

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

May 6, 2013

AGENDA

PLACE: Ventura County Employees' Retirement Association
Second Floor Boardroom
1190 South Victoria Avenue
Ventura, CA 93003

TIME: 9:00 a.m.

ITEM:

- | | | |
|------|--|-----------------|
| I. | <u>INTRODUCTION OF MEETING</u> | Master Page No. |
| II. | <u>APPROVAL OF AGENDA</u> | 1 - 4 |
| III. | <u>APPROVAL OF MINUTES</u> | 5 - 12 |
| | A. Business Meeting of April 15, 2013. | |
| IV. | <u>PENDING DISABILITY APPLICATION STATUS REPORT</u> | 13 - 60 |
| V. | <u>APPLICATIONS FOR DISABILITY RETIREMENT</u> | |
| | A. Application for Non-Service Connected Disability Retirement; Andrea C. De Vera, Case No. 12-023. | 61 - 141 |
| | 1. Application for Non-Service Connected Disability Retirement and Supporting Documentation. | |
| | 2. Hearing Notice. | |
| | B. Application for Non-Service, and Service Connected Disability Retirement; Steven P. Lengyel, Case No. 12-021. | 142 - 252 |
| | 1. Application for Non-Service, and Service Connected Disability Retirement and Supporting Documentation. | |
| | 2. Hearing Notice. | |

V. APPLICATIONS FOR DISABILITY RETIREMENT (continued)

- C. Application for Non-Service Connected Disability Retirement; Luz Martinez, Case No. 12-041. 253 - 329
1. Application for Non-Service Connected Disability Retirement and Supporting Documentation.
 2. Hearing Notice.
- D. Application for Non-Service, and Service Connected Disability Retirement; Michael Wheat, Case No. 11-017. 330 - 348
1. Petition for Reconsideration, Submitted by Steven R. Pingel, Attorney at Law, dated March 28, 2013.
 2. Respondent's Objection to the Petition for Reconsideration, Submitted by B. Derek Straatsma, Attorney at Law, dated March 29, 2013.
 3. Hearing Notice.
- E. Application for Service Connected Disability Retirement; Gregory Danko, Case No. 10-019. 349 - 448
1. Petition for Reconsideration, Submitted by Gregory Danko, March 11, 2013.
 2. Respondent's Objection to the Petition for Reconsideration, Submitted by Stephen D. Roberson, Attorney at Law, dated March 19, 2013.
 3. Applicant's Response to Respondent's Objection to the Petition for Reconsideration, Submitted by Gregory Danko, dated March 29, 2013.
 4. Respondent's Opposition to Applicant's Petition for Reconsideration, Submitted by Stephen D. Roberson, Attorney at Law, dated April 10, 2013.
 5. Hearing Notice.

VI. INVESTMENT INFORMATION

- A. Private Equity Fee Comparison – Hewitt EnnisKnupp. 449 - 459
 - 1. Fee Comparison.
- B. Bridgewater Allocation Update – Staff. 460
- C. Loomis Sayles Strategic Alpha Update – Staff. 461 - 476
 - 1. Side Letter.
- D. HarbourVest Allocation Update - Staff. 477 - 478
- E. Summer Due Diligence Planning – Staff. 479

VII. OLD BUSINESS

- A. Disability Process Review and Educational Presentation. 480 - 562
 - 1. Updated Proposed Application Packet for Disability Retirement.
 - 2. Disability Retirement 101: Legal Standards Presentation (30 minutes).
 - 3. Disability Procedures Proposals
 - a. Independent Medical Examination (IME) Cover Letter Template.
 - b. Board Report Template.
- B. Board Policies Update. 563 - 590
 - 1. Board of Retirement Charter.
 - 2. Chair Charter.
 - 3. Vice Chair Charter.
 - 4. Retirement Administrator Charter.
 - 5. Board Policy Development Process.
 - 6. Service Provider Selection Policy.
 - 7. Monitoring and Reporting Policy.

VIII. NEW BUSINESS

A. Quarterly PAS (VCERIS) Report. 591 - 600

B. Authorization to Attend Investment Trends Summit 601 - 610

IX. PUBLIC COMMENT

X. BOARD MEMBER COMMENT

XI. ADJOURNMENT

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

BUSINESS MEETING

April 15, 2013

MINUTES

DIRECTORS William W. Wilson, Chair, Public Member
PRESENT: Tracy Towner, Vice Chair, Safety Employee Member
Steven Hintz, Treasurer-Tax Collector
Peter C. Foy, Public Member
Albert G. Harris, Public Member
Joseph Henderson, Public Member
Deanna McCormick, General Employee Member
Tom Johnston, General Employee Member
Arthur E. Goulet, Retiree Member
Chris Johnston, Alternate Employee Member
Will Hoag, Alternate Retiree Member

DIRECTORS None.
ABSENT:

STAFF Donald C. Kendig, Retirement Administrator
PRESENT: Henry Solis, Chief Financial Officer
Lori Nemiroff, Assistant County Counsel
Glenda Jackson, Program Assistant

PLACE: Ventura County Employees' Retirement Association
Second Floor Boardroom
1190 South Victoria Avenue
Ventura, CA 93003

TIME: 9:00 a.m.

ITEM:

I. INTRODUCTION OF MEETING

Chairman Wilson called the Business Meeting of April 15, 2013, to order at 9:00 a.m.

II. APPROVAL OF AGENDA

Staff requested the Agenda be amended to include updated Minutes pages (Master Pages 18 and 19), the addition of a letter from the County Executive Office to item VII.B. Pensionable Compensation, the addition of a letter from staff to item VII.A Adams Street Partners and the addition of site visit reports from Hewitt Ennisknupp to item VIII.E. Due Diligence Site Visits.

Mr. Goulet requested item VII.A. Old Business Adams Street Partners be moved before item VI.A. Investment Information.

Mr. Henderson requested item VII.B. Old Business Pensionable Compensation be moved before item VI.A. Investment Information.

MOTION: Mr. Goulet moved, seconded by Mr. Harris, to approve the Agenda as amended.

Motion passed unanimously. Judge Hintz absent for this item.

III. CLOSED SESSION

Closed Session - It is the intention of the Board of Retirement and Legal Counsel to Meet in Closed Session to Discuss Those Items Listed on Attachment A to This Agenda.

No reportable action taken.

Judge Hintz arrived at 9:10 a.m.

IV. APPROVAL OF MINUTES

A. Disability Meeting of April 1, 2013.

MOTION: Mr. Henderson moved, seconded by Mr. T. Johnston, to approve the minutes of April 1, 2013 as modified for the changes presented in the updated Master Page 18, Item D. Motion changing the word "granted" to "grant" and Master Page 19, Item C. add "was present" after the name Debra L. Wolfe and narrative changes for Item B. that were amended into the Agenda.

Motion passed unanimously.

V. CONSENT AGENDA

THE FOLLOWING ITEMS ARE ANTICIPATED TO BE ROUTINE AND NON-CONTROVERSIAL. CONSENT ITEMS WILL BE APPROVED WITH ONE MOTION IF NO MEMBER OF THE BOARD WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND TRANSFERRED TO THAT SECTION OF THE AGENDA DEEMED APPROPRIATE BY THE CHAIR.

- A. Regular and Deferred Retirements and Survivors Continuances for the Month of March 2013.
- B. Report of Checks Disbursed in March 2013.
- C. Asset Allocation as of March 31, 2013.
- D. Statement of Plan Net Assets, Statement of Changes in Plan Net Assets, and Investments & Cash Equivalents for the Month Ended January 31, 2013.
- E. Budget Summary – Year to Date as of March 2013, Fiscal-Year 2012-13.
- F. Quarterly Administrator Report for January 1, 2013 to March 31, 2013.

MOTION: Mr. Goulet moved, seconded by Mr. Henderson, to approve the Consent Agenda.

Motion passed unanimously.

END OF CONSENT AGENDA

VII. OLD BUSINESS

- A. Adams Street Partners.
 - 1. Letter from Trustee Goulet.
 - 2. Letter from Staff.

(The following items were received by the Board on March 18, 2013 and are provided again for reference as needed.)

- a. March 18, 2013 Presentation Slides & HEK Report – Adams Street Partners.
- b. March 18, 2013 Presentation Slides & HEK Report – The Common Fund.
- c. March 18, 2013 Presentation Slides & HEK Report – Portfolio Advisors.

VII. OLD BUSINESS (continued)

A. Adams Street Partners.

Following discussion by the Board, staff and Hewitt EnnisKnupp, the following motion was made:

MOTION: Mr. Towner moved, seconded by Judge Hintz, to direct Hewitt EnnisKnupp to provide a side-by-side comparison of the fees for the Board Meeting of May 6, 2013.

Motion passed unanimously.

B. Pensionable Compensation.

Received public comment from Matt Carroll, County of Ventura, County Executive Office.

Following discussion by the Board, Board Counsel and staff, the following motion was made:

MOTION: Mr. Towner moved, seconded by Mr. T. Johnston, to receive and file the letter from the County Executive Office.

Motion failed on a 5/4 vote with Mr. Foy, Mr. Harris, Mr. Henderson, Judge Hintz and Mr. Wilson voting no.

Following discussion by the Board, Board Counsel and staff, the following motion was made:

MOTION: Judge Hintz moved, seconded by Mr. Henderson, to continue the item until the Business meeting of May 20, 2013. Staff was directed to title the item "Pensionable Compensation: Review of the County of Ventura CEO Letter and Review of What Consists of Pensionable Compensation."

Motion passed with Mr. Harris, Mr. T. Johnston and Mr. Towner voting no.

Mr. Henderson left the meeting at 10:17 a.m.

VI. INVESTMENT INFORMATION

- A. Annual Investment Presentation, Sprucegrove – Mark Shevitz. (30 minutes).

Mark Shevitz was present on behalf of Sprucegrove to present their annual investment presentation.

No Action Taken.

- B. GTAA/Risk Parity Search Report. Russ Charvonia, ChFC, CFP®, Esq. and Kevin Chen.

No Action taken.

- C. GTAA Finalist Presentation, GMO – John Allen, Ben Inker. (30 minutes).

John Allen and Ben Inker were present on behalf of GMO for a GTAA finals presentation.

No Action Taken.

- D. GTAA Finalist Presentation, PIMCO – David Blair, Rob Arnott, Ashish Tiwari. (30 minutes).

David Blair, Rob Arnott, and Ashish Tiwari were present on behalf of PIMCO for a GTAA finals presentation.

- G. GTAA and Risk Parity Funding Decision – Hewitt EnnisKnupp, Russ Charvonia, ChFC, CFP®, Esq. and Kevin Chen.

Following discussion by the Board, staff and Hewitt EnnisKnupp, the following motion was made:

MOTION: Mr. Harris moved, seconded by Mr. T. Johnston, to select PIMCO.

Motion passed. Mr. Henderson absent for this item.

(No allocation amount provided.)

Mr. Goulet left the meeting at 11:25 a.m.

- E. Risk Parity Finalist Presentation, Bridgewater – Joel Whidden. (30 minutes).

Joel Whidden was present on behalf of Bridgewater for a Risk Parity finals presentation.

No Action Taken.

VI. INVESTMENT INFORMATION (continued)

- F. Risk Parity Finalist Presentation, BlackRock – Ked Hogan, Vincent de Martel, Tony Freitas. (30 minutes).

Ked Hogan, Vincent de Martel, and Tony Freitas were present for a Risk Parity finals presentation.

No Action Taken.

- G. GTAA and Risk Parity Funding Decision – Hewitt EnnisKnupp, Russ Charvonia, ChFC, CFP®, Esq. and Kevin Chen.

Following discussion by the Board, staff and Hewitt EnnisKnupp, the following motion was made:

MOTION: Judge Hintz moved, seconded by Mr. Foy, to allocate 100% of the 7% allocation to Bridgewater.

Motion passed. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting no.

- H. Hewitt EnnisKnupp, Russ Charvonia, ChFC, CFP, Esq. and Kevin Chen.

1. Monthly Manager Performance Report, March 2013.
2. Highlights and Research, April 2013.
 - a. New Manager Contracts Review Update.
 - b. Western Asset Management Update.
 - c. Prudential Update.
 - d. Securities Lending Market Update.
 - e. HEK Client Webcast and Blog.

MOTION: Mr. Harris moved, seconded by Mr. T. Johnston, to receive and file the Monthly Manager Performance Report, March 2013 and Highlights and Research, 2013.

Motion passed unanimously. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting.

VIII. NEW BUSINESS

- A. Manatt Public Pension Fund Fiduciary Forum – Written and Oral Reports.

1. Report from Trustee McCormick.

VIII. NEW BUSINESS (continued)

B. Principles of Pension Management Report – Written Report.

1. Report from Trustee McCormick.

MOTION: Judge Hintz moved, seconded by Mr. T. Johnston, to receive and file the Manatt Public Pension Fund Fiduciary Forum Report and Principles of Pension Management Report from Trustee McCormick.

Motion passed unanimously. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting.

C. Request to Attend the Brown Armstrong Client Update – Retirement Administrator and Accounting Officer.

1. Registration and Information Sheet.

MOTION: Judge Hintz moved, seconded by Mr. Harris, to approve the Request to Attend the Brown Armstrong Client Update.

Motion passed unanimously. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting.

D. Request to Attend the NAPPA 2013 Legal Education Conference – Board Counsel.

1. Conference Brochure.

MOTION: Mr. Harris moved, seconded by Mr. T. Johnston, to approve the Request to Attend the NAPPA 2013 Legal Education Conference.

Motion passed unanimously. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting.

E. Due Diligence Site Visits of State Street Global Advisors, Pantheon, and RREEF – Written and Oral Reports.

1. Report on State Street Global Advisors Site Visit – Henry Solis, CPA, CIA, CFO.

MOTION: Mr. T. Johnston moved, seconded by Mr. Hoag, to receive and file the Report on State Street Global Advisors Site Visit.

Motion passed unanimously. Mr. Goulet and Mr. Henderson absent for this item. Mr. Hoag voting.

IX. PUBLIC COMMENT

The Retirement Administrator announced he is in escrow for a property within a mile of the office.

X. BOARD COMMENT

Mr. Hoag announced that Retirement Administrator evaluation forms were distributed to Trustees to accommodate the merit increase that is coming and to provide more time to complete the evaluation forms.

XI. HONORARY RECOGNITION

F. Farewell Trustee Harris (Time Approximate: 1:30 p.m.)

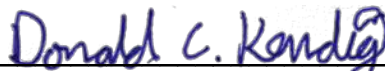
1. Plaque Text

Received public comment from Michael Powers, County Executive Officer, County of Ventura. The Chair presented a plaque to Mr. Harris. All present congratulated him.

XII. ADJOURNMENT

The meeting was adjourned at 1:33 p.m.

Respectfully submitted,



DONALD C. KENDIG, CPA, Retirement Administrator

Approved,

WILLIAM W. WILSON, Chairman

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

1190 South Victoria Avenue, Suite 200
Ventura, CA 93003-6572
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<http://www.ventura.org/vcera>

May 6, 2013

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

SUBJECT: PRIVATE EQUITY FEE COMPARISON

Dear Board Members:

At the Board meeting of April 15, 2013, your Board directed Hewitt Ennisknupp to come back to the next Board meeting with a Private Equity Fee Comparison of Adams Street Partners, The Common Fund, and Portfolio Advisors.

Kevin Chen, from Hewitt EnnisKnupp, will be available to discuss the attached presentation and answer any questions you might have about the fees or the search process.

I would also be happy to answer any questions you may have.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

Attachment



Ventura County Employees' Retirement Association

Management Fee Discussion

April 2013

Hewitt ennisknupp

An Aon Company

Adams Street Partners

Scenario 1

- Assumes \$75 million commitment to ASP 2013 Global Fund.
 - Allocates 90% to ASP 2013 US, ASP 2013 Developed Markets, and ASP 2013 Emerging Markets Funds.
 - Allocates 10% to AS 2013 Direct Fund.
- Assumes \$50 million credit for prior subscriptions, which serves to adjust the starting point of the fund of funds management fee calculation.

Scenario 2

- Assumes \$75 million commitment to ASP 2013 US, ASP 2013 Developed Markets, and ASP 2013 Emerging Markets Funds.
 - No allocation to AS 2013 Direct Fund.
- Assumes \$50 million credit for prior subscriptions, which serves to adjust the starting point of the fund of funds management fee calculation.

Commonfund

Scenario 1

- Assumes \$75 million commitment across 5 core strategy-specific funds.
 - Allocates \$20 million to Natural Resources Fund IX.
 - Allocates \$7 million to Emerging Markets Fund.
 - Allocates \$18 million to US Private Equity Fund IX.
 - Allocates \$15 million to International Private Equity Fund VIII.
 - Allocates \$15 million to Venture Capital Fund XI.
- Investors would need to sign 5 separate subscription documents.
- This scenario will require investors to allocate capital over period of 1 – 2 years as the funds will not be available over the same time period.

Scenario 2

- Assumes \$75 million commitment to a multi-strategy fund Commonfund Capital Partners VI.
 - Allocates across the same 5 core strategy-specific funds in Scenario 1.
- Provides investors with one subscription document.

Portfolio Advisors

Series I

- Assumes \$75 million commitment to PAPEF VIII.
 - Allocates across three core sectors including Diversified Buyout, Diversified Venture Capital, and Diversified Special Situations.
- Assumes straight management fee with no performance allocation charge (or carried interest).
- Each of the core sectors will have exposure of approximately 20% to secondary investments with no additional fee.

Series II

- Assumes \$75 million commitment to PAPEF VIII.
 - Allocates across three core sectors including Diversified Buyout, Diversified Venture Capital, and Diversified Special Situations.
- Assumes approximately 40% lower fixed management fee compared to Series I.
- Assumes a 5% performance allocation charge (or carried interest) on all investments.
- Each of the core sectors will have exposure of approximately 20% to secondary investments with no additional fee.

Management Fees - Investing Period

	Year 1	Year 2	Year 3	Year 4	Year 5
ASP - Scenario 1	\$ 436,050	\$ 1,206,922	\$ 2,600,315	\$ 4,802,000	\$ 8,044,876
ASP - Scenario 2	\$ 305,740	\$ 959,440	\$ 2,253,735	\$ 4,370,195	\$ 7,545,715
PA - Series I	\$ 524,943	\$ 1,274,659	\$ 2,544,163	\$ 4,642,516	\$ 7,714,790
PA - Series II	\$ 338,966	\$ 908,796	\$ 2,012,498	\$ 3,967,510	\$ 6,962,874
CF - Scenario 1	\$ 199,105	\$ 834,170	\$ 2,105,314	\$ 4,221,846	\$ 7,405,676
CF - Scenario 2	\$ 208,353	\$ 831,761	\$ 2,020,721	\$ 4,052,201	\$ 7,168,961

- The table above highlights the cumulative management fees charged during the investing period.

Management Fees - Managing Period

	Year 6	Year 7	Year 8	Year 9	Year 10
ASP - Scenario 1	\$ 11,915,207	\$ 16,184,273	\$ 20,350,990	\$ 23,946,137	\$ 26,560,771
ASP - Scenario 2	\$ 11,359,458	\$ 15,594,038	\$ 19,736,813	\$ 23,310,509	\$ 25,899,167
PA - Series I	\$ 11,430,477	\$ 15,570,422	\$ 19,668,223	\$ 23,242,724	\$ 25,799,584
PA - Series II	\$ 10,619,086	\$ 14,711,053	\$ 18,759,734	\$ 22,270,935	\$ 24,768,951
CF - Scenario 1	\$ 11,232,692	\$ 15,479,928	\$ 19,661,506	\$ 23,256,186	\$ 25,835,501
CF - Scenario 2	\$ 10,939,745	\$ 15,141,785	\$ 19,244,273	\$ 22,740,139	\$ 25,240,317

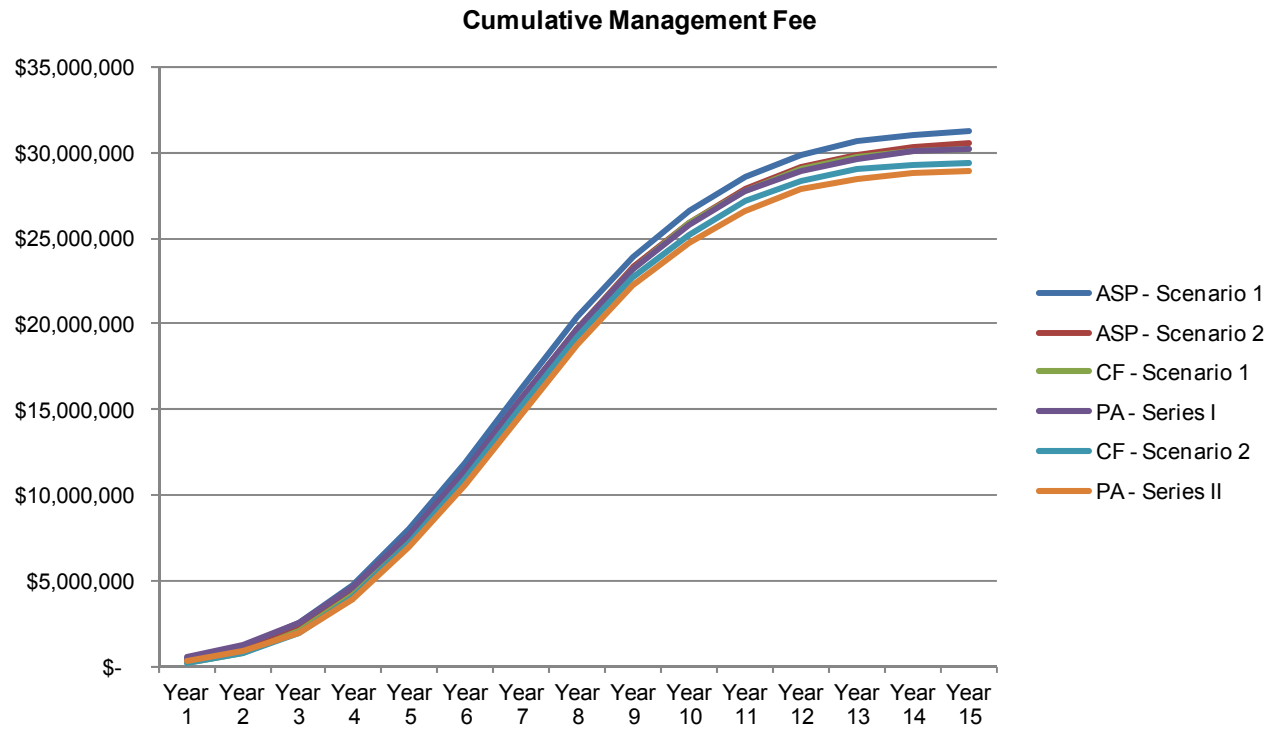
- The table above highlights the cumulative management fees charged during the managing period.

