of Regulations, title 2, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the attached Appendix A, Appendix B, and Appendix C in which trustees, employees and consultants are designated and disclosure categories are set forth, constitute the Ventura County Employees' Retirement Association (VCERA) Conflict of Interest Code.

Pursuant to section 4 of the standard code, designated employees who do not file statements pursuant to Government Code section 87200 shall file Statements of Economic Interest with the VCERA Retirement Administrator. These statements shall be retained by VCERA.

The Board shall review this code at least every two (2) years to ensure that it remains relevant and appropriate.

July 02, 2018
Approved Date



Authorized Signature
Ventura County Employees' Retirement Association

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CONFLICT OF INTEREST CODE

APPENDIX A

DESIGNATED POSITIONS

<u># OF POSITIONS</u>	<u>POSITION TITLE</u>	<u>DISCLOSURE CATEGORY</u>
12	Director (Board Member)	1*
1	Retirement Administrator	1*
1	Chief Financial Officer	1*
2	Investment Consultant	1*
1	Investment Counsel	1*
1	Chief Investment Officer (CIO)	1*
1	Board Counsel	1*

* It has been determined that Board Members, the Retirement Administrator, the Chief Financial Officer, Investment Counsel and the Investment Consultants are positions that “manage public investments” and are required to file statements of economic interest pursuant to Government Code section 87200 et seq. No additional filing requirements for these positions are established by this code. See APPENDIX C.

Approved 7/2/2018

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CONFLICT OF INTEREST CODE

APPENDIX B

DISCLOSURE CATEGORIES

Subject to the definitions set forth in the Political Reform Act and applicable regulations:

Category 1

Full Disclosure:

All investments, business positions and sources of income, including gifts, loans and travel payments, as directed on Form 700.

Approved 7/2/2018

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CONFLICT OF INTEREST CODE

APPENDIX C

**AGENCY POSITIONS THAT MANAGE PUBLIC INVESTMENTS
FOR PURPOSES OF SECTION 87200 OF THE GOVERNMENT CODE.**

Director (Board Members)	12
Retirement Administrator	1
Chief Financial Officer (CFO)	1
Investment Consultant	2
Investment Counsel	1
Chief Investment Officer (CIO)	1
Board Counsel	1

Approved 7/2/2018



July 13, 2020

Board of Retirement
Ventura County Employees' Retirement Association
1190 S. Victoria Avenue, Suite 200
Ventura, CA 93003

**SUBJECT: PRESENTATION OF INTERNAL PROCESS DOCUMENT TO IMPLEMENT FULL IN-HOUSE
DISABILITY INVESTIGATIONS, APPROVED BY THE BOARD ON OCTOBER 7, 2019**

Dear Board Members:

Background

On October 7, 2019, the Board of Retirement voted to authorize VCERA to conduct full, independent investigations of disability applications. This Board action came following the September 23, 2019 Board meeting, at which Ashley Dunning of Nossaman, LLC, VCERA's fiduciary counsel, presented a training session entitled, *"The Board of Retirement's Roles and Responsibilities in Disability Retirement Adjudications."* In this presentation, she described the Board's plenary authority and fiduciary responsibility in administration of disability benefits for VCERA members.

Provided is the staff letter from the October 7th meeting, which contains the details of fiduciary counsel's analysis, a summary of VCERA's current process, and implementation considerations and potential options presented to the Board for consideration. As a brief summary, the key points include the following:

- Given the Board's plenary authority over administration of the System, it has a duty to investigate disability retirement applications.
- The role of the employer is not the same as the quasi-judicial advisor role of VCERA staff or Board Counsel to the Board.
- Any recommendation or advice to the Board concerning approval or denial of a disability retirement application should come from the Board's own staff and/or Counsel.
- The Board's Fiduciary Duty of Care includes prudent delegation, oversight/monitoring, and taking corrective action when reasonably appropriate. ... Complete delegation of fact finding to VCERA's participating employers (e.g., County Risk Management Office) is not prudent if VCERA is unable to sufficiently monitor that process under the current model.
- VCERA Board has an affirmative fiduciary obligation of loyalty and prudence with respect to member's application for disability retirement. County's Risk Management Office does not owe the same fiduciary obligation to county employees who apply for disability retirement.

New Disability Model
July 13, 2020
Page 2 of 4

Among the four potential “models,” the Board elected Option 3, which authorized a “full in-house independent investigation” of disability applications. Advantages of this approach include substantial compliance with the Board’s fiduciary duties and increased protection of member record confidentiality. Option 3 also represents reduced control by the County, particularly in the area of timing, although its rights as a party would be fully retained. Moreover, the County would continue to conduct its own investigations to the extent authorized by the current Disability Hearing Procedures.

Disability Hearing Procedures

The VCERA Board of Retirement Disability Hearing Procedures (“DHPs”) provide the administrative framework for the current disability process; they were last revised in April 1999. Three sections in the DHPs (provided) authorize the Board via VCERA to conduct its own disability investigations:

- Section 16: *“The Board may secure such legal, investigatory, and other such services and advice as is necessary to make a responsible determination on an application for disability retirement. The Board may contract with an attorney in private practice for the legal services and advice it deems necessary.”*
- Section 17: *“In its sole discretion, the Board may, on its own motion or upon request of one of the parties, and based upon good cause, require an application for disability retirement to submit to one or more medical, psychological or psychiatric examinations to determine the existence of the disability and causes therefor.”*
- Section 3d: *“... The Administrator shall provide timely notification to all parties of all actions taken by the Association relating to the processing of the application.”*

Explicitly and implicitly, the DHPs permit the Board to conduct independent disability investigations via VCERA staff. Until the Board’s vote on October 7, 2019, however, VCERA had not been given direction to act upon these provisions. But with the Board’s adoption of Option 3, VCERA could implement its new disability model while Risk Management continued to administer its process, both of which are permitted by the current, unedited DHPs.

New Disability Model Process Document

Since the Board’s adoption of Option 3, a management-level committee of VCERA staff has met numerous times to discuss and construct a new disability model. One of the documents produced by that committee was VCERA’s New Disability Model Process Document, an internal, guidance document that outlines the structure and specifics of VCERA’s new process (provided). Distinctive features of the new model include:

- Requirement that new applications include medical evidence of permanent incapacity.
- “Fast track” process for applications with undisputed permanent incapacity (e.g., SCD death).
- Full, in-house disability investigation involving applicants, departments, physicians and independent medical examiners.
- Thorough, transparent analysis of medical and legal issues in each disability case.
- Shared disability case log with Risk Management.

New Disability Model
July 13, 2020
Page 3 of 4

- 21-day comment period for Risk Management to object to VCERA's preliminary recommendation to Board.
- Automatic assignment of hearing officer upon staff's recommendation to deny application.
- Opportunity for parties to agree to expedited hearing (i.e., records review only).

The new disability model is expected to provide earlier Board determinations due to fewer delays and extension requests, an independent review of cases without potential employer bias (e.g., deals involving Workers' Compensation settlements), frequent use of independent medical examiners, and greater transparency with the Board.

Third-Party Vetting of New Model

VCERA's New Disability Model Process Document was vetted extensively. First, the manager of LACERA's Disability Retirement Services Division reviewed and provided input. Second, VCERA contracted with a reputable CERL disability attorney, Vivian Schultz, who has been instrumental in helping several CERL systems set up or shore up their disability processes, including SJCERA, ICERS, LACERA and CCCERA. Ms. Schultz performed an independent review of VCERA's drafted New Disability Model Process Document, specifically to identify its strengths and weaknesses, both legal and practical. Ms. Schultz identified confidentiality concerns with a number of provisions requiring disclosure to the employer of the application, member records, and/or VCERA-generated analyses of the application to the employer which staff had incorporated into the New Disability Model Process Document in order to avoid conflict with the DHPs. In essence, this practice raises concerns about the confidentiality of a member's individual records under the CERL (G.C. Section 31532), which states that member records *shall not* be disclosed to anyone, except as required by CERL or upon court order or written authorization by the member. This concern echoes previous statements by VCERA's fiduciary counsel, Ms. Dunning, and General Counsel Lori Nemiroff.

Under the current DHPs, VCERA is obligated to transmit to the employer a copy of the application and all accompanying medical evidence. Further, Risk Management has a duty to take a position on an application. In recognition of this obligation, the language in the *Authorization to Obtain and Release Records and Information* form that is signed by members puts the applicant on notice to the "redislosure" under VCERA's process. However, in the future, the Board may find it prudent to give this matter further consideration.

Third, VCERA sent its New Disability Model Process Document to Risk Management on June 9, 2020. On June 25, 2020, Linda Webb, Lori Nemiroff and Josiah Vencel met via Skype with Chuck Podeski and Catherine Laveau from County Risk Management. This was an opportunity for them to provide comments and feedback about the new process. The meeting was productive, resulting in 19 separate questions raised by Risk Management. VCERA supplied its responses to Risk Management on July 6, 2020, and made applicable revisions to its New Disability Model Process Document based on their input. The questions and responses are attached for the Board's review. Mr. Podeski indicated that other County personnel, such as County Counsel and the Human Resources Director, would likely have further feedback.

New Disability Model

July 13, 2020

Page 4 of 4

Conclusion

Staff welcomes Board review of these new model documents, and direction on future implementation of the resulting final version.

RECOMMENDATION: RECEIVE AND FILE VCERA'S NEW DISABILITY MODEL PROCESS DOCUMENT, AND DIRECT STAFF ON ITS FINALIZATION AND IMPLEMENTATION OF THE NEW MODEL.

Staff will respond to any of your questions on this matter at the July 13, 2020 disability meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Webb", written in dark ink.

