



**Alameda County Employees' Retirement Association
BOARD OF RETIREMENT**

HYBRID (IN-PERSON and VIRTUAL) NOTICE and AGENDA

THIS MEETING WILL BE CONDUCTED IN PERSON AND VIA TELECONFERENCE [SEE SECTION 42 OF EXECUTIVE ORDER N-08-21 ATTACHED AT THE END OF THIS AGENDA.]

ACERA MISSION:

To provide ACERA members and employers with flexible, cost-effective, participant-oriented benefits through prudent investment management and superior member services.

**Thursday, July 15, 2021
2:00 p.m.**

LOCATION AND TELECONFERENCE	BOARD OF RETIREMENT - MEMBERS	
ACERA C.G. "BUD" QUIST BOARD ROOM 475 14TH STREET, 10TH FLOOR OAKLAND, CALIFORNIA 94612-1900 MAIN LINE: 510.628.3000 FAX: 510.268.9574 https://zoom.us/join Webinar ID: 867 9279 0939 Passcode: 340038	DALE AMARAL	ELECTED SAFETY
	CHAIR	
	JAIME GODFREY	APPOINTED
	FIRST VICE-CHAIR	
	LIZ KOPPENHAVER	ELECTED RETIRED
	SECOND VICE-CHAIR	
	OPHELIA BASGAL	APPOINTED
	KEITH CARSON	APPOINTED
	TARRELL GAMBLE	APPOINTED
HENRY LEVY	TREASURER	
DARRYL WALKER	ELECTED GENERAL¹	
GEORGE WOOD	ELECTED GENERAL	
NANCY REILLY	ALTERNATE RETIRED²	
VACANT	ALTERNATE SAFETY	

1 Alternate Safety Member Trustee Walker is filling the vacancy created by Trustee Rogers' retirement. See Gov't Code §§ 31524, 31520.1(b).

2 Alternate Retired Member (Votes in the absence of the Elected Retired Member, or, if the Elected Retired Member is present, then votes if both Elected General members, or the Safety Member and an Elected General member, are absent).

Note regarding accommodations: The Board of Retirement will provide reasonable accommodations for persons with special needs of accessibility who plan to attend Board meetings. Please contact ACERA at (510) 628-3000 to arrange for accommodation.

Note regarding public comments: Public comments are limited to four (4) minutes per person in total.

The order of agenda items is subject to change without notice. Board and Committee agendas and minutes, and all documents distributed to the Board or a Committee in connection with a public meeting (unless exempt from disclosure), are available online at www.acera.org.

The Board of Retirement welcomes you to its meeting and your interest is appreciated. Due to the pandemic, in-person public participation at the meeting may be limited on a first-come-first-served basis to maintain social distancing. You may also observe the meeting and address the Board by Zoom as follows:

VIA ZOOM (TELECONFERENCE)

***ZOOM INSTRUCTIONS:**

The public can view the Teleconference and comment via audio during the meeting. To join this Teleconference, please click on the link below.

<https://zoom.us/join>

Webinar ID: 867 9279 0939

Passcode: 340038

For help joining a Zoom meeting, see: <https://support.zoom.us/hc/en-us/articles/201362193>

1. CALL TO ORDER:

2. ROLL CALL:

3. PUBLIC COMMENT:

4. CONSENT CALENDAR:

The Board will adopt the entire Consent Calendar by a single motion, unless one or more Board members remove one or more items from the Consent Calendar for separate discussion(s) and possible separate motion(s).

A. APPROVE APPLICATIONS FOR SERVICE RETIREMENT:

Appendix A

B. APPROVE APPLICATIONS FOR RETIREMENT, DEFERRED:

Appendix B

Appendix B-1

C. APPROVE APPLICATIONS FOR DEFERRED TRANSFER:

None

D. LIST OF DECEASED MEMBERS:

Appendix D

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

None

F. APPROVE STAFF RECOMMENDATIONS (UNCONTESTED) FOR DISABILITY RETIREMENTS:

Appendix F

G. APPROVE HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS:

None

H. APPROVAL of COMMITTEE and BOARD MINUTES:

June 17, 2021 Actuarial Committee Minutes

June 17, 2021 Audit Committee Minutes

June 17, 2021 Minutes of the Regular Board Meeting

July 7, 2021 Retirees Committee Minutes

I. MISCELLANEOUS MATTERS:

Operating Expenses as of 05/31/21

1. *Approve Staff Recommendations regarding Alameda Health System's New Pay Items/Codes:*

- *AHD L6 Technologists Trainer 10% Maximum 80 Hours – 26Q*
- *AHD L6 Technologists Trainer 5% Additional 40 Hours – 26R*

2. *Approve Staff Recommendation regarding Superior Court of California, County of Alameda's New Pay Item/Code COVID-19 Supplemental Paid Sick Leave – 367A.*

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

**REGULAR CALENDAR
REPORTS AND ACTION ITEMS**

5. DISABILITY AND DEATH BENEFIT CLAIMS

A. Possible Motion on Claim for Service-Connected Disability Retirement.

This item will be addressed in Closed Session, per Gov't Code § 54957(b):

Dennis Teichera, Deputy Sheriff II, Sheriff's Office
Non-Service-Connected Disability Effective: May 28, 2021

B. Possible Motion on Claim for Service-Connected Surviving Spouse Allowance

This item will be addressed in open session, but the Board may go into Closed Session to received advice from counsel, per Gov't Code § 54956.9(d)(2):

Deceased Member: Oscar Rocha
Surviving Spouse: Carol Maureen Ennor
Non-Service-Connected Surviving Spouse Allowance Effective: July 24, 2020

6. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:

A. Retirees: [See July 7 2021 Retirees Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of July 7, 2021 Meeting.
2. Motion to increase the 2022 Group Plan Monthly Medical Allowance (MMA) by 3.125% for eligible retirees in the group plans, in accordance with the substantive plan definition adopted under GASB 43 equal to 50% of the rate of health care inflation assumptions provided by ACERA's actuary, which results in a MMA maximum of \$596.73 for the Plan Year 2022. The MMA contribution is a non-vested benefit subject to possible reduction or elimination if Board policies change or funds are unavailable. This benefit is funded by contributions from ACERA employers to the 401(h) account. After contributions are made, in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve assets as employer contributions for pensions.
3. Motion to increase the 2022 Individual Plan Monthly Medical Allowance (MMA) by 3.125% for eligible qualified early (non-Medicare) retirees enrolled in individual plans through the Health Exchange, in accordance with the substantive plan definition adopted under GASB 43 equal to 50% of the rate of health care inflation assumptions provided by ACERA's actuary, which results in a MMA maximum of \$596.73 for Plan Year 2022. The MMA contribution is a non-vested benefit subject to possible reduction or elimination if Board policies change or funds are unavailable. This benefit is funded by contributions from ACERA employers to the 401(h) account. After contributions are made, in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve assets as employer contributions for pensions.
4. Motion to increase the 2022 Individual Plan Monthly Medical Allowance (MMA) by 3.125% for qualified Medicare eligible retirees enrolled in individual plans through the Medicare Exchange, in accordance with the substantive plan definition adopted under GASB 43 equal to 50% of the rate of health care inflation assumptions provided by ACERA's actuary, which results in a MMA maximum of \$457.13 for Plan Year 2022. The MMA contribution is a non-vested benefit subject to possible reduction or elimination if Board policies change or funds are unavailable. This benefit is funded by contributions from ACERA employers to the 401(h) account. After contributions are made, in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve assets as employer contributions for pensions.

- B. Investment: [See July 14, 2021 Investment Committee Agenda Packet for public materials related to the below listed items.]**
 - 1. Summary of July 14, 2021 Meeting.
 - 2. Motion to approve an Updated Absolute Return Policy.

- 7. NEW BUSINESS:**
 - A. Chief Executive Officer’s Report.

- 8. CONFERENCE/ORAL REPORTS:**

- 9. ANNOUNCEMENTS:**

- 10. BOARD INPUT:**

- 11. ESTABLISHMENT OF NEXT MEETING:**
Thursday, August 19, 2021 at 2:00 p.m.

- 12. CLOSED SESSION:**
 - A. Conference With Legal Counsel--Existing Litigation (Gov’t Code § 54956.9(d)(1)):
Alameda County Deputy Sheriff’s Association v. Alameda County Employees’ Retirement Association, Contra Costa County Superior Court, Case No. MSN12-1870.