Management Fees - Harvesting Period

	Year 11	Year 12	Year 13	Year 14	Year 15
ASP - Scenario 1	\$28,555,201	\$29,855,447	\$30,628,647	\$31,042,625	\$31,273,424
ASP - Scenario 2	\$27,869,277	\$29,145,590	\$29,898,112	\$30,297,549	\$30,522,964
PA - Series I	\$27,723,273	\$28,949,931	\$29,660,546	\$30,034,891	\$30,161,326
PA - Series II	\$26,642,264	\$27,820,159	\$28,484,428	\$28,816,435	\$28,946,295
CF - Scenario 1	\$27,780,555	\$29,033,788	\$29,765,609	\$30,050,643	\$30,177,033
CF - Scenario 2	\$27,139,275	\$28,378,497	\$29,037,678	\$29,293,290	\$29,421,810

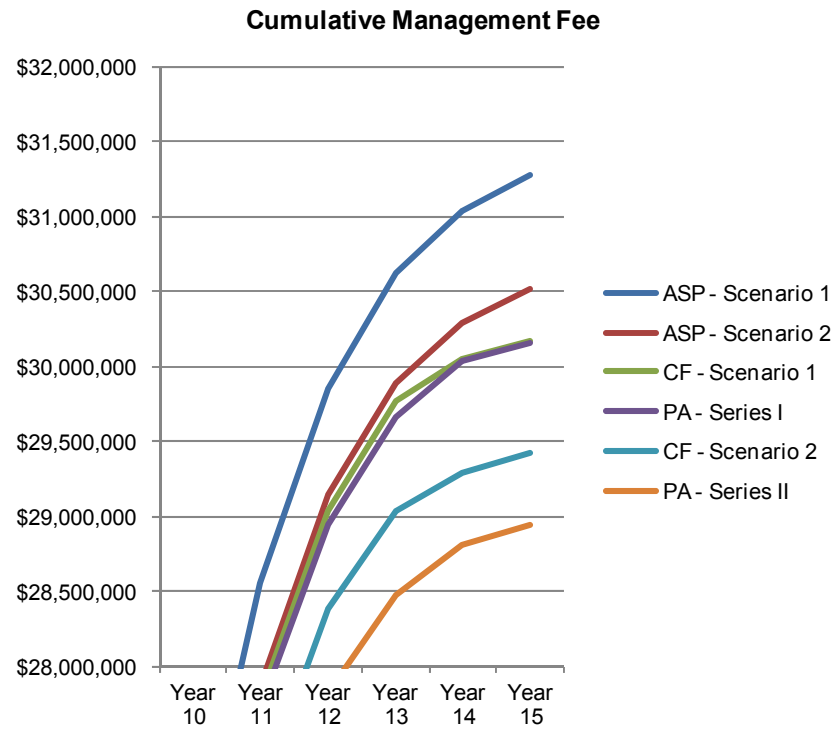
- The table above highlights the cumulative management fees charged during the harvesting period.

Cumulative Management Fees



- The exhibit above highlights the cumulative management fees charged in each scenario.

Cumulative Management Fees



- The exhibit above highlights the cumulative management fees charged in each scenario.

Assumptions

- HEK relied upon research data from The 2012 Preqin Private Equity Fund Terms Advisor to calculate cumulative management fees for the underlying funds.
- HEK assumed a 5 year investment period for each of the fund of funds highlighted in the analysis.
- Calculations for carried interest were not included. Managers return assumptions were not consistent which makes the carried interest calculations irrelevant. Carried interest is taken out of future returns while management fee is taken directly off of the top line of the commitment.

Years from Inception	Cumulative Investments to Underlying Funds
1	4%
2	16%
3	37%
4	59%
5	76%
6	83%
7	84%
8	85%
9	87%
10	89%
11	90%

Years from Inception	Base Management Fee of Underlying Funds
1	2.0%
2	2.0%
3	2.0%
4	2.0%
5	2.0%
6	1.2%
7	1.1%
8	0.8%
9	0.5%
10	0.2%
11	0.2%

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May 6, 2013

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

SUBJECT: BRIDGEWATER ALLOCATION UPDATE

Dear Board Members:

On April 15, 2013, the Board awarded \$250,000,000 to the Bridgewater All Weather Portfolio, LLC Fund.

Staff and Board Counsel have performed an initial review of the confidential offering memorandum and subscription agreement and recommend that your Board authorize the Retirement Administrator to engage Manatt, Phelps, and Philips LLC in the review of the confidential offering memorandum, subscription agreement, Form ADVs and other legal and contractual documents in relation to this investment.

This is also an opportunity to discuss any fee concerns. As communicated in HEK's GTAA/Risk Parity Search Report, Bridgewater Associates' LP fees will be 50bps on the first \$100,000,000; 35bps on \$100,000,001 - \$250,000,000; and 25bps on anything above \$250,000,000. Since the All Weather Portfolio LLC is a separate company that will be buying the assets and incurring brokerage commissions, transaction charges, the aforementioned management fees, administration, custody, organizational, offering, operating, trading company, trading vehicle, and other expenses, there is the concept of profit participation as an investor in the LLC, which is a return on investment less the above fees and expenses. For the sake of full disclosure, HEK provided the additional cost estimate, estimated to be approximately 7bps, which appears reasonable.

I would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

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May 6, 2013

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

SUBJECT: LOOMIS SAYLES STRATEGIC ALPHA UPDATE

Dear Board Members:

On February 25, 2013, the Board adopted the transfer of \$40 million from the Loomis Multi-Sector portfolio to the Loomis Sayles Strategic Alpha Trust.

Staff and Board Counsel reviewed what was required to consummate the transfer and have prepared the attached side letter for the Chair's execution upon Board approval. If approved, staff anticipates completing the funding/transfer before the end of May.

I would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

Attachment

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May 6, 2013

Board of Retirement
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SUBJECT: HARBOURVEST ALLOCATION UPDATE

Dear Board Members:

On March 18, 2013, the Board awarded \$75,000,000 to the HarbourVest Dover VIII Fund, and on April 1, 2103 authorized the Administrator to obtain the legal services of Reed Smith in the conduct of a legal review of the investment documents.

As of this writing, a draft side-letter is currently under review and negotiation. Outside counsel recommends preparing a public summary of the deal points for the Board in open session, without providing all the documents in order to preserve their confidentiality. Outside counsel would fully apprise the board of the key terms of the documents and side letter, and the Board would comply with the Brown Act and Public Records Act. The Board would then authorize the Chair to execute the documents, if satisfied with the information provided.

In addition, if the Board is interested, Outside counsel would be happy to provide an educational session on the pros, cons of this whole alternative investment process, from manager selection to documentation, from disclosure to confidentiality, and from public records to proprietary interests. The private equity and alternative asset managers in these esoteric spaces are very sensitive about disclosure and the risk to their proprietary investment practices and the returns garnered from them.

Lastly, staff and HEK just received word from HarbourVest on April 30, 2013 that the Dover VIII Fund is oversubscribed and is presently only able to allow VCERA to commit \$60M (of our \$75M request) for its May close, which is the most they are allowing any single investor and the greatest percentage of the requested amount they are honoring. They are doing this, in part, due to the relationship they have with HEK. Documents will need to be executed May 20, 2013 in order to meet the May close. There will be a June close, where there is a possibility that HarbourVest could accept the additional \$15M, and staff will alert you to the status of this at the June Disability or Business meeting.

HARBOURVEST ALLOCATION UPDATE

May 6, 2013

Page 2 of 2

The portfolio is currently valued at 1.4x our investment, and HEK recommends that the Board continue with the \$60M commitment, and if HarbourVest is not able to fulfill the remaining \$15M of the commitment, that it be allocated to Adams Street or whichever manager is selected by the Board.

I would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

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May 6, 2013

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

SUBJECT: SUMMER DUE DILIGENCE PLANNING

Dear Board Members:

Staff is preparing a due diligence trip to visit:

Clifton (Parametric) – Minneapolis, MN
SSgA (Securities Lending) – Boston, MA
Loomis Sayles – Boston, MA
GMO – Boston, MA

Originally, staff proposed visiting Clifton and SSgA Securities Lending operations between June and August of 2013, as part of a three year rotation, with Loomis Sayles and GMO in a subsequent year. Given the recent allocation shift by the Board into the Loomis Sayles Strategic Alpha Trust and Loomis' recent organizational changes, staff and the consultant recommend also visiting its offices while in Boston. Additionally, for efficiency, and if it can fit into a manageable trip, staff will also schedule GMO.

Staff is looking at an initial departure date of Monday, August 12, and return of Wednesday, August 14. If necessary, staff will schedule a Sunday departure in order to begin meetings promptly on Monday morning with a Wednesday or Thursday return flight.

Staff requests that Trustees who wish to participate in this due diligence trip notify the Board Chair, Mr. Wilson, so he may designate you at this meeting and staff will incorporate your reservations into the trip planning process.

I would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

1190 South Victoria Avenue, Suite 200
Ventura, CA 93003-6572
(805) 339-4250 • Fax: (805) 339-4269
<http://www.ventura.org/vcera>

May 6, 2013

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

SUBJECT: DISABILITY PROCESS REVIEW AND EDUCATIONAL PRESENTATION

Dear Board Members:

Background

On April 1, 2013, consultant Annette Paladino addressed your Board on the strengths and weaknesses of the current disability program, and formulated recommended changes to be reviewed by your Board by the end of the current fiscal year, or early next year. She presented a tutorial PowerPoint on the elements of a strong disability retirement program, and suggested a revised disability retirement application form for your review.

May 6-Status Report

Under this item, Miss Paladino will 1) re-submit the proposed disability application form with revisions, 2) continue trustee education with a PowerPoint on retirement law legal standards and 3) propose ways to work the retirement law standards into VCERA disability procedures.

1. Proposed Disability Retirement Application with revisions as directed by the Board at the April 1, 2013 Board meeting. The revised application is re-submitted for your approval and implementation. The revisions are as follows:

- An informational cover letter to applicants.
- Part A: Applicant Information
 - added space for applicant responses; separated industrial - non-industrial leave
 - added [] separated from service receiving no compensation or benefits
 - added "voluntary" statement to "position in lieu of disability retirement"
 - added §31455.5 to "under penalty of perjury" sworn statement; attached §31455.5
 - placed descriptions of statutes in parenthesis; attached §31725.8
 - added "after considering all the evidence including evidence on reasonable accommodation"
- Part B: Questionnaire
 - added reference to §31455.5
 - added "both" to question #3
 - adjusted response space for concurrent, past employers and self-employment
 - added §31455.5 reference to "under penalty of perjury" sworn statement

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DISABILITY PROCEDURES REVIEW AND RECOMMENDATIONS

May 6, 2013

Page 2 of 3

- Part C: Authorization for Release of Records
added "VCERA and any authorized agent thereof"
- Part D: Physician Statement
added "actually performing" to question #8
- Part E: Counseling Acknowledgement
added "but" to waiver

2. Disability Retirement 101: Disability Retirement Legal Standards

The attached presentation explains the development of the legal standards for "incapacity," "permanency" and "service-connection" under the retirement law, and describes how the standards should be incorporated in disability retirement procedures. Ms. Paladino will walk the Board through the details answering questions along the way. It is estimated to take 30 minutes.

3. Incorporating the Legal Standards into VCERA Disability Procedures

A. Independent Medical Examination Cover letter

The attached cover letter template is suggested for communicating clearly with physicians retained to examine a member for the purpose of determining entitlement to disability retirement.

The purpose of the letter is to advise the examining physician of the correct legal standards for "permanent incapacity" and "service-connection" under the retirement law to be applied when formulating answers to questions about an applicant's medical condition and functional capacity. The goal is to insure that the expressed medical opinions obtained in disability retirement investigations 1) are relevant and not tainted by the use of Workers' Compensation, Social Security Disability, or other legal standards, 2) meet the "Substantial Evidence Test" and 3) are fully considered by the Board and its agents in deciding disability retirement cases.

Recommended use of the proposed cover letter

- Limited use: Whenever the Board orders an examination of an applicant
- Ideal use: In each and every disability retirement case

Practical Issue: In the current structure where the investigation is performed on behalf of the employer rather than on behalf of the Retirement Board, implementation would require cooperation from Risk Management.

B. Proposed Board Template for Presenting Disability Cases

The purpose of the suggested template, attached, is to insure that all of the pertinent facts of a disability case are brought to the Board for consideration in the context of the specific retirement law standards, and in a consistent manner from one disability case to the next.

DISABILITY PROCEDURES REVIEW AND RECOMMENDATIONS

May 6, 2013

Page 3 of 3

The focus is on the objective medical evidence, the expressed medical opinion and whether the applicant has met his burden of proof as defined by the applicable legal standards.

Recommended use of the proposed Board format:

- Limited use: Whenever Risk Management recommends granting disability retirement
- Ideal use: Whenever Risk Management recommends granting or denying disability retirement

Conclusion

I would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

Attachments

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

DISABILITY RETIREMENT INFORMATION

TO OUR MEMBER:

Attached is the "Application for Disability Retirement Packet".

The following information may assist you in completing your application:

- You should file the application as soon as you are reasonably certain that your medical condition permanently prevents you from performing your usual duties.
- Please read the questions carefully and complete all parts of the application.
- If you do not understand a question, please call VCERA staff to discuss the question.
- Follow up with your treating doctor to make sure that the "Physician Statement" is promptly completed, and that you obtain a copy of your complete treating record.
- Submit to VCERA promptly all medical information supporting your application.

The following information may help you understand the disability retirement procedures:

- To be granted a service-connected disability retirement, you must prove by a preponderance of substantial evidence that:
 - you are substantially unable to perform the usual duties of your assignment, and those of alternative assignments in your job class even with reasonable accommodations, and
 - that your incapacity is permanent, and
 - your incapacity arose out of the course of your employment, and such employment contributed substantially to the incapacity.
- To be granted a nonservice-connected disability, you must prove by a preponderance of substantial evidence that:
 - you are substantially unable to perform the usual duties of your assignment, and those of alternative assignments in your job class even with reasonable accommodations, and
 - that your incapacity is permanent
- The time to resolve your entitlement to disability benefits will vary depending upon the complexities of your condition, the facts of your case and whether a hearing is required.
- Retention of legal counsel is not required, but you may choose to be represented at your own cost at any time in the application process. VCERA recommends that you retain counsel, if your application is referred for an evidentiary hearing

Your application will not be considered complete until all parts have been received by VCERA.

APPLICATION FOR DISABILITY RETIREMENT PACKET

- Enclosed: (1) The application for disability retirement benefits
(2) The VCERA Disability Hearing Procedures.

APPLICATION

The application consists of 5 parts:

- **Part A: Applicant Information**
- **Part B: Applicant Medical Questionnaire**
- **Part C: Authorization for Release of Records**
- **Part D: Physician Statement**
- **Part E: Counseling Acknowledgement and Waiver**

Directions for completing the application:

Parts A, B, C, E: The applicant must complete Parts A, B, C, E in black/blue ink – typed or hand printed. Please answer all questions. Add additional sheets, as necessary.

Part D: The physician who is treating applicant for the medical condition that is the subject of this application must complete Part D, and attach all applicant treating records. Any fee charged for completing Part D will be borne by the applicant.

PLEASE NOTE: Applicant must submit to VCERA, ***in duplicate***, the completed Parts A, B, C, D and E, and the supporting medical records. Your application will not be considered complete until all parts have been received by VCERA.

DISABILITY RETIREMENT HEARING PROCEDURES (“Procedures”)

The attached “Procedures” explain the process the Board of Retirement uses to evaluate and determine applications for disability retirement. If you are represented by legal counsel in this matter, please provide a copy of the procedures to your attorney. The “Procedures” are also available at the VCERA website listed above.

If you have questions regarding how to complete the application or need clarification on any aspect of the disability retirement process, please contact VCERA at (805) 339-4250.

MEMBER EMPLOYMENT INFORMATION

EMPLOYER:

Ventura County: Department _____

District: Name: _____

Superior Court

JOB TITLE: (of the position from which you believe you are permanently incapacitated):

Title _____

WORK STATUS:

Working: Hours per/week _____

Off Work: Date last worked _____

Retired: Date _____

Resigned: Date _____

Terminated: Date _____

Other: _____

PAY STATUS:

On Workers Compensation leave (Check below all that apply to your current pay status while on leave)

<input type="checkbox"/> Receiving County pay: sick, holiday, vacation	<input type="checkbox"/> Receiving no County pay	<input type="checkbox"/> Receiving 4850 Safety Workers Compensation Temporary Disability payments	<input type="checkbox"/> Receiving TTD - Work Comp Total Temporary Disability pay <input type="checkbox"/> Receiving PD - Work Comp Permanent Disability payments
--	--	---	--

On Non-Industrial Sick Leave (Check below all that apply to your current pay status while on leave)

<input type="checkbox"/> Receiving County pay: sick, holiday, vacation	<input type="checkbox"/> Receiving no County pay	<input type="checkbox"/> Receiving SDI payments State Disability Insurance pay	<input type="checkbox"/> Receiving long term disability payments
--	--	--	--

Retired – Receiving retirement allowance

Separated from service – not receiving any compensation or benefits

DISABILITY TYPE

I am applying for: Nonservice-connected disability retirement Service-connected disability retirement

A BOARD FINDING OF PERMANENT INCAPACITY, BUT NO SERVICE-CONNECTION (§ 31725.8)

Gov.Code § 31725.8 (**attached**) provides that if the Retirement Board, after considering all the evidence including evidence on reasonable accommodation, finds an applicant for service-connected disability retirement permanently incapacitated, but the incapacity is **not** due to County/District/Court employment, the applicant may apply for and the Board may grant the applicant a nonservice-connected disability retirement (providing applicant has 5 years of service credit). If the applicant accepts the nonservice-connected disability retirement, the applicant will be retired, placed on the retiree payroll and may continue to appeal his/her entitlement to service-connected disability retirement. If the applicant’s disability is later found to be service-connected, appropriate adjustments will be made in his/her disability retirement allowance. If the applicant’s service-connected application is ultimately denied, the applicant *may* forfeit his reinstatement rights under the provisions of Government Code § 31725 (**attached**).

I have read the provisions of Government Code §§ 31725 and 31725.8, and I elect as follows:

- If the Board finds that I am permanently incapacitated, but that my disability is not due to my County/District/Court employment, I will accept a nonservice-connected disability retirement while appealing my entitlement to service-connected disability retirement. I understand that by accepting a nonservice-connected disability retirement, I will be ending my County/District/Court employment. I further understand that if my service-connected disability application is ultimately denied, I may forfeit my right to return to work under Government Code § 31725.
- If the Board finds that I am permanently incapacitated, but that my disability is not due to my County/District/Court employment, I will decline a nonservice-connected disability retirement while continuing to appeal my entitlement to service-connected disability retirement.
- At this time, I am undecided; please ask me later in the process.

RE-EMPLOYMENT IN LIEU OF DISABILITY RETIREMENT (§§ 31725.5, 31725.6, 31725.65)

Government Code §§ 31725.5, 31725.6 and 31725.65 (**attached**) provide that if the Board finds an applicant permanently incapacitated, but able to perform other duties in County/District/Court service, the Board shall inform the employer. If the employer offers a position in a different job class that does not exceed applicant’s functional limitations, the applicant may accept such a position in lieu of a disability retirement. If the compensation rate of the new position is less than that of applicant’s former position, VCERA will pay applicant the difference. Also, safety members retain safety membership when placed in a non-safety position. Your decision to accept a position is voluntary and does not influence the Board’s decision on your application.

I have read the attached statutes describing the provisions of Government Code Sections 31725.5, 31725.6 and 31725.65. I understand my rights under the statute, and I make the following election.