Linda Webb

Retirement Administrator



October 7, 2019

Board of Retirement
Ventura County Employees' Retirement Association
1190 S. Victoria Avenue, Suite 200
Ventura, CA 93003

**SUBJECT: REQUEST FOR BOARD DIRECTION ON IMPLEMENTATION OF FIDUCIARY COUNSEL
RECOMMENDATIONS REGARDING DISABILITY PROCESS AND PROCEDURES**

Dear Board Members:

Background

At the September 23, 2019 Board meeting, Ashley Dunning of Nossaman, LLC, VCERA's fiduciary counsel, presented a training session entitled, "The Board of Retirement's Roles and Responsibilities in Disability Retirement Adjudications" in which she described the Board's plenary authority and fiduciary responsibility in administration of disability benefits for VCERA members.

Key points from fiduciary counsel's presentation include the following:

1. Given the Board's plenary authority over administration of the System, it has a duty to investigate disability retirement applications.
 - *"Because a county retirement board is "required to administer the retirement system 'in a manner to best provide benefits to participants of the plan,' [citations omitted], it must 'investigate[] applications and pay[] benefits only to those members who are eligible for them.' Flethez v. San Bernardino County Employees' Retirement Association (2017) 2 Cal.5th 630, 636) ('Flethez')"*
2. The role of the employer is not the same as the quasi-judicial advisor role of VCERA staff or Board Counsel to the Board:
 - *"The correct term for an **employer's** role in disability retirement is that it takes a **"position"** on a particular application.*
 - *This is particularly important because the employer has a financial and employee management stake in the outcome of disability retirement decisions, and it therefore is not impartial."*

3. Any recommendation or advice to the Board concerning approval or denial of a disability retirement application should come from the Board's own staff and/or Counsel; yet the Board has not empowered staff to make such recommendations.
 - *"In contrast, if **VCERA staff, or the Board's counsel**, concludes that a disability retirement application should be granted or denied based on the proof provided by the applicant, including competent medical and other pertinent evidence, that conclusion may be provided in the form of a **recommendation** to the Board."*
 - *The current disability retirement procedure does not permit this approach as VCERA staff is not specifically empowered/requested to make recommendations."*
 - *Note: County Risk Management does not have the same impartiality obligation as the Board, and the Board should not follow "recommendations" made by any employer in the disability retirement context, just as a judge would not take "recommendations" from counsel regarding the merits of a topic in a judicial proceeding.*
 - *Further note: Given that County Risk Management defends and manages the County's Workers' Compensation cases, there is an inherent conflict if the same County Department is accessing the merits of disability retirement applications, which are subject to different legal standards and need to be processed independently of Workers' Compensation.*

The Board's Fiduciary Duty of Care includes prudent delegation, oversight/monitoring, and taking corrective action when reasonably appropriate. Considerations in prudent delegation:

- ***"Prudence** is the key to delegation as to all aspects of any particular topic:*
 - *Whether to delegate;*
 - *How to delegate;*
 - *To whom a task is delegated; and*
 - *How to supervise."*
- *"Complete delegation of fact finding to VCERA's participating employers (e.g., County Risk Management Office) is not prudent if VCERA is unable to sufficiently monitor that process under the current model."*

As part of the Board's Fiduciary Duty of Loyalty, the Primary Duty Rule says that the duty to the system's participants and their beneficiaries shall take precedence over any other duty; minimizing employer contributions and defraying reasonable expenses are a secondary consideration.

- *"VCERA Board has an affirmative fiduciary obligation of loyalty and prudence with respect to member's application for disability retirement;" and*
- *"County's Risk Management Office does not owe the same fiduciary obligation to county employees who apply for disability retirement."*

Disability Procedures
October 7, 2019
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Fiduciary counsel emphasized taking measures to 1) ensure members are receiving timely and fair determinations on disability retirement applications; and 2) preserve the independence of the Board and avoid undue influence from the applicant or the employer.

- *“Consider enhancing the process the Board uses to ensure both of the above, potentially through specific edits to the Procedures, and/or implementation of new VCERA policies to supplement the Procedures as may be warranted.”*

Summary of VCERA’s Current Process

Under the current model/practice, the following steps take place:

1. Applicant receives initial VCERA counseling prior to Filing Disability Application.
2. Applicant files Disability Application, accompanied by authorization for release of medical records and submitted documentation.
NOTE: VCERA does not require verification of permanency prior to deeming application “complete”.
3. VCERA sends a copy of the application to Employer, with any accompanying documentation.
4. Per procedures, Applicant has 120 days to submit medical or other documentation to support application. Applicant may waive any or all of their 120-day period. Applicant may request extensions for good cause shown. In practice, VCERA allows the Applicant up to three (3) 60-day extensions.
5. Once Applicant’s 120-day period (and any extensions) have expired, Employer has 60 days to provide notice of challenge or non-challenge. Employer may request extensions for good cause shown. In practice, VCERA allows the Employer up to three (3) 60-day extensions.
NOTE: At this point, staff is unable to determine whether extension requests are related to Worker’s Comp proceedings; however, when analysis is later received, it is sometimes revealed that Employer had evidence of permanency at an earlier stage, and it appears the extension was requested for Worker’s Comp purposes.
6. Non-Challenge: If Employer takes a position of non-challenge, the application for disability retirement, Employer's statement of position and analysis of medical documentation, and all supporting documentation will be forwarded directly to the Board for its consideration.
NOTE: In practice, the notice of employer position is not accompanied by the analysis and supporting documentation, which may arrive up to 90 days later. The Disability Hearing Procedures do not explicitly require that Employer investigate the application; however, VCERA staff believes this responsibility is implied. This becomes an issue particularly when non-County employers resist investigating applications.
 - a. A hearing is set before the Board of Retirement.
*NOTE: In recent months, staff has gradually increased its review measures, and provided more frequent feedback and direction to Employer regarding deficiencies or other issues in the analysis/materials. However, nothing in the Disability Hearing Procedures allow staff to **enforce** this feedback and direction, and it can be disregarded. Also, though the procedures allow the Board to send Applicant for an Independent Medical Examination*

(IME) at this stage, often the application has been pending for years, making an IME impractical.

7. **Challenge:** If Employer takes a position of challenge, VCERA notifies Applicant they have thirty (30) days to obtain representation before a hearing officer is assigned. In practice, the Applicant may request up to three (3) 30-day extensions to obtain legal representation. Once VCERA knows whether the Applicant will be represented, a hearing officer is assigned. VCERA sends a notice of hearing officer assignment to both Applicant and Employer, and both have fifteen (15) days to request a one-time reassignment to another hearing officer.
NOTE: Often a challenge is withdrawn by Employer on the eve of a hearing; feedback from members indicate these late withdrawals are a result of finalization of Worker's Comp rulings or agreements.
 - a. Hearing takes place and hearing officer must notify parties of proposed Findings of Fact and Recommendation within 90 days. Parties have ten (10) days to submit objections, after which the case is scheduled for hearing by the Board of Retirement.

Considerations for Implementation

Review of VCERA's disability retirement process examined in conjunction with the Board's fiduciary duties, staff recognizes problematic areas of "disconnect" where the practice is either inconsistent with the Board's fiduciary duties, or insufficient to allow for meaningful monitoring or oversight. For this reason, staff seeks direction on the next steps the Board wishes to take, and has identified the following range of potential options for Board consideration.

These potential options are presented **in order of highest to lowest risk**, in regard to addressing the fiduciary issues raised by counsel. **IMPORTANT:** In each of the examples, the Employer would retain full rights of a party, such as taking a position, making objections, providing input on reasonable accommodation or modified job duties, disability reassignment, etc.

1. Continue Abbreviated Staff Review (No Change)

- a. Risks/Disadvantages: Falls short of complete independent review; lacks oversight and monitoring; lack of access to full investigative record/file as it is developed; lack of staff authority to enforce or compel employer compliance with disability retirement legal standards.
- b. Advantages: Minimal/lowest administrative cost; changes to Disability Hearing Procedures would maintain status quo and less likely to be controversial.
- c. Other Considerations: more frequent administrative conflicts with employer on staff-requested corrections rising to Board level (as evidenced in recent months.)

2. Full Review of Employer's Complete Investigative Record/File.

- a. Risks/Disadvantages: Requires additional staff hours, yet still falls short of complete independent investigation; lacks oversight and monitoring with regard to the investigation; lack of staff authority to enforce or compel employer compliance with disability retirement legal standards; would necessitate additional reporting from staff for Board review; would increase frequency of administrative conflicts with employer; staff would require more robust training.

- b. Advantages: Modest increase in administrative cost; modest reduction of risk from Option 1 above; changes to Disability Hearing Procedures and/or adoption of new policy/procedure would trigger moderate deviation from status quo and less controversial than Options 3 and 4 below.
 - c. Other Considerations: More frequent administrative conflicts with employer on staff-requested corrections rising to Board level.
- 3. **Full In-House Independent Investigation** (either by internal staff or through partial delegation to outside vendor.) This represents VCERA inserting itself in a formal role as primary investigator, taking full responsibility for separate investigation of applications. Either by Internal Staff or Through Delegation to Outside Vendor. The member's authorization for release of medical information would be kept in-house, and Employer would no longer serve as VCERA's nominee for obtaining confidential medical records. VCERA would determine if IME is necessary, and staff would recommend approval or denial.
 - a. Risks/Disadvantages: would require additional staff and training, increasing costs to VCERA.
 - b. Advantages: Substantial compliance with Fiduciary Duty (could be full compliance if County agrees to changes in the Disability Hearing Procedures to allow VCERA complete control over timing of cases); increased protection of confidentiality of Applicant medical records.
 - c. Additional Considerations: diminishing the level of control by the County, particularly in the area of timing, though rights as a party would be fully retained; IME reports obtained by VCERA could potentially conflict with Worker's Comp medical reports; corresponding changes to Disability Hearing Procedures, or if that is unsuccessful, adoption of supplemental policy would likely prove controversial.
- 4. **Take Disability Process In-House**

Under this option, VCERA staff would have sole formal responsibility and authority regarding timing, investigation and recommendation functions for the Board. The County would not have an explicit investigative responsibility, but would retain the rights of a party, including right of discovery, taking a position, making objections, providing input on reasonable accommodation or modified job duties, disability reassignment, etc.