- 13. REPORT ON ACTION TAKEN IN CLOSED SESSION:**

- 14. ADJOURNMENT:**

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

BADGER, Sharla
Effective: 5/28/2021
Dept. of Child Support Services

LOEPER, Gerald
Effective: 4/20/2021
General Services Agency

BENNETT, Carmelyne
Effective: 5/1/2021
Social Services Agency

MANAOIS, Julia
Effective: 5/15/2021
Treasurer-Tax Collector

CARLSON, Kelly
Effective: 4/1/2021
Alameda Health System

MORGAN, Dana
Effective: 4/1/2021
Social Services Agency

COLLINS, Ashantaki
Effective: 4/1/2021
Social Services Agency

MOTTASHED, Mark
Effective: 4/17/2021
Sheriff's Office

DOHRMANN, Gerald
Effective: 3/31/2021
Superior Court

NASH, Mary
Effective: 2/25/2021
Public Defender

HUI, Patricia
Effective: 11/1/2020
Social Services Agency

NAVA, Patricia
Effective: 5/1/2021
Superior Court

HYATT, Dianne
Effective: 5/22/2021
Superior Court

PAGILARI, Anthony
Effective: 3/28/2021
Sheriff's Office

JONES, Yolanda
Effective: 4/1/2021
Social Services Agency

PIERCE-JONES, Rhian
Effective: 5/1/2021
Assessor

JUAN, Dowel
Effective: 4/29/2021
Alameda Health System

PROANO, Carol
Effective: 6/1/2021
Superior Court

LABOGIN, Gloryann
Effective: 5/1/2021
Superior Court

RATCLIFFE-GRAHAM, Brenda
Effective: 4/29/2021
Social Services Agency

LANGDON, Theresa
Effective: 5/15/2021
Sheriff's Office

REEVES, Leslie
Effective: 5/15/2021
Superior Court

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

REITER, ROBERT
Effective: 4/20/2021
County Counsel

ROLLERSON, Velma
Effective: 5/1/2021
Social Services Agency

ROBERTS, Rosemarie
Effective: 5/8/2021
Alameda Health System

RUSSELL-CHEMA, Natalie
Effective: 5/1/2021
Social Services Agency

RODRIGUES, Joseph
Effective: 4/25/2021
Social Services Agency

SANGSTER, Nicole
Effective: 4/1/2021
Probation Department

SCHLAGETER, Katherine
Effective: 4/1/2021
Health Care Services Agency

TRAN, Tin
Effective: 3/27/2021
Superior Court

SIMPSON, Laura
Effective: 3/27/2021
Community Development Agency

ULLOA, Mario
Effective: 3/27/2021
Alameda Health System

SMITH, Valarie
Effective: 5/10/2021
Superior Court

WILLIAMS, Eric
Effective: 5/14/2021
Probation Department

**APPENDIX B
APPLICATION FOR DEFERRED RETIREMENT**

ALEXANDER, Michael G.
Health Care Services Agency
Effective Date: 5/28/2021

DUKE, Heather
Alameda Health System
Effective: 6/2/2021

BLACK, Teresa A.
Alameda Health System
Effective: 6/1/2021

FIGUEROA, Michelle F. F.
Probation Department
Effective: 6/9/2021

BREWER, Beverly
Housing Authority
Effective: 5/21/2021

MURPHY, Monica F.
Social Services Agency
Effective: 6/11/2021

**APPENDIX B-1
APPLICATION FOR NON-VESTED DEFFERED**

BODNAR, Troy J.
Alameda Health System
Effective Date: 5/15/2021

DAYAL, Komal K.
Superior Court
Effective: 6/4/2021

CABACUNGAN, Mayanne C.
Alameda Health System
Effective: 5/17/2021

FICENEC, Caroline K.
Superior Court
Effective: 4/30/2021

CALDER, Maria C.
Superior Court
Effective: 5/20/2021

GALLAY, Amelia M. J.
Superior Court
Effective: 6/4/2021

MURPHY, William J.
District Attorney
Effective: 5/4/2021

**APPENDIX D
LIST OF DECEASED MEMBERS**

ADAMS, Cora
Social Services Agency
6/16/2021

EKBLAD, Robert
Alameda Health System
6/27/2021

BIVINGS, Gerald
General Services Agency
5/20/2021

HARRISON, Arrealia
Alameda Health System
6/18/2021

BROOKS, Ronald
Non-Mbr Survivor of Louise Brooks
5/8/2021

HUNT, Hilton
General Services Agency
6/20/2021

DOPPELT-DIXON, Lolita
Superior Court
5/27/2021

JAVIER, Corazon
Alameda Health System
6/7/2021

DOWNING JR., Woodrow
Alameda County Fire Department
6/4/2021

MACCOUN, Betty
Non-Mbr Survivor of John MacCoun
5/13/2021

**APPENDIX D
LIST OF DECEASED MEMBERS**

MILES, Patrick
Sheriff's Office
4/30/2021

STEINER, Yvonne
Probation Department
2/3/2021

REES, Helen
Auditor-Controller
5/10/2021

SUTTER, John
District Attorney
5/10/2021

RION, Mary
Alameda Health System
5/19/2021

SWANSON, Geraldine
Alameda Health System
1/26/2021

ROGERS, James
Probation Department
2/5/2021

TACHET, Michael
Alameda Health System
5/21/2021

ROSE, Elaine
Social Services Agency
5/25/2021

TANAKA, Eddy
Probation Department
5/29/2021

RUCKER, Marie
Social Services Agency
5/24/2021

TUNGOHAN, Leonito
Superior Court
11/20/2020

SAFRENO, Maria
Non-Mbr Survivor of Mal Safreno
2/13/2021

VIHONSKY, John
Public Defender
5/31/2021

SMITH, Phillip
General Services Agency
3/15/2021

VONKRAKAU, Elaine
Social Services Agency
6/10/2021

SPALDING, Robert
Probation Department
1/31/2021

WILLIAMS, Mary
Alameda Health System
5/18/2021

STANLEY-KENNEDY, Joyce
Social Services Agency
5/21/2021

YOUNG, Barbara
Non-Mbr Survivor of Roosevelt Young
6/10/2021

APPENDIX F
APPLICATION FOR DISABILITY RETIREMENT

Name: Algere, Tachia
Type of Claim: Annual Review for SCD (Granted on 3/21/19)

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report to continue the allowance for Ms. Algere’s service-connected disability and to waive future annual medical examinations and questionnaires at this time.

Name: Armstrong, Russell
Type of Claim: Service-Connected

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report, including but not limited to, granting Mr. Armstrong’s application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Name: Campbell, Rebecca
Type of Claim: Non-Service Connected

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report, including but not limited to, granting Ms. Campbell’s application for a non-service connected disability, and waiving future annual medical examinations and questionnaires at this time.

Name: McCort, Jeffrey
Type of Claim: Service-Connected

Staff’s Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor’s report, including but not limited to, granting Mr. McCort’s application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

**APPENDIX F
APPLICATION FOR DISABILITY RETIREMENT**

Name: **Tulley, Jeanette**
Type of Claim: Annual Review for SCD (Granted on 4/16/19)

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report to continue the allowance for Ms. Tulley's service-connected disability and to waive future annual medical examinations and questionnaires at this time.

42) Executive Order N-29-20, Paragraph 3, is withdrawn and replaced by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply through September 30, 2021.

June 17, 2021
Minutes of the Regular Board Meeting
For approval under July 15, 2021
Board “Consent Calendar”



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT
MINUTES

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

Thursday, June 17, 2021

Chair Dale Amaral called the meeting to order at 2:03 p.m.

Trustees Present: Dale Amaral
Ophelia Basgal (*Arrived After Roll Call*)
Keith Carson
Tarrell Gamble (*Arrived After Roll Call*)
Jaime Godfrey
Liz Koppenhaver
Henry Levy
Darryl Walker (*Arrived After Roll Call*)
George Wood
Nancy Reilly (*Alternate*)

Staff Present: Margo Allen, Fiscal Services Officer
Victoria Arruda, Human Resource Officer
Angela Bradford, Executive Secretary
Sandra Dueñas-Cuevas, Benefits Manager
Kathy Foster, Assistant Chief Executive Officer
Jessica Huffman, Benefits Manager
Harsh Jadhav, Chief of Internal Audit
Vijay Jagar, Retirement Chief Technology Officer, ACERA
David Nelsen, Chief Executive Officer
Jeff Rieger, Chief Counsel
Betty Tse, Chief Investment Officer

PUBLIC INPUT

Cynthia Landry, Retirement Security Committee Chair for SEIU, Local 1021, requested that the Board postpone the “Straddling” discussion, as SEIU, Local 1021, was not aware the Board would be making its decision at today’s meeting. During the “Straddling” discussion, Pete Albert, ACRE President; Ms. Taylor Davies-Mahaffey of Mastagni Holstedt, Attorney for ACMEA and ACDSA; and ACERA Safety member Mr. David Haitema (ACERA Safety member Eduard Braun was present with Mr. Haitema) also requested that the Board postpone its decision on “Straddling,” as thousands of active members could be negatively impacted. ACERA Chief Executive Officer Dave Nelsen and ACERA Chief Counsel Jeff Rieger reported that in compliance with the *Brown Act*, ACERA performed its due diligence by affirmatively notifying all interested parties, including Ann Yen Attorney for SEIU, Local 1021, of the June 2, 2021 Operations Committee meeting and today’s Board meeting. Ms. Landry, Mr. Albert, Ms. Davies-Mahaffey and Mr. Haitema all indicated they are in support of “Straddling.” It was noted that Anthony O’Brien of the Attorney General’s Office was present at today’s Board meeting.

**CONSENT CALENDAR
REPORTS AND ACTION ITEMS**

APPROVAL of APPLICATIONS FOR SERVICE RETIREMENT

Appendix A

APPROVAL of APPLICATIONS FOR RETIREMENT, DEFERRED

*Appendix B
Appendix B-1*

APPROVAL of APPLICATIONS FOR DEFERRED TRANSFER

None

LIST OF DECEASED MEMBERS

Appendix D

**APPROVAL of REQUEST FOR 130 BI-WEEKLY PAYMENTS TO RE-DEPOSIT
CONTRIBUTIONS AND GAIN CREDIT**

Appendix E

**APPROVAL of STAFF RECOMMENDATIONS (UNCONTESTED) FOR
DISABILITY RETIREMENTS**

Appendix F

**APPROVAL of HEARING OFFICER RECOMMENDATIONS FOR DISABILITY
RETIREMENTS**

None

APPROVAL of BOARD and COMMITTEE MINUTES

*May 19, 2021 Governance Committee Minutes
May 20, 2021 Actuarial Committee Minutes
May 20, 2021 Audit Committee Minutes
May 20, 2021 Minutes of the Regular Board Meeting
June 2, 2021 Operations Committee Minutes
June 2, 2021 Retirees Committee Minutes
June 9, 2021 Investment Committee Minutes*

MISCELLANEOUS MATTER

None

21-39

It was moved by Jaime Godfrey and seconded by Henry Levy that the Board adopt the Consent Calendar. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions.