- In the event that I am found to be permanently incapacitated from performing my usual duties, but able to perform other County/District/Court duties, **I am interested in a rehabilitation/re-employment plan** to explore placing me in another County/District/Courts job classification, in lieu of receiving a disability retirement allowance. I understand that if the pay rate of the new position is less than that of the position from which I am permanently incapacitated, VCERA will pay me the difference between the rates.
- In the event that I am determined to be permanently incapacitated from performing my usual duties, but able to perform other duties in County/District/Courts service, **I am not interested in a rehabilitation/re-employment plan to return to work** in another County/District/Court job class in lieu of receiving a disability retirement allowance.
- I am not currently interested in a rehabilitation/re-employment plan to be placed in another position within County/District/Court service in a different job classification. However, in the event I am found to be permanently incapacitated from performing my usual duties, **I would like to be contacted and provided with further information regarding my available options at that time.**

SERVICE RETIREMENT PENDING DETERMINATION OF DISABILITY APPLICATION (§ 31725.7)

Government Code § 31725.7 provides that an applicant for disability retirement who meets the age and service requirement, may retire for service at any time during the pendency of his disability application. If the applicant elects service-retirement, he/she will be retired and placed on the retiree payroll ending his/her County/District/Court employment. If his/her disability retirement application is ultimately granted, an appropriate adjustment, if applicable, to his/her retirement allowance will be made. **If his disability application is denied, the applicant shall not be entitled to return to his job as provided in Government Code Section 31725.**

I read the attached copies of Government Code §§ 31725.7 and 31725:

- I am eligible for service retirement and I wish to retire for service prior to the final determination of my disability retirement application. I understand that if my disability retirement application is ultimately denied, I am not entitled to return to work under the provisions of Government Code § 31725. I will contact my Benefits Specialist to set up a service retirement appointment.
- I am eligible for service retirement, but I **do not, at this time,** wish to retire for service prior to the final determination of my disability retirement application. If I later decide to retire for service prior to the determination of my entitlement to disability retirement, I will contact VCERA.
- I am currently not eligible for service retirement, but if I become eligible prior to the determination of my disability application, and wish to retire for service at that future time, I will contact VCERA.

I swear, under penalty of perjury, pursuant to California law, that the foregoing information that I provided is true and correct. (G.C. §31455.5)

Name _____ executed on (Date) _____ at _____, CA.

DISABILITY RETIREMENT APPLICATION PART A - ATTACHMENT GOVERNMENT CODE SECTIONS

Government Code §31455.5. (false material statements to obtain benefits)

(a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit accrued or accruing to a person under this chapter.

(2) Present, or cause to be presented, any knowingly false material statement or material representation for the purpose of supporting or opposing an application for any benefit accrued or accruing to a person under this chapter.

(3) Knowingly accept or obtain payment from a retirement system with knowledge that the recipient is not entitled to the payment under the provisions of this chapter and with the intent to retain the payment for personal use or benefit.

(4) Knowingly aid, abet, solicit, or conspire with any person to do an act prohibited by this section.

(b) For purposes of this section, "statement" includes, but is not limited to, any oral or written application for benefits, report of family relationship, report of injury or physical or mental limitation, hospital records, test results, physician reports, or other medical records, employment records, duty statements, reports of compensation, or any other evidence material to the determination of a person's initial or continued eligibility for a benefit or the amount of a benefit accrued or accruing to a person under this chapter.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to the retirement system, or to any other person determined by the court, for the amount of the benefit unlawfully obtained, unless the court finds that restitution, or a portion of it, is not in the interests of justice. Any restitution order imposed pursuant to this section shall be satisfied before any criminal fine imposed under this section may be collected.

(e) The provisions provided by this section are cumulative and shall not be construed as restricting the application of any other law.

Government Code § 31725 (Appeal of denial; reinstatement to work)

Permanent incapacity for the performance of duty shall in all cases be determined by the board.

If the medical examination and other available information do not show to the satisfaction of the board that the member is incapacitated physically or mentally for the performance of his duties in the service and the member's application is denied on this ground the board shall give notice of such denial to the employer. The employer may obtain judicial review of such action of the board by filing a petition for a writ of mandate in accordance with the Code of Civil Procedure or by joining or intervening in such action filed by the member within 30 days of the mailing of such notice.

If such petition is not filed or the court enters judgment denying the writ, whether on the petition of the employer or the member, and the employer has dismissed the member for disability the employer shall reinstate the member to his employment effective as of the day following the effective date of the dismissal.

Government code § 31725.5 (Re-employment in lieu of NSCD retirement)

If the board finds, on medical advice, that a member in county employment, although incapacitated for the performance of his duties, is capable of performing other duties in the service of the county, the member shall not be entitled to a disability retirement allowance if any competent authority in accordance with any applicable civil service or merit system procedures offers and he accepts a transfer, reassignment, or other change to a position with duties within his capacity to perform with his disability. If this new position returns to the member compensation less than that of the position from which he was disabled, the board, in lieu of a disability retirement allowance, shall pay him the difference in such compensation until the compensation of the new position equals or exceeds the compensation (including later changes) of the former position, but such amount shall not exceed the amount to which he would otherwise be entitled as a disability retirement allowance. Such payments in lieu of disability retirement allowance shall be considered as a charge against county advance reserve for current service.

If a new position cannot be arranged at the time of eligibility for disability retirement allowance, such disability retirement allowance to which the member is entitled under this article shall be paid until such time as a new position is available and accepted. If a disability retirement allowance is paid and the member later accepts such a new position, the period while on disability retirement shall not be considered as breaking the continuity of service and his rate of contributions shall be based on the same age as it was at the date of disability. The member's accumulated contributions shall be the same as at the date his disability retirement began less the amount charged to his accumulated normal contributions.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of a disability retirement allowance.

The provisions of this section become effective in any county only when the board of supervisors adopts an ordinance providing for their implementation by the board of retirement which may include application to persons retired for disability before such effective date.

The provisions of this section shall only apply to members eligible to retire for nonservice-connected disability.

Government Code § 31725.6 (Rehab/Re-employment in lieu of SCD retirement)

(a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member is capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall inform the appropriate agency in county service of its findings and request that the agency immediately initiate a suitable rehabilitation program for the member pursuant to Section 139.5 of the Labor Code, whereby the member could become qualified for assignment to a position in county service consistent with the rehabilitation program.

(b) When the appropriate agency in county service receives such a request from the board, the agency shall immediately refer the member to a qualified rehabilitation representative for vocational evaluation. During the course of the evaluation, the rehabilitation representative shall consult with the appropriate agency in county service to determine what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities and whether rehabilitation services will enable the member to become qualified to perform the duties of the position.

(c) Upon completion of the vocational evaluation of the member, the rehabilitation representative shall develop a suitable rehabilitation plan and submit the plan for concurrence by the member and the

appropriate agency in county service and, thereafter, the agency shall forward the plan to the Division of Industrial Accidents for approval pursuant to Section 139.5 of the Labor Code.

(d) Upon receipt of approval of the rehabilitation plan, the appropriate agency in county service shall notify the board that the agency is either proceeding to implement an approved rehabilitation plan that will qualify the member for a position in county service specified in the plan or is unable to provide a position in county service compatible with the approved rehabilitation plan.

(e) Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service. However, if the compensation rate of the position specified in the approved rehabilitation plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved rehabilitation plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved rehabilitation plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(f) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved rehabilitation plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system as the member's rates were based on prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(g) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved rehabilitation plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(h) If, within one year from the date that the member has been eligible for a disability retirement allowance, the appropriate agency in county service has offered to the member, in writing, the position specified in the rehabilitation plan which had previously been concurred, in writing, by the member and approved by the Division of Industrial Accidents pursuant to Section 139.5 of the Labor Code, the member shall, within 30 days of receipt of the notice, report for duty at the location specified in the notice. If the member refuses to report for duty within the time specified, the appropriate agency in county service may apply to the board to have the member's allowance discontinued. The board shall be authorized to discontinue the member's disability retirement allowance if based upon substantial evidence of the refusal of the member to report to work without reasonable cause. However, the board

shall not be authorized to impair any other of the rights or retirement benefits to which the member would otherwise be entitled.

(i) This section shall apply only to members who were incapacitated for the performance of the member's duties prior to January 1, 2004, and who are eligible to retire for service-connected disability.

Government Code § 31725.65 (Re-employment in lieu of SCD retirement)

(a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member may be capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall notify the appropriate agency in county service of its findings.

(b) When the appropriate agency in county service receives that notification from the board, the agency shall immediately inform the member of any vacant county positions that may be suitable for the member, consistent with his or her disability, and shall consult with the member in an effort to develop a reemployment plan that shall identify what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities.

(c) Upon approval by the member of the reemployment plan, the appropriate agency in county service shall notify the board that the agency is proceeding to implement the approved reemployment plan.

(d) Upon commencement of service by the member in the position specified in the approved reemployment plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service. However, if the compensation rate of the position specified in the approved reemployment plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved reemployment plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved reemployment plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(e) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved reemployment plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved reemployment plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system on which the member's rates were based prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(f) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved reemployment plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(g) This section shall apply only to members who are incapacitated for the performance of the member's duties on or after January 1, 2004, and who are eligible to retire for service-connected disability.

Government Code § 31725.7 (Service retirement pending determination of disability retirement)

At any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of his entitlement to disability retirement. If he is found to be eligible for disability retirement, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement as provided in Section 31724.

This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits which the beneficiary would not otherwise have been entitled to receive under the type of retirement which the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement he shall not be entitled to return to his job as provided in Section 31725.

If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

Government Code § 31725.8 (Accepting NSCD while pursuing right to SCD retirement)

If any applicant for service-connected disability retirement is found by the board to be permanently physically or mentally incapacitated for the performance of his duties but not because of injury or disease arising out of and in the course of his employment, he may apply for, and the board in its discretion may grant, a non-service-connected disability retirement allowance while he is pursuing any rehearing before the board or judicial review concerning his right to service-connected disability retirement. If his disability is finally determined to have been service-connected, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement.

If any member dies after electing to receive non-service-connected disability retirement and before the question of his entitlement to service-connected disability retirement is finally resolved, the rights of his beneficiary shall be those selected by the member at the time he elected to receive non-service-connected disability retirement.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**APPLICATION FOR DISABILITY RETIREMENT – PART B
MEDICAL QUESTIONNAIRE**

*Please complete - printed or typed in black/blue ink. **Add additional sheets as necessary.** Falsifying information on applications for disability retirement benefits is a crime. (G.C. §31455.5)*

1. The medical condition that is the subject of this application is

an injury an illness both

If you checked “an illness” skip to question # 4.

2. Describe your injury: _____

3. Is your **injury** the result of:

an accident? cumulative trauma (injury occurring gradually over time) both

If you checked cumulative trauma, skip to question 3B

3. A. Did the accident occur at work? Yes No

- Date/Time of accident _____
- Location of accident _____
- Witness names/phone _____

Describe how the accident occurred _____

3.B. If your injury resulted from cumulative trauma, describe how the cumulative trauma occurred?

4. If your condition is an illness, what is your understanding of the **cause** of your **illness**?

My job – explain: _____

Other – explain: _____

5. **Job Duties:** Describe all the job duties, whether included in your job description or not, that you actually performed during the time frame that your injury occurred or illness arose. (Please attach a job description.)

6. Did you perform your job duties alone together with co-workers both?

Explain: _____

7. Of the usual duties that you actually performed during the period that your injury occurred or illness arose, list those duties that you **cannot now perform**, and indicate **why your present medical condition prevents you from performing those duties.**

8. List the doctors (or medical facilities) who treated you **for the injury/illness that is the subject of this application.**

Doctor/Medical Facility	Address	Phone

9. Have you ever been treated for a similar injury/illness in the **past**? [] Yes [] No

If "Yes", provide the treatment dates and the names/address of the treating doctors/facilities:

Treatment Dates	Doctor/Hospital Name	Doctor/Hospital Address	Doctor/Hospital Phone

10. Are you currently self-employed or working for an employer other than Ventura County/District/Courts? [] Yes [] No

If "yes", list all current self-employment and current employment with other employers:

Current Self-Employment Business Name/Type	Job Duties	Hours per week	Employment Dates

Other Current Employers Name/Address/Phone	Job Duties	Hours per week	Employment Dates

11. **Former Employers:** List names, addresses/phone numbers of all former employers (including other County Departments) over the past 10 years.

Former employer name, address, phone number	Employment dates

12. Have you previously applied for or received Workers Compensation benefits, disability pensions, medical awards, lawsuit settlements or compensation of any kind from **any source**, including Ventura County/ District/Courts for this injury/illness or another injury/illness? Yes No

If "yes", explain sources, type, and dates:

13. **Effective Date:** A disability retirement generally becomes effective the later of the day the application is filed, or the day after the last day you received regular compensation (pay for work, sick pay, vacation pay, holiday pay, etc.). You may be entitled to an effective date earlier than your application date, if you were delayed in filing due to administrative oversight or inability to ascertain the permanency of your disability. However, in no case can your disability retirement be effective prior to your last day of regular compensation or prior to your last day of receiving payments under Division 4 of the Labor Code.

- I am still receiving regular compensation or Workers Compensation disability payments from my employer.
- I am no longer receiving any form of regular compensation or Workers Compensation disability payments from my employer.
- I am applying for an effective date earlier than the file date of this application because I was delayed in filing.

State the facts that you contend delayed your filing:

14. **REPRESENTATION:**

I am represented in this proceeding by legal counsel:

Counsel Name _____ Phone _____

Counsel Address _____

I am not currently represented by legal counsel. If I later retain counsel, I will notify VCERA of my counsel's name, address and phone number.

I, the undersigned, state that I have completed this application truthfully and to the best of my ability and knowledge. I was offered counseling about this process by the VCERA staff and was provided a copy of the Disability Retirement Hearing Procedures.

I declare under California perjury laws the information I provided in this application is true and correct. (G.C. 31455.5)

Executed on (date) _____ at _____, California.

Member Signature _____

*Employer Signature _____ Title _____ Date _____

*required only if employer is applying on behalf of member

**APPLICATION FOR DISABILITY RETIREMENT – PART C
AUTHORIZATION FOR RELEASE OF RECORDS**

To Medical Provider: _____

(Risk Management to complete)

To Other: _____

(Risk Management to complete)

RE: Member Name _____

(Member to complete)

1. MEDICAL RECORDS

I hereby authorize all doctors/facilities from whom I have received treatment and request you to permit the County of Ventura (Risk Management), VCERA and any authorized agent thereof, to inspect and copy all records of whatever nature in your possession or under your control, without omission, pertaining to any physical or mental health care or examination I have received from any source, including (but not limited to) intake documents, personal history questionnaires, progress notes, Workers Compensation forms, job descriptions, excuse from work notes, return to work notes, all reports, diagnostic test results, correspondence, memoranda, and notes, whether typed or handwritten. If any such records pertain to my psychological condition or use of alcohol, drugs, or other substances, their release is hereby specifically authorized.

To the extent that the confidentiality of any of these records may be protected by state or federal law, I waive the same because the records may be relevant to matters that are properly the subject of this investigation. I understand and acknowledge that records disclosed pursuant to this authorization may be further disclosed to individuals assisting in the investigation to determine my entitlement to disability retirements, including interested parties, attorneys, independent medical examiners, hearing officers, court reporters and Board trustees. If an appeal of a Board action is filed with the Superior Court, I understand that such records may become part of the court file.

2. WORKERS COMPENSATION RECORDS

I hereby authorize and request you to permit "Risk Management", VCERA and any authorized agent thereof, to inspect and copy all records of whatever nature in your possession or under your control, without omission, pertaining to my Workers Compensation claims including (but not limited to), subpoenaed medical records, treating physician medical records, P & S reports, IME, QME or AME medical reports and records, fitness for duty reports, pre-employment and periodic health examinations, Workers Compensation claim forms, claimant deposition transcripts, physician deposition transcripts, witness statements, investigative reports, excuse from work notes, return to work notes, correspondence to/from physicians, job descriptions, job analysis reports, RU 91 forms, RU 94 forms, written offers of modified work or offered reasonable accommodations, vocational rehabilitation notes and reports, C & R agreements, Findings and Awards documents, etc. If any such records pertain to my psychological condition or use of alcohol, drugs, or other substances, their release is hereby specifically authorized.

To the extent that the confidentiality of any of these records may be protected by state or federal law, I waive the same because the records may be relevant to matters that are properly the subject of this investigation. I understand and acknowledge that records disclosed pursuant to this authorization may be further disclosed to individuals assisting in the investigation of my entitlement to disability retirement benefits, including attorneys, independent medical examiners, hearing officers, court reporters and Board trustees. If an appeal of a Board action is filed with the Superior Court, I understand that such records may become part of the court file.

3. EMPLOYMENT RECORDS

I hereby authorize and request you to permit "Risk Management", VCERA and any authorized agent thereof, to inspect and copy all records of whatever nature in your possession or under your control, without omission, pertaining to any employment that I have held, including (without limitation) records relating to my employment application, hire, job duties, job performance, hours worked, compensation, termination, injuries (either on the job or off), medical insurance, Workers Compensation claims, fitness for duty evaluations, leave applications, correspondence to/from my doctors, investigative reports, grievances, meeting notes, memos, correspondence to/from me, job descriptions, requests for reasonable accommodation, offers of reasonable accommodation, letters of resignation, separation documents, etc.

To the extent that the confidentiality of any of these records may be protected by state or federal law, I waive the same because the records may be relevant to matters that are properly the subject of investigation. I understand and acknowledge that records disclosed pursuant to this authorization may be further disclosed to individuals assisting in the investigation to determine my entitlement to disability retirement benefits, including attorneys, independent medical examiners, hearing officers, court reporters and Board trustees. If an appeal of a Board action is filed with the Superior Court, I understand that such records may become part of the court file.

4. ACCIDENT RECORDS

I authorize and request you to permit "Risk Management", VCERA and any authorized agent thereof, to inspect and copy all records of whatever nature in your possession or under your control, without omission, including police and other reports, pertaining to any accident or other incident in which I have been involved. If any such records pertain to my psychological condition or use of alcohol, drugs, or other substances, their release is hereby specifically authorized. To the extent that the confidentiality of any of these records may be protected by state or federal law, I waive the same.

I reserve the power to revoke this Authorization at any time, except to the extent that action has already been taken to comply with it. I understand that this Authorization shall remain valid throughout the pendency period of my application for disability retirement benefits. I understand that I have the right to request and receive a copy of this Authorization.

A photocopy of this Authorization shall be as valid as the original.

Name (print): _____

Date of Birth: _____

Date: _____ Signature: _____

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION - VCERA

APPLICATION FOR DISABILITY RETIREMENT – PART D
* PHYSICIAN STATEMENT *

NAME _____

(Applicant to complete)

To the Physician: Your patient filed an application for disability retirement benefits with VCERA. The Board of Retirement will consider the information you provide in this form and in your treating records, along with the records and opinions of other physicians, to determine your patient's entitlement to disability benefits.

Please provide to your patient this completed form and a copy of his/her complete treating record.

1. In which area of medicine do you currently practice? _____

2. Are you currently treating the applicant? yes no

If yes, please describe the condition for which you are treating the applicant.

3. Please describe those physical and/or mental activities (e.g. sitting, standing, analyzing, decision making, etc), if any, that the applicant has difficulty performing or cannot perform at all, due to the condition for which you are treating applicant.

No functional limitations

Has difficulty performing: _____

Cannot perform at all: _____

4. Please describe the likely medical consequences of the applicant exceeding his functional limitations, if any:

a fear of pain or injury

the temporary onset of some pain or discomfort

the onset of severe pain making further performance of the activity very difficult or impossible

a moderate to high risk of increased re-injury, new injury, exacerbation of pathology

a low or improbable risk of further injury or exacerbation of pathology

5. Please describe **the permanency** of the applicant's current medical condition.

Material improvement means progress that allows applicant to perform his duties with or without accommodation.

- It is probable that further conventional medical treatment (both current and/or untried treatment) will bring about a *material improvement* in the applicant's medical condition.
- It is not probable that further medical treatment (both current and/or untried treatment) will bring about a *material improvement* in the applicant's medical condition.
- At this time, I am unable to ascertain the permanency of applicant's current medical condition.

6. Please describe **the permanency** of applicant's current physical/mental functional limitations, if any.

- N/A - Applicant has no functional physical/mental limitations
- Applicant's functional limitations are temporary since it is probable that further conventional medical treatment will bring about a *material improvement* in the applicant's medical condition eliminating his functional limitations.
- Applicant's functional limitations are permanent, but it is probable the applicant can perform physical/mental activities in an alternative way that does not exceed his/her limitations with use of accommodations (**changes to the environment, use of assistive devices, modification of duties, etc**).
- Applicant's functional limitations are permanent, and so severe that he/she will not be able to extend his functional capacity with use of accommodations.
- At this time, I am unable to ascertain the permanency of applicant's physical/mental functional limitations.