 - a. Risks/Disadvantages: would require additional staff and robust training before implementation, would also increase costs to VCERA.
 - b. Advantages: Maximum compliance with Fiduciary Duty; more in alignment with VCERA's CERL peers, none of whom adhere to the 3 previous models; increased protection of confidentiality of Applicant medical records.
 - c. Additional Considerations: eliminates current level of control by the County, though rights as a party would be fully retained; IME reports obtained by VCERA could potentially conflict with Worker's Comp medical reports; Disability Hearing Procedures would require comprehensive revision, and is highly likely to be controversial.

Disability Procedures
October 7, 2019
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Conclusion

The County's stated position is that the current disability model has advantages to VCERA, such as lower administrative cost, as well as VCERA benefitting from the County's expertise on medical issues, reasonable accommodation and disability reassignment.

Staff acknowledges that the current model results in low administrative cost to VCERA, but also poses fiduciary risk. Under each of the potential options presented, all would continue to benefit from the County's expertise, as they would retain all rights of a party and could submit medical analysis and insights as they do now when a position is taken. In addition, the County would still have the same statutory duties with regard to reasonable accommodation and disability reassignment.

Staff will be pleased to answer any questions at the October 7, 2019 Disability meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Webb", written in dark ink.

Linda Webb
Retirement Administrator

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY HEARING PROCEDURES

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY HEARING PROCEDURES

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VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY HEARING PROCEDURES

Section 1 - Purpose

These procedures are intended to provide an equitable, fair and impartial method for acting upon applications for rights, benefits and privileges under the County Employees' Retirement Law of 1937, as amended, to the end that applications for disability retirement may be expeditiously processed with a minimum lapse of time, and that when a hearing is required, all parties will have notice of the hearing and an opportunity to appear before the Board or duly appointed hearing officer to present their cases.

Section 2 - Definitions

As used in these hearing procedures, unless the context or subject matter otherwise requires:

- a. "Applicant" means (1) a member of the Ventura County Employees' Retirement Association claiming benefits, rights, or privileges under the County Employees' Retirement Law of 1937, as amended, or (2) any person claiming such benefits, rights or privileges on behalf of or through a member.
- b. "Party" means any person and his/her representative, if one, disclosed by the records of the retirement system or by the application to have an interest in the subject matter of an application for benefits. The term "Party" shall also include the County of Ventura and districts which are included within the Retirement Association.
- c. "Association" means the Ventura County Employees' Retirement Association.
- d. "Board" means the Board of Retirement of the Association.
- e. "Administrator" means the Board appointed Administrator of the Association.
- f. "Hearing Officer" or "Referee" means the designee of the Board to conduct a hearing pursuant to the provisions of Government Code Sections 31533 and 31534.
- g. "Medical Advisor" means the County Health Officer or his/her designee.

- h. "Legal Advisor" means the office of the County Counsel or other counsel as appointed by the Board.
- i. "Employer" means the County of Ventura or any district which is a member of the Association.
- j. "Day" means calendar day.

Section 3 - Filing an Application for Disability Retirement

- a. An application for disability retirement benefits shall be filed with the Association on a form provided by the Board. The application must be filed while the member is in service, within four months after discontinuance of service, or at any time after discontinuance of service if the member can demonstrate to the Board that he/she has been continuously incapacitated for the performance of his/her duties since the date of discontinuance of service. In order to be considered a valid application, the applicant shall be required to submit at the time of filing the following:
 - (1) Completed Application for Disability Retirement.
 - (2) Signed Authorization to Obtain and Release Records and Information.
- b. Upon the filing of a valid application, the applicant will have one hundred and twenty (120) days in which to file additional medical or other documentation in support of the application. For good cause shown, the Administrator may grant the applicant a reasonable extension(s) of time within which to file documentation. Notice of the granting of an extension of time shall be provided to all parties. The applicant may waive any or all of his/her time for filing documentation by providing written notification to the Association.
- c. The applicant will be permitted to amend the application for disability retirement at any time up to the date the evidentiary hearing begins by giving notice of the exact manner in which the application is being amended to the Administrator and all other parties. Any such amendment that is so noticed within sixty (60) days of the evidentiary hearing date shall entitle any other party to a continuance as a matter of right. Once the evidentiary hearing begins, the application can only be amended with the consent of the Board upon such terms as the Board shall set.
- d. Upon the filing of the application, the Administrator shall send a copy of the application and supporting documentation

submitted by the applicant to the employer of the applicant, either the County of Ventura, Risk Management, or the contracting district. The Administrator shall provide timely notification to all parties of all actions taken by the Association relating to the processing of the application.

- e. The employer shall have sixty (60) days from the date of notification by the Administrator of the expiration of the applicant's time for the filing of documentation to respond as to whether or not the employer will contest the application. For good cause shown, the Administrator may grant a reasonable extension(s) of time within which to state a position in regard to the application. Notice of the granting of an extension of time shall be provided to all parties.
- f. If a determination is made by the employer to not contest the application, the following shall apply:
 - 1. The application for disability retirement, employer's statement of position and analysis of medical documentation, and all supporting documentation will be forwarded directly to the Board for its consideration. Notice of the date on which the Board will hear the application shall be provided to all parties by the Association.
 - 2. If the Board does not adopt the position taken by the employer, the Board may direct that the member submit to one or more medical, psychological or psychiatric examinations, as provided for in section 18 herein. The reports of any such examinations, together with any additional relevant evidence provided by the parties, shall be presented to the Board for a determination on the application at a duly noticed meeting as soon as practical. Alternatively, the matter may be continued to the next disability meeting for an evidentiary hearing to be conducted before the Board on the merits of the application.

Section 4 - Setting of Hearings

- a. If a determination is made by the employer to contest the disability retirement application, written notice of such position shall be provided by the employer to the Association. The employer shall advise the Association of the name, address and telephone number of the attorney that will represent the employer in the matter.

- b. Upon receipt of notice that the employer will contest the application for disability retirement, the Administrator shall, if the applicant has not advised that he/she is represented by legal counsel, provide the applicant with notice that he/she has thirty (30) days to retain legal representation for his/her hearing before the matter will be assigned to a hearing officer.
- c. If the applicant is represented by legal counsel, or at the expiration of the thirty (30) days provided to the applicant to retain legal representation, the Administrator shall appoint a hearing officer from the Board approved panel to preside in this matter. Notice of the appointment of a hearing officer shall be provided in writing to all parties.
- d. Each party to a disability retirement hearing shall be entitled to request reassignment of the hearing to another referee in accordance with the provisions of this section. Each party shall be entitled to make only one (1) such request. A Petition for Reassignment must be received by the Association not more than fifteen (15) days after the mailing by the Association of the notification of the assignment of the referee. Requests for such reassignment shall be instituted by the making of a petition supported by a declaration under the penalty of perjury in substantially the following form:

Ventura County Employees' Retirement Association
Petition for Reassignment of Referee
Disability Case No. _____

State of California)
) ss.
County of)

_____ declares under penalty of perjury:

That he/she is the attorney for _____. That affiant believes that he/she cannot have a fair and impartial hearing before _____ the referee to whom the case has been assigned by the Association.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Signature)

Section 5 - Notice of Hearing

Unless otherwise directed by the Board, hearings held before the Board, or hearing officer, shall be set on a date to be determined by the Administrator or his/her designee, in consultation with the parties or their designated representatives, but not sooner than sixty (60) days following service of notice, unless an earlier date is otherwise agreed to by all parties.

Section 6 - Continuances

Once the matter is set for hearing, a request for continuance of the hearing date may only be made by a written request for continuance, which may only be approved by the Board or hearing officer upon a showing of good cause.

- a. Each party who requests and obtains a continuance or cancellation of a hearing less than fourteen (14) days prior to the hearing date shall fully compensate each other party and the Board of Retirement for all actual losses directly incurred as a result of the continuance or cancellation. Such losses shall include, but not be limited to, the actual fees charged by the hearing officer, court reporter and expert witnesses, if any. Such losses shall not include any retirement or disability benefit claimed by or through the member or the member's surviving spouse or children.
- b. The Board shall make the final determination of what losses, beyond hearing officer, court reporter and expert witness fees, were incurred as a result of the continuance or cancellation unless all affected parties have separately agreed upon the total amount to be so paid and the Board may, upon a showing of good cause, find that any or all such costs shall not be reimbursed.

Section 7 - Determination by the Board

Where the evidentiary hearing on the application for disability has been held before the Board, the Board shall determine separately each of the following:

- a. All factual issues raised by the application.
- b. Whether or not the applicant is permanently physically or mentally incapacitated to perform his/her duties as provided in Government Code Section 31720.

- c. Whether or not such incapacity, if any, is a result of injury or disease arising out of and in the course of his/ her employment; and if so, whether such employment contributed substantially to such incapacity.
- d. Whether or not the applicant has completed five (5) years of service.
- e. The effective date of the disability retirement.