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

DISABILITIES, CURRENT AND CONTINUING RECOMMENDATIONS AND MOTIONS

The Board adjourned into Closed Session to discuss the following Disability matter:

Consideration of Examination of Service-Connected Disability Retiree, Pursuant to Gov't Code § 31729:

Miya Gardere, Eligibility Service Tech III, Social Services Agency
Service: 15 Years, 3 Months, 13 Days
Effective Disability Retirement Date: December 17, 2017

The Board reconvened into Open Session and the following Trustees returned: *Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood and Reilly.*

After discussion, the Board passed the following motion:

21-40

It was moved by Tarrell Gamble and Seconded by Darryl Walker that the Board direct Staff to refer the Miya Gardere disability matter to a Hearing Officer to take evidence and prepare recommendations for the Board's consideration at a later Board meeting. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions.

COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS

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

Retirees:

Liz Koppenhaver gave an oral report stating that the Retirees Committee met on June 2, 2021 and was presented with, reviewed information for, and discussed the payment for the Implicit Subsidy Cost for 2020.

21-41

It was moved by Liz Koppenhaver and seconded by Ophelia Basgal that the Board authorize Staff to transfer \$7,484,411 from the Supplemental Retiree Benefit Reserve account to the County Advance Reserve to be amortized over 20 years as the Implicit Subsidy payment for Plan Year 2020. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions.

Trustee Koppenhaver further reported that the Committee was presented with, reviewed information for, and discussed the Statement of Intent to continue the Implicit Subsidy Program for health Plan Year 2022.

21-42

It was moved by Liz Koppenhaver and seconded by Jaime Godfrey that the Board adopt a Statement of Intent to continue the Implicit Subsidy Program for health Plan Year 2022, following a determination by ACERA at the end of Plan Year 2022 that the amount is not greater than the actual retiree Implicit Subsidy. The motion carried 8 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Wood*), 0 no, and 0 abstentions. *Trustee Walker did not respond when his name was called for the vote on the motion.*

Trustee Koppenhaver further reported that the Committee was presented with, reviewed information for, and discussed the following Information Items: **1)** Health Care Inflation/Trends; **2)** Projected Benefit Costs Funded through the Supplemental Retiree Benefit Reserve; **3)** Monthly Medical Allowance for 2022; **4)** 2022 Medical Plans Update/Renewal Requests of ACERA/County of Alameda; **5)** Annual Health Care Planning Meeting with Retiree Groups; **6)** Health Reimbursement Arrangement Account Balances and Reimbursements; **7)** Plans for Open Enrollment and Retiree Health and Wellness Fair; and **8)** Miscellaneous Updates.

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

Investment:

George Wood gave an oral report stating that the Investment Committee met on June 9, 2021 and was presented with, reviewed information for, and discussed an up to \$50 million investment in Starwood Distressed Opportunity Fund XII as part of ACERA's Real Estate Portfolio Opportunistic.

21-43

It was moved by George Wood and seconded by Jaime Godfrey that the Board adopt an up to \$50 million investment in Starwood Distressed Opportunity Fund XII as part of ACERA's Real Estate Portfolio Opportunistic, pending completion of Legal and Investment due diligence and successful contract negotiations. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions.

Trustee Wood further reported that the Investment Committee was presented with, reviewed information for, and discussed changes to ACERA's Portfolio Asset Allocation.

21-44

It was moved by George Wood and seconded by Liz Koppenhaver that the Board approve changes to ACERA's Portfolio Asset Allocation. The motion carried 9 yes (Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood), 0 no, and 0 abstentions.

The Committee was also presented with reviewed information for, and discussed the following Information Items: **1)** Semiannual Performance Review for the Period Ending 03/31/2021 – Real Estate; **2)** Semiannual Performance Review for the Period Ending 03/31/2021 – Equities and Fixed Income; **3)** Semiannual Performance Review for the Period Ending 03/31/2021 – Absolute Return; **4)** Semiannual Performance Review for the Period Ending 12/31/2020 – Private Equity; **5)** Semiannual Performance Review for the Period Ending 12/31/2020 – Private Credit; and **6)** Semiannual Performance Review for the Period Ending 12/31/2020 – Real Assets.

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

Actuarial:

At the beginning of the discussion of this item during the Actuarial Committee meeting, Chief Counsel Jeff Rieger explained that the County is a source of income for five Trustees, but all ACERA Trustees could participate in the discussion and vote on this matter under the Political Reform Act and Gov't Code § 1090. Chief Counsel noted for the record, pursuant to Gov't Code § 1091.5(a)(9), that the County is a source of income for Trustees Carson, Levy, Amaral, Walker and Wood.

Tarrell Gamble gave an oral report stating that the Actuarial Committee met earlier that day and was presented with, reviewed information for, and discussed approving a Memorandum of Understanding with the County of Alameda regarding its anticipated extraordinary contributions to fund a portion of its Safety unfunded liabilities; and adoption of the revised 2021-2022 Safety contribution rates for the County of Alameda.

21-45

It was moved by Tarrell Gamble and seconded by George Wood that the Board approve a Memorandum of Understanding with the County of Alameda regarding its anticipated extraordinary contributions to fund a portion of its Safety unfunded liabilities; and adopt the revised 2021-2022 Safety contribution rates for the County of Alameda. The motion carried 9 yes (Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood), 0 no, and 0 abstentions.

Trustee Gamble further reported that the Committee was presented with, reviewed information for, and discussed receipt of Livermore Area Recreation & Park District's anticipated Pension Obligation Bond (POB) contributions to fund a portion of its funded liabilities; and adoption of the revised 2021-2022 contribution rates for LARPD.

21-46

It was moved by Tarrell Gamble and seconded by Henry Levy that the Board approve ACERA's receipt of the Livermore Area Recreation & Park District's anticipated Pension Obligation Bond (POB) contributions to fund a portion of its funded liabilities; and adopt the revised 2021-2022 contribution rates for LARPD. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions.

Trustee Gamble further reported that the Committee was presented with, reviewed information for, and discussed an Information Item regarding Segal's presentation of the Risk Assessment including deterministic projections based on the Actuarial Valuation and Review as of December 31, 2020.

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the June 17, 2021 Board meeting.

Audit:

Henry Levy gave an oral report stating that the Audit Committee met earlier that day and was presented with, reviewed information for, and discussed the audited Schedule of Employer Allocations and Schedule of Employer Allocations and Schedule of Pension Amounts by Employer; and the audited Schedule of Employer Allocations and Schedule of OPEB Amounts by Employer Based on the Governmental Accounting Standards Board (GASB) Statement No. 67 and Statement No. 74, as of December 31, 2020.

21-47

It was moved by Henry Levy and seconded by Liz Koppenhaver that the Board adopt the audited Schedule of Employer Allocations and Schedule of Employer Allocations and Schedule of Pension Amounts by Employer; and the audited Schedule of Employer Allocations and Schedule of OPEB Amounts by Employer Based on the Governmental Accounting Standards Board (GASB) Statement No. 67 and Statement No. 74, as of December 31, 2020. The motion carried 8 yes (*Amaral, Basgal, Carson, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 1 abstention (*Gamble*).

Trustee Levy further reported that the Committee was presented with, reviewed information for, and discussed the following Information Items: *External Audit: 1) GASB Statement No. 68 and GASB Statement No. 75 Valuations and Employer Schedules as of December 31, 2020: Internal Audit: 2) Internal Audit Plan: and 3) Completed audits.*

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the June 17, 2021 Board meeting.

Operations:

Jaime Godfrey gave an oral report stating that the Operations Committee met on June 2, 2021 to discuss ACERA's practices regarding the inclusion of leave sell back and leave cash out in Tier 1, 2 and 3 members' "compensation earnable" and "final compensation ("Straddling").

Mr. Rieger reported he gave a lengthy presentation and provided various materials regarding the "Straddling" issue at the June 2, 2021 Operations Committee meeting and reported the Committee did not make a recommendation at that time. Mr. Rieger provided updated materials for today's meeting and explained the main issue regarding the practice of "Straddling." Mr. Rieger reported that the language in the statute allows "Straddling." However, the Supreme Court issued its opinion in the *ACDSA* matter that suggests "Straddling" is inappropriate and based on that opinion, five Retirement Systems have changed its practices. It was noted the Attorney General intends to initiate litigation that will require ACERA to eliminate "Straddling." Mr. Rieger recommended that the Board exercise its best judgment and that the Board consider recommendations for three sub-issues contained in Mr. Rieger's June 17, 2021 memo when the Board makes its decision. After discussion, the Board adjourned into Closed Session to further discuss the litigation aspect of the "Straddling" issue.

The Board reconvened into Open Session and the following Trustees returned: ***Amaral, Basgal, Godfrey, Koppenhaver, Levy, Walker, Wood and Reilly.*** ***Trustees Carson and Gamble did not return to Open Session.***

Trustee Godfrey stated that there was no reportable action taken in Closed Session.