7. What is your understanding of the cause of applicant's current injury, illness or condition?

- Acute injury substantially caused/aggravated by applicant's performance of his Ventura County/district/court job duties
- Cumulative trauma injury substantially caused/aggravated by applicant's performance of County/district/court job duties
- Acute or cumulative trauma injury substantially caused/aggravated by applicant's performance of his job duties with **another employer**
- Acute or cumulative trauma injury not caused/aggravated by any employment
- Illness substantially caused/aggravated by applicant Ventura County/district/court employment
- Illness caused/aggravated by applicant's performance of his duties with **another employer**
- Illness not caused/aggravated by any employment

8. Have you reviewed a description of the duties the applicant was actually performing during the period that the injury/illness arose? Yes No

PHYSICIAN NAME _____ **Date** _____

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

APPLICATION FOR DISABILITY RETIREMENT – PART E

COUNSELING ACKNOWLEDGEMENT

Member Name _____ Application Number _____

Department _____ Date Counseled _____

Social Security Number _____ Employee ID # _____

Counseled by _____

I acknowledge receipt of an Application for Disability Retirement and a copy of the Board of Retirement Disability Hearing Procedures and that I have been counseled by a VCERA staff member on the procedures for the filing of an Application for Disability Retirement.

Applicant Signature _____ Date _____

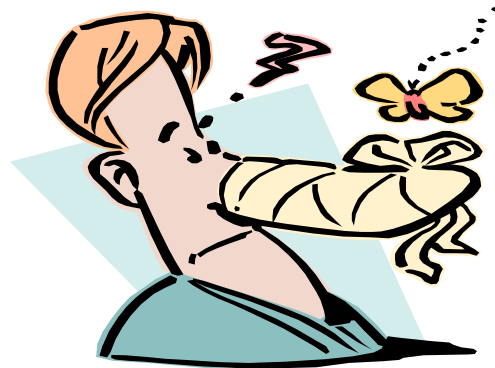
OR:

Waiver

I have been offered counseling, but I waive counseling at this time.

Applicant Signature _____ Date _____

DISABILITY RETIREMENT “101”



Trustee Training – Part 2

DISABILITY RETIREMENT LEGAL STANDARDS



What are **Legal Standards**?

Standards: Specifications for required levels of quality or attainment

Legal Standards: Specifications for required levels of quality or attainment set out by statutes or agreed upon by courts

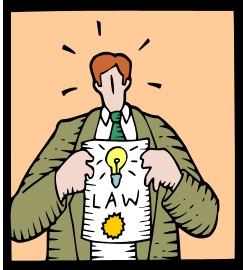
Here, the standards discussed are:

Legally agreed upon “Specifications” that applicants must meet to qualify for disability retirement benefits.

LEGAL STANDARDS ARE A GUIDE !

- **APPLICANT:** Specify what applicant must prove
- **STAFF:** Tell staff what to look for
Basis of investigative procedures
- **TRUSTEES:** Define circumstances for granting the benefit

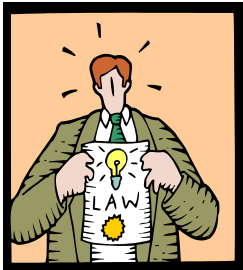
The Creation of **Legal Standards**



Statute



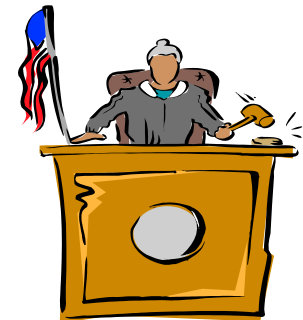
Published Case or Cases



Revised or New Statutes



Published Case or Cases



Authority for Disability Retirement Standards

1. Statutes



County Employees Retirement Law (CERL)
Article 10 (Government Code §§ 31720-31755.3)

2. Case Law

- CERL decisions
- PERL decisions
- Workers' Compensation decisions



Gov. C. § 31724

If the proof received...shows to the satisfaction of the Board that the member is **permanently incapacitated** physically or mentally for the performance of his duties..., it shall retire him



Judicial Decisions



- **Mansperger v. PERS (PERL)**
(1970) 6 Cal.App.3rd 873,876
- **Hosford v. Bd of Administration (PERL)**
(1987) 77 Cal.App.3rd 854
- **Barber v. Retirement Board**
(1971) 18 Cal.App3rd 273
- **Craver v. City of Los Angeles**
(1974) 42 Cal.App.3rd 76
- **Bowen v. Board of Retirement (CERL)**
(1986) 42 Cal.3d 572, 576-577

Judicial Decisions



- **Sweeney v. Indust. Accident Comm. (WC)**
(1951) 107 Cal.App.2d 155
- **Reynolds v. City of San Carlos (PERS)**
(1981) 126 Cal.App.3d 208
- **Indust. Indem. Exch. v. Ind. Accident Comm.**
(1949) 90 Cal.App.2d 99 (WC)
- **Montgomery v. Bd. of Retirement (CERL)**
(1973) 33 Cal.App.3d 450



APPLICANT HAS THE BURDEN OF PROOF

The applicant must carry his
“burden of proof”
by a preponderance of
“Substantial Medical Evidence”

Substantial Medical Evidence is:

An expert opinion based on:

1. Correct material facts
2. Complete information
3. Applicable legal theories
4. Supported by analysis



If a doctor:

- **relies on false information, or misunderstands the facts**
- **is unaware of complete applicable medical history**
- **ignores a material fact**
- **applies wrong legal standard (Work Comp, Social Security)**
- **provides no analysis to support his opinion,**

his opinion is not substantial evidence!!!

“PREPONDERANCE”

Preponderance is:

- A measure of the “weight” given to the evidence

Preponderance is not:

- A measure of the amount of evidence



1 piece of persuasive evidence is given more “weight” than 4 pieces of unpersuasive evidence

1 > 4

APPLICANT'S BURDEN OF PROOF

The applicant must prove that:

1. He is **Incapacitated** to perform his usual duties.
2. His incapacity is **Permanent**.
3. His job **Substantially Caused** the incapacity



INCAPACITY



Legal Standard INCAPACITY

“Incapacitated for the performance of duty ...
**means the substantial inability of the applicant
to perform his usual duties”**

Mansperger v. PERS (1970) 6 Cal.App.3d 873

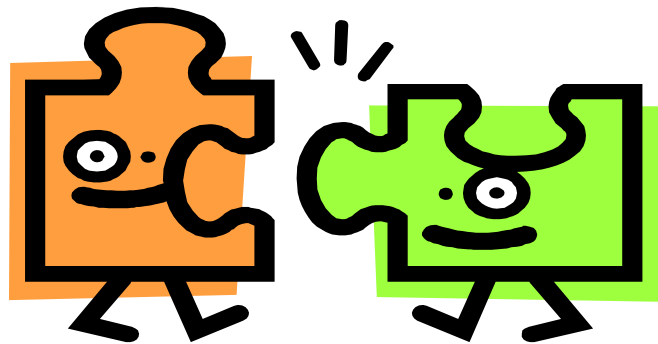


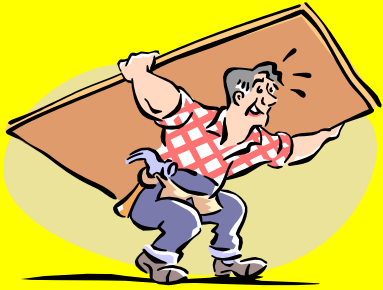
Applied to the CERL by:

Harmon v. Board of Retirement of San Mateo
Schrier v. San Mateo County ERS
Curtis v. Board of Retirement

ELEMENTS OF INCAPACITY

- **USUAL DUTIES**
- **SUBSTANTIAL INABILITY**





Legal Standard USUAL DUTIES



An Applicant's Usual duties are:

- Duties performed frequently (*Mansperger*)
- Duties of applicant's specific assignment
(*Barber*)

NOTE: Disability retirement standards are based on "Usual Duties" not Essential Functions. "Essential Functions" is an ADA term not applicable to disability retirement. Some essential functions are performed frequently, but "usual duties" are not necessarily essential functions.

How Staff Must Apply “Usual Duties” Standard

1. Study applicant’s job class to identify usual duties
– **not “Essential Functions” (ADA term)**
 - of applicant’s assignment
 - other assignments in applicant’s job class
2. Communicate **usual duties** to examining physicians with a Job Analysis
3. Target **usual duties** in investigations of reasonable accommodation





Applicant Meets “Usual Duties” Standard to Prove Incapacity, If

Substantial medical evidence shows he is:

- ✓ Unable to perform the **usual or frequent duties** of his specific assignment, and
- ✓ There is no accommodation that enables him to perform the **usual or frequent duties** of his assignment in an alternative way, and
- ✓ There is no other available assignment in his job class the **usual duties** of which he can perform



Applicant does not meet the “usual duties” standard, if

1. The duties that he cannot perform are:

- A remote or uncommon occurrence (*Mansperger*)
- Listed in his job description, but not actually performed in his specific assignment (*Hosford*)
- Voluntary duties

2. He is capable of performing the usual duties of another available assignment in his job class

(*Barber, Craver, O’Toole*)

(*Reasonable Accommodation*)

Legal Standard

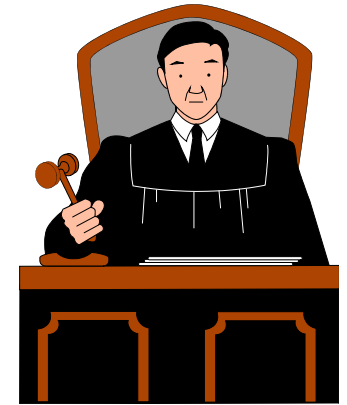
SUBSTANTIAL INABILITY

“Substantial Inability” means:

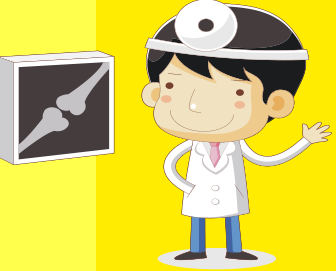
1. Cannot perform a duty at all.
Ex. truck driver goes blind; can't drive

or

2. Performing the duty creates high probability of **further injury**, or **discomfort so severe** as to preclude further effective performance.



Hosford v. Bd. of Admin.; Wolfman v. Bd. of Trustees; Thelander v. City of El Monte



How Staff Must Apply the “Substantial Inability” Standard

Staff must ask examining doctors to include in their reports the answer to this question:

“What is the **likely medical consequence** of an applicant performing the duties he states he cannot perform?”

ANSWER (information given in terms of the standard)

- N/A - physically impossible to perform duty
- Temporary increase in pain or discomfort
- Moderate/high risk of severe pain
- Moderate/high risk of injury

Applicant meets the “**SUBSTANTIAL INABILITY**” Standard, if

Substantial medical evidence indicates that:

- It is **physically impossible** for him to perform a duty, or
- He can perform the duty, but to do so would cause **further injury** or **extreme pain/discomfort** that would prevent him from continuing to performing the duty effectively



An Applicant does not prove “Substantial Inability”, if

- Performing a duty causes mild pain or discomfort
Thelander v. City of El Monte
- He won't perform a duty for fear he might be hurt
Hosford v. Board of Administration
Wolfman v. Board of Trustees
- Performing the duty might cause disability in the future
Wolfman v. Board of Trustees
Hosford v. Board of Administration
- He is unable to perform the “full range” of duties in his job class
Harmon v. Board of Retirement



PERMANENCY



LEGAL STANDARD PERMANENCY

An incapacity is permanent when:

Further **change** in an applicant's condition that would render him **able to perform** his duties is **unlikely**, with standard medical care.

(Sweeney v. Industrial Acc. Com.)



How Staff Must Apply the Standard for “PERMANENCY”

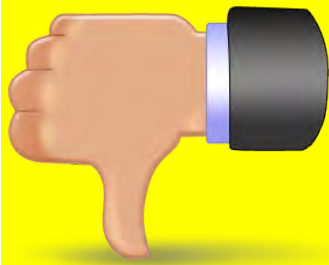
Staff must [ask examining doctors](#) to answer these questions:

1. Are there **untried low-risk medical** treatments that are likely to improve applicant’s condition allowing him to perform his usual duties with or without accommodation?”
2. Has applicant **unreasonably refused** standard treatment?”
3. Is there a **co-existing condition** (drugs, alcohol, obesity), that if treated, would improve applicant’s all over condition to allow him to perform his duties?”
4. Is there **an accommodation** that will allow applicant to perform his usual duties in an alternate way?

Applicant meets the Permanency Standard, if

substantial medical evidence indicates that:

- Further change of his condition for the better is not reasonably anticipated under usual medical standards. (Sweeney v. Industrial Acc. Com.)
- Applicant exhausted standard medical treatment with no material improvement (Reynolds v. City of San Carlos)
- Applicant has **religious beliefs** preventing him from pursuing promising low-risk treatment. (*Montgomery v. Bd. of Retirement*)
- Applicant reasonably refused **high-risk** treatment. (*Indust. Indemnity Exch v. Indust. Accid. Comm. (Riccardi)*)
- Reasonable accommodation to allow the applicant to perform usual duties in an alternative way is not possible.



An Applicant Does Not meet the Permanency Standard

- With **speculative** medical opinions that indicate the permanency is “**indefinite**” or “**uncertain**”
(Sweeney v. Indust. Accid. Comm.)
- He is non-compliant with his treatment routine.
- He unreasonably refuses promising untried low-risk treatment. *(Indust. Indemnity Exch v. Indust. Accid. Comm. (Riccardi)*
- He has an unaddressed treatable co-existing medical condition that hampers treatment of the disabling condition.
- If he **refuses a reasonable accommodation** that will enable him to perform the usual duties of his assignment or the usual duties of another assignment in his job class.

(Barber, Craver)

29

SERVICE CONNECTION



Gov. Code Section 31720

“Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if, (a) the member’s incapacity is a result of **injury or disease arising out of and in the course of his employment, and such employment contributes substantially to such incapacity.**”

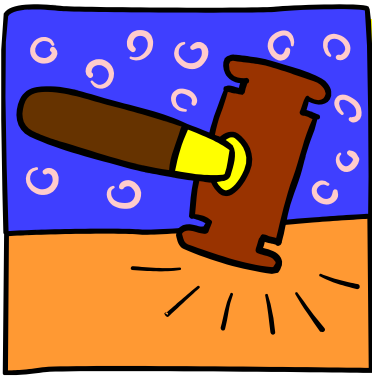


LEGAL STANDARD SERVICE-CONNECTION



- ***Substantial evidence*** of a ***connection*** between the job and the disability
- Connection must be ***real*** and ***measurable***.

Bowen v. Board of Retirement (1986) 42 Cal.3d 572, 578



LEGAL STANDARD SERVICE-CONNECTION

- ✓ Job does **not** need to be the **only cause**
- ✓ The job does **not** need to be the **original cause** (*Gelman v Board of Retirement*)
- ✓ The job **can be** an **aggravating** cause
- ✓ Job **can be** a **small part** of the cause, but must be more than an infinitesimal part (*Bowen*)
- ✓ Job does **not** need to be **51%** of the cause

HOW STAFF APPLIES THE SERVICE-CONNECTION STANDARD

Communicate the
Bowen Standard to:



- Evaluating Physicians
- Hearing Officers
- Judges



HOW STAFF APPLIES THE SERVICE-CONNECTION STANDARD

Staff must **ask evaluating physicians** to answer these questions:

What is the **“mechanism of injury”** by which the job caused the applicant’s disability?

Is the job’s contribution to the disability so small that it **cannot be measured**?

Did the **job aggravate** a pre-existing condition causing it to become disabling?

Did the pre-existing condition become disabling by **“natural progression”** independent of the job?





An Applicant Meets the Service-Connection Standard, if

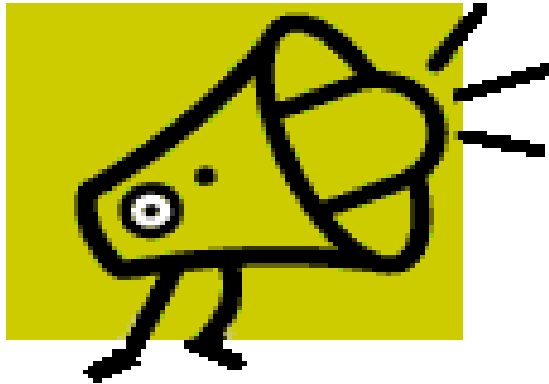
- There is substantial medical evidence showing a **real and measurable link** between the job and his incapacity (Bowen, Hoffman, Pacheco)
- The job is not the sole cause, but is a substantial cause (*Heaton v. Marin County Board of Retirement*)
- Substantial medical evidence shows the job aggravated a pre-existing condition making it disabling at an earlier time than it would have had he not performed the job
- He relies on the heart, cancer, MERSA, blood-bourn disease or biochemical presumptions, and the presumptions have not been rebutted.

Applicant does not meet the service-connection standard, if

- The job is merely a “**passive stage**” (not an active element of causation) upon which his incapacity appeared (*Atascadero Unified School District v WCAB*)
- The medical evidence **does not contain a plausible** “mechanism of injury” linking the job to the incapacity
- The job’s contribution to the incapacity is infinitesimal, speculative and cannot be measured.



GOAL:
**Making the legal standards
explicit in the disability
retirement program**



THE LEGAL STANDARDS SHOULD

- Be **communicated in brochures** about the disability program
- **Shape the questions in** the application for benefits
- Be **provided to evaluating physicians** for use in rendering their medical opinions
- Be clearly **referenced in Medical Analysis** documents and other documents provided to the Board
- Form the **basis of hearing officer conclusions**

THE DISABILITY RETIREMENT PROCEDURES SHOULD **DISTINGUISH OTHER STANDARDS**

Documents and communications of the disability retirement (D.R.) program should clarify:

- Permanent Disability (WC) \neq Permanent Incapacity (P.I.)
- QIW status (WC) alone does not qualify for DR benefits
- P & S (WC) \neq Permanent Incapacity
- 100% permanent disability (WC) \neq Permanent Incapacity
- Diminished ability to compete in the labor market \neq P.I.
- Soc.Security Standard (12 months duration) \neq Perm. Incapacity

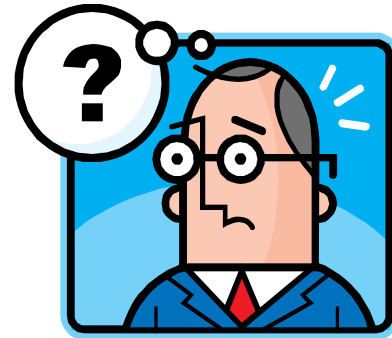
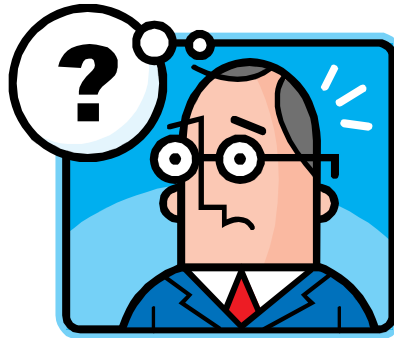
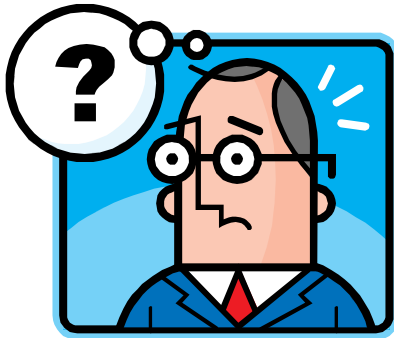
Trustees As “Decision Makers”

You must evaluate eligibility for disability benefits based on the correct legal standards.

- Look for substantial evidence
 - **Did the applicant meet their burden of proof on incapacity, permanency and causation based on the correct standards?**
- Ask questions in terms of the standards to:
 - Counsel
 - Staff
 - Medical experts



QUESTIONS???



REFERRAL FOR INDEPENDENT MEDICAL EXAMINATION

Applicant Name: *(applicant name)*

Appointment Date: *(appointment date)*

Time: *(time)*

Dear Dr. *(Examining Physician name)*:

On behalf of the Board of Retirement of the Ventura County Employees' Retirement Association (VCERA), thank you for agreeing to perform an independent medical examination of *(applicant name)*.

EXAMPLE: *(Applicant name)* is a 58-year-old male who filed an application with VCERA for lifetime disability retirement benefits, claiming to be "permanently incapacitated" for performance of his duties as a *(job class title)*, due to:

- Orthopedic complaints of the upper extremities, and
- Orthopedic/neurological complaints of the lumbar spine

(Mr./Ms. Applicant last name) further contends that his/her Ventura County/District/Court employment substantially caused his/her incapacity, due to:

- An industrial slip and fall on 1/22/04 in which he injured his lumbar spine, and
- Cumulative trauma injury to his upper extremities while performing repetitive motion activities.

YOUR ROLE IN THIS PROCESS

You are asked to opine on (1) whether the member is "permanently incapacitated" for performance of the usual duties of his/her current assignment and for any described alternative assignments within his/her job class, and, (2) if applicant is permanently incapacitated, whether the member's County/District/Court employment substantially caused or aggravated such incapacity.

The Board of Retirement ultimately determines whether a member is entitled to disability retirement by considering a variety of information, **including your expert opinion**. The Board asks that you (1) review the attached records, (2) perform a comprehensive medical examination and (3) provide written answers to the questions below. In responding to the posed questions, **you must apply the legal standards specific to the County Employees Retirement Law (CERL) and associated case law.** The applicable legal standards are explained in detail below. Please state your opinions in lay terms, with an explanation of the facts and reasoning supporting your conclusions.