Where the evidentiary hearing on the application for disability retirement has been held before a Board appointed hearing officer, the proposed findings of fact and recommendations of the referee shall be served on the parties by the referee within ninety (90) days of the closing of the record. The parties shall have ten (10) days to submit to the Association written objections thereto which shall be incorporated into the record to be considered by the Board. Upon receiving the proposed findings of fact and the recommendations of the referee, the Board may:

- a. Approve and adopt the proposed findings and the recommendations of the referee, or
- b. Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon receipt thereof the Board shall take such action as in its opinion is indicated by such evidence, or
- c. Refer the matter back with or without instructions to the referee for further proceedings, or
- d. Set the matter for hearing before itself. At such hearing the Board shall hear and decide the matter as if it had not been referred to the referee.

Section 8 - Conduct of Hearings

Unless the Chair of the Board or referee rules that it is not necessary to so proceed in a particular hearing, all hearings shall proceed in the following manner:

- a. Presiding Officer: The Chair of the Board, or hearing officer shall preside over hearings under these rules.

He/she shall exercise such control over the proceedings, including the time allotted to each party, as may be reasonable and necessary. In addition to other duties he/she shall rule on the admissibility of evidence and shall order a party to yield the floor when his/her allotted time has been used.

b. Applications Filed on Behalf of the Member: In cases where the application has been filed by a person or agency other than the member, the member shall be considered to be a party and, in particular, shall be entitled to participate fully at all hearings.

c. Order of Presentation:

- (1) The Chair or hearing officer will read the title of the case and ask for appearances for all parties. This information shall be recorded in the minutes of the Board and in the official file of the hearing.
- (2) If all parties are ready to proceed, the Chair or hearing officer will mark for identification only, and not as evidence, all papers in the official record of the hearing, which should include, but may not be limited to:
 - (a) The application for disability retirement.
 - (b) The hearing notice with proof of service.
 - (c) Other documents in the official file.
- (3) The party filing the application shall present his/her evidence in support of such application. The party filing the application shall have the burden of proof.
- (4) Each other party shall then present his/her evidence, in the order determined by the Chair or hearing officer.
- (5) Each party will be allowed to cross-examine witnesses.
- (6) Upon application to the Board or hearing officer, each party may present rebuttal evidence.
- (7) Upon the conclusion of all testimony, the Chair or hearing officer will inquire if all parties are ready to submit the matter for decision.
- (8) The hearing will then be closed and the matter submitted to the Board or hearing officer for

decision. If further documentary evidence is to be filed, the Board or hearing officer may allow time for filing and serving such documentary evidence, and order that the matter will be deemed submitted after such period unless any party objects to such documentary evidence within ten (10) days after it is filed. Copies of such documentary evidence shall be served on all parties who appeared at the hearing.

- d. Quorum and Voting: No hearing before the Board shall take place unless at least a majority of the entire Board is present. No member of the Board who did not hear all of the evidence may vote on the decision. By agreement of all parties, a Board member who was not present during a portion of the hearing may vote on the decision if he/she has reviewed all portions of the administrative record relating to the absent period, including examining all documentary evidence introduced and reviewing the audio tapes and/or transcripts, as applicable, of all testimony and argument presented.
- e. Representation: Any applicant or party shall be entitled to be represented by legal counsel or a representative of his/her choice at any hearing before the Board or hearing officer. After an attorney or representative appears at a hearing on behalf of a party, or after the filing of written notice that the attorney or representative is appearing on behalf of a party, all notices shall thereafter be served upon such counsel or authorized representative. The selection, substitution, or dismissal by the applicant of an attorney or representative shall be made in writing and filed with the Board and served on all parties at the earliest possible date and in compliance with section 284, 285 and 286 of the Code of Civil Procedure. Until this notice is given, the Board and all parties shall continue to recognize the former attorney or representative.
- f. Rules of Evidence:
 - (1) The hearing need not be conducted according to the technical rules of evidence relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence,

but shall not be sufficient, in of itself, to support a finding unless it would be admissible over objection in civil actions. Admissibility of physicians reports is governed by subsection h.

- (2) The applicant shall have the burden of proof by a preponderance of the evidence as to all facts necessary to establish the member's right to the benefits sought by the application.
 - (3) Each party shall serve all documentary evidence that is intended to be introduced at the evidentiary hearing upon the Board and all parties at least twenty (20) days prior to the date of the hearing before the Board or the hearing officer.
 - (4) Oral evidence shall be taken only upon oath or affirmation.
 - (5) Each party shall have the right to call and examine witnesses, to introduce exhibits and to cross-examine opposing witnesses on any matter relevant to the issues. If the applicant or any other party does not testify on his own behalf, he/she may be called and examined by any other party to the matter as if under cross-examination.
 - (6) Refusal of any applicant or party to submit to examination or to answer relevant questions, when such refusal is not protected by a recognized legal privilege, shall be grounds for considering such questions, for the purposes of that hearing, to be answered in a way unfavorable to the refusing party, and such refusal may result in an unfavorable decision on the application of the applicant or the party seeking affirmative relief.
- g. Government Records: Certified copies of the reports or records of any governmental agency, division or bureau will be accepted as evidence in lieu of the original thereof.
- h. Physicians' Reports and Testimony as Evidence:
- (1) The Board favors the production of medical evidence in the form of written reports. These reports should include:
 - (a) History of the injury or illness;
 - (b) The patients complaints;

- (c) Source of all facts set forth in the history and complaints;
 - (d) Findings on examinations;
 - (e) Opinion as to the extent of disability and working ability;
 - (f) Cause of the disability;
 - (g) Medical treatment indicated;
 - (h) Likelihood of permanent disability;
 - (i) Opinion as to whether or not the patient is permanently incapacitated physically or mentally for the performance of his/her duties;
 - (j) Opinion as to whether or not the patient's incapacity is the result of injury or disease arising out of and in the course of his/her employment;
 - (k) Opinion as to whether or not the patient's disability is due to the intemperate use of alcoholic liquor or drugs, or so far as the medical examination discloses, willful misconduct, and
 - (l) The reasons for the opinions.
- (2) No written medical report shall be considered at the hearing unless:
- (a) The report has been served on all parties more than twenty (20) days before the hearing, and, if requested pursuant to subsection (3), the physician is produced at the hearing; or
 - (b) The physician is voluntarily produced at the hearing for cross-examination purposes where the medical report is served within twenty (20) days of the hearing; or
 - (c) The Board or hearing officer may permit the introduction of medical reports which were served within twenty (20) days of the hearing on the condition that the opposing party be permitted an opportunity to present rebuttal evidence or cross-examine the physician. A continuance of the hearing should be granted if necessary to satisfy these conditions.
- (3) The party submitting the written report of a physician shall, if requested by the opposing party, join in a request that the physician appear at the hearing; however, the party instituting the request that the physician be produced for cross-examination shall pay the physician's fee for such appearance. The Board may require that this fee be deposited in advance of the appearance.

- (4) Nothing herein shall preclude the Board, if it so desires, from requiring such proof, including medical, psychological and psychiatric examinations at the expense of the applicant.
- (5) Chiropractic evidence is acceptable for consideration along with any other medical records or testimony.
- i. Objections: During the course of a hearing, a party may object to the admission of evidence (either oral or documentary) being offered by another party. The party objecting shall express the reason(s) for his/her objection(s), and thereafter, the offering party may respond to the objection(s). The Chair or hearing officer shall sustain or overrule the objection(s).
- j. Continuances by the Board or Hearing Officer:
 - (1) The Board or hearing officer may continue any hearing to another time and place, order additional evidence be presented, order additional medical, psychological or psychiatric examinations, or allow other evidence to be gathered and presented, as in its or his/her determination is required for a proper presentation of the case.
 - (2) Notwithstanding the authority of a hearing officer to grant continuances, no hearing officer may extend the time for submission of briefs, arguments or additional evidence beyond thirty (30) days after the close of any hearing before such hearing officer. In addition, no hearing officer may accept or consider additional briefs, arguments or additional evidence after the time set for filing such materials unless the hearing officer has the written approval of counsel for the Association.

Section 9 - Decision of the Board

- a. The Board shall render its decision by the second regularly scheduled disability meeting following the meeting at which the matter is submitted for decision. Any finding or decision of the Board must be made by a majority of the members of the Board voting. A tie vote results in the failure to find in favor of the applicant and constitutes a denial of the application, or that portion of the application on which the vote is taken.

- b. Every decision of the Board, or hearing officer, shall include findings of fact which shall specifically include findings with respect to:

- (1) Incapacity;
- (2) Service-connected sources of incapacity;
- (3) Term of service to qualify applicant for disability retirement, and
- (4) Effective date of retirement.

All such findings by the Board shall specifically describe the evidence which supports each such finding of fact.

- c. In the event that the Board finds that an applicant is permanently mentally or physically incapacitated to perform his/her duties, the relevant finding shall describe the duties of applicant's job and the specific incapacity which prevents the performance of those duties.
- d. Upon service of the hearing officer's proposed findings of fact and recommendations, the parties shall have ten (10) days to submit written objections thereto which shall be incorporated into the record to be considered by the Board.
- e. When the evidentiary hearing has been conducted before the Board, the prevailing party shall submit a proposed Statement of Decision containing the findings of fact to the Board within fifteen (15) days of the Board's announcement of its intended decision, unless waived by all parties. Written objections to the proposed Statement of Decision may be submitted within ten (10) days from the date the proposed Statement of Decision is delivered. The Board shall make its final decision by the second regularly scheduled disability meeting after the proposed Statement of Decision has been submitted for the Board's consideration. In the event that the prevailing party fails to timely submit the proposed Statement of Decision, the Board may direct its counsel to prepare the Statement of Decision and may charge all or part of such expense to the prevailing party.