Trustee Wood expressed his concerns and stated he was unable to make an informed decision due to the lack of information on "Straddling." ACERA's Outside Counsel Harvey Leiderman of Reed Smith was present at today's Board meeting wherein he stated his opinion, answered questions and identified the potential risks involved, including the possibility of continued litigation by the Attorney General against ACERA if it continued the practice of "Straddling" going forward. Trustees expressed their concerns and after discussion, the majority of Trustees expressed they are not in favor of continuing the practice of "Straddling" due to the impact it may have on thousands of retirees. The Board decided to follow Mr. Rieger's applicable recommendations contained in his June 17, 2021 memo. The Board passed the following motion:

21-48

It was moved by Liz Koppenhaver and seconded by Henry Levy that the Board 1) direct Staff to eliminate the practice of "Straddling," effective June 18, 2021; 2) direct Staff to determine the amount that was "payable" in each 12-month period by using the rate of pay that applied in each 12-month period; and 3) direct Staff to determine how much leave was actually "earned" throughout each 12-month period, rather than attributing the member's accrual rate at termination to the entire final compensation period. The motion carried 5 yes (*Amaral, Basgal, Godfrey, Koppenhaver, Levy*), 2 nos (*Walker, Wood*), and 0 abstentions. *Trustees Carson and Gamble were not present for the vote on the motion.*

Trustee Godfrey further reported that the Operations Committee was presented with, reviewed information for, and discussed purchasing \$15 million of Fiduciary Liability Insurance Coverage.

21-49

It was moved by Jaime Godfrey and seconded by Ophelia Basgal that the Board direct Staff to purchase \$15 million of Fiduciary Liability Insurance Coverage. The motion carried 7 yes (*Amaral, Basgal, Godfrey, Koppenhaver, Levy, Walker, Wood*), 0 no, and 0 abstentions. *Trustees Carson and Gamble were not present for the vote on the motion.*

Trustee Godfrey further reported that the Operations Committee was presented with, reviewed information for, and discussed the following Information Items: *1) Operating Expenses as of 04/30/2021; 2) Board of Retirement 2021 election for the second member seat to represent the general membership on the Board of Retirement; and 3) Update on Disability Cases Provided by Managed Medical Review Organization (MMRO).*

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

NEW BUSINESS:

David Nelsen, Chief Executive Officer's Report

Chief Executive Officer Dave Nelsen presented his June 17, 2021, written CEO Report which provided an update on: *1) Committee and Board Action Items; 2) Conference/Event Schedule 3) Other Items*, which included updates on: *a) COVID-19 Responses; b) Pension Administration System Project; c) County's Additional Contributions; d) Repeal of Governor's Emergency Orders; and e) Key Performance Indicators*. Mr. Nelsen reported that ACERA received information from the Governor's Office that included: *1) rescission of the Governor's Executive Orders on return to work rules, effective June 30, 2021; and 2) suspension of some of the Brown Act rules that allow virtual Committee and Board meetings, effective September 30, 2021*. Mr. Nelsen reminded the Board that starting in July 2021, ACERA will conduct a combination of in-person and virtual Committee and/or Board meetings. Mr. Nelsen reported he will re-visit the issue of continuing virtual (remote) Committee and Board meetings, which will be discussed at a future Board meeting.

CONFERENCE/ORAL REPORTS

None.

ANNOUNCEMENTS

None.

BOARD INPUT

Trustees and Staff expressed their appreciation to Trustee Godfrey on how well he conducted the "Straddling" discussion at today's Closed Session.

Trustees Congratulated Mr. Nelsen on his recent Marriage.

CLOSED SESSION

- A. Conference With Legal Counsel--Existing Litigation (Gov't Code § 54956.9(d)(1)):

Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association, Contra Costa County Superior Court, Case No. MSN12-1870.

The Board took no reportable action on the *ACDSA* matter.

- B. Gov't Code § 54957: Consideration of Examination of Service-Connected Disability Retiree Miya Gardere, Pursuant to Gov't Code § 31729 [**See** Motion No. **21-40** above.]

ADJOURNMENT

The meeting adjourned at approximately 5:23 p.m.