DISABILITY RETIREMENT STANDARDS

The following is a description of the legal standards for determining eligibility for disability retirement under the CERL and applicable case law:

* * * **STANDARD FOR INCAPACITY** * * *

Under the Retirement Law, “incapacity” means that a member is **substantially unable to perform his usual duties, and reasonable accommodation is not possible.**

Usual Duties: Usual duties are job duties the member actually performs frequently, as opposed to duties included in a job description, but which the member rarely or never performs.

Reasonable Accommodation: Any change or adjustment to duties or work environment that allows applicant to perform his usual duties in an alternative way without exceeding his medical limitations.

- **Incapacitated:** A member is **is incapacitated** (*substantially unable*) to perform a job duty or an activity if:
 - (1) the member cannot physically perform the duty at all, or
 - (2) the member can actually perform the duty, but performance would cause severe pain or discomfort making further effective performance exceedingly difficult or impossible, or
 - (3) the member can actually perform the duty for a period of time, but it is medically likely that performance of the duty will cause further injury, **and**
 - (4) there is no accommodation that allows applicant to perform his usual duties in an alternative way without exceeding his medical limitations

- **Not Incapacitated:** A member is **not incapacitated** from a duty or an activity if:
 - (1) performance would cause **some pain** or discomfort,
 - (2) performance would cause **fear** of further injury, or
 - (3) performance creates **some risk** of future injury that *is less than probable*, **or**
 - (4) an accommodation exists that will allow applicant to perform the duties in an alternative way without exceeding his medical restrictions.

* * * **STANDARD FOR PERMANENCY** * * *

Under retirement law, incapacity **is permanent** when further improvement in an applicant's medical condition that would enable him to perform his usual duties is unlikely, and there is no possible accommodation that would allow the member to perform the duties in an alternative manner within his medical restrictions.

- **Permanent:** An applicant's incapacity **is permanent** when

- (1) All standard medical treatments have been exhausted, and there has been no *material improvement* in the condition that will allow applicant to perform his usual duties.
- (2) Further treatment is available that may bring a material improvement in applicant's condition, but such treatments are experimental, not easily available, have high risk of failure.
- (3) There is no accommodation that allows applicant to perform his duties an alternative manner within his medical restrictions.

- **Not Permanent:** An applicant's incapacity **is not permanent** where:

- (1) It is probable that further care with either tried or yet untried available standard, low-risk medical treatment, will bring about a *material improvement* in the member's medical condition that will enable him to perform his usual duties, or
- (2) The Applicant **unreasonably refuses** further low-risk conventional treatment that is likely to materially improve the applicant's condition enabling him to perform his duties.

NOTE: An applicant's refusal may be considered **reasonable** where the medical treatment has substantial risk, or is not likely to materially improve the applicant's condition, or if the applicant has bona fide religious beliefs that interfere with pursuit of the treatment.

- (3) Applicant has an **untreated co-existing medical condition** (i.e. alcoholism, drug addiction, obesity, hypertension, depression, etc) that interferes with accurate evaluation, treatment and improvement of the claimed incapacitating condition.
- (4) The permanency is speculative, indefinite or unable to be ascertained, or
- (5) Reasonable accommodation exists that would allow applicant to perform his usual duties in an alternative way within his medical limitations.

* * * **STANDARD FOR SERVICE-CONNECTION** * * *

Under the retirement law an incapacity is “service-connected” if there is substantial evidence of a **demonstrated real and measurable link** between the applicant’s employment and his incapacity.

- **Service-connection:** An incapacity is **service-connected**, if substantial evidence indicates
 - (1) a clear “**mechanism of injury**” that links the employment to the incapacity.
 - (2) the employment is not the sole cause of the incapacity, but is a **substantial** cause.

NOTE: Unlike Workers’ Compensation, under the retirement law, the employment can be less than a 50% causal factor and still be a real and measurable link to the incapacity.

 - (3) the employment is not the original cause, but the **job did materially aggravate or accelerate** the underlying pathology of a pre-existing condition causing the applicant to be disabled *at an earlier time than if he had not worked for the employer.*
- **No service-connection:** A member’s incapacity is **not service-connected**, when
 - (1) the applicant’s employment merely causes *a temporary aggravation of symptoms.*
 - (2) the link to employment is **infinitesimal** or merely **speculation**
 - (3) there ***is no identifiable mechanism of injury*** to establish a real and measurable link between the employment and the incapacity
 - (4) the employment played a **passive role** in the development of the incapacity; that is, the job is merely a “*stage*” for the natural progression of a non-industrial condition.

**COMPARISON
RETIREMENT LAW AND WORKERS COMPENSATION**

“PERMANENT DISABILITY” ≠ “PERMANENT INCAPACITY”

Permanent Disability under Workers’ Compensation Law is lasting disability, following maximum medical improvement that (1) **reduces an injured worker’s earning capacity** and (2) **limits the worker’s ability to compete in the labor market.**

Permanent Disability is rated using various schedules and factors to establish a percentage that reflects how much the injury limits the kinds of work the worker can do. A member may have some percentage of “permanent disability” under Workers’ Compensation Law, or be “a Qualified Injured Worker”, but such findings alone do not equate to “permanently incapacity” under the Retirement Law.

Permanent Incapacity under Retirement Law is “the substantial inability to perform usual duties”, where material improvement is unlikely and accommodation is not possible. Eligibility for benefits under retirement law is **not established** by evidence of the applicant’s **reduced earning capacity** or **inability to compete in the open labor market.**

FORMAT OF YOUR REPORT

Your written report should contain **(1)** your answers to the specific questions posed at the end of this letter, and **(2)** discussion of the following items to support your opinion:

- A. **Record Review:** A listing or description of the medical, personnel and job description records provided to you with this letter and that you actually reviewed;
- B. **Medical History:** A summary of your understanding of the applicant's medical history pertaining to the subject injury/illness, obtained from both the applicant and the attached medical records and any discrepancies between the two sources;
- C. **Current Condition:** A discussion of the applicant's current complaints and symptoms;
- D. **Objective Findings:** A discussion of your objective findings, if any, upon examination or testing; **and** other objective findings contained in the medical record; similarities, differences
- E. **Diagnosis:** A discussion of your impression/diagnosis of applicant's condition;
- F. **Functional Capacity:** Identification of any physical/mental activity that the applicant is incapacitated from performing; **(Please use the specific standards described above to determine if an applicant is incapacitated from performance of an activity)** and **state the medically probable consequences of the applicant performing the activity;**
- G. **Permanency:** Your conclusions and reasoning as to whether the claimed incapacity is permanent; **(Please refer to the specific standards listed above on permanency);**
- H. **Causation:** Your opinions and reasoning as to whether any claimed permanent incapacity is a result of injury or disease arising out of and in the course of the member's employment, and whether that employment contributed substantially **(real and measurable link)** to the permanent incapacity; describe "mechanism of injury"; whether link to the job is infinitesimal or substantial; and
- I. **Questions:** Your answers to the questions posed at the end of this letter

SUMMARY OF APPLICANT'S CLAIM (EXAMPLE)

Claim

The applicant claims to be permanently incapacitated to perform his duties as an Administrative Office Professional III, due to orthopedic conditions of his bilateral upper extremities and the lumbar spine. Applicant claims that his conditions are the result of an acute industrial slip/fall injury to his spine and a cumulative trauma injury to the upper extremities.

Current Symptoms

- pain and weakness of both wrists, hands and fingers
- occasional numbness and tingling of both hands
- right shoulder pain
- low back pain, radiating into the right leg

Claimed Functional Limitations

- limited to working 6 hours a day
- unable to perform heavy, repetitive use of both arms
- difficulty reaching above shoulder level
- unable to sit or stand for longer than 1 hour

Claimed Industrial Injury History

- **Claimed Acute Industrial Injury:**

Applicant sustained injuries to his low lumbar spine in a slip and fall at work on 1/22/04, when he slipped on a freshly mopped wet floor landing on his back and left hip.

- **Claimed Cumulative Trauma Injury**

Applicant claims cumulative trauma injury to both upper extremities from performing computer keyboarding activities at work from 2001 to 2010.

Additional Information

Please note medical records dated 02/12/04 describing water skiing injury for any possible medical relevancy to evaluation of the issues in this matter.

Job Duties *(note: this to be deleted, if job analysis not provided to examining physician)*

Please see the attached description of the physical demands of the member's job assignments and those of alternative assignments within the member's job class. Please take special notice of any described possible accommodations that would allow the member to be excused from performing certain activities or allow performance in an alternative way within the member's work restrictions.

MEDICAL-LEGAL QUESTIONS

Please provide written answers to the following questions:

1. OBJECTIVE MEDICAL FINDINGS:

Is there any **objective evidence** of a (*insert medical condition*) disorder? If so, please state:

- a) What diagnostic tests and measurements were performed by you and other physicians (as noted in the attached medical records), and indicate the resultant objective findings;
- b) Did any diagnostic test/ measurement produce, in your opinion, an abnormal result? If so,
 - Is the test subject to the volition of the applicant?
 - Do you feel the applicant fairly performed the test?
- c) In your opinion, is the presence, absence, or degree of any objective finding remarkable considering the applicant's subjective complaints or the applicant's given medical history?

2. APPLICANT SUBJECTIVE COMPLAINTS AND SYMPTOMS

Does the applicant currently have subjective complaints related to the disorder? If so, please state:

- a) The frequency, intensity, and duration of those complaints, both claimed by the applicant and as evaluated by you;
- b) Any factors that bring about the complaints or cause them to go away;
- c) Whether, in your opinion, any aspect of any subjective complaint is remarkable in light of the objective findings or the given medical history.

3. THE PRESENCE OF PAIN

If the member's **subjective complaints include pain**, please answer the following questions:

- a) What is the frequency, intensity and duration of the member's complaints of pain?
- b) Are there objective methods or tests to verify member's complaints of pain?
- c) Are the member's complaints of pain credible and consistent with the level of pain you would expect considering the objective findings of the pathology of applicant's condition, and consistent with that reported by other patients you've treated with similar pathology?
- d) Is the pain you would expect to occur from applicant's pathology serious enough in your opinion to make performance of certain duties extremely difficult or impossible? If the answer is "yes", please specify the duties affected. (refer to standards above)

4. STABILITY OF MEDICAL CONDITION

At the time of your evaluation, would you say the applicant's medical condition is:

- a) Worsening; or
- b) Improving; or
- c) Remaining the same? (If remaining the same, how long has it been so?)

5. EVALUATION OF PAST AND FUTURE MEDICAL TREATMENT:

Regarding applicant's medical treatment as contained in the attached medical records:

- a) Has applicant's medical treatment been appropriate for his medical condition?
- b) Has applicant's past treatment been adequate in terms of proper diagnostic tools, medication choices and dosages, appropriate duration of treatment to bring about maximum effectiveness, etc?
- c) Do you feel applicant has been compliant with past courses of treatment?
- d) Are there other available standard medical treatments, therapies, etc that applicant has not yet tried that are likely to bring benefit? If so, please explain.
- e) Does applicant have any untreated **co-existing** medical condition - i.e. obesity, drug/alcohol addiction, hypertension, depression/anxiety, etc-that interferes with accurate evaluation and treatment of the claimed disabling medical condition? If so, please explain.

6. SUBSTANTIAL INABILITY TO PERFORM USUAL DUTIES

Applying the legal standards set forth above for **"INCAPACITY"**, does the applicant's medical condition presently **"incapacitate"** him from any activity described in the attached Job Analysis? Please consider any **reasonable accommodations** that may be possible as described in the attached Job Analysis. If so, for each function please state:

- a) The nature of the function from which applicant is incapacitated;
- b) whether or not it is **physically impossible** for the applicant to perform that function effectively even once (and why);
- c) If it is possible for the applicant to perform that function effectively at least once:
 - How frequently could the applicant perform it effectively (and why);
 - What **specific medical consequences** would likely ensue if the applicant were to exceed the frequency stated above (and why)

(NOTE: If specific physical demands of applicant's job are not provided, ask examining doctor whether applicant is incapacitated from any "physical or mental activity")

7. PERMANENCY

If you find that the applicant is currently incapacitated from performance of any job function (*insert "mental/physical activity", if job analysis is not provided*), please apply the legal standard set out above for **"PERMANENCY"** to determine if such incapacity is:

- a) permanent;
- b) likely to materially improve with additional treatment, or passage of time to the point where the applicant can perform his usual duties with or without reasonable accommodation; or

(If you conclude that applicant's present incapacity is likely to materially improve with additional treatment, please describe the treatment likely to bring about such a material improvement in the applicant's functional capacity.)

- c) not presently ascertainable as either temporary or permanent.

8. RETURN TO WORK (*delete question if job analysis is not provided to examining doctor*)

Based on your response to questions 6 and 7 above, and your review of the Job Description and any other materials in the binder regarding job duties, do you feel that the member:

- a) can return to his described usual assignment, or any described Alternative Assignments with no work restrictions; or
- b) can return to his described usual assignment **with accommodations** as described in the Job Factors Form; or
- c) can return to any of the described **Alternative Assignments within his job** class the demands of which are more congenial to his work restrictions (if so, please list the names of the appropriate alternative assignments); or
- d) cannot return to his usual assignment regardless of the described reasonable accommodations; or
- e) cannot return to any of the described alternative assignments.

9. CAUSATION: SERVICE-CONNECTION

Applying the legal standards set out above for **"SERVICE-CONNECTION"**, describe the contribution, if any, of applicant's Ventura County/district/court employment to his claimed incapacity.

- a) There is a real and measureable link between applicant's employment and his incapacity, and such employment contributed substantially to cause or aggravate the incapacity.
- b) Absent applicant's employment, his medical condition would presently be substantially the same, due to the natural progression of a condition that pre-existed or arose independent of the applicant's employment.

10. **CAUSATION (continued)**

- a) If you opine that applicant's employment substantially contributed to applicant's claimed incapacity, please explain the nature of the "**mechanism of injury**" that is a real and measurable link between the employment and the alleged incapacity.
- b) If you opine that applicant's employment did not substantially contribute to any alleged incapacity, what is the likely cause of applicant's alleged incapacity?

11. **PERFORMANCE OF OTHER DUTIES**

- a) Do you feel that applicant's current condition will allow him to perform other duties in a different job classification in county/district/court service? If yes, what kind of duties, in physical terms, would the applicant be able to perform.

The Board of Retirement thanks you for your attention to this matter. If you have any questions regarding the Independent Medical Examination process, the format of your written report or if you need clarification of anything in this letter, please contact the undersigned at **(insert phone number)**

Your written report as well as your invoice for services should be directed to my attention at the following address:

(insert address)

Sincerely,

Chuck Pode
Risk Manager

Paul Hilbun
Claims Manager

**VENTURA COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION**

BOARD OF RETIREMENT

DISABILITY MEETING

05-06-13

DISABILITY AGENDA ITEM

(CONFIDENTIAL)

APPLICANT	(Insert Applicant Name)
RECOMMENDATION	Grant SCD
PRIOR BOARD ACTION	(Insert any prior action, i.e.) Referred for examination 04/01/13 Continued-applicant request 3/01/13 None

ATTACHED DOCUMENTATION

ITEM	DESCRIPTION	DATE	PAGES
1	Risk Management Report and Recommendation	05-01-13	3-6
2	Treating Report of John Crawford, M.D.	02-19-12	6-15
3	IME Report of Gary Daniels, M.D.	12-07-12	16-21
4	QME Report of Mario Arteaga, DC	01-12-13	22-32
5	MRI-lumbrosacral spine	10-30-10	33-35
6	MRI-lumbrosacral spine	10-31-11	36-37
7	Disability Application of (applicant name)	03-02-12	33-47
8	Job Analysis/Job description	05-18-12	48-61

VENTURA COUNTY RISK MANAGEMENT REPORT AND RECOMMENDATION

TO: BOARD of RETIREMENT

DATE: 05-01-13

I. THE APPLICANT

Name	John Doe
Case #	123456
Age	54
Sex	Male
Employer	Ventura County Sheriff Department
Job Class	Deputy Sheriff
Service credit	27.12345 years
Date of Injury	cumulative trauma over 27 years
Last day worked	11-12-11
Employment status	service retirement: 02-04-13

II. THE CLAIM

Incapacity: The applicant claims to be permanently incapacitated by an **injury to his low back** that prevents him from performing the following job duties.

- Wear a duty belt
- Walk and run distances
- Use force to apprehend and restrain suspects
- Lift, carry, pull larger objects

Causation: The applicant claims that his injury was substantially caused by performance of his Ventura County job duties.

III. DESCRIPTION OF INJURY OR ILLNESS

Applicant contends that his injury to his lumbar spine occurred gradually over the 27 year span of his County employment. Applicant specifically cites the following specific causes of his cumulative trauma injury:

- Daily wearing of a 45 pound gun belt
- Prolonged sitting in patrol car
- Frequent lifting of objects over 100 pounds

IV. APPLICANT'S PERTINENT MEDICAL HISTORY

- **LUMBAR SPINE**

Applicant reports complaints of intermittent back pain dating back to the mid 80's. His history includes minor early sports injuries which quickly resolved with minimal medical care. There is also a history of a muscular injury to his back many years ago while participating in the Contra Costa Police Academy. At this time, his congenital spondylolisthesis condition was diagnosed.

In 1999, 2002 and 2004 and 2007, applicant sought chiropractic care for intermittent complaints of low back pain. He was treated mainly with standard chiropractic care and acupuncture, with initial good control of his complaints.

In 2009, applicant's complaints of low back pain increased, with no acute injury. Prior treatment modalities were no longer effective in controlling his symptoms; however, he continued to work.

On 10-30-10, an MRI scan of the lumbosacral spine revealed objective findings of a moderate diffuse degenerative disk disease and degenerative facet joint disease, with evidence of neural narrowing and nerve compression at L5-S1.

In August 2011, applicant's complaints increased to include pain radiating down his right leg, with no acute injury. A repeat MRI on 10-31-11 showed objective findings of increased degenerative disk disease and degenerative facet joint disease, with evidence of increased neural narrowing, and increased disc bulging with moderate nerve compression at several lumbosacral levels. He was briefly taken off work and treated unsuccessfully with anti-inflammatory medications.

In December 2011, applicant returned to work and began a 12 week treatment with epidural injections. This course of treatment did not bring lasting relief. Applicant's treating physician noted that fusion or disc replacement surgery was unlikely to successfully relieve applicant's symptoms due to his congenital spondylolisthesis.

Applicant left work for the last time on 11-12-11, due to severe back pain. He retired for service on 02-04-13. He indicates that he currently has severe pain on walking more than 10 minutes, when walking up stairs, on lifting, with standing longer than 15-20 minutes and on prolonged sitting.

V. Objective Medical evidence

- **10-30-10: MRI-lumbosacral spine**

Objective Findings: a moderate diffuse degenerative disk disease; degenerative facet joint disease, neural narrowing; nerve compression at L5-S1.

- **10-31-11: MRI-lumbosacral spine**

Objective Findings: comparison to 2010 MRI: increased degenerative disk disease; increased degenerative facet joint disease, increased neural narrowing; disc bulging with moderate nerve compression at several lumbar levels

V. REASONABLE ACCOMMODATION

After discussions with the Sheriff Department to explore Reasonable Accommodation, it appears that there are no possible changes to applicant's assignment and duties that will allow him to perform the usual duties of his assignment or the usual duties of another assignment within the Deputy Sheriff job classification.

VI. LEGAL STANDARDS

Permanent Incapacity Criteria

- substantially unable *to perform usual duties; performance would result in severe pain or high risk of further injury*
- further *material improvement* in an applicant's medical condition is unlikely, and
- there is no possible **reasonable accommodation**

The following is a summary of the medical opinion on the issue of permanent incapacity:

- 02-19-12** **Report** of treating physician John Crawford, MD: Applicant has work restrictions of no lifting over 100 pounds to prevent rupturing discs and other further increase in lumbar pathology. He should avoid repeated getting in/out of patrol cars to prevent twisting that may cause severe sudden pain and moderate risk of further injury.
- 12-07-12** **IME Report** of Gary Daniels, MD: Applicant cannot wear a heavy gun belt without resultant severe and incapacitating pain down the right leg from nerve impingement. He also cannot perform any activity that involves heavy lifting as that carries high risk of further injury. He has tried the standard treatments to no available. Surgery is not likely to bring a positive result. It is my understanding that accommodation is not possible in his job. I feel he is permanently incapacitated from his job as I understand the legal requirements under the retirement law.

Service-Connected Criteria

- substantial evidence of a **real and measurable link** between the applicant's employment and his incapacity;
- a substantial cause or substantially aggravated a pre-existing condition
- a clear "**mechanism of injury**" that links the employment to the incapacity.

The following is a summary of the medical opinion on the issue of causation:

- 12-07-12** **IME Report** of Gary Daniels, MD: It is probable that his pain developed as a consequence of his continued work activities on a cumulative trauma basis. Daily wear of a heavy gun belt as well as frequent heavy lifting and frequent twisting in/out of patrol

car place a stress on the spinal pathology causing moisture to dissipate resulting in disc bulging and nerve impingement.