Section 10 - Effective Date of Decision

- a. The decision shall become effective thirty-five (35) days after the adoption by the Board of its Statement of Decision

or of the proposed findings of fact and the recommendations of the hearing officer, unless:

- (1) A petition for reconsideration is filed within that time, or
 - (2) The Board orders that the decision shall become effective sooner, or
 - (3) All parties provide a signed written waiver of the right to file a petition for reconsideration and for judicial review of the proceedings before the Board, in which case the decision shall become effective on the date set forth in the waiver, but not earlier than the date on which the Board adopted the Statement of Decision or the findings of fact and recommendations of the hearing officer.
- b. When a petition for reconsideration is filed before the effective date of the decision, the filing of such petition shall stay the effective date of the decision until the Board takes action to reaffirm its earlier decision. If the petition for reconsideration is not granted, the decision shall become effective on the date the petition is denied or deemed denied. If the final date for filing a petition for reconsideration falls on a regular meeting date and a petition for reconsideration is filed on that day, the following regular meeting shall for purposes of this section be deemed to be the first regular meeting following the date the decision would otherwise become effective.

Section 11 - Notice of Decision

The Administrator shall give written notice of the decision to the applicant and each other party within five (5) days following the date the decision is rendered. The notice shall be delivered pursuant to section 16. The notice shall contain the decision, the date it was rendered and a statement substantially as follows: "This decision shall become effective thirty-five (35) days after its adoption by Board action unless a petition for reconsideration is filed within that time." If the Board orders that the decision shall become effective sooner, or if all parties have waived the right to file a petition for consideration and judicial review of the proceedings before the Board, the notice shall so state.

Section 12 - Petition for Reconsideration

- a. The Board, on its own motion or on petition of any party, may order reconsideration of all or a part of the matter on which the decision was rendered. The power to request reconsideration shall expire when the decision becomes effective. When a petition for reconsideration is filed, it shall be placed on the Board agenda for the first regularly scheduled disability meeting at which all parties are available to attend. If the Board takes no action upon the petition before the final adjournment of that regular meeting, the petition shall be deemed denied on that date. However, the Board may at that time continue the hearing on the petition to another disability meeting date not to exceed ninety (90) days from the date the Board orders the matter continued.
- b. A petition for reconsideration shall be in writing and shall set forth all reasons and grounds for requesting reconsideration. The petition for reconsideration must be based upon one or more of the following:
 - (1) That the Board or hearing officer acted without or in excess of its or his/her powers;
 - (2) That the findings of fact were procured by fraud;
 - (3) That the evidence does not justify the findings of fact;
 - (4) That the applicant has discovered new evidence material to him/her, which he/she could not, with reasonable diligence, have discovered and produced at the hearing, and which is not merely cumulative.
- c. The Board will determine the petition on the basis of the information and documentation set forth in, and attached to, the petition. Petitioner may appear, and, with the consent of the Board, be heard on the petition. Petitioner should state in the petition if he/she desires to discuss the merits of the petition at the hearing.
- d. The Administrator shall give written notice to all parties of the disposition of the petition within ten (10) days after the Board acts on the petition. If the Board fails to act within the time prescribed in these rules, such notice shall be given within ten (10) days after the final date upon which the petition was granted, denied or deemed denied. In the event that the petition for reconsideration is granted and

further hearing on the case is required, a date for such hearing shall be set, not to exceed ninety (90) days from the date the Board orders the petition granted.

Section 13 - Judicial Review

The Board adopted California Code of Civil Procedure section 1094.6 on September 9, 1985. In those cases where a party is entitled to judicial review of the proceedings before the Board, the petition to the court shall be filed within ninety (90) days from the date on which the decision of the Board becomes final.

Section 14 - Service of Notice

Whenever the rules of the Board require that notice be given, it shall be sufficient that such notice be provided to a party or the party's personal representative either by personal delivery or by mail, deposited in the United States mail, postage prepaid, in a sealed envelope addressed to the person to whom it is to be delivered, at his/her last known address as disclosed by the records of the Association. The delivery is complete at the time of such deposit or personal delivery.

Section 15 - Proceedings Recorded

All proceedings before the Board, or hearing officer, shall be reported by a court reporter at a cost to be paid for by the Association. Any party may request a transcript of the proceedings through the Association upon payment of a reasonable fee, which shall not be less than the estimated cost to the Association of such transcript.

Section 16 - Legal and Investigatory Services

The Board may secure such legal, investigatory, and other such services and advice as is necessary to make a responsible determination on an application for disability retirement. The Board may contract with an attorney in private practice for the legal services and advice it deems necessary.

Section 17 - Medical Examination

In its sole discretion, the Board may, on its own motion or upon

request of one of the parties, and based upon good cause, require an applicant for disability retirement to submit to one or more medical, psychological or psychiatric examinations to determine the existence of the disability and causes therefor. Such examination(s) shall be at the expense of the Association, if ordered upon the Board's own motion. If the additional examination(s) is (are) requested by one of the parties, the Board may require that the requesting party pay all reasonable expenses of such examination(s) as a condition of ordering the applicant to submit to such testing.

Section 18 - Role of the Medical Advisor

The Medical Advisor may advise the Board on general matters regarding applications for disability retirement, including providing the Board with explanations of medical terms, interpretations of medical reports before the Board, and the analysis of other medical evidence before the Board.

The Medical Advisor shall only be required to attend disability meetings when specifically requested to do so by the Board to provide recommendations or advice as discussed below.

To ensure that the rights of the applicant and employer are protected the Board should act at all times to ensure that:

- a. All advice and recommendations provided to the Board by the Medical Advisor are based upon evidence that is before the Board. The Medical Advisor should not conduct any independent research on an applicant's claims unless specifically directed by the Board.
- b. If the Board determines at the time of any hearing that a recommendation or other advice from the Medical Advisor on any aspect of an individual case is warranted, the Board shall immediately continue the matter to a subsequent hearing date. The Administrator shall request the presence of the Medical Advisor for that hearing, and, if the Medical Advisor prepares a written report for the Board, the Administrator shall serve all parties such report at least ten (10) days prior to the new hearing date.
- c. The applicant, or his/her representative, and the employer shall have the right to cross-examine the Medical Advisor under oath before the Board at the time of the hearing, limited to the content of the recommendation or other advice provided to the Board by the Medical Advisor.

Section 19- Inquiries Into Applicant's Conduct

To assist in making a recommendation or determination, and to assure that a disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on the part of the applicant, the Board may review the conduct of the applicant, either by inquiry of the applicant, a medical examiner to whom the applicant is referred or any other source of information that Board believes to be reliable.

Section 20 - Issuance of Subpoenas

The Board may issue subpoenas and subpoenas duces tecum. Subpoenas may be signed by the Chair, Vice Chair, Treasurer or the Administrator.

Section 21 - Procedures Furnished to the Parties

A copy of these procedures shall be furnished to the applicant along with the application for disability retirement. All other parties shall receive a copy at the time notice of hearing is given.

Revised April 1999

VCERA's New Disability Model Process Document

1. VCERA shall furnish a disability application packet to any member, beneficiary, County department or participating district upon request and subsequent to counseling provided by a representative of VCERA. The packet will include an application for disability retirement, a medical authorization and release form, and an Attending Physician Report form.
2. A completed disability application packet may be submitted to VCERA by the member, the member's most recent employing department, or someone acting on the member's behalf. VCERA will notify the submitting party of acceptance of the disability application within 10 business days, as set forth in paragraph 5.
3. If the member's department submits a disability application packet pursuant to Government Code section 31721, VCERA shall notify the member within 10 business days that he/she has 30 days from the notice date to state in writing whether he/she will join in the department's application, submit a separate application for a different injury or illness, or take no action. If within the 30 days, the member joins by written notice in the department's application or submits a new disability application, the member shall be responsible for providing recent medical evidence supporting any and all claims of permanent incapacity. (In this context, "recent" is defined as within the last 6 months.) However, if the member does not join in the department's application or file a new application within 30 days, the department will be solely responsible for meeting its burden of proof that the member is permanently incapacitated.
4. VCERA shall require applicants to submit a completed disability application packet, except as described in paragraph 6. To be deemed complete, the packet must include a completed application for disability retirement, an executed medical authorization and release form, a completed Attending Physician Report form, a medical report supporting the claim of permanent incapacity, and, if applicable, evidence that reasonable accommodation has been fully explored with the member's employer. The submitted medical report must cite recent evidence of permanent incapacity by a physician who specializes in, or is qualified to opine on, the area of injury or illness claimed by the applicant. (In this context, "recent" is defined as within the last 6 months.)
5. Upon review of all documents submitted by the member or on the member's behalf, VCERA will determine whether the documents constitute a completed disability packet. VCERA will return any incomplete disability packet to the applicant within 20 days after receipt with notice of the deficiencies in the submitted application. The applicant may resubmit the disability packet to VCERA once all the documentation requirements have been met. A completed packet will be considered "filed" upon the date received and the applicant will be notified of its acceptance within 10 business days. The applicant shall be given an additional 120 days from the notice date to provide additional medical documentation to VCERA in support of the application, unless waived by the applicant.