Respectfully Submitted,



David Nelsen
Chief Executive Officer

7/15/21

Date Adopted

APPENDIX A
APPLICATION FOR SERVICE RETIREMENT

ADAMS, Albertina
Effective: 4/1/2021
Alameda Health System

CACERES, Carlos
Effective: 3/31/2021
Superior Court

ANAYA, Antonieta
Effective: 4/17/2021
Public Defender

CARROLL, Michael
Effective: 4/1/2021
Sheriff's Office

APONTE, Angel
Effective: 4/1/2021
Social Services Agency

CATUREGLI, Robert
Effective: 4/1/2021
Public Defender

BANKS, Anthony
Effective: 3/31/2021
District Attorney

CHENG, Yi
Effective: 4/1/2021
Social Services Agency

BANKS, George
Effective: 4/17/2021
Health Care Services Agency

COWAN, Rory
Effective: 4/1/2021
Sheriff's Office

BARTUS, Cynthia
Effective: 4/1/2021
Health Care Services Agency

CRAIG, Sylvia
Effective: 4/1/2021
Assessor

BLOOM, Brian
Effective: 4/1/2021
Public Defender

CRUZ, Jose
Effective: 4/1/2021
Public Works Agency

BLUFORD, Mark
Effective: 4/1/2021
Assessor

DE MARQUEZ, Maria
Effective: 4/1/2021
Community Development Agency

BOOTHE, Stephen
Effective: 4/1/2021
LARP

DELBRIDGE, Lance
Effective: 3/27/2021
Sheriff's Office

BRIONES, Juan
Effective: 3/31/2021
General Services Agency

DI GIROLAMO, Edward
Effective: 4/1/2021
District Attorney

BURKE, Thomas
Effective: 3/23/2021
District Attorney

DOOHER, John
Effective: 4/1/2021
Sheriff's Office

APPENDIX A
APPLICATION FOR SERVICE RETIREMENT

FARMANIAN, Debra
Effective: 3/30/2021
Sheriff's Office

HORVATH, Cynthia
Effective: 4/1/2021
Communiy Development Agency

FRANKLIN, Debra
Effective: 4/19/2021
Social Services Agency

ILAS, Cinderella
Effective: 3/20/2021
Alameda Health System

GARELIS, Elena
Effective: 3/22/2021
Alameda Health System

JEMME, Dana
Effective: 3/23/2021
Superior Court

GHEREBEN, Gabriela
Effective: 4/1/2021
Alameda Health System

JOHNSON, Denise
Effective: 3/26/2021
Alameda Health System

GUO, Jason
Effective: 4/1/2021
Auditor-Controller

JOHNSON, Rosemary
Effective: 3/31/2021
Superior Court

HAKIMIAN, Sonik
Effective: 4/1/2021
Health Care Services Agency

JONES, Susan
Effective: 4/1/2021
Alameda Health System

HANKINS, Bervin
Effective: 4/1/2021
Sheriff's Office

LIBORIO, Rosa
Effective: 3/31/2021
Superior Court

HANSEN, Kerri
Effective: 3/24/2021
Sheriff's Office

LOTT, De-Ann
Effective: 4/1/2021
Health Care Services Agency

HEAD, Loveta
Effective: 4/1/2021
Social Services Agency

LUAT, Maria
Effective: 4/1/2021
Auditor-Controller

HEWITT, Mark
Effective: 4/1/2021
Social Services Agency

LUONG, Selina
Effective: 2/20/2021
Social Services Agency

HORNSBY, Darlene
Effective: 3/31/2021
Sheriff's Office

LYNCH, William
Effective: 3/31/2021
Sheriff's Office

APPENDIX A
APPLICATION FOR SERVICE RETIREMENT

MALLOY, Kimberly
Effective: 4/1/2021
ACERA

SALTA, Amelita
Effective: 3/31/2021
Superior Court

MANFREDI-GIAMMONA, Roxanna
Effective: 4/1/2021
Superior Court

SAWLEY, Susan
Effective: 4/1/2021
Health Care Services Agency

MARTIN, Deborah
Effective: 4/1/2021
Health Care Services Agency

SEXTON, Shawn
Effective: 4/1/2021
Sheriff's Office

MCKIE, David
Effective: 4/5/2021
General Services Agency

SHAKERI, Darius
Effective: 3/30/2021
Information Technology Department

MILLER, Ronald
Effective: 4/1/2021
District Attorney

SINGH, Albertina
Effective: 3/23/2021
Alameda Health System

MONTOYA, Marvin
Effective: 4/1/2021
Public Works Agency

SMITH, Edward
Effective: 3/20/2021
Sheriff's Office

NELSON, Jeffrey
Effective: 3/27/2021
General Services Agency

STANCILL, Jautan
Effective: 4/1/2021
Health Care Services Agency

PASHOIAN, Timothy
Effective: 3/22/2021
Sheriff's Office

STANTON, Dianne
Effective: 4/1/2021
Social Services Agency

PITTS-JOHNSON, Sandra
Effective: 3/31/2021
Probation Department

TAYLOR, Charles
Effective: 3/27/2021
Public Works Agency

RINGOR, Lourdes
Effective: 3/27/2021
Health Care Services Agency

TECLE, Tedros
Effective: 4/1/2021
Sheriff's Office

ROGERS, Elizabeth
Effective: 4/1/2021
Public Defender

TEVLIN, Charles
Effective: 3/21/2021
Sheriff's Office

APPENDIX A
APPLICATION FOR SERVICE RETIREMENT

TRAN, Huong
Effective: 3/27/2021
Social Services Agency

TURNER, Juanell
Effective: 3/20/2021
Social Services Agency

APPENDIX B
APPLICATION FOR DEFERRED RETIREMENT

ATIENZA, GeorgeChristian N.
Alameda Health System
Effective Date: 5/14/2021

GRUBAUGH, Jesika M.
Sheriff's Office
Effective: 4/23/2021

BUNKER-ALBERTS, Michele V.
Alameda Health System
Effective: 4/19/2021

HOGAN, Rachel D.
Alameda Health System
Effective: 4/2/2021

CANDELARIA, Jade B.
Alameda Health System
Effective: 5/7/2021

JOHNSON, Kim P.
Alameda Health System
Effective: 5/5/2021

EVANS, Valdriana L.
Superior Court
Effective: 4/13/2021

RAVEN, Kathryn A.
Public Defender
Effective: 2/5/2021

APPENDIX B-1
APPLICATION FOR NON-VESTED DEFERRED

ACQUAFREDDA, Andrea
Alameda Health System
Effective Date: 5/3/2021

CAPOLUNGO, Kayleigh B.
Alameda Health System
Effective: 5/2/2021

AMAYA, Karla
Alameda Health System
Effective: 4/9/2021

DAVALOS, Christian I.
Alameda Health System
Effective: 5/2/2021

BICHI, Fernando C.
Alameda Health System
Effective: 4/11/2021

HUERTA, Gabriel
District Attorney
Effective: 5/14/2021

BLAKE, Denishi
First 5
Effective: 4/9/2021

KELLY, Anna N.
District Attorney
Effective: 4/26/2021

BROUSSARD, Jacqueline C.
Alameda Health System
Effective: 5/3/2021

PERRY, Theresa R.
Superior Court
Effective: 4/30/2021

**APPENDIX B-1
APPLICATION FOR NON-VESTED DEFERRED**

SORENSEN, Wendy B.
Superior Court
Effective: 3/19/2021

**APPENDIX D
LIST OF DECEASED MEMBERS**

BUSH, Robert
Sheriff's Office
5/25/2021

GRAHAM, Jacqueline
Sheriff's Office
4/18/2021

CAMBRUZZI, Lia
Sheriff's Office
5/9/2021

HARTMAN, Sandra
Sheriff's Office
4/30/2021

CARDOZA, Margaret
Alameda Health System
5/10/2021

HUBERMAN, Marjorie
Social Services Agency
5/20/2021

CHAVIS, Joanie
Social Services Agency
5/4/2021

KMIT, Ivan
Housing Authority
5/7/2021

CHECCHI, Maria
Non-Mbr Survivor of Milton Checchi
5/25/2021

LEONG, Margaret
Health Care Services Agency
5/18/2021

CLUGSTON, John
Assessor
4/2/2021

MORCOSO, Gloria
Social Services Agency
5/9/2021

CRUTCHFIELD, Mary
Social Services Agency
4/14/2021

MUELA, David
General Services Agency
4/19/2021

DAVIS, Edward
Information Technology Department
5/8/2021

OLIVERA, Evanna
Non-Mbr Survivor of Alexander Olivera
5/18/2021

DAVIS, Idola
Superior Court
4/16/2021

SMITH, Gwendolyn
Social Services Agency
5/4/2021

FUCLES, Emily
Alameda Health System
5/14/2021

ULFELDER, Leonard
Public Defender
5/13/2021

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

BRADDOCK, Jennifer
Government Code § 31641.5 Part Time

APPENDIX F
APPLICATION FOR DISABILITY RETIREMENT

Name: Carter, Belinda
Type of Claim: Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, granting Ms. Carter's application for a service-connected disability, and waiving future annual medical examinations and questionnaires.

Based on the Medical Advisor's and Staff's review and determination of Ms. Carter's ability to determine the permanency of her incapacity, to grant Ms. Carter's request for an earlier effective date.

Name: Justice, Ronald
Type of Claim: Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, granting Mr. Justice's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Pending decision on the request for an earlier effective date.

**July 7, 2021
Retirees Committee Minutes
For approval under July 15, 2021
Board “Consent Calendar”**

**The July 7, 2021 Retirees Committee
Minutes will be distributed under
separate cover**

July 14, 2021
Investment Committee Minutes
For approval under August 19, 2021
Board “Consent Calendar”

June 17, 2021
Actuarial Committee Minutes
For approval under July 15 2021
Board “Consent Calendar”



MINUTES OF THE JUNE 17, 2021 ACTUARIAL COMMITTEE MEETING
THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

Date: June 17, 2021
To: Members of the Actuarial Committee
From: Tarrell Gamble, Chair
Subject: **Summary of the June 17, 2021, Actuarial Committee Meeting**

ACERA TRUSTEE, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Actuarial Committee Chair, Tarrell Gamble, called the June 17, 2021 Actuarial Committee Meeting to order at 11:00 a.m. Committee members present were Keith Carson; Liz Koppenhaver; and George Wood. Other Board members present were Jaime Godfrey, Henry Levy, and Darryl Walker. Staff present were David Nelsen, Chief Executive Officer; Kathy Foster, Assistant Chief Executive Officer; Margo Allen, Fiscal Services Officer; Jeff Rieger, Chief Counsel; Sandra Duenas, Benefits Manager; Jessica Huffman, Benefits Manager; Betty Tse, Chief Investment Officer; Harsh Jadhav, Chief of Internal Audit; Victoria Arruda, Human Resource Officer; and, Vijay Jagar, Chief Technology Officer.

PUBLIC INPUT

None

ACTION ITEMS

ACERA's Chief Counsel opened with a discussion to clarify that the County is a source of income for five Trustees, but that all ACERA Trustees could participate in the vote on this matter under the Political Reform Act and Gov't Code § 1090. Chief Counsel noted for the record, pursuant to Gov't Code § 1091.5(a)(9), that the County is a source of income for Trustee Carson, Trustee Levy, Trustee Amaral, Trustee Walker, and Trustee Wood.

- 1. Motion to recommend that the Board of Retirement approve a Memorandum of Understanding with the County of Alameda regarding its anticipated extraordinary contributions to fund a portion of its Safety unfunded liabilities.**

Staff and Segal representatives presented the Memorandum of Understanding with the County of Alameda regarding the anticipated extraordinary contributions to fund a portion of its Safety member unfunded liabilities.

- 2. Motion to recommend that the Board of Retirement adopt revised 2021-2022 Safety contribution rates for the County of Alameda if it makes extraordinary contributions to fund a portion of its Safety unfunded liabilities.**

Staff and Segal representatives presented the revised 2021-2022 Safety contribution rates for the County of Alameda if it makes extraordinary contributions to fund a portion of its Safety member unfunded liabilities.

Committee Chair, Tarrell Gamble, combined Action Items 1 and 2 into one motion. It was moved by Henry Levy and seconded by George Wood that the Actuarial Committee recommend to the Board of Retirement that the Board approve a Memorandum of Understanding with the County of Alameda regarding its anticipated extraordinary contributions to fund a portion of its Safety member unfunded liabilities and adopt the revised 2021-2022 Safety contributions rates for the County of Alameda if it makes extraordinary contributions to fund a portion of its safety unfunded liabilities.

The motion carried 7 yes (Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, and Wood), 0 no and 0 abstentions.

- 3. Motion to recommend that the Board of Retirement approve ACERA's receipt of the Livermore Area Recreation & Park District's anticipated Pension Obligation Bond (POB) contributions to fund a portion of its unfunded liabilities.**

Staff presented information regarding Livermore Area & Park District's anticipated POB contributions to fund a portion of its unfunded liabilities.

- 4. Motion to recommend that the Board of Retirement adopt revised 2021-2022 contribution rates for LARPD if it makes POB contributions to fund a portion of its unfunded liabilities.**

Staff presented information regarding the 2021-2022 contribution rates for LARPD if it makes POB contributions to fund a portion of its unfunded liabilities.

Committee Chair, Tarrell Gamble, combined Action items 3 & 4 into one motion.

It was moved by Henry Levy and seconded by Jaime Godfrey that the Actuarial Committee recommend to the Board of Retirement that the Board approve ACERA's receipt of LARPD's anticipated POB contributions to fund a portion of its unfunded liabilities and adopt the revised 2021-2022 contribution rates if LARPD makes POB contributions to fund a portion of its unfunded liabilities.

The Motion carried 7 yes (Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, and Wood), 0 no and 0 abstentions.

INFORMATION ITEMS

- 1. Segal's presentation of ACERA's Risk Assessment including deterministic projections based on the Actuarial Valuation and Review as of December 31, 2020**

Staff and Segal representatives presented ACERA's Risk Assessment including projections based on the Actuarial Valuation and Review as of December 31, 2020.

TRUSTEE INPUT

None

FUTURE DISCUSSION ITEMS

Presentation and Discussion of:

- Declining employer policy
- Withdrawing Employer Policy
- Interest Crediting Policy
- Actuarial Funding Policy

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for October 21, 2021 at 11:00 a.m.

MEETING ADJOURNED

The meeting adjourned at 12:09 a.m.

June 17, 2021
Audit Committee Minutes
For approval under July 15, 2021
Board “Consent Calendar”



MINUTES OF JUNE 17, 2021 AUDIT COMMITTEE MEETING

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

Date: June 17, 2021
To: Members of the Audit Committee
From: Henry Levy, Chair
Subject: **Summary of the June 17, 2021 Audit Committee Meeting**

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

The Audit Committee Chair, Henry Levy called the June 17, 2021, Audit Committee meeting to order at 12:31 p.m. Committee members present were Keith Carson, and Darryl Walker. Other Board members present were Dale Amaral, Jaime Godfrey, Liz Koppenhaver, and alternate Nancy Reilly. Members of the Staff present were David Nelsen, Chief Executive Officer; Kathy Foster, Assistant Chief Executive Officer; Margo Allen, Fiscal Services Officer; Harsh Jadhav, Chief of Internal Audit; Jeff Rieger, Chief Counsel; Sandra Duenas, Benefits Manager; Jessica Huffman, Benefits Manager; Vijay Jagar, Retirement Chief Technology Officer; and Betty Tse, Chief Investment Officer.

PUBLIC COMMENT

None

ACTION ITEMS

External Audit:

- 1. Review and possible motion to adopt the audited Schedule of Employer Allocations (Pension and OPEB) and the audited Schedule of Pension and OPEB Amounts by Employer based on addenda to the Governmental Accounting Standards Board (GASB) Statement No. 67 and Statement No. 74, valuations as of December 31, 2020**

After staff presentation, it was moved by Keith Carson and seconded by Jaime Godfrey that the Audit Committee recommend that the Board of Retirement adopt the audited Schedule of Employer Allocations and Schedule of Pension Amounts by Employer and the audited Schedule of Employer Allocations and Schedule of OPEB Amounts by Employer Based on the Governmental Accounting Standards Board (GASB) Statement No. 67 and Statement No. 74, as of December 31, 2020.