01-12-13 QME Report of Mario Arteaga, DC: There is no history of major prior acute injury that would account for his development of degenerative disc disease. It is possible that the degenerative disc disease is related to his congenital spinal condition. However, in reviewing his duties as a Deputy Sheriff, I find many activities that include heavy lifting, sustained standing and frequent twisting at the waist plus the daily wearing of a heavy gun belt that likely worsened his condition. It is medically likely that these activities weakened the spine pathology through wear and tear, increasing the severity and progression of his degenerative disc disease significantly.

VII. ANALYSIS

Based on the substantial evidence of expressed opinions by Drs. Crawford, Daniels and Arteaga, it appears that:

- Applicant is substantially unable to perform his usual duties;
- There is no further available medical treatment that will materially improve his incapacity to the point where he can perform his usual duties; and
- There is no possible reasonable accommodation that will allow applicant to perform his usual duties or those of another assignment in his job class.
- His incapacity is permanent
- His Ventura County substantially caused or aggravated his incapacity

VIII. RECOMMENDATION

On behalf of the County of Ventura, Risk Management recommends that (insert applicant name) be granted a service-connected disability retirement.

Submitted by

Paul Hilbun, Claims Manager

Concurring with recommendation:

_____, Risk Manager Date _____

_____, Deputy County Counsel Date _____

(attach Statement of Position document)

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

1190 South Victoria Avenue, Suite 200
Ventura, CA 93003-6572
(805) 339-4250 • Fax: (805) 339-4269
<http://www.ventura.org/vcera>

May 6, 2013

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

SUBJECT: BOARD POLICY UPDATE

Dear Board Members:

In late 2012, staff reported that it needed more time to compile and review the policies before presenting them to the Board for its periodic review and reconfirmation. Staff included a plan to bring policies with ministerial changes in manageable batch sizes over a period of a couple of meetings, and would bring critical policy updates as needed or substantial policy amendments separately for focused review.

On April 1, 2013, staff presented the charters for the Board of Retirement, Chair, Vice Chair, and Retirement Administrator, along with the Policy Development Process Policy, Service Provider Selection Policy, and Monitoring and Reporting Policy. Staff has received input from trustees and Board Counsel, and proposes the attached policy revisions, with changes noted in legislative mark-up format.

Please adopt the proposed policy changes as presented, or as modified. I welcome any additional proposed changes and would be pleased to respond to any questions you may have on this matter.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

Attachments

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT CHARTER

I. Introduction

- 1) The Board is committed to carrying out its policy and oversight role in accordance with the highest standards of fiduciary practice. In doing so, it recognizes the need to clearly delineate the responsibilities of the various decision-making bodies involved in the governance and management of VCERA. Accordingly, the Board has established this charter, which sets out its own duties and responsibilities in governing VCERA.

II. Duties and Responsibilities

Governance

- 2) The Board will:
 - a) Approve, and amend as necessary, the mission statement of VCERA;
 - b) Enact regulations or bylaws, consistent with the County Employees Retirement Law of 1937, Government Code, Title 3, Division 4, Part 3, Chapter 3 and 3.9, Sections 31450 *et. seq.* as amended, [the California Public Employees' Pension Reform Act of 2012](#), and other applicable laws;
 - c) Enact, and amend as necessary, policies to ensure appropriate governance practices;
 - d) Enact charters describing the roles and responsibilities of the Board, the Retirement Administrator, the Chair, Vice Chair, and any board committees that may be established, and amend said charters as appropriate;
 - e) Elect a Chair and a Vice Chair;
 - f) Initiate, support or oppose legislative proposals affecting VCERA; and
 - g) Authorize and or approve all actions concerning litigation that may affect the investments, benefits or funding of VCERA.

Investments and Funding

- 3) The Board has exclusive control of the investments of VCERA. The assets of VCERA are trust funds and, as such, the Board will manage the assets:
 - a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering VCERA;

- b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and
 - c) By diversifying the investments of VCERA so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.
- 4) The Board's duties to its participants and their beneficiaries shall take precedence over any other duty.
 - 5) The Board will conduct a study of the relationship between the assets and liabilities of VCERA not less than every three years.
 - 6) The Board will approve an Investment Policy Statement including investment objectives, and will review and confirm or amend such policy as necessary.
 - 7) The Board will approve broad investment strategies for achieving the investment objectives of VCERA, which will include at a minimum:
 - a) Investment manager structures;
 - b) Investment style and market capitalization strategies; and
 - c) Active and passive investment allocations.

Benefits Administration

- 8) The Board will:
 - a) Adopt board policies deemed necessary to ensure effective administration of member and surviving beneficiary benefits;
 - b) Approve all qualified members who apply for service retirement;
 - c) Determine the merits of applications for disability benefits, making necessary determinations of eligibility and permanency of incapacity;
 - d) Act on member and surviving beneficiary appeals of decisions made by VCERA staff;
 - e) Annually approve cost-of-living adjustments for eligible retirees and surviving beneficiaries; and
 - f) Annually review any non-vested supplemental benefit payments to retirees and surviving beneficiaries.

Operations

- 9) The Board will:
- a) Approve a business plan and any updates thereto in accordance with the Business Planning Policy;
 - b) Approve the annual operating budget and any changes thereto;
 - c) Ensure that all required contributions to VCERA are collected in a timely manner;
 - d) Ensure that all required distributions from VCERA are made in a timely manner;
 - e) Approve leasehold or purchase agreements in connection with VCERA's offices; and
 - f) Approve operational policies to support the efficient delivery of member and surviving beneficiary services.

Financial, Actuarial and Accounting

- 10) The Board will:
- a) Approve the annual actuarial valuation and the actuarial assumptions contained therein, upon the advice of the actuary and other experts as required, and ~~shall~~ transmit to the Board of Supervisors a recommendation to implement such changes in the contribution rates of the county and districts, and members, as are necessary. At least 25 days prior to taking any action concerning the actuarial valuation, the Board shall provide a copy of the valuation to each employee organization recognized by the County of Ventura, and to any recognized retiree organization.
 - b) Approve the Comprehensive Annual Financial Report;
 - c) Ensure a financial audit is conducted at least annually;
 - d) Ensure an actuarial experience study is conducted every three years; and
 - e) Ensure an actuarial audit is conducted at least every six years, unless the Board has replaced the actuary or is contemplating replacing the actuary shortly before or after the time that an actuarial audit is due.

Human Resources

- 11) The Board will:

- a) Approve a Retirement Administrator Performance Evaluation Policy;
- b) Approve the compensation of the Retirement Administrator;
- c) Approve the staffing levels of VCERA; and
- d) Ensure that appropriate provisions for succession are in place to provide for continuity in VCERA staff.

Communications

12) The Board will:

- a) Ensure effective communications with all significant interest groups including, but not limited to, plan participants, the plan sponsors, recognized retiree organizations of retirees, and employee organizations;
- b) Ensure that anthe Comprehensive Annual Financial Report, or a summary thereof, is available to members and the public; and
- c) Ensure the adequacy of the Annual Member Statement and ensure its timely distribution to all members.

Key Appointments

13) The Board will appoint the Retirement Administrator.

14) The Board will appoint the following retained service providers, ~~–~~taking into consideration the recommendation of staff or consultants:

- a) The actuary;
- b) The actuarial auditor;
- c) The financial auditor;
- d) The custodian;
- e) Board Counsel, and additional ~~L~~legal counsel retained to advise the Board;
- f) Investment consultants;
- g) Investment managers;
- h) Human resource consultants;
- i) Information systems technology providers; and
- i) Hearing Officers ~~and~~

~~j) — Other service providers retained to advise the Board.~~

~~15) Unless the Board determines otherwise, the Retirement Administrator will be responsible for appointing, and executing contracts with, service providers other than the retained service providers listed above and for informing the Board of such appointments, and will be responsible for seeking Board approval, where the services are publicly or politically sensitive, or the contract exceeds \$100,000.~~

III. Monitoring and Reporting

~~15)16)~~ The Board will ensure that appropriate monitoring and reporting practices are established within VCERA.

~~16)17)~~ The Board will annually:

- a) Review compliance with board policies;
- b) Review the Retirement Administrator's job performance in accordance with the Retirement Administrator Performance Evaluation Policy;
- c) Review the performance of the Board itself;
- d) Review the funded status of VCERA via the actuarial valuation;
- e) Review VCERA's internal financial and operating controls as presented by the financial auditor;
- f) Review the investment performance of VCERA and the performance of its investment managers.

~~17)18)~~ The Board will review the actuarial experience of VCERA not less than every three (3) years.

~~18)19)~~ The Board will review the results of an actuarial audit of VCERA at least every six years, except as otherwise provided in Section 10 e).

~~19)20)~~ The Board will review progress toward the implementation of VCERA's business plan on an annual basis.

~~20)21)~~ The Board will review board policies at a frequency to be set out in each policy.

~~21)22)~~ The Board will review the operating budget on a monthly basis.

~~22)23)~~ With the assistance of the Retirement Administrator, the Board will, on a regular basis, review the performance of all retained service providers including the actuary, the financial auditor, the investment consultant and counsel.

IV. Compensation of Members; Expenses

- 23) Eligible Board members shall receive compensation at a rate of not more than one hundred dollars (\$100) a meeting, ~~or~~ meeting of a committee, or meeting of an ad hoc committee, authorized by the entire board, for not more than five meetings per month, together with actual and necessary expenses for all members of the Board.

V. Review

- 24) The Board will review this charter at least once every three (3) years to ensure that it remains relevant and appropriate.

VI. History

- 25) The Board last reviewed and approved this charter on May 6, 2013. This ~~C~~ charter was originally adopted by the Board on September 15, 2008.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CHAIR CHARTER

I. Introduction

- 1) At its first regular meeting in December, the Board will elect one of its members as Chair to hold office for a period of one year, commencing January 1 of the following year. Members may be re-elected to the office of Chair without limitation. The Chair will exercise the powers and will perform the duties and functions specified herein. In presiding at meetings of the Board, the Chair shall attempt to refrain from entering into any discussion on the merits of any issue before the Board until it appears all other members of the Board wishing to comment have had the opportunity to state their positions on such issue.
- 2) No member shall be elected to the position of Chair until he or she has served on the Board for a minimum of one year.

II. Duties and Responsibilities

- 3) The Chair will:
 - a) Recommend to the Board the appointment of committees and ad hoc committees of the Board;
 - b) Appoint a chair for each committee and ad hoc committee, or delegate to the committee the responsibility of appointing a chair;
 - c) Preside at meetings of the Board, ensuring that such meetings are conducted in an efficient and effective manner;
 - d) In consultation with the Retirement Administrator, ensure coordination of meetings of the Board, agendas, schedules and presentations;
 - e) Facilitate effective and open communications between the Board and the Retirement Administrator;
 - f) Work to ensure cohesion within the Board;
 - g) Sign subpoenas if the Retirement Administrator is unavailable;
 - h) Execute all investment manager contracts entered into by VCERA, and all other professional service contracts exceeding \$100,000, unless signature authority is delegated by the Board to the Retirement Administrator in an open meeting;
 - i) Review travel and other expenses of the Retirement Administrator on a quarterly basis;

- j) Sign the minutes which shall be part of the permanent records of the Board;
and
 - k) Carry out such other functions and duties as are prescribed by the Board.
- 4) The Chair shall be available to discuss with the Retirement Administrator any public relations matter the Retirement Administrator believes to be potentially sensitive or controversial in order to determine the most appropriate response, and to determine whether the Chair or the Retirement Administrator should act as spokesperson on the matter.

Notwithstanding the above, the Chair will serve as official spokesperson for VCERA on any public relations matter pertaining to the Retirement Administrator and for which it would be inappropriate for the Retirement Administrator to serve as spokesperson, such as matters relating to the ethical conduct of the Retirement Administrator.

III. Review

- 5) The Board will review this charter at least once every three (3) years to ensure that it remains relevant and appropriate.

IV. History

- 6) The Board last reviewed and approved this charter on May 6, 2013. This ~~C~~charter was originally adopted by the Board on June 2, 2003.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

VICE CHAIR CHARTER

I. Introduction

- 1) At its first regular meeting in December, the Board will elect one of its members as Vice Chair to hold office for a period of one year, commencing January 1 of the following year. Members may be re-elected to the office of Vice Chair without limitation. No member shall be elected to the position of Vice Chair until he or she has served on the Board for a minimum of one year.

II. Duties and Responsibilities

- 2) The Vice Chair will assume the duties of the Chair in the event the Chair is unable to fulfill the duties of the position.
- 3) In order to assume the duties of the Chair effectively, the Vice-Chair is responsible for ensuring that he or she is familiar with the duties of the Chair.

IV. Review

- 4) The Board will review this charter at least once every three (3) years to ensure that it remains relevant and appropriate.

V. History

- 5) [The Board last reviewed and approved this charter on May 6, 2013.](#) This ~~C~~charter was originally adopted by the Board on June 2, 2003.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

RETIREMENT ADMINISTRATOR CHARTER

I. Introduction

- 1) The Board will appoint a Retirement Administrator who will serve at its pleasure. The Retirement Administrator is the most senior executive of VCERA and is ~~not~~ subject to ~~county civil service and merit system rules~~ the Ventura County Management Resolution and is exempt from Ventura County civil service rules. This charter sets out the roles and responsibilities of the Retirement Administrator.

II. Duties and Responsibilities

Leadership and Policy Analysis

- 2) The Retirement Administrator will provide leadership for VCERA staff in implementing the programs necessary to achieve the mission, goals and objectives established by the Board. The Retirement Administrator will manage the day-to-day affairs of VCERA in accordance with policies established by the Board, and may delegate duties to senior management and staff as necessary.
- 3) The Retirement Administrator will provide support to the Board and its committees in establishing all governance, administrative and operational policies of the Board including identifying and analyzing issues requiring ~~B~~board policy, and providing well-supported policy recommendations for consideration by the Board or its committees. The Retirement Administrator may advise the Board on investment policy matters, ~~-~~but primary responsibility for such recommendations rests with the investment consultant.
- 4) The Retirement Administrator will be responsible for ensuring that all administrative and operational policies of the Board, excluding governance and investment policies, are properly implemented.

Governance

- 5) The Retirement Administrator will:
 - a) Recommend to the Board policies to help ensure appropriate governance practices;
 - b) Assist the Board in implementing its governance policies, charters, and bylaws; and
 - c) Assist the Board in ~~co-ordinating~~ coordinating ~~B~~board member education and travel arrangements.

- 6) The Retirement Administrator will carry out the following duties for the Board:
- a) Coordinate meetings, agendas, schedules and presentations for both ~~B~~board and committee meetings in accordance with the Brown Act;
 - b) Maintain minutes of ~~b~~Board meetings and notes for committee meetings;
 - c) Sign the minutes of ~~B~~board meetings upon approval of the Board;
 - d) Sign subpoenas;
 - e) ~~In conjunction with~~Under the direction of the Chair or, in the Chair's absence, the Vice-Chair, sign all resolutions and policies adopted by the Board.

Investments

- 7) The Retirement Administrator will:
- a) Advise the Board on investment matters;
 - b) Monitor, from an administrative perspective only, that the investment consultant is fulfilling the terms of its contract with VCERA; and
 - c) Execute the portfolio rebalancing policy of the Board.

Benefits Administration

- 8) The Retirement Administrator will:
- a) Recommend to the Board, as necessary, policies and staffing to ensure effective administration of member benefits;
 - b) Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
 - c) In consultation with medical evaluators and counsel, schedule disability applications to the Board for its consideration;
 - d) Maintain accurate records of member accounts; and
 - e) Ensure delivery of high standards of service to members including calculations and counseling.

Operations

- 9) The Retirement Administrator will:
- a) Recommend to the Board, as appropriate, ~~board~~Board policies and staffing designed to help ensure effective operations;

- b) Develop and recommend a Business Plan to the Board, as well as updates to the Plan as necessary;
- c) Recommend the annual operating budget to the Board;
- d) Execute agreements and authorize payments related to the administration of VCERA, consistent with the operating budget;
- e) Account for and ensure appropriate collection, deposit, and distribution of funds as required;
- f) Implement internal operational controls;
- g) Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer VCERA;
- h) Maintain the records of VCERA in a permanent and readily accessible format;
- i) Maintain an effective working relationship with ~~the plan~~ sponsors and other constituency groups.

Finance, Actuarial and Accounting

10) The Retirement Administrator will:

- a) Prepare the Comprehensive Annual Financial Report for approval by the Board;
- b) Implement appropriate internal financial controls to safeguard the assets of VCERA;
- c) ~~Assist the Board in~~ With the assistance of the Chief Financial Officer, coordinating the annual financial audit;
- d) Coordinate the actuarial valuation, actuarial experience studies, and actuarial audits; and
- e) Per Government Code Section 31597.1, adopted by the Board of Supervisors on May 19, 1981, before December 31 of each year, file in the office of the County Auditor and with the Board of Supervisors a sworn statement as part of the Comprehensive Annual Financial Report, which will exhibit the financial condition of VCERA at the close of the preceding ~~calendar~~ fiscal year and its financial transactions for the year ending on that day.

Human Resources

11) The Retirement Administrator will:

- a) Hire, manage and terminate senior management and staff; and

- b) Develop training and job development programs for VCERA staff as approved in the annual budget.

Legislation and Litigation

- 12) The Retirement Administrator will:
 - a) Recommend legislative proposals to be considered by the Board;
 - b) Coordinate with legal counsel all legal proceedings involving VCERA;
 - c) In consultation with legal counsel, provide recommendations to the Board concerning settlement or other legal action involving VCERA; and
 - d) Develop and implement plans to comply with court rulings or new legislation.

Communications

- 13) The Retirement Administrator will:
 - a) Ensure effective and timely communications with stakeholders on matters relating to the administration of VCERA. Such communications may include press releases, newsletters, presentations, and internet communications; and
 - b) Act as official spokesperson for VCERA. The Retirement Administrator will, however, discuss with the Chair any public relations matters that are potentially sensitive or controversial to determine the most appropriate response and to determine whether the Retirement Administrator or the Chair should act as spokesperson on the matter.

Appointment of Service Providers

- 14) The Retirement Administrator will cause the necessary due diligence to be performed for the following retained service providers:
 - a) The actuary;
 - b) The actuarial auditor;
 - c) The independent financial auditor;
 - d) The master trust/plan custodian;
 - e) Legal counsel;
 - f) Human resource consultants;
 - g) Information systems technology providers;

g)h) Hearing Officers; and

h)i) Other service providers.

The Retirement Administrator will provide the Board with appropriate recommendations, in accordance with the Service Provider Selection Policy.

- 15) The Retirement Administrator may ~~hire—execute contracts with other—~~service providers, other than investment managers, where the amount does not exceed \$100,000, consistent with the operating budget and other policies of the Board, provided that the Board has not specifically retained the authority to hire such service providers, and —the Retirement Administrator may execute a contract entered into by VCERA with an investment manager, or greater than \$100,000, when signature authority is delegated by the Board in an open meeting.

III. Monitoring and Reporting

- 16) The Retirement Administrator will provide the Board with relevant, appropriate and timely information to enable it to properly carry out its oversight responsibilities with respect to the benefit administration function of VCERA. Furthermore, the Retirement Administrator will apprise the Board in a timely manner of all significant issues, problems, or developments pertaining to VCERA, and provide recommended courses of action as appropriate.
- 17) The Retirement Administrator will:
- a) Review all administrative and operational policies of VCERA on a regular basis to ensure they are being followed and continue to meet the needs of VCERA;
 - b) Monitor the funded status of VCERA and all issues that may reasonably have a significant impact on such status;
 - c) Review the findings of the annual financial audit, and of any internal audits that may be performed;
 - e) Assist the Board in the Rreview of the activities and performance of the actuary, independent financial auditor, investment consultant, legal counsel, and master trust/plan custodian on a regular basis;
 - f) Monitor and evaluate the activities and performance of senior management and staff;
 - g) With the assistance of the Chief Financial Officer, Monitor the accuracy and timeliness of all payments due to and payable by VCERA;
 - h) Monitor VCERA's compliance with applicable laws and regulations concerning the benefit administration function; and

- i) In conjunction with Board counsel and outside counsel, monitor the status of all legal proceedings involving VCERA and report to the Board as appropriate.

IV. Review

- 18) The Board will review this charter at least once every three (3) years to ensure that it remains relevant and appropriate.

V. History

- 19) The Board last reviewed and approved this charter on May 6, 2013. This ~~c~~Charter was originally adopted by the Board on June 2, 2003.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD POLICY DEVELOPMENT PROCESS

I. Background and Objectives

- 1) The Board is responsible for the overall governance of VCERA and for assuring that VCERA's mission is accomplished. In carrying out its responsibilities, the Board requires clear, sound policies and a structured process for establishing them.
- 2) The objectives of this policy are to:
 - a) Set out the method by which the Board will develop and approve the formal policies of VCERA;
 - b) Ensure that the method by which ~~b~~Board policies are established is rigorous and disciplined; and
 - c) Provide a template and structure for Board policies; and
 - ~~e~~d) Provide for regular review and monitoring of ~~board~~Board policies to ensure they continue to support the fiduciary responsibilities of the Board and the needs of VCERA.

II. Roles

- 3) The general role of the Retirement Administrator in the policy development process is to:
 - a) assist the Board in identifying ~~board~~Board policies that may be needed;
 - b) provide the Board and designated committees with sound, thorough analysis of policy issues, with the assistance of consultants as required; and
 - c) develop recommended policies for the consideration of the Board and its committees.
- 4) The general role of the Board and its committees in the policy development process is to satisfy itself that the policy recommendations and the underlying analysis thereof, emanating from the Retirement Administrator or the consultants, reflect the requisite level of skill, diligence, and care, and effectively support the mission and goals of VCERA.