6. Notwithstanding paragraph 4, an eligible Safety member who has qualified for benefits under sections 4850.3 and 4850.4 of the Labor Code may submit an incomplete disability packet under the County of Ventura's Advanced Disability Pension Payment (ADPP) program. The disability application shall be deemed filed but placed in suspended status until the member supplies a medical report stating that his/her claimed incapacity is permanent. Upon VCERA's receipt of this required medical report, the member's application status shall become active.
7. Any applicant has the right to withdraw a previously submitted disability application without prejudice for any reason prior to the Board of Retirement's determination. The notice of application withdrawal must be provided to VCERA in writing. VCERA will confirm the withdrawal action in writing to the applicant within 5 business days of receipt of the applicant's notice.
8. Any applicant has the right to amend, in writing, a filed disability application at any time prior to the Board of Retirement's determination on the application or the beginning of the evidentiary hearing, whichever occurs first. Written amendments alleging permanent incapacity as a result of an injury or disease not previously set forth in the original application must be accompanied by a recent medical report supporting the claim for permanent incapacity. (In this context, "recent" is defined as within the last 6 months).
9. Upon notice of acceptance of a completed disability packet, VCERA shall within 10 business days provide to the employer a copy of the disability application and all supporting medical documentation contained therein.
10. To expedite review of clear-cut disability cases, VCERA may, at the discretion of the Retirement Administrator, place a filed disability application on a "fast track" to Board consideration. Disability cases eligible for the fast-track process include those involving justifying circumstances, such as undisputed permanent incapacity due to catastrophic injury or terminal illness, as demonstrated by a medical report issued by a physician who specializes in, or is qualified to opine on, the area of injury or illness claimed by the applicant. Once an application is accepted for the fast-track process, VCERA will submit to the employer a copy of the filed disability application, supporting medical documentation, relevant investigatory documents and the recommendation to the Board of Retirement to grant the application. In the recommendation, VCERA would base its finding of permanent incapacity on the aforementioned documentation exclusively (i.e., record review). The employer then would have 21 days to take a position on the case before the matter was placed on the next available Board agenda.

11. Pursuant to the authority vested in the Board of Retirement to oversee the investigation of disability applications in accordance with its duties of care and loyalty,¹ VCERA shall, pursuant to the authority delegated by the Board, conduct investigations of the disability applications of its members. VCERA's disability investigations are separate, distinct, and independent of any disability investigation conducted by an employer, even if the case involves the same member.
12. Notwithstanding paragraph 10, VCERA shall conduct a thorough disability investigation intended to collect evidence sufficient for staff to make a reasonable recommendation to the Board of Retirement relative to each disability application. To this end, VCERA will attempt to obtain a variety of employment, personnel, medical and other records deemed relevant to its investigation, as permitted by the member's executed medical authorization and release form. Collection tools may include, but are not limited to, forms, interviews, questionnaires, medical record acquisition services, consulting medical examinations and sub-rosa investigations. VCERA also may issue subpoenas pursuant to Government Code section 31535 and at the request of an applicant. In addition to investigating medical issues, VCERA shall explore whether the member's employer is able to provide reasonable accommodation relative to his/her work restrictions.
13. As part of VCERA's investigation, members may be required to attend one or more medical examinations with an independent medical examiner or other contracting physician selected by VCERA. The cost of such examinations shall be paid by VCERA, unless the physician, pursuant to his/her policy, charges the member for a late cancellation or failure to attend a scheduled appointment. VCERA shall give at least 10 days' written notice of any medical examination. Repeated failure of a member to attend a duly noticed medical examination(s) may result in a staff recommendation to dismiss the noncompliant member's disability application without prejudice.
14. Upon receipt of relevant medical and other records from the applicant, the member and any other sources, VCERA will compile, index and organize chronologically the accumulated relevant documentation ("administrative file") and review it for completeness. If, in the judgment of VCERA, the evidence contained in the administrative file is contradictory, unclear or otherwise deficient, such that staff is unable to make a reasonable recommendation to the Board of Retirement relative to the disability application, VCERA may notify the applicant of the evidentiary deficiency and provide an additional 30 days to submit additional evidence in support of the disability application. VCERA retains the right to close the administrative file and to refuse any additional documentation submitted by the applicant after the 30-day deadline. VCERA retains the right to require the member to attend an independent medical examination (IME) or psychiatric examination at any time, notwithstanding the 30-day deadline noted above.

¹ California Constitution, Article XVI, Section 17. See also Government Code sections 31723 and 31724.

15. Using the administrative file, VCERA shall, at the discretion of the Retirement Administrator, prepare a medical analysis and/or delegate the preparation of the medical analysis to a consulting medical advisor or the County Health Officer. If a consulting medical advisor or the County Health Officer is tasked with preparing a medical analysis, he/she will be authorized to review the closed administrative file in order to render an evidence-based opinion. The preparer of the medical analysis will have 30 days after the assignment to complete the report and submit it to VCERA for inclusion in the administrative file. A one-time extension may be granted to the preparer of the medical analysis at the discretion of the Retirement Administrator. If the preparer of the analysis is a consulting medical advisor or the County Health Officer, he/she will be invited to attend the Board meeting at which the analysis will be considered.
16. The medical analysis shall evaluate the totality of the evidence; assess whether it meets the criteria set forth in Government Code sections 31723, 31724 and 31725 relative to permanent incapacity and, if applicable, service connection; summarize the member's relevant medical history; and include a recommendation to grant or deny the disability application.
17. VCERA shall create and maintain a shared disability log with Ventura County Risk Management which will list all active disability cases involving County employees and will include their respective case statuses and, if available, the tentative dates on which the Board of Retirement will consider the cases. VCERA intends the shared disability log to serve only as a planning and scheduling tool for Ventura County Risk Management.
18. Using the administrative file and the medical analysis supplied by VCERA and/or a consulting medical advisor, VCERA shall draft a Preliminary Recommendation, which will address the following subjects: the disability claims, any relevant threshold issues, pertinent medical evidence, permanent incapacity, work-related accommodations, service connection or nonservice connection, effective date of disability retirement, member eligibility for disability retirement, whether the member is capable of performing other duties, if he/she applied for disability reassignment, and, if applicable, a recommendation regarding reevaluation of a disabled member under the age of 55 pursuant to Government Code section 31729. The Preliminary Recommendation shall conclude with a statement on whether staff recommends granting or denying the disability application.
19. VCERA shall email the Preliminary Recommendation to the employer for review. The employer shall have 21 days from the date of the email to review the Preliminary Recommendation and to submit to VCERA any objections to the Preliminary Recommendation along with the basis for the objections.

20. At the end of the 21-day period of comment, if the employer has not submitted an objection to a Preliminary Recommendation to grant a disability retirement application, VCERA shall prepare a Final Recommendation for the Board of Retirement and place the medical analysis, the Final Recommendation and relevant evidence on the next practical Disability Board Meeting agenda, subject to applicable public notice requirements.
21. At the end of the 21-day period of comment, if the employer has submitted an objection to a Preliminary Recommendation to grant a disability retirement application, VCERA shall consider the employer's comments relative to staff's preliminary conclusions and, at the discretion of the Retirement Administrator, either revise its Preliminary Recommendation or produce a Final Recommendation for the Board of Retirement. If VCERA reconsiders its position, notice will be sent to the objecting employer within 5 business days of receipt of the objection. If VCERA determines the objections warrant revision of its Preliminary Recommendation, VCERA will email a revised Preliminary Recommendation to the employer, as described in paragraph 19. If VCERA elects not to reconsider its Preliminary Recommendation to grant, the Preliminary Recommendation shall become the Final Recommendation. VCERA will place the medical analysis, the Final Recommendation and relevant evidence on the next practical Disability Board Meeting agenda, subject to applicable public notice requirements.
22. Using its Preliminary Recommendation, VCERA shall draft a Final Recommendation that will include the contents of the Preliminary Recommendation in addition to a summary of any previous Board action(s) and responses to employer objections, if applicable. The Final Recommendation shall conclude with a statement on whether staff recommends granting or denying the disability application. If the Final Recommendation is to grant a disability retirement application, VCERA shall, no less than 7 days prior to the Board meeting, notify all parties in writing of the Final Recommendation and the date on which the Board will consider the disability application. A copy of the medical analysis and Final Recommendation shall accompany the notice to the applicant.
23. The Board of Retirement will render its decision on the disability application by a majority vote of the voting members of the Board present. The Board may decide to: (a) grant or deny the disability application, in whole or in part; (b) refer the matter to an evidentiary hearing; (c) remand the application to staff for further investigation; or (d) take any other action deemed appropriate by the Board. VCERA will notify all parties of the Board's decision and its effective date within 5 business days of the Board meeting.
24. If the employer desires a postponement of the Board of Retirement's consideration of a disability application, the employer must directly present its request to the Board or an authorized Board committee at the meeting at which the disability application will be considered. Delays for good cause should be limited occurrences because of the employer's designated 21-day period of comment. An employer's written request for delayed consideration shall be provided to VCERA no less than 4 days prior to the aforementioned Board meeting.

25. If VCERA recommends denying the disability application, the matter will not be placed on a Board agenda but rather will be directed to an evidentiary hearing, unless the member, within 30 days of the notice of Final Recommendation, elects to withdraw his/her application or to sign a Waiver of Hearing stating that he/she elects not to exercise his/her right to an evidentiary hearing, thereby failing to exhaust all administrative remedies. The member's election shall be final. If the member elects to withdraw his/her application, the application shall be treated as if it had never been filed. If the member executes a Waiver of Hearing within the 30 days, the matter shall be placed on the next available Board agenda with a staff recommendation to deny the disability application.
26. If VCERA determines that the applicant has met the burden of proof to receive a nonservice-connected disability retirement, but has not met the burden of proof to receive a service-connected disability retirement, VCERA will notify the applicant that it intends to recommend to the Board that a nonservice-connected disability retirement be granted and refer the application for service-connected disability retirement to an evidentiary hearing. If the applicant objects in writing to such a recommendation, VCERA will refer the entire matter to an evidentiary hearing.
27. If the member contests any part of a Board decision based upon VCERA's Final Recommendation, the member may request an evidentiary hearing on the contested matter. The member's written request for hearing must be received by VCERA within 30 days of the notice of the Board's decision.
28. If the disability application indicated the member is interested in pursuing disability reassignment, and the Board finds that the member is permanently incapacitated, it also will make a determination as to whether the member is capable of performing other duties, based on the recommendation of VCERA after consultation with the employer. Following the Board's decision, VCERA shall give notice to the employer of the Board's determination, and the parties may proceed with their disability reassignment obligations in accordance with Government Code sections 31725.5 or 31725.65, as applicable. In the event the employer and applicant have agreed upon a suitable reassignment prior to the Board hearing on the application, the Board may approve the disability reassignment at the time the application is heard.
29. If a disability case is directed to an evidentiary hearing, the parties may, within 30 days of the referral to hearing notice, elect to subject the case to an expedited Administrative Record Review, consisting of the administrative file compiled by VCERA instead of a full evidentiary hearing involving witnesses, upon written consent of both the member and the Board's designated attorney. In an Administrative Record Review, the parties will supply the assigned hearing officer with documentation in support of their respective arguments within 30 days of the assignment of a hearing officer, who will issue within 90 days of the assignment a Recommended Findings of Fact, Conclusions of Law and Decision based on review of the submitted documentation only. By agreeing to an Administrative Record Review, the parties waive their rights to thereafter pursue a full evidentiary

hearing, regardless of the hearing officer's recommendation to the Board. The intent of an Administrative Record Review is to reach a determination on a contested disability matter with greater efficiency and at lower cost than a full evidentiary hearing.