The motion carried 6 yes (*Amaral, Carson, Godfrey, Koppenhaver, Levy, Walker*), 0 no, 0 abstentions.

INFORMATION ITEMS

External Reporting

- 1. Presentation and discussion of GASB Statement No. 68 and GASB Statement No. 75 Valuations and Employer Schedules as of December 31, 2020**

Internal Audit

- 2. Progress report on the Internal Audit Plan**
- 3. Review completed audits**

TRUSTEE INPUT AND DIRECTION TO STAFF

None

FUTURE DISCUSSION ITEMS

None

ESTABLISHMENT OF NEXT MEETING DATE

October 21, 2021 at 12:30 p.m.

MEETING ADJOURNED

The meeting adjourned at 12:50 p.m.

CONSENT CALENDAR ITEM


**Operating Expenses as of May 31, 2021
For review under July 15, 2021
Board “Consent Calendar”**



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: July 15, 2021

TO: Members of the Board of Retirement

FROM: Margo Allen, Fiscal Services Officer 

SUBJECT: Operating Expenses and Budget Summary for the period ended May 31, 2021

ACERA's operating expenses are \$1,026K under budget for the period ended May 31, 2021. Budget surpluses and overages worth noting are as follows:

Budget Surpluses

1. *Staffing*: Staffing is \$541K under budget. This amount comprises surplus in staff vacancies of (\$176K) and fringe benefits of (\$413K), offset by an overage in temporary staffing of \$48K due to vacant positions filled by temporary staff.
2. *Staff Development*: Staff Development is \$55K under budget due to savings from unattended staff trainings and conferences.
3. *Professional Fees*: Professional Fees are \$30K under budget. This amount comprises surplus in legal fees of (\$26K), benefit consultant fees of (\$1K), and actuarial fees of (\$3K) due to savings from last year's accrual.
4. *Office Expense*: Office Expense is \$56K under budget. This amount comprises surpluses in printing and postage of (\$7K) and office maintenance and supplies of (\$20K) both due to savings in usage, communication expenses of (\$3K), building expenses of (\$1K), amortization expense of (\$1K), bank charges and miscellaneous administration of (\$7K), equipment lease and maintenance of (\$10K), and minor equipment and furniture of (\$7K).
5. *Insurance*: Insurance is \$1K under budget.
6. *Member Services*: Member Services are \$29K under budget. This amount comprises surpluses in disability legal arbitration and transcripts of (\$25K), members' printing and postage of (\$17K), health reimbursement account of (\$1K), and member training and education of (\$2K), offset by overages in virtual call center of \$9K and disability medical expense of \$7K.
7. *Systems*: Systems are \$106K under budget. This amount comprises surpluses in software maintenance and support of (\$125K) mainly due to delay in IT projects, offset by overages in business continuity of \$17K and county data processing of \$2K.
8. *Depreciation*: Depreciation is \$1K under budget.

Operating Expenses Budget Summary for the period ended May 31, 2021

9. *Board of Retirement:* Board of Retirement is \$207K under budget. This amount comprises surpluses in board conferences and trainings of (\$116K) due to timing difference and unattended trainings and conferences, board compensation of (\$1K), board employer reimbursement of (\$83K) due to adjustment of previous year's overpayments, and board miscellaneous expenses of (\$7K).

Staffing Detail

Permanent vacant positions as of May 31, 2021:

Department	Position	QTY	Comments
Benefits	Retirement Technician	2	Vacant - currently budgeted until 12/2021
Benefits	Administrative Specialist II	1	Vacant - currently budgeted until 12/2021
Investments	Investment Operation Officer	1	Vacant - currently budgeted until 12/2021
Investments	Investment Analyst	1	Vacant - currently budgeted until 12/2021
Total Positions		5	

Pension Administration System Project - as of 5/31/2021					
All amounts are in \$	Year-To-Date			2021 Budget	2019-20 Actual
	Actual	Budget	Variance		
Consultant Fees					
Levi, Ray and Shoup	28,337	285,000	(256,663)	683,000	1,085,179
Segal	177,303	160,000	17,303	384,000	800,450
Other expenses	-	21,000	(21,000)	50,000	1,500
Leap Technologies	-	-	-	-	98,970
Total	205,640	466,000	(260,360)	1,117,000	1,986,099
Staffing	248,943	246,250	2,693	627,000	881,052
TOTAL	454,583	712,250	(257,667)	1,744,000	2,867,151

Attachments:

- Total Operating Expenses Summary
- Professional Fees – Year-to-Date – Actual vs. Budget



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

YEAR TO DATE - ACTUAL VS. BUDGET					
<u>May 31, 2021</u>					
	<u>Actual</u>	<u>Budget</u>	<u>YTD</u>	<u>2021</u>	<u>% Actual to</u>
	<u>Year-To-Date</u>	<u>Year-To-Date</u>	<u>Variance</u>	<u>Annual</u>	<u>Annual Budget</u>
			<u>(Under)/Over</u>	<u>Budget</u>	
Staffing	\$ 5,956,610	\$ 6,498,150	\$ (541,540)	\$ 16,049,000	37.1%
Staff Development	60,731	115,575	(54,844)	274,000	22.2%
Professional Fees (Next Page)	471,240	501,240	(30,000)	1,178,000	40.0%
Office Expense	185,748	241,300	(55,552)	574,000	32.4%
Insurance	328,678	329,600	(922)	825,000	39.8%
Member Services	143,500	172,500	(29,000)	464,000	30.9%
Systems	408,638	514,300	(105,662)	1,202,000	34.0%
Depreciation	48,942	49,980	(1,038)	118,000	41.5%
Board of Retirement	93,167	300,530	(207,363)	675,000	13.8%
Uncollectable Benefit Payments	-	-	-	68,000	0.0%
Total Operating Expense	\$ 7,697,254	\$ 8,723,175	\$ (1,025,921)	\$ 21,427,000	35.9%



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

May 31, 2021

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2021</u> <u>Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
Professional Fees					
Consultant Fees - Operations and Projects ¹	\$ 137,583	\$ 138,650	\$ (1,067)	\$ 333,000	41.3%
Actuarial Fees ²	136,326	139,650	(3,324)	415,000	32.8%
External Audit ³	130,000	130,000	-	157,000	82.8%
Legal Fees ⁴	67,331	92,940	(25,609)	273,000	24.7%
Total Professional Fees	\$ 471,240	\$ 501,240	\$ (30,000)	\$ 1,178,000	40.0%

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2019 Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
¹ CONSULTANT FEES - OPERATIONS AND PROJECTS:					
Benefits					
Alameda County HRS (Benefit Services)	52,500	52,500	-	126,000	41.7%
Segal (Benefit Consultant/Retiree Open Enrollment)	53,000	54,150	(1,150)	130,000	40.8%
Total Benefits	105,500	106,650	(1,150)	256,000	41.2%
Human Resources					
Lakeside Group (County Personnel)	32,083	32,000	83	77,000	41.7%
Total Human Resources	32,083	32,000	83	77,000	41.7%
Total Consultant Fees - Operations	\$ 137,583	\$ 138,650	\$ (1,067)	\$ 333,000	41.3%
² ACTUARIAL FEES					
Actuarial valuation	39,500	39,500	-	79,000	50.0%
GASB 67 & 68 Valuation	-	-	-	49,000	0.0%
GASB 74 & 75 Actuarial	-	-	-	15,000	0.0%
Actuarial Standard of Practice 51 Pension Risk	-	-	-	40,000	0.0%
Supplemental Consulting	75,826	79,150	(3,324)	190,000	39.9%
Supplemental Retiree Benefit Reserve valuation	21,000	21,000	-	42,000	50.0%
Total Actuarial Fees	\$ 136,326	\$ 139,650	\$ (3,324)	\$ 415,000	32.8%
³ EXTERNAL AUDIT					
External audit	110,000	110,000	-	132,000	83.3%
GASB 67 & 68	10,400	10,400	-	13,000	80.0%
GASB 74 & 75-External Audit	9,600	9,600	-	12,000	80.0%
Total External Audit Fees	\$ 130,000	\$ 130,000	\$ -	\$ 157,000	82.8%
⁴ LEGAL FEES					
<u>Fiduciary Counseling & Litigation</u>					
Nossaman - Fiduciary Counseling	4,397	5,333	(937)	44,000	
Reed Smith - Fiduciary Counseling	206	833	(628)	10,000	
Nossaman - Litigation	9,390	11,333	(1,943)	57,000	
Reed Smith - Litigation	41,218	35,000	6,218	65,000	
Subtotal	55,211	52,500	2,711	176,000	31.4%
<u>Tax and Benefit Issues</u>					
Hanson Bridgett	5,266	12,100	(6,834)	29,000	
Subtotal	5,266	12,100	(6,834)	29,000	18.2%
<u>Miscellaneous Legal Advice</u>					
Meyers Nave	6,854	28,340	(21,486)	68,000	
Subtotal	6,854	28,340	(21,486)	68,000	10.1%
Total Legal Fees	\$ 67,331	\$ 92,940	\$ (25,609)	\$ 273,000	24.7%

CONSENT CALENDAR ITEM

**Approve Staff Recommendations regarding Alameda Health System's
New Pay Items/Codes:**

- **AHD L6 Technologists Trainer 10% Maximum 80 Hours – 26Q**
- **AHD L6 Technologists Trainer 5% Additional 40 Hours – 26R**



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: July 15, 2021

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager *SDC*

SUBJECT: **Approval of Two New Pay Items/Codes as “Compensation Earnable” and “Pensionable Compensation” – Alameda Health System**

Alameda Health System (AHS) requested that the following two new pay items/codes be reviewed to determine whether they qualify as “compensation earnable” and “pensionable compensation”. These new pay items/codes establish a footnote provision for additional compensation to be paid to any technologist when assigned by the department manager to train one or more technologists in any modality as described below. The effective date of these new pay items/codes is April 4, 2021.