III. Guidelines

Policy Development

- 5) The process of developing a ~~board~~Board policy will be initiated by an action of the Board- or by the Retirement Administrator. The need for a ~~board~~Board policy may

be proposed by a trustee, a ~~board~~Board committee, the Retirement Administrator or a consultant.

- 6) In determining whether a particular issue warrants a ~~board~~Board policy, the Board will consider whether the issue satisfies the following criteria:
 - a) The issue may have a significant impact on or risk to VCERA;
 - b) The issue is expected to recur or continue indefinitely; and
 - c) The issue is not an operational issue that falls within the discretion of the Retirement Administrator, in which case the Retirement Administrator will be directed to establish and adopt a staff policy.
- 7) The Retirement Administrator will be responsible, with support of consultants as required, for performing all necessary policy research and analysis.
- 8) Board policies shall be documented and shall contain the following elements:
 - a) Purpose and objectives of the policy;
 - b) Guidelines to be followed;
 - c) Provisions for policy review, including frequency of review; and
 - d) Policy history.
- 9) Board policies may also contain the following optional elements:
 - a) Background or preamble;
 - b) Definitions;
 - c) Important underlying principles;
 - d) Examples for clarification; and
 - e) Other elements that may help clarify the Board's position.

- 10) In approving a policy, the Board will satisfy itself that the proposed policy and the underlying analysis thereof:
 - a) Reflect the requisite level of skill, diligence and care;
 - b) Satisfy the purpose of the policy, as defined at the outset by the Board; and
 - c) Effectively support the mission and goals of VCERA.
- 11) All of VCERA's ~~board~~Board policies will be ~~numbered~~organized for easy reference, maintained in an up-to-date form in a single volume or series of volumes within VCERA's office and on VCERA's website, and will be accessible to trustees, staff, and the public~~staff~~.

Policy Compliance

- 12) As a general rule, the Board will comply with all ~~board~~Board policies. Should the Board take an action contrary to one of its policies, it will state in the ~~board~~Board minutes the reasons for doing so. At such time, the Board will also request that a review of the policy be undertaken.
- 13) All policies will be formally reviewed at a time specified within each policy. The Board may initiate a review of a policy in advance of the time specified in the policy if either the trustee making the motion to review the policy or the seconder of such motion previously voted in support of the policy.

IV. Process Review

- 14) The Board will review the Board Policy Development Process at least once every three (3) years to ensure that it remains relevant and appropriate.

V. Process History

- 15) The Board last reviewed and approved this policy on May 6, 2013. The Board previously reviewed and approved this policy on March 19, 2007.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

SERVICE PROVIDER SELECTION POLICY

I. Background and Objectives

- 1) The Service Provider Selection Policy is intended to establish guidelines by which service providers will be selected and retained by VCERA.
- 2) The objective of this policy is to ensure that the process of selecting service providers is diligent and efficient.

II. Roles and Responsibilities

- 3) The role of the Board with respect to the selection of service providers is to:
 - a) Establish appropriate policies to help ensure prudent and sound selection decisions are made;
 - b) To monitor compliance with such policies; and
 - c) To approve, in consultation with the Retirement Administrator and, where appropriate, consultants, the appointment of retained service providers, which include:
 - i. The actuary;
 - ii. The actuarial auditor;
 - iii. The independent financial auditor;
 - iv. The master trust/plan custodian;
 - v. Board Counsel, and additional Legal counsel retained to advise the Board;
 - vi. Investment consultants;
 - vii. Investment managers;
 - viii. Human resource consultants;
 - ix. Information systems technology providers; and
 - ~~ix-x.~~ Hearing Officers and
 - ~~x.~~ Other service providers retained to advise the Board.
- 4) Unless the Board determines otherwise, the Retirement Administrator will be responsible for appointing, and executing contracts with, service providers other than the retained service providers listed above and for informing the Board of such appointments, and will be responsible for seeking Board approval, where the

services are publicly ory are material or significant politically sensitive, or the contract exceeds \$100,000.

4)5) The Chair will execute contracts with the retained service providers listed on the previous page, and all other professional service contracts exceeding \$100,000, unless signature authority is delegated by the Board to the Retirement Administrator in an open meeting.

5)6) The Retirement Administrator will coordinate all search and due diligence activities, in conjunction with staff, investment consultants and other external experts, as required. Members of tThe Board may-will participate in due diligence activities for educational purposes and in order to oversee the due diligence activities of staff and consultants, and the performance of retained service providers.

III. The Search Process

General Guidelines

6)7) The appointment of all service providers will be made in the best interests of the members and beneficiaries of VCERA, in keeping with the fiduciary responsibilities of the Board and staff.

Retained Service Providers

7)8) Prior to conducting a search for a retained service provider, the Retirement Administrator or consultant, as appropriate, will present the following information to the Board:

- a) The type of service provider being sought and the supporting rationale;
- b) The objectives and selection criteria to be met and their relative importance;
- c) A projected timeline for the search process; and
- d) A description of the search process deemed most appropriate and cost effective in the circumstances, and including:
 - i. Whether a search consultant is to be used in the process;
 - ii. The due diligence efforts to be undertaken (for example, site visits and reference checks);
 - iii. Evaluation criteria to be used and their relative weights;
 - iv. Whether a Request for Proposal (RFP), or a variation thereof, is to be used with supporting rationale ~~(a copy of the RFP will made available to trustees upon request)~~;

- v. Whether a sole source approach is to be used, with supporting rationale; and
- vi. Other pertinent information that the Retirement Administrator believes may assist the Board in better understanding the search process.

| ~~8)9)~~ The Board, or a committee of the Board, may interview the candidates prior to the Board making a final selection decision. The exact number of candidates to be interviewed will be determined by the Board. The Board may delegate this responsibility to conduct interviews to the Retirement Administrator and request that the Retirement Administrator recommend a candidate for ratification by the Board.

| ~~9)10)~~ The Retirement Administrator or consultant will provide the Board or a designated committee of the Board with periodic reports on the status of all search processes.

| ~~10)11)~~ Upon completion of the analysis and due diligence involved in the search process, the Retirement Administrator or consultant will provide the Board or a designated committee of the Board with, at a minimum:

- a) A description of the due diligence activities undertaken;
- b) A list of finalist candidates to be interviewed and an analysis of each candidate;
- c) Confirmation of compliance with the selection criteria and search process presented to the Board prior to the commencement of the search, or an explanation of any deviations that occurred; and
- d) A description of the expected performance monitoring and reporting efforts to be carried out with respect to the service provider in question throughout the term of the engagement.

| ~~11)12)~~ The Board ~~will~~may institute a “quiet period” when

- a) the Board initiates a search process that may result in the appointment of a new service provider or in the expansion of its relationship with an existing service provider;
- b) a current service provider is placed on an official “watch list” signifying that the service provider’s performance has fallen below expectations and warrants closer scrutiny; or
- c) the Board deems it is in the best interest of VCERA to require that, for a limited period of time, communications between trustees and specified service providers be restricted to ~~board~~Board and committee meetings only.

~~12)~~13) The initiation of a quiet period will be recorded in the minutes of the ~~board~~Board meeting at which it occurred.

~~13)~~14) During quiet periods, in conjunction with the Service Provider Policy, trustees shall neither communicate with the specified service providers, except during ~~board~~Board or committee meetings, nor accept meals, travel, hotel, or other gifts from the specified service providers.

~~14)~~15) A quiet period will cease:

- a) when a service provider has been appointed by the Board or the search process is otherwise ended; or
- b) when a service provider on an official “watch list,” which has had a quiet period implemented, is subsequently removed from the watch list; or
- c) when the quiet period is ended by action of the Board; or
- d) when otherwise determined by action of the Board.

IV. Contracts Review

~~15)~~16) ~~The Board will review, provide direction and approve a~~All contracts entered into by VCERA, and the Retirement Administrator, will be subject to review by ~~the~~ Board's ~~legal advisor~~Counsel prior to presentation to the Board. ~~The Chair shall execute all contracts.~~

V. Monitoring and Reporting

~~16)~~17) All service providers will be subject to regular and appropriate performance monitoring by staff, and periodic reviews, as appropriate, throughout the term of their contracts. Criteria for review may include performance, staff satisfaction, competitiveness of fees, quality of reporting, and accuracy of assumptions and forecasts.

~~17)~~18) The Retirement Administrator will report regularly as needed to the Board on all monitoring efforts involving retained service providers, identifying in a timely manner any material issues or actions taken. ~~In addition, the Retirement Administrator will prepare an annual performance summary for the service providers and place the matter on the Board's agenda for review and discussion.~~

~~18)~~19) All monitoring and reporting provisions contained in this policy serve as minimum requirements. If more stringent requirements are established within other policies of VCERA, such requirements will prevail.

~~19)~~20) The Retirement Administrator or investment consultant(s), as appropriate, will report in a timely manner to the Board any failures by retained service providers to comply with the terms of their contract.

VI. Policy Review

~~20)~~21) The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

VII. Policy History

~~21)~~22) This policy was last reviewed and approved on May 6, 2013. This policy was originally adopted by the Board on June 2, 2003.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

MONITORING AND REPORTING POLICY

I. Background

- 1) In keeping with the duty of the Board to oversee the activities and performance of VCERA, the Board has established this Monitoring and Reporting Policy, which sets out the Board's expectations concerning the reports it is to receive on a regular basis.

II. Guidelines

- 2) Appendix 1 of this Policy will address the routine reporting needs of the Board across a range of reporting areas including:
 - a) Governance;
 - b) Investments;
 - c) Funding; and
 - d) Administration.
- 3) The Board will be provided the routine reports outlined in Appendix 1 with a frequency also set out in Appendix 1. The Board will be provided other Personnel Committee reports as required.
- 4) Board members are expected to review and be familiar with all reports provided to the Board, and to question management about any issues of concern contained in any such report.
- 5) Management will work continuously to improve the routine reports provided to the Board to ensure they meet the needs of the Board, provide adequate information, and are user friendly.
- 6) Routine reports will not only address performance measurement, but also compliance with VCERA policies.

III. Policy Review

- 7) The Board will review this policy, including Appendix 1, at least once every three (3) years to ensure that it remains relevant and appropriate.

IV. Policy History

- 8) The Board last reviewed and approved this policy on May 6, 2013. The Board previously reviewed and approved this policy on March 19, 2007.

APPENDIX I

REPORTS RECEIVED BY THE BOARD OF RETIREMENT

Governance Reports

Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
1. Retirement Administrator Evaluation	Annually	Personnel Committee	Chair of Personnel Committee	Summarizes the performance assessment of the Retirement Administrator
2. Governance Report	Annually	FBD Staff	Retirement Administrator	A summary confirmation of compliance with governance policies of the Board.

Investment Reports

Generic Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
3. Quarterly Investment Performance Report	Quarterly	Investment Consultant	Investment Consultant	Includes: <ul style="list-style-type: none"> report on the investment performance of the total fund, each asset class and each investment manager and recommendations on portfolio rebalancing; report on the economic and investment environment, recommended asset allocation strategy (annually); review of VCERA's commingled funds and real estate investments; and confirmation that the investment managers are investing plan assets in accordance with their mandate, investment agreement, regulatory requirements and VCERA policy.
4. Investment Summary	Monthly	Investment Consultant	Investment Consultant	Preliminary performance report for the prior month on individual investment managers and the total portfolio.
5. Asset and Liability Study	Every 3 years or as needed	Investment Consultant	Investment Consultant	A study of the relationship between VCERA's assets and liabilities to determine the appropriateness of VCERA's asset allocation policy.
6. Proxy Voting Report	Annually	Staff / Investment Consultant Third Party	Staff / Investment Consultant Third Party	Confirms compliance with the Board's proxy voting policy, and summarizes how VCERA exercised its voting rights in public companies.

Funding Reports

Generic Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
7. Actuarial Valuation	Annually	Actuary	Actuary	Establishes the financial position of the pension plan on a going concern and solvency basis, and determines the rates of contribution.
8. Experience Analysis	Every 3 years	Actuary	Actuary	Reviews the appropriate long-term economic assumptions such as investment return and wage and price inflation, and demographic assumptions such as disability rates and mortality rates.
9. Actuarial Audit*	At least every 6 years*	Auditing Actuary	Auditing Actuary	An independent review of the validity of the analyses and methodologies used in preparing VCERA's actuarial valuation.

Administrative Reports

Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
10. Report on Business Plan	Annually	Staff	Retirement Administrator	Outlines the Business Plan and progress towards its implementation.
11. Operating Budget Summary	Monthly	Staff	Retirement Administrator	Summarizes the material variances from the operational budget.
12. Monthly Financial Report	Monthly	Staff	Retirement Administrator	Monthly report on the financial position of VCERA, covering unaudited financial statements and progress on the preparation of the financial statements.
<u>13. Budget Status</u>	<u>Monthly</u>	<u>Staff</u>	<u>Retirement Administrator</u>	<u>Monthly status report on the adopted budget, adjusted budget in relation to expenditures to date.</u>

* Unless the Board has replaced the actuary or is contemplating replacing the actuary shortly before or after the time that an actuarial audit is due to be conducted.

Administrative Reports (cont'd)

Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
13-14. Comprehensive Annual Financial Report (“CAFR”) including: <ul style="list-style-type: none"> Audited Financial Statements Management Discussion and Analysis Auditor’s Opinion 	Annually	Staff	Retirement Administrator / <u>Independent Auditor</u>	The Annual Report reviews the operations and activities of VCERA during the last fiscal year. It also includes: <ul style="list-style-type: none"> The audited financial statements, which indicate the financial position of VCERA. The Management Discussion and Analysis, which is management’s statement of the key financial activities and transactions of VCERA’s fiscal year The Auditor’s opinion, confirming that the financial statements present fairly, in all materials respects, the financial status of VCERA, in accordance with generally accepted accounting principles.
14-15. Report of Checks Disbursed	Monthly	Staff	Retirement Administrator	Monthly report on the cash disbursed by VCERA during the prior month.
15-16. Report on Retirees	Monthly	Staff	Retirement Administrator	List of all new retirees, <u>deferred members, and beneficiaries</u> for prior month. Includes names, <u>date of membership</u> , length of service, <u>other service</u> , -department worked for, <u>and effective date</u> .
16-17. Disability Application Status Report	Monthly	Staff	Retirement Administrator	Summary report of all pending disability applications.

Standard Staff Reports

Report Name	Frequency	Prepared By	Presented By	Description and Purpose of Report
17-18. Administrator’s Report	As required / <u>Quarterly</u>	Staff	Administrator	Updates the Board, <u>as required</u> on significant matters not reported in routine reports, or in other staff or committee reports. <u>At least quarterly, updates the Board on the Administrator’s travel, training, and other expenses, key meetings, press/media communications, any items the Administrator has been asked to report back on regularly, and other items that may be of interest to the Board.</u>
18-19. <u>Legal Advisor Board Counsel</u> ’s Report	As required	<u>Legal Advisor Board Counsel</u>	<u>Legal Advisor Board Counsel</u>	Updates the Board on significant legislative and legal developments, and on any ongoing litigation affecting VCERA.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

1190 South Victoria Avenue, Suite 200
Ventura, CA 93003-6572
(805) 339-4250 • Fax: (805) 339-4269
<http://www.ventura.org/vcera>

May 6, 2013

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

SUBJECT: PENSION ADMINISTRATION SYSTEM (PAS) PROJECT UPDATE

Dear Board Members:

Attached is the Ventura County Employees Retirement Income System ("VCERIS") project Quarterly Report. Staff recommends your Board take the following action:

- Receive and File the VCERIS Quarterly Report

Background and Discussion:

The project team continues to make progress on the VCERIS project. The project remains six weeks behind schedule, but the key areas of the project are moving forward, including the delivery of software functionality and continued conversion of legacy data. No new change orders are required at this time, but future change orders may be required based on the risks discussed below.

As reported on February 4, 2013, the project team is continually assessing major risks to the project. We have an update on two risks. First, the active payroll file, provided by the Auditor-Controller's office, must be updated and reformatted in order to complete rollout 1 and retire the legacy system, RDBS. Second, additional VCERA resources are required for rollout 2.

1. Accomplishments in First Year of Implementation

As the VCERIS project reaches the one year mark, staff is pleased to report that significant progress has been made in many areas. These accomplishments are indicative of the team's hard work on the project. Staff believes that the project team is on track to achieve the critical goal of implementing a quality system that will serve VCERA's members for the long term. The highlights of the last year's accomplishments are as follows:

- Mapping and initial conversion of 100% of the active member data from the legacy system. This was accomplished in only nine months, which is less than half the duration of most similar data conversions.

PENSION ADMINISTRATION SYSTEM (PAS) PROJECT UPDATE

February 4, 2013

Page 2 of 3

- Design, development, and deployment of the following functionality:
 - New Member Enrollment
 - Member Information Changes
 - Reciprocity Processing
 - Member Counseling and Seminars
 - Member Account Adjustments
 - Interest Posting
 - Termination
 - Purchase of Service Credit (partial)
 - DRO Processing (partial)

This functionality was delivered with an open defect rate of only 7%.

- Maintain an overage in duration of 9% despite the fact that only two VCERA staff members are working on the project full-time.
- The project is currently running \$280,000 under budget. Significant cost savings have been achieved by utilizing County ITS for assistance with data conversion and broadband access to the hosted environment.

2. Update on Active Payroll File Interface

As was reported in February, the Auditor-Controller's staff has indicated that making many of the required changes to the interface file represents a significant technical challenge, and at minimum is problematic in the current rollout 1 schedule. These changes include modifications to the method in which earnable compensation, leaves of absence, and leave accrual rates are reported to VCERA, as well as service purchase contract payments, excess contribution refunds, and retroactive pay adjustment reporting. These changes are necessary to allow the V3 system to automate benefit and service purchase calculations. If the changes are not made, this will nullify many of the benefits of the VCERIS project, and introduce potential errors in data entry, which could impact the accuracy of benefit calculations.

The alternatives to an automated interface are limited and have considerable flaws. One alternative is to have VCERA or the Auditor-Controller provide data entry staff to manually research and correct the data each pay period. This would require a major change to the design of V3 to allow for this manual correction process. It would also carry a significant annual cost to maintain the staff to perform these calculations. A second alternative could be for the Auditor-Controller to certify the current data as the best available compensation earnable information, and for VCERA to accept this data without modification or correction. This would negatively impact the accuracy of benefit calculations in V3. A third option, believed by VCERA management and the project team to be the best available, and most cost effective solution, is to have Auditor-Controller make the required changes to the active payroll interface as part of the V3 implementation. Although this will likely impact the duration and cost of the project, the long term impact to VCERA would be significantly greater if this issue is not properly addressed during the course of VCERIS interface development.

PENSION ADMINISTRATION SYSTEM (PAS) PROJECT UPDATE

February 4, 2013

Page 3 of 3

3. Update on Resources Available for Rollout 2

The project schedule calls for two additional VCERA subject matter experts for rollout 2, which is scheduled to begin in November of 2013. Initially, VCERA management indicated that they would be unable to provide these additional project resources from within their current staffing; however, your Board recently approved the addition of two full-time employees. While this will provide the resources necessary for rollout 2, there will be a significant transition period as the new resources are recruited, hired, and fully trained to back-fill for the two additional senior staff that will be assigned to the VCERIS project. Since it is not yet known when the new staff members will be hired, the impact on the rollout 2 schedule is currently undetermined.

As a result of these two risks, due to programming complexities, Auditor-Controller resource constraints, and inexperienced VCERA staff, the project team is determining how rollout 2 might be delayed and the impact of any delay on the start of rollout 2 on the project's budget and schedule. We will return to the Board as soon as is practical in order to present our analysis and options for adjusting the project duration or adjusting the project scope along with any cost implications to account for resource constraints.

Addition of Critical Success Factors Section to VCERIS Report:

In the attached VCERIS report, the project team has added a section entitled "Critical Success Factors". This section is intended to provide your Board with an ongoing evaluation of the VCERIS project, in terms of the team's ability to meet five critical goals for the project. These goals include providing staff with significant automation for benefit calculations and other processes, obtaining complete and accurate active payroll data, moving to a technologically current system, and completing the project within an acceptable budget and duration. For each Critical Success Factor, the team provides a definition of success, an assessment of the short and long term impact and the current risk to achieving success.

We would be pleased to respond to any questions you may have on this letter at the May 6th, 2013, Board meeting.

Sincerely,



DONALD KENDIG
Retirement Administrator



BRIAN COLKER
Linea Solutions, Inc.

Attachment



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Board of Retirement Ventura County Employees' Retirement Information System (VCERIS) Report

Reporting period: January 1st, 2013 – March 31, 2013

Current Project Plan

DATA AS OF 3/31/13:

Rollout 1: Active Member	Rollout 2: Retiree	Rollout 3: Member Web
Actual % Complete: 46.27%	Actual % Complete: N/A	Actual % Complete: N/A
Planned % Complete: 55.22%	Planned % Complete: N/A	Planned % Complete: N/A
Variance: 8.95% (6 weeks behind schedule)	Variance: N/A	Variance: N/A
Rollout Timeline, Initial: July 2012 – October 2013	Rollout Timeline, Initial: November 2013 – April 2015	Rollout Timeline, Initial: January 2015 – June 2015
Rollout Timeline, Revised: July 2012 – TBD (see below)	Rollout Timeline, Revised: TBD (see below)	Rollout Timeline, Revised: TBD (see below)

The project team is currently evaluating the impact of the delay of the delivery of a modified active payroll interface file on the rollout schedule. Until the delivery date is determined, it is not possible to determine the completion date of rollout 1.