30. An applicant has the right to withdraw a disability application without prejudice prior to a formal determination by the Board of Retirement. However, once a hearing officer has been assigned for an evidentiary hearing, an applicant may only withdraw the disability application with prejudice, unless the Board or a hearing officer finds good cause to dismiss the application without prejudice.
31. The rules governing a full evidentiary hearing are set forth in Sections 4-8 of VCERA's Disability Hearing Procedures.
32. The determination options available to the Board of Retirement after the conclusion of an evidentiary hearing are set forth in Sections 9-11 of VCERA's Disability Hearing Procedures.
33. An applicant's right to judicial review of the Board's decision to deny a disability application is set forth in Section 13 of VCERA's Disability Hearing Procedures.
34. Regardless of whether a statement regarding reexamination was made part of the Board's decision to grant an application, the Board may exercise its right to authorize a reexamination of a disabled member pursuant to Government Code section 31729. Upon completion of the reexamination, VCERA shall report to the Board its findings and recommendations, which may include cessation of benefits pursuant to Government Code sections 31730 and 31731.
35. Failure of a member or applicant to comply with these policies and procedures, absent good cause, may be treated as non-cooperation and may result in dismissal of the disability application without prejudice. Failure to comply includes, but is not limited to, failure to attend medical examinations, failure to submit documents requested by VCERA in a timely manner, failure to respond to VCERA's communications, failure to cooperate in the formal hearing process, failure to answer relevant questions that are not protected by a recognized legal privilege, failure to follow any order of the Board of Retirement or a hearing officer, and/or failure to comply with the requirements set forth in these procedures.

VCERA Disability Process (New Model)

Applicant files disability application with evidence of permanent incapacity.

VCERA verifies app is complete.
If not, reject it and notify applicant.

Applicant has 120 days to supply additional medical documentation.

ADPP app (no permanency) deemed filed and placed in suspense.

VCERA determines if "fast track" applies due to obvious permanency and SCD/NSCD.

If yes ...

If no ...

VCERA sends app and docs to RM/employer.

VCERA date-orders records, reviews for completeness.

VCERA and/or medical advisor conducts medical-legal analysis and returns report within 30 days.

VCERA maintains and shares log with RM: case statuses, board dates, etc.

VCERA drafts and emails preliminary recommendation to RM.

Board can decide to:

- Adopt hearing recommendation.
- Request hearing testimony.
- Refer back to hearing officer.
- Hear matter at future meeting.

Department returns forms within 30 days.

Acquisition service returns medical docs within 60 days.

IME returns report within 30 days.

VCERA interviews applicant and/or others.

VCERA collects docs, conducts investigation:

- Sends Statement of Facts to department.
- Orders records from Team Legal.
- Orders IME.

RM has until Board meeting to take position.

VCERA finalizes recommendation to Board.

If grant ...

If deny ...

Board adopts/rejects staff's recommendation and/or RM's request to delay.

Applicant has 30 days to waive hearing.

New evidence could result in review of medical-legal analysis.

RM has 21 days to send objection with justification to VCERA.

Hearing officer hears case:

- "Expedited" (document review).
- Normal trial.

If denied, applicant can file Writ.

VCERA

Service Provider

Employer

Board

Revised June 2020

Risk Management Questions and Comments from 6/25/2020 Meeting with VCERA

1. Because the Disability Hearing Procedures (DHPs) are linked to VCERA's bylaws, Chuck asked if VCERA intended to take its New Model Policies and Procedures document to the Board of Supervisors for approval.

VCERA Response: VCERA's new-model policies and procedures were drafted as an internal, guidance document to govern VCERA's internal, independent investigation and is not intended to conflict with or replace the DHPs.

2. Chuck suggested that the document make explicit that the County is a "party" in VCERA's new disability model. This would ensure that the employer has standing to challenge VCERA's position and participate in the future litigation of cases.

VCERA Response: Section 2.b of the DHPs identifies the County as a party. The new-model document is not intended to expand or contract the County's current rights.

3. Chuck requested that the employer be identified on an applicant's release form to provide the employer access to all the administrative records and VCERA's investigative documents, such as IME reports.

VCERA Response: Section 3.a.2 of the DHPs provides that the Application for Disability Retirement include a "*Signed Authorization to Obtain and Release Records and Information.*" Though the authorization form that VCERA has used in the past applies to VCERA "*or its designated agent,*" this provision does not require that VCERA designate the employer as that agent. Further, Section 3.d of the DHPs requires that VCERA send to the employer a copy of the application and supporting documentation, and VCERA will continue to do so. However, because the new processing model implements the Board of Retirement's direction to begin internal, independent investigations and evaluations, VCERA will no longer be designating Risk Management as its investigatory agent. VCERA has already added a redisclosure provision to its *Authorization to Obtain and Release Records and Information*, which, when signed by disability applicants, will allow VCERA to provide to Risk Management any additional documents obtained pursuant to the *Authorization* that support VCERA's recommended action to the Board. The redisclosure provision states: "*This may include disclosure of my disability application and supporting medical documentation to my employer with the purpose of conducting its own investigation of my disability claim(s).*" This permission does not include disclosure of any products of VCERA's investigation that are not used to support VCERA's recommendation to the Board (e.g., medical reports that not are deemed relevant or substantial evidence, interview notes or departmental comments).

4. Chuck asked if the employer would be able to participate in discovery prior to litigation, to include conducting its own IMEs and attending VCERA's depositions.

VCERA Response: The DHPs do not confer on the employer any discovery rights, except as specifically delegated or authorized by the Board. The CERL confers to the Retirement Board the exclusive power to issue subpoenas in administrative matters and to require disability applicants to undergo medical exams. Neither the CERL nor the DHPs confer these rights on the employer. However, nothing will alter the County's right to continue its discovery through the Workers' Compensation case. Under the new model, VCERA will be conducting an independent investigation of the application and will retain the sole authority to request IMEs and conduct discovery. The DHPs do not give the employer the right to participate in VCERA's pre-hearing investigation and discovery. However, Section 17 of the DHPs does authorize the Board to grant a request by an employer for the applicant to submit to an additional medical examination, upon a showing of good cause. Section 2.b of the DHPs define the term "party" to include the County and districts. In the event the employer wishes to contest an application, the employer becomes a party to the evidentiary hearing and its rights are set forth in Sections 4 through 17 of the DHPs.

5. Chuck said that 21 days to review VCERA's preliminary recommendation may not be sufficient in some cases, and he asked if Risk Management could request a delay in the process from VCERA upon a showing of good cause.

VCERA Response: Pursuant to paragraph 24 of the new-model document, Risk Management must directly request that the Board delay its consideration of a case when it is being considered at a Board meeting. To help expedite the application process under the new model, VCERA staff will no longer consider requests for delay from Risk Management. Any case concerns should be presented to VCERA staff within the designated 21-day period.

6. Chuck expressed concern as to the amount of time Risk Management would have to issue a written request for delayed consideration of a case at a board meeting, per paragraphs 22 and 24 of VCERA's new-model document. He noted that the window could potentially be as short as one day.

VCERA Response: Paragraph 22 states, *"If the Final Recommendation is to grant a disability retirement application, VCERA shall, no less than 5 days prior to the Board meeting, notify all parties in writing of the Final Recommendation and the date on which the Board will consider the disability application."* Paragraph 24 requires the employer to provide at least a 4-day advance notice if it will ask the Board to delay consideration of VCERA's recommendation to grant. So, yes, this timing could indeed leave Risk Management with only one day to submit a written request for delay. To address this potential scenario, VCERA will revise paragraph 22 to read, *"no less than 7 days prior to the Board meeting."* If timing permits, VCERA will provide even earlier advance notice of its recommendations to grant.

7. Chuck asked if the employer could challenge an application, a position which might conflict with VCERA's recommendation. He requested a mechanism by which the employer could request an evidentiary hearing.

VCERA Response: In its response to VCERA's Preliminary Recommendation, Risk Management may present its arguments on a particular disability case, even if its "challenge" position conflicts with VCERA staff's recommendation. Section 4 of the DHPs currently requires VCERA to set an evidentiary hearing if the employer contests the disability retirement application. Until the DHPs are revised, the County can invoke its right under the DHPs to have the matter set for an evidentiary hearing. At such hearing, VCERA will be a party, taking a position consistent with its recommendation to the Board. As a primary goal of the new model is to reduce delays, VCERA will seek to set evidentiary hearings as early as possible after providing the Notice of Hearing under Section 5 of the DHPs, and will strictly enforce the "good cause" requirement for any continuance requests under Section 6 of the DHPs.