- AHD L6 Technologist Trainer 10% Maximum 80 Hours – 26Q
An additional compensation of 10% of base pay up to a maximum of 80 hours will be paid to any technologist when training duties are performed as assigned by the department manager.
- AHD L6 Technologist Trainer 5% Additional 40 Hours – 26R
An additional compensation of 5% of base pay up to an additional 40 hours, after the initial 80 hours of training, as needed, will be paid to any technologist when training duties are performed as assigned by the department manager.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that the new pay items/codes qualify as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPPRA members). AHS advised Staff that the ILWU Local 6 Union is currently under negotiations, and does not have a current version of the Memorandum of Understanding (MOU). All provisions in the attached current MOU (1/1/2017 – 12/31/19) are considered active until a new signed version is distributed.

These pay items/codes are a percentage increase to base salary that applies to more than one similarly situated employee in a group or class (in this case, employees assigned to train other employees), and they do not fall under any of the express exclusions either for “compensation earnable” or “pensionable compensation.” Under the Board of Retirement’s (Board) historical practices, these kinds of pay items/codes have been included in both “compensation earnable” and “pensionable compensation.” The two relevant Government Code sections are attached for the Board’s reference.

Approval of Two New Pay Items/Codes as “Compensation Earnable” and “Pensionable Compensation” –
Alameda Health System (continued)

July 15, 2021

Page 2 of 2

Staff informed AHS that Staff’s determination will be on the Board’s consent calendar for approval at its July 15, 2021 meeting. If this item is not pulled from the consent calendar for discussion, then the Board will approve Staff’s determination that the pay items/codes are “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members).

Attachments

REQUEST FOR ACERA APPROVAL OF NEW PAY CODE

Employer Name: ALAMEDA HEALTH SYSTEM Date: June 8, 2021

Contact Person/Employer (include title/position): **Cynthia Enriquez, Senior Retirement Plans Administrator**

Contact Person Telephone: **(510) 618-2141** Email: **cyenriquez@alamedahealthsystem.org**

Pay Item Name (and code number): **Pay code 26Q: AHD L6 TECH TRAIN 10% MAX 80HRS**

Effective Date: **April 4, 2021**

The following information is required before ACERA can review and respond to your request. Please provide substantive responses on separate paper and return with this form prior to issuing (paying) the pay item to any employee who is an ACERA member.

1. State the job classification of employees eligible for the pay item (i.e., Job Code 0499-Nurse Practitioners II may receive this pay item). **AHD L6 jobcodes .53618,54086,54090,53716,53627,53619,54087,54089,54085**
2. State employment status of employees eligible to receive the pay item (i.e., full time employees, part time employees) **Any Technologist appointed by dept manager**
3. State the number of members or employees who are eligible to receive the pay item (i.e., all members or employers in a job classification eligible to receive the pay item, or “not to exceed one employee”) **There are currently 40 employees**
4. State whether pay item is for overtime or regular base pay. **10% of base pay up to 80 hours**
5. State whether pay item is calculated as a fixed amount or percentage of the base pay. **Percentage of base pay**
6. State whether the pay item is paid one time (i.e., incentive pay, referral pay, bonus, award). **To be paid when training duties are performed**
7. State whether the pay item is an ad hoc payment (i.e., stipend, payment for attending a meeting during working hours, payment for attending a meeting during non working hours). **This is not an ad hoc payment**

8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance). **This is not for reimbursement.**
9. State regular working hours of the employees who will receive the pay item (i.e., 37.5 hour workweek employees, 40 hour workweek employees). **All technologist are eligible**
10. State whether pay item is for work performed outside of the regular workweek (i.e., payment for work or services performed outside of the employee's 37.5 hour work week, or outside of the employee's 40 hour work week). **No this payment is not for work outside of workweek**
11. State whether the pay item is for deferred compensation. **No not for deferred comp**
12. State whether the pay item is for retro payments. **No not for retro pay**
13. State whether the pay item is for accrued unused leave (i.e., sick leave, annual leave, floating holiday, vacation, comp time). **No not for accrued unused leave**
14. State whether the payment is compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee. **Not in kind payments**
15. State whether the payment is severance or other payment in connection with or in anticipation of a separation from employment (and state if this payment is made while employee is working). **Not severance**
16. State whether the pay item is paid in one lump sum or bi-weekly (or over some other time period-monthly, quarterly, annually). **To be paid biweekly each pay period for specific time period within the pay period. Pay up to 80 hours as needed.**
17. State the basis for eligibility for the pay item (i.e., certification of completion of training program conducted by an accredited university, or employee assigned as supervisor of badge distribution). **Assigned by the manager to train one or more technologists in any modality. Training will be monitored by the manager and will be terminated when the manager determines that the technologist is proficient in the new modality from the training.**

REQUEST FOR ACERA APPROVAL OF NEW PAY CODE

Employer Name: ALAMEDA HEALTH SYSTEM Date: June 8, 2021

Contact Person/Employer (include title/position): **Cynthia Enriquez, Senior Retirement Plans Administrator**

Contact Person Telephone: **(510) 618-2141** Email: **cyenriquez@alamedahealthsystem.org**

Pay Item Name (and code number): **Pay code 26R: AHD L6 TECH TRAIN 5% ADDL 40HRS**

Effective Date: April 4, 2021

The following information is required before ACERA can review and respond to your request. Please provide substantive responses on separate paper and return with this form prior to issuing (paying) the pay item to any employee who is an ACERA member.

1. State the job classification of employees eligible for the pay item (i.e., Job Code 0499- Nurse Practitioners II may receive this pay item). **AHD L6 jobcodes .53618,54086,54090,53716,53627,53619,54087,54089,54085**
2. State employment status of employees eligible to receive the pay item (i.e., full time employees, part time employees) **Any Technologist appointed by dept manager**
3. State the number of members or employees who are eligible to receive the pay item (i.e., all members or employers in a job classification eligible to receive the pay item, or “not to exceed one employee”) **There are currently 40 employees**
4. State whether pay item is for overtime or regular base pay. **5% of base pay up to 40 hours**
5. State whether pay item is calculated as a fixed amount or percentage of the base pay. **Percentage of base pay**
6. State whether the pay item is paid one time (i.e., incentive pay, referral pay, bonus, award). **To be paid when training duties are performed**
7. State whether the pay item is an ad hoc payment (i.e., stipend, payment for attending a meeting during working hours, payment for attending a meeting during non working hours). **This is not an ad hoc payment**

8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance). **This is not for reimbursement.**
9. State regular working hours of the employees who will receive the pay item (i.e., 37.5 hour workweek employees, 40 hour workweek employees). **All technologist are eligible**
10. State whether pay item is for work performed outside of the regular workweek (i.e., payment for work or services performed outside of the employee's 37.5 hour work week, or outside of the employee's 40 hour work week). **No this payment is not for work outside of workweek**
11. State whether the pay item is for deferred compensation. **No not for deferred comp**
12. State whether the pay item is for retro payments. **No not for retro pay**
13. State whether the pay item is for accrued unused leave (i.e., sick leave, annual leave, floating holiday, vacation, comp time). **No not for accrued unused leave**
14. State whether the payment is compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee. **Not in kind payments**
15. State whether the payment is severance or other payment in connection with or in anticipation of a separation from employment (and state if this payment is made while employee is working). **Not severance**
16. State whether the pay item is paid in one lump sum or bi-weekly (or over some other time period-monthly, quarterly, annually). **To be paid biweekly each pay period for specific time period within the pay period. This pay is limited to 40 hours after the initial 80 hours of training and will be as needed.**
17. State the basis for eligibility for the pay item (i.e., certification of completion of training program conducted by an accredited university, or employee assigned as supervisor of badge distribution). **After completion of 80 hours of training to one or more technologists. The manager who assigned will monitor and determine when the technologist is proficient after the training.**

MEMORADUM OF UNDERSTANDING

BETWEEN

**ALAMEDA HEALTH SYSTEM
(Alameda Hospital)**

AND

ILWU LOCAL 6

1/1/2017 – 12/31/19

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 SIDE LETTER OF AGREEMENT –PREMIUM FOR RADIOLOGY SAFETY OFFICER

AGREEMENT

1/1/2017 through 12/31/19

THIS AGREEMENT is made and entered into by and between the DIAGNOSTIC IMAGING, SURGICAL TECHNICIANS AND PHARMACY TECHNICIANS UNIT OF ILWU LOCAL 6, hereinafter referred to as the "Union", and ALAMEDA HOSPITAL, ALAMEDA HEALTH SYSTEM, hereinafter referred to as the Hospital.

In consideration of the mutual promises of the undersigned, it is hereby agreed that the following constitutes the minimum standards applicable to the employment of Radiologic Technologists, Radiological Aides, Radiological Receptionists and Surgical Technicians.

PREAMBLE

Both parties recognize that it is to their mutual advantage and for the protection of the patients to have efficient and uninterrupted operation of the Hospital. This Agreement is for the purpose of establishing such harmonious and constructive relationships between the parties that such results will be possible.

It is mutually agreed that it is the duty and right of the Administrator to manage the Hospital and to direct the working forces. This includes the right to hire, transfer, promote, reclassify, layoff and discharge employees, subject only to the conditions herein set forth.