Accomplishments for the Period 1/1/2013 – 3/31/2013

- Completed Segment B functionality.
- Continued creating test cases required for Segment B testing.
- Began testing of Segment B functionality.
- Continued to work with Plan Sponsors to revise transmittal specifications.
- Completed all initial data maps and developed a repeatable process for data extractions.



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Budget:

Summary

Cost Item	Budget	Change Orders	Amended Budget ¹	Expended to Date	Remaining
Vitech (software, implementation, hosting)	\$4,986,500		\$4,986,500	\$1,398,700	\$3,587,800
Linea (project oversight)	2,088,407	54,000	2,142,407	715,927	1,426,480
External Costs	100,000	60,200	160,200	73,260	86,940
Third party data conversion	680,000	143,250	588,212 ²	164,678	423,534
Limited Term Positions*	581,200	-	281,500 ²	100,904	180,596
Project Contingency	843,611		843,611		
Total	\$9,279,718	\$257,450	\$9,002,430	\$2,453,469	\$5,705,350
Staff Costs (unbudgeted to project)				198,338	
Grand Total	\$9,279,718	\$257,450	\$9,002,430	\$2,651,807	N/A

¹Amended Budget reflects only *approved* change orders

²Includes additional budget reductions

Detail

Milestone Description	Scheduled Invoice Date	Budget	Holdback (15%)	Net Scheduled Payment	Amount Incurred
Project Initiation / Initial License Payment (Development License)	March-12	\$ 200,000	\$ -	\$ 200,000	\$ 200,000
QA Hardware and Software Installed and Configured	May-12	128,000	(19,200)	108,800	108,800
Detailed Implementation Plan Approved	June-12	96,000	(14,400)	81,600	81,600
V3 Baseline Application Configuration & Demonstration Complete	August-12	224,000	(33,600)	190,400	190,400
Rollout 1: VCERA Confirms Segment A Functionality Delivered and Validated	November-12	224,000	(33,600)	190,400	190,400
Rollout 1: VCERA Confirms Segment B Functionality Delivered and Validated	January-13	224,000	(33,600)	190,400	-
Rollout 1: VCERA Confirms Segment C Functionality Delivered and Validated	April-13	224,000	(33,600)	190,400	-
Rollout 1: VCERA Confirms Segment D Functionality Delivered and Validated	May-13	224,000	(33,600)	190,400	-
Rollout 1: VCERA Begins UAT	July-13	288,000	(43,200)	244,800	-
Rollout 1: VCERA Accepts System for Production	October-13	576,000		576,000	-
Release Holdback	October-13		100,800	100,800	-
Rollout 2: VCERA Confirms Segment A Functionality Delivered and Validated	February-14	160,000	(24,000)	136,000	-
Rollout 2: VCERA Confirms Segment C	May-14	144,000		144,000	-



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Milestone Description	Scheduled Invoice Date	Budget	Holdback (15%)	Net Scheduled Payment	Amount Incurred
Functionality Delivered and Validated					
Rollout 2: VCERA Confirms Segment B Functionality Delivered and Validated	June-14	128,000		128,000	-
Rollout 2: VCERA Confirms Segment D Functionality Delivered and Validated	October-14	128,000		128,000	-
Rollout 2: VCERA Begins UAT	November-14	160,000		160,000	-
Rollout 2: VCERA Accepts System for Production	February-15	128,000		128,000	-
Rollout 3: VCERA Validates Functionality	April-15	40,000		40,000	-
Rollout 3: VCERA Begins UAT	April-15	40,000		40,000	-
Rollout 3: VCERA Accepts System for Production	June-15	64,000		64,000	-
Release Holdback	June-15		168,000	168,000	-
Warranty Complete: One Year After System Live Date	May-16 (EST)	100,000	-	100,000	-
Change orders					-
Vitech Implementation Services Subtotal:		\$3,500,000	\$ -	\$3,500,000	\$771,200

Vitech Other Costs		Budget		Incurred This Qtr.	Cumul.
Vitech V3 License Fee	August-12	\$ 575,000			\$ 575,000
Vitech V3 Upgrade Fee -	Various	450,000			-
Infrastructure Hosting	Various	376,000			25,000
Travel	On-going	82,500		7,500	27,500
Software Escrow Agreement	FY 13/14	3,000			
Change orders					
Vitech Other Costs Subtotal:		\$ 1,486,500			\$ 627,500
Vitech Services Total:		\$ 4,986,500			\$ 1,398,700

Linea - Project Oversight and Integrating Services Description:		Budget		Incurred This Qtr.	Cumul.
Project Oversight	On-going	\$ 704,040		\$ 94,535	\$376,710
Design Consulting	On-going	484,000		3,040	51,603
Testing	On-going	412,550		49,353	158,688
Interfaces	On-going	165,360		17,129	33,964
Cut-Over Support	On-going	140,700		-	-
Training	On-going	11,460		6,080	6,311
Data Conversion	On-going	65,600		8,978	35,631
Travel Expenses	On-going	158,697		14,335	53,021
Project Oversight and Integrating		\$ 2,142,407		\$ 193,450	\$ 715,927



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Milestone Description	Scheduled Invoice Date	Budget	Holdback (15%)	Net Scheduled Payment	Amount Incurred
Services Total:					
External Costs:					
		Budget		Paid this Qtr	Cumul.
Software	Varies	\$ 65,900		\$ 44,579	\$ 48,691
Hardware	Varies	30,000		-	11,993
Broadband to Host Facility	On-going	14,800		-	1,159
Data Conversion		588,212		119,597	164,678
Additional Project Workspace		49,500		6,614	11,418
3rd Party Hardware / Software Total:		\$ 748,412		\$ 170,790	\$2,352,565
Total Expended (excluding fixed term budget)					\$ 2,352,565
Total Project Budget (excluding fixed term budget)		\$7,978,619			
Total Project Budget (including fixed term budget)		\$8,260,119			

Original Project Budget	\$8,436,107	Variance from Original	\$ (277,288)
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Proposed Change Orders (see next page)	-
Proposed Amended Budget	-
Updated Variance From Original	-

Internal VCERA Costs:	This Qtr	Cumulative
Staff Costs (unbudgeted to project)	\$ 61,998	\$ 198,338
Grand Total Expended (excluding fixed term budget)		\$2,550,903



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Change Orders This Period

NONE

Approved Change Orders (All To Date)

Name	Description	Cost Impact	Budget Year
Vitech CO 3223 – Revised Implementation Plan	Vitech submitted a change order adjust the implementation schedule to extend the overall project by 6.5 months. They changed the payment milestones as part of the negotiation.	None (net over course of project)	FY'12-'13: \$163,200 FY'13-'14: \$147,388 FY'14-'15: (\$310,589)
Linea Change Order #1	Linea submitted a change order to adjust the implementation schedule to extend the overall project by 6.5 months.	None	N/A
Additional project workspace	The project team has determined that there is considerable advantage to in-person meetings.	\$49,500	FY'12-'13: \$13,500 FY'13-'14: \$18,000 FY'14-'15: \$18,000
Increased cost of Broadband to Host Facility	The secure point-to-point connection from VCERA to Vitech's hosting facility is considerably more expensive than anticipated.	\$68,100	FY'12-'13: \$0 FY'13-'14: \$3,300 FY'14-'15: \$32,400 FY'15-'16: \$32,400
Additional Project Software	This change covers the purchase of the Assima training tool.	\$43,900	FY'12-'13: \$22,900 FY'13-'14: \$7,000 FY'14-'15: \$7,000 FY'15-'16: \$7,000
Additional Data Conversion Assistance	This change covers VCERA's additional data conversion resources needed to support MBS in performing the data conversion.	\$147,000	FY'12-'13: \$75,000 FY'13-'14: \$50,000 FY'14-'15: \$22,000
Document Conversion Assistance	The change order is for Novanis, the current imaging company, to assist with converting images into V3.	\$50,250	FY'13-'14: \$50,250
County providing Broadband	County ITS was able to provide a secure broadband connection to Vitech's hosting facility, considerably decreasing the required cost for this service.	\$(101,300)	FY2012-2013 \$(7000) FY2013-2014 \$(31,200) FY2014-2015 \$(31,200) FY2015-2016 \$(31,200)
Total		\$257,450	



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date: 5/6/2013

#	ISSUES / RISKS – Explanation of Issues	MITIGATION - Explanation of Action Needed	UPDATE – Current Status of Issue
1	<p>The Auditor Controller has informed VCERA that PEPRA and the launch of VCFMS may impact its ability to meet the project schedule. Additionally, it has been communicated that some of the requested critical modifications either may not be possible or may not be possible in a timely fashion. If the Auditor Controller is not able to produce the completed interface by June 2013, this will cause the Rollout #1 schedule to be delayed.</p>	<p>The Auditor/Controller is reviewing the required modifications to the interface. However, VCERA has received indications that some of the required changes to the interface may be difficult to provide in a timely fashion. The project team requires a definite delivery date for the updated interface.</p>	<p>The project team is analyzing the impact to the schedule if the interface is not provided on-time. The team is determining what options may exist to mitigate interface issues, including manual workarounds. The project team will bring potential cost, duration impact, and options to the Board as soon as possible.</p> <p style="text-align: center;">RISK IS CONSIDERED HIGH</p>
2	<p>Recently the Benefits staff has been impacted by illness and family issues. Given that the project is currently utilizing the absolute minimum number of resources, VCERA must add additional staff resources in order to ensure the project timeline is not impacted.</p>	<p>VCERA Management is working to find additional trained resources to be added to VCERA's staff to assist with operations. The recruitment and training of these resources will allow VCERA to add two resources to the project for rollout 2, as required.</p>	<p>The deadline for having additional resources for rollout 2 is November. Although the Board has approved adding additional staff for the Benefits department, it will require time to recruit and train these staff members. This will push the start of rollout 2 to July of 2014. The project team is analyzing the impact to schedule and will bring the cost and options to the Board as soon as possible.</p> <p style="text-align: center;">RISK IS CONSIDERED HIGH.</p>



Ventura County Employees' Retirement Information System Status Report



Reporting to: Board of Retirement
Written by: Brian Colker

Report Date:

5/6/2013

Progress on Critical Success Factors

Factor	Acceptance Criteria	Short Term Impact?	Long-Term Impact?	Current State
Automation of Benefits Processes	<ul style="list-style-type: none"> System uses "wizards" to move through processes Minimal manual workarounds Reports support each process Online member access 	HIGH	HIGH	AT RISK
Payroll Interface Data	<ul style="list-style-type: none"> Active payroll data allows for significant automation of benefit estimates and benefit calculation VCERA receives full data elements needed for all calculations 	HIGH	HIGH	AT RISK
Moving to Current Technology	<ul style="list-style-type: none"> System utilizes current database technology System utilizes current application technology 	MEDIUM	HIGH	On Track
Project Cost	<ul style="list-style-type: none"> Project is within 15% of the original budget 	MEDIUM	LOW	On Track
Project Duration	<ul style="list-style-type: none"> Project completes within 20% of original duration 	HIGH	LOW	On Track

Explanation of "At Risk" Current State:

- The automation of benefits processes relies on complete and accurate data being transmitted through the active payroll interface.
- The Auditor/Controller has stated that it may not be possible to provide all required data elements within the project schedule

Accomplishments Planned for Next Period (1/1/2013 – 3/31/2013)

- Complete testing for Segment B functionality
- Perform complete set of data extracts
- Begin design activities for Segment C functionality
- Continue to work with Plan Sponsors to develop new transmittal
- Begin testing for Segment C functionality

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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May 6, 2013

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

**SUBJECT: REQUEST TO ATTEND OPAL'S INVESTMENT TRENDS SUMMIT,
SEPTEMBER 25-27, 2013**

Dear Board Members:

Please find the attached agenda to Opal's Investment Trends Summit, to be held on September 25-27, 2013, in Santa Barbara, CA. The conference is free to attendees, however, would cost \$100 per day (or \$300 per attendee) plus mileage.

Please consider a motion authorizing attendance for any interested trustees and I to attend.

I would be happy to answer any questions you may have.

Sincerely,



Donald C. Kendig, CPA
Retirement Administrator

Attachment



WEDNESDAY, September 25, 2013

8:00 am	GOLF TOURNAMENT
11:00 am	Exhibit Setup
12:30 pm	Registration Opens
1:30 pm	OPENING REMARKS
1:40 pm – 2:00 pm	STANDALONE
2:00 pm – 2:20 pm	STANDALONE
2:20 pm – 3:15 pm	<p>CHALLENGES INVESTORS ARE NOW FACING</p> <ul style="list-style-type: none"> • Understanding and adapting to the evolving landscape of pension funding • What role should investment banks or fund managers have in dispensing strategic asset allocation advice to institutional investors • Impact of Government <p>Moderator: Reynolds Williams, Chairman, SOUTH CAROLINA RETIREMENT SYSTEM</p> <p>Panelists: Michael A. Hermanson, CPA, HR Pension and Benefits Manager, THE CITY OF TUCSON (AZ)</p>
3:15 pm – 4:15 pm	<p>PROMISING INVESTMENT OPPORTUNITIES FOR INSTITUTIONAL INVESTORS</p> <ul style="list-style-type: none"> • Best Practices in Maximizing Fund Returns • How alternatives diversify a portfolio • Where is the growth • New Opportunities <p>Moderator: Joseph Connolly, Norfolk County Treasurer, NORFOLK COUNTY RETIREMENT BOARD</p> <p>Panelists:</p>
4:15pm – 4:30 pm	<p>REFRESHMENT BREAK</p> <p>Sponsored By:</p>
4:30 pm – 5:30 pm	THE ROLE OF HEDGE FUNDS

	<ul style="list-style-type: none"> • Regulatory issues • How to differentiate your fund? • What investors need to know about current opportunities in hedge funds • SEC influence • New expectations for hedge fund managers • What risks should public funds be aware of? • Management fees • Should your fund invest directly or through fund-of-funds? • How will hedge funds fit into an institutional investor's portfolio • Which hedge fund strategies will thrive in the current market environment? <p>Moderator: Carolyn Weiss, Chief Financial Officer, FJC FOUNDATION</p> <p>Panelists:</p>
5:30 pm – 6:15 pm	<p>PRACTICAL ANALYSIS OF ASSET ALLOCATION STRATEGIES</p> <ul style="list-style-type: none"> • Allocation trends • Tactical Asset Allocation • Investing in alternatives: how much of your portfolio is the right amount? • What new asset classes are worth considering? • Determining the optimal investment mix <p>Moderator: Marina Batliwalla, Principal, MERCER</p> <p>Panelists: Brad Miller, President, PENINSULA FAMILY OFFICE (SFO) Atif Ali, Director of Alternative Investments, G FAMILY OFFICE (SFO)</p>
6:15 pm – 7:15 pm	<p style="text-align: center;">COCKTAIL RECEPTION</p> <p style="text-align: center;">Sponsored By:</p>

THURSDAY, September 26, 2013

8:15 am	Breakfast Buffet
8:15 am – 9:05 am	<p style="text-align: center;">PRIVATE CLOSED DOOR BREAKFAST <u>For Institutional Investors, Plan Sponsors & Consultants Only</u></p> <p style="text-align: center;">This is a forum for Investors to discuss amongst themselves challenges they are facing</p> <p>Facilitators : Skip Coomber, Trustee, SAN DIEGO FOUNDATION</p>
9:10 am	Co-Chair Welcoming Remarks
9:20 am – 9:40 am	<p>Speaker: Philip H. Gocke, Managing Director, OPTIONS INDUSTRY COUNCIL</p>

9:40 am – 10:00 am	STANDALONE
10:00 am – 11:00 am	<p>NEW INVESTMENT STYLES AND STRATEGIES</p> <ul style="list-style-type: none"> • The changing face of global investing • Opportunities in distressed investing • What are the best strategies for the future • Equity investing <p>Moderator: David McConico, Trustee, CITY OF AURORA'S GENERAL EMPLOYEES' RETIREMENT PLAN</p> <p>Panelist::</p>
11:00 am – 11:15 am	REFRESHMENT BREAK
11:15 am – 12:00 pm	<p>LATEST TRENDS AND FORECASTS IN REAL ESTATE</p> <ul style="list-style-type: none"> • Property values • Commercial/Residential • How Do You Determine Your Allocation to Real Estate? • Is Real Estate Part of the Alternatives or an Asset Class on its Own? • Buying distressed debt <p>Moderator: Ron Chandiramani, Group President & Founder, AL MIDAS INTERNATIONAL GROUP (SFO)</p> <p>Panelists:</p>
12:00 pm – 12:45 pm	<p>PRIVATE EQUITY</p> <ul style="list-style-type: none"> • Private equity market in China • Shrinking discounts in the secondaries space • Co-investment deal flow • Is venture capital dead? • Negotiating terms and conditions • Importance of exit strategies • Where do we go from here? <p>Moderator: Jason Scharfman, Esq., CFE, CRISC, Managing Partner, CORGENTUM CONSULTING, LLC</p> <p>Panelists:</p>
12:45 pm – 2:00 pm	LUNCHEON
2:00 pm – 3:00 pm	REAL ASSET INVESTING

	<ul style="list-style-type: none"> • How do real assets fit into a portfolio? • Infrastructure • Environmental and ecological infrastructure • Water • Master Limited Partnerships (MLPS) • Oil and Gas Investing • Renewable energy and intelligent grid investment opportunities • What are the real return characteristics of Real assets? • Direct vs. Indirect Investments • Risks involved • Diversifying with Agriculture <p>Moderator:</p> <p>Panelists: Izzet Bensusan, Managing Partner, CAPTONA PARTNERS, A KARBONE GROUP AFFILIATE TBA, TORTOISE CAPITAL ADVISORS</p>
3:00 pm – 4:00 pm	<p>GLOBAL OUTLOOK- STATE OF EMERGING MARKETS</p> <ul style="list-style-type: none"> • Investing abroad- Which sectors present the greatest risk and what are the risk factors specific to these markets • Which will be the best performers • Benefits of Diversifying into Emerging and Frontier Markets • Investing in BRIC economies <p>Moderator: Andy Lower, Executive Director, THE ELEOS FOUNDATION</p> <p>Panelists:</p>
4:00 pm – 5:00 pm	<p>MANAGER SELECTION</p> <ul style="list-style-type: none"> • Manager Selection Risk Factors • Detecting Manager Fraud • Qualitative screening and due diligence • What are the key determinants when selecting a manager • Working with a consultant during the manager selection process • What to look for when selecting a manager? • Defining and managing investment manager styles • What are the most effective quantitative and qualitative methods for selecting managers? • Is it possible to consistently choose managers that surpasses the benchmark; if so what is the secret? <p>Moderator:</p> <p>Panelists:</p>
5:00 pm – 6:00 pm	<p style="text-align: center;">COCKTAIL RECEPTION</p>

FRIDAY, September 27, 2013

8:30 am	Breakfast Buffet
9:00 am – 9:45 am	<p>CHANGING REGULATORY ENVIRONMENT</p> <ul style="list-style-type: none"> • Domestic and offshore • Regulating hedge funds • Avoiding fraud • Allocating to new asset classes • Corporate governance • Due diligence considerations • New disclosure & liability <p>Moderator:</p> <p>Panelists:</p>
9:45 am – 10:30 am	<p>OUTSOURCED CIO- THE CURRENT TREND</p> <p>Moderator: Jay Rogers, Executive Director, BERGENDAHL HOLDINGS (SFO)</p> <p>Panelists:</p>
10:30 am – 11:15 am	<p>INVESTOR/CONSULTANTS ROUNDTABLE Q & A:</p> <p>Moderator: Don C Stracke, CFA, CAIA, Senior Consultant, NEPC, LLC</p> <p>Panelists:</p>
11:15 am – 12:00 pm	<p>ONGOING EDUCATION FOR PLAN FIDUCIARIES AND PARTICIPANTS</p> <ul style="list-style-type: none"> • Understanding Your Fiduciary Responsibilities • Creating a Fiduciary Ethics Policy • What constitutes “Conflicts of Interest” • Preparing Participants for the Contemporary American Retirement System • Participant PR Campaigns for Retirement Plans • Hosting Pre-Retirement Workshops for Plan Participants <p>Moderator: James Love, Trustee, Assistant Attorney, CITY OF BIRMINGHAM, AL</p> <p>Panelists: David Underwood, Asst. Chief Investment Officer, ARIZONA STATE RETIREMENT SYSTEM Gerald Garrett, Trustee, OKLAHOMA FIREFIGHTERS PENSION & RETIREMENT SYSTEM</p>
12:00 pm	CLOSING REMARKS/CONFERENCE CONCLUDES

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Nadine Lipson, Partner, [MONROE CAPITAL PARTNERS, LLC \(MFO\)](#)
Laurence Lipson, Partner, [MONROE CAPITAL PARTNERS, LLC \(MFO\)](#)
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