8. Chuck wanted to ensure that the employer maintains a "seat at the table" at evidentiary hearings (i.e., be able to participate).

VCERA Response: Section 2.b of the DHPs defines the term "party" to include the County and districts. In the event the employer contests an application, the employer becomes a party to the evidentiary hearing and its rights are set forth in Sections 4 through 17 of the DHPs.

9. Chuck asked how, following the employer's 21-day comment period, Risk Management's response to VCERA's preliminary recommendation was to be reflected in VCERA's final recommendation to the Board. He suggested that Risk Management have the ability to present a position paper to the Board.

VCERA Response: VCERA will summarize Risk Management's comments and give corresponding responses in its *Final Recommendation*, pursuant to paragraph 22 of the new-model document. Further, Risk Management may provide full comments in a statement of position or other document, which VCERA will include with other attachments given to the Board, pursuant to Section 3.f of the DHPs.

10. Chuck expressed Risk Management's preference to address the Board (i.e., "have a seat at the table") when the case is heard, as opposed to during public comment.

VCERA Response: In cases where the employer does not contest the application, the DHPs allow the employer, as a party, to receive notice of the Board hearing and present an analysis and statement of position. In the event the employer contests the application and is defined as a party for purposes of a Board hearing in a "no contest" case and evidentiary hearing in a "contest" case, the request to participate as a party at the Board hearing to consider VCERA's recommendation will be accommodated.

11. Chuck noted that paragraph 28 of the new-model document characterizes disability reassignment almost as an afterthought, despite that pursuing reassignment occurs very

early in the disability application process. He requested that the language be revised to reflect this.

VCERA Response: Yes, VCERA will insert language about the disability reassignment process occurring early in the disability application process for cases in which the applicant has indicated willingness to consider a disability reassignment.

12. Chuck noted that paragraph 34 of the new-model document does not mention the condition of an employer's willingness to rehire a previously granted disability applicant who is reexamined pursuant to Government Code section 31729 and found to no longer be permanently incapacitated. He requested that condition be included.

VCERA Response: Paragraph 34 simply confirms VCERA's authority and obligations under Government Code sections 31729 through 31731 to require a reexamination, report to the Board, and implement consequences as authorized by law. Because these sections do not address the employer's legal rights or obligations, VCERA does not see it as appropriate to address the employer's rights and obligations in this internal process document.

13. Chuck's boss asked if VCERA's new model could be instituted for a finite period of time (1-2 years), similar to a trial period, after which the parties could reassess its effectiveness at achieving the original objectives (i.e., by comparing old and new statistics).

VCERA Response: The Board directed VCERA staff to implement the "Option 3" mode to *replace* the previous process in order to fulfill its fiduciary responsibilities, and not as a "trial" or experiment. Given that the Board's multiple fiduciary requirements relative to disability retirement will remain unchanged, the employer's recommendation that VCERA's new disability model be subject to a "trial period" after which it could be suspended would be imprudent. However, VCERA will track statistics to evaluate the efficiency of the process over time while continuing to welcome the County's suggestions for improvement.

14. Chuck cited an applicant's attorney who commented that it is harder to get a disability application through VCERA than LACERA because our system is more "particular." He attributed this longer process to the involvement of the employer, which he considered to be a positive approach (e.g., accommodation, retention, etc.).

VCERA Response: The County's active involvement in the current disability model does prolong the application process, as noted by the attorney. While this participation may serve the subjective needs of the County, particularly with respect to its historic preference to delay finalization of its position in the disability case until the Workers' Compensation case is settled, often this causes unnecessary delays for applicants. VCERA's new model seeks to bring applicants' cases to the Board for determination in a timely manner, thereby achieving process efficiency and objectivity.

15. Chuck noted that Risk Management has changed some things to address the fiduciary concerns of the Board (e.g., employer stating its position vs. making a recommendation).

VCERA Response: The change from “employer’s recommendation” to “employer’s position” was implemented at VCERA’s request to more accurately reflect the actual role of the employer, as well as to comply with Section 3.f of the DHPs. It did not address the Board’s fiduciary concerns. The current process creates fiduciary risk for the Board on multiple points, one of which is the statutory need for confidentiality of member records, an issue that the Board may wish to consider in the future.

16. Chuck asked if VCERA will share the new-model document with the other employers.

VCERA Response: Yes, VCERA will send the document to all other participating employers. The Superior Court, for example, has expressed its strong support for VCERA investigating its employees’ disability applications.

17. Catherine asked if VCERA would supply additional work restrictions emerging from VCERA’s investigations directly to Risk Management.

VCERA Response: Yes, VCERA will forward work restrictions from a qualified physician (e.g., an IME physician) to the employer to assist with its reasonable accommodation efforts. For County employees, VCERA will forward the information to Risk Management, or to the appropriate department head, at the County’s designation.

18. Chuck asked when VCERA wanted to implement its new process.

VCERA Response: VCERA intends to implement its new model immediately after the Board’s July 27, 2020 meeting.

19. Chuck asked what would happen to all the current disability applications after VCERA’s new model takes effect.

VCERA Response: VCERA will recommend to the Board that all disability applications filed prior to the Board’s approval of the new internal investigative process will continue to be processed under the old model, unless all parties consent to having the application processed under the new model.



EDELSTEIN GILBERT ROBSON & SMITH^{LLC}

Donald B. Gilbert Michael R. Robson Trent E. Smith Jason D. Ikerd^{Associate}

July 2, 2020

TO: State Association of County Retirement Systems

FROM: Mike Robson, Trent Smith, and Bridget McGowan, Edelstein Gilbert Robson & Smith, LLC

RE: **Legislative Update – July 2020**

This week, the Governor signed the budget agreement reached after negotiations with legislative leadership.

Prior to the final agreement, the Legislature adopted its own version of a budget last Monday to meet its constitutional deadline to do so by June 15. In adopting their “legislative budget,” the Legislature rejected the Governor’s proposed \$14 billion in painful trigger cuts to social safety net programs and K-12 schools, which would have been implemented on July 1. Instead the Legislature adopted far fewer cuts, many of which would have been triggered on October 1, and relied more heavily on the state’s reserves, payment deferrals, and internal borrowing.

For the first time in nine years, the Governor has had to give much more ground in the budget than legislative leadership. The “compromise” budget signed this week generally aligns with the Legislature’s proposal. The “cuts” in the compromise budget will now be implemented July 1 and stay in place unless triggered away if the state receives federal funding to backfill the budget by October 15.

The compromise budget a big risk to the Governor and the state’s finances. In the short run, numerous constituencies of democrats will be happy with the preservation of social safety net programs. In the long run, very few of the budget solutions addressing the state’s \$54 billion deficit are durable and some may not last until the ink from the Governor’s signature is dry.

One solution in the compromise budget is an assumption that the state will receive an additional \$1 billion in revenue than previously projected. This assumption seems to be based more on hope rather than tax receipts. Meanwhile internal borrowing requires the Legislature to pay back the special funds they are raiding, creating obligations for future budget years. Similarly, the \$11 billion in deferrals to K-12 schools are not permanent cuts but must be paid back by the state over time. In the meantime, K-12 schools still won’t receive funding and will have to rely on reserves and loans as a stop gap, especially since the budget will prohibit them from laying off school staff.

Finally, relying on state reserves and hoping for federal funding are a big risk. Reserves can be used once. Drawing more down in 2020-2021 means less is available for 2021-2022. If the economy improves, that choice will work out. If the state and country are headed for a second wave of infections and shelter in place orders, California will be facing a similar budget shortfall next year, but with fewer reserves to stave off the most painful cuts. Similarly, even if federal funds materialize before October 15, there is no guarantee they will be available in the next budget year.

The bottom line is that the Governor and Legislature could be setting themselves up for tougher budgets in future years. This isn't unprecedented. During the Great Recession, Democratic leaders in the Legislature could not reach agreement on how to eliminate the state's structural deficit with then Governor Schwarzenegger and Republican minority leaders. Instead, the state adopted numerous budgets balanced on hopeful revenue projections, deferrals, internal borrowing, and budget gimmicks. The state's credit rating fell and a massive \$34.7 billion "wall of debt" grew. Governor Brown spent much of his second stint in the Governor's Office addressing California's structural budget deficit and paying down the "wall of debt." In the end, he had to rely on harsh cuts coupled with new taxes to do so.

It is possible that when the Legislature returns from its summer recess on July 13 that there will be a push for new taxes to help prop up the state's finances. That is a risky proposition for moderate Democrats in an election year, though. Even if taxes aren't put on the table, the Legislature and Governor are expected to revisit the budget after the July 15 tax filing deadline. They will likely have to address various shortcomings in the compromise budget at that time.

COVID-19 and the Budget

Unfortunately, recent weeks have seen record high numbers of new COVID-19 cases in California. With infections and hospitalization on the rise, the Governor is once again facing a difficult situation when it comes to reopening the economy.

A provision of the budget compromise described above may help the Governor with this problem. Under the new provision, the Governor's Department of Finance (DOF) will be empowered to withhold a county's share of \$2 billion of social safety net and COVID-19 relief funding if that county is not adhering to state and federal guidance and directives related to COVID-19. This includes the statewide order to wear masks and the guidance to businesses related to sanitation and social distancing.

The Governor continues to be savvy in his navigation of pandemic politics. On the one hand, he has issued guidance to counties and residents to follow in reopening while delegating decision-making based on that guidance to local public health officials. He has now added some teeth to that guidance by making funding contingent upon compliance. This choice gives the Governor the moral high ground to say he has encouraged Counties to do the right thing and even punished them for not doing so. If Counties ultimately choose to ignore state guidance, the Governor will be able to say that he punished that behavior.

We expect work on the budget to continue on-and-off in the coming months