SECTION 1. RECOGNITION

The undersigned Hospital recognizes the DIAGNOSTIC IMAGING AND SURGICAL TECHNICIANS UNIT OF ILWU, LOCAL 6, as the representative of the following unit: All classifications of Diagnostic Imaging Technologists set forth in Section 6, hereinafter referred to as the "Technologists", employed by the Hospital in its X-ray Department, including all the employees performing ultrasound and nuclear medicine technologists' work; Radiological Aides, hereinafter referred to as "Aides"; Radiological Receptionist(s), hereinafter referred to as "Receptionists"; Pharmacy Technicians and all Surgical Technicians, hereinafter referred to as "Surgical Techs", employed by the Hospital in the Surgical Department; and excluding personnel subject to the jurisdiction of unions currently under contract with the Hospital.

SECTION 2. UNION MEMBERSHIP AND JURISDICTION

Employees who are members of the Union on September 30, 1968, shall maintain such membership during the term of this Agreement. All Technologists hired after September shall, not later than the thirty-first (31st) day following the commencement of their employment, become and remain members of the Union in good standing. Membership in good standing shall be defined to mean employed members in the Union who tender periodic dues and initiation fees uniformly required by the Union as a condition of acquiring or retaining membership.

All employees who have been employed prior to September 30, 1968, and who are not members of the Union shall, as a condition of continued employment after October 1, 1968, pay to the Union each month a service charge as a contribution toward the administration of this Agreement. The service charge shall be in an amount equal to the Union's regular initiation fee and monthly dues.

The Hospital shall supply the Union with a written notice of the names and addresses and classifications of work of new members, and the names of employees who have terminated, such notice to be furnished not later than the tenth (10th) of the following month.

Upon written notice to the Hospital and upon examination of documentary proof that an employee is or was a member of the Union within the meaning of this Section, and that such employee has failed to maintain membership as above described, the Hospital shall terminate the employment of such employee, unless the Hospital has reasonable grounds for believing that Union membership was denied or terminated for reasons other than failure to maintain good standing as described above.

In cases of such termination by the Hospital, the employee may appeal the matter to a committee equally composed of Hospital and Union representatives. Unless so appealed, the discharge shall be completed within seven (7) days.

Whenever a vacancy occurs in the work covered by this Agreement, the Hospital will inform the Union of such vacancy so that the Union may refer applicants to the Hospital. However, the Hospital may hire from any source.

The jurisdiction of the Union covers diagnostic radiological procedures under the direction of a radiologist or a physician holding a c-arm certification. Work performed under the direction of pathologists and specialists other than radiologists are not subject to the Union jurisdiction.

SECTION 3. PAYROLL DEDUCTION OF MEMBERSHIP DUES

A. Written Assignment

During the term of this Agreement, the Hospital will honor written assignment of salary to the Union for the payment of Union membership dues when such assignments are submitted in a form agreed to by the Hospital and the Union.

B. Remitting Dues

The Hospital will promptly remit the membership dues deducted pursuant to such assignments with a written statement of the names of the employees for whom deductions were made. Normally, the deductions will be made on the first pay period of each month for the then current membership dues. However, the Union and the Hospital may make other arrangements by mutual consent.

SECTION 4 . MANAGEMENT RIGHTS

The Hospital reserves and retains solely and exclusively all of its same inherent rights to manage the Hospital as it existed prior to the execution of this Agreement with the Union. Without limiting the generality of the foregoing, the sole and exclusive rights of management which are not limited by this Agreement include, but not limited to, these rights; to determine, and from time to time re-determine, the methods, processes, staffing arrangements, equipment or programs or to discontinue their use of performance by the employees of the Hospital, to determine the number of hours per day or per week operations shall be carried on; to select and determine the number, qualifications and types of employees required; and to assign duties to such employees. Nothing in this section is intended to limit any other rights of the Hospital not specifically and expressly covered, provided that in the exercise of any of these rights, the Hospital shall not violate any provision of this Agreement.

SECTION 5. SENIORITY

Seniority shall commence on the most recent date of continuous employment as a full-time employee or employee who continues to work on a regular shift of twenty (20) or more hours per week, provided that seniority shall have no application during the ninety (90) day probationary period. Where merit and ability are approximately equal, seniority by classification shall apply in cases of lay off and rehire. A laid-off employee shall retain recall rights for twenty-four (24) months.

In the case of a permanent full-time vacancy on the same shift or another shift, consideration of seniority shall, upon written request, be given to qualified regular full-time employees or regular part-time employees within the classification as defined above and to qualified employees working at least a year within the classification for an average of two (2) shifts a week.

In the case of an Aide or Receptionist who has gained the qualifications of a Radiological Technologist while in the Hospital's employment and transfers to a position as a Radiological Technologist in the Medical Imaging Department, seniority will be maintained in all respects except that the transferred Technologist would begin their seniority in respect to vacation and job bidding, lay off and recall on the date they first work as a Technologist within the Department.

In the case of a regular full-time or part-time vacancy on the same shift or another shift, consideration of seniority, together with skill and ability, shall, upon written request, first be given to qualified regular full-time employees covered by this Agreement or regular part-time employees covered by this Agreement within the classification as defined above, and then to qualified regular short-hour and casual-hour employees covered by this Agreement by their seniority.

It is understood that in none of the foregoing instances does the contract contemplate a bumping procedure. References are to permanent vacancies and not to assignments arising from rotation of personnel, vacation, holiday, or sickness relief. To aid in the administration of these provisions, permanent vacancies will be posted for five (5) working days.

Any employee covered by this Agreement who transfers to a management position, or a classification not covered by this Agreement or is hired into, or transfers into, a Short-Hour or Casual position, shall retain that seniority which has been accumulated during employment in the Local 6 bargaining unit as long as they remain in the continuous employment of the Hospital.

If, at some future date, the employee covered by this Agreement returns to the Local 6 bargaining unit or transfers into a regular full-time or regular part-time position covered by this Agreement, the employee will be assigned an Adjusted Seniority date extending back from the date the employee returns to the Local 6 bargaining unit for a length of time equal to the previously accumulated seniority.

Upon adoption of the Agreement, the seniority date of the current Surgical Techs brought into the bargaining unit by this Agreement will commence from the first (1st) day of work in the classification as a Surgical Tech during the most recent period of continuous employment in a regular full-time or regular part-time position.

SECTION 6. NO DISCRIMINATION

- A. Neither the Union nor AHS shall discriminate ~~in~~ with respect to employment by the reason of union activity, race, color, creed or national origin, nor to the extent required of AHS by State or-Federal law; by reason of gender, age, sexual orientation, disability medical condition (cancer or genetic testing), and veteran status or on the basis of marital status.

If a disabled employee seeks a reasonable work accommodation from the Hospital, that employee, the Hospital, and the Union will meet promptly to discuss the possibility of making such an accommodation.

- B. **Whistleblowing/Retaliation.** AHS will comply with all applicable federal, state and local legislation that protects employees who disclose information concerning their employment or any aspect of the workplace.

SECTION 7. DEFINITIONS

Senior Technologist are employees who have two (2) years experience in a hospital and are ARRT registered and/or certified by the state of California. Employees who do not qualify for Senior Technologist but who are performing Technologist work, are Staff Technologists.

"Regular Technologists", whether Senior Technologists or Staff Technologists, hereinafter referred to as "Technologists", are Technologists within the unit who have been employed continuously for ninety (90) days on a full-time basis. During the first ninety (90) day probationary period, a Technologist may be discharged for any reason, which, in the opinion of the Hospital, is just and sufficient.

For Short-Hour and Casual-Hour Technologists, the probationary period shall be ninety (90) days from the date of first hiring or three hundred sixty (360) hours of work, whichever is later. During a Short-Hour or Casual-Hour Technologist's probationary period, such employee may be discharged for any reason, which, in the opinion of the Hospital, is just and sufficient. Seniority for the purposes of lay off and rehire shall be based from date of hire. The Manager/Director will meet with new employees after forty-five (45) days to provide input on the employee's progress through the probationary period. This meeting will be documented in writing and the employee will acknowledge receipt of the findings.

The term "Technologist" when used in this Agreement refers to all employees in the unit covered by this Agreement who work in a medical imaging classification.

Regular full-time Technologist: works a pre-determined work schedule of forty (40) hours a week.

Regular part-time Technologist: works a pre-determined work schedule of twenty (20) hours or more but less than forty (40) hours per week for a ninety (90) day period

Short-Hour Technologist: works a pre-determined work schedule of less than twenty (20) hours per week.

Casual Technologist: works relief hours, extra hours due to census fluctuation, and intermittent assignments.

Employees classified as Casual must provide a minimum of four (4) days availability in a four (4) week schedule, one (1) shift of which must be on a weekend. Minimum availability must be received by the department at least ten (10) days prior to the beginning of each schedule. Providing this minimum availability does not guarantee such work will be scheduled but will be based on the operational needs of the department.

If a Casual employee covered by this Agreement fails to provide their availability for two (2) months in a twelve (12) month period or refuses to work on their available days, if scheduled, the Hospital will remove them from the payroll as a voluntary resignation (no availability). This minimum availability excludes Casual Nuclear Med Techs.

Radiological Aides, hereinafter referred to as "Aides", and Radiological Receptionists, hereinafter referred to as "Receptionists", are Aides and Receptionists working within the Diagnostic Imaging Department. Regular benefited Aides and Receptionists are employed at the Hospital for at least twenty (20) hours per week. Casual and Short-Hour Aides and Receptionists are employed at the hospital for less than twenty (20) hours per week. During the first ninety day probationary period, an Aide or Receptionist may be discharged for any reason which, in the opinion of the Hospital, is just and sufficient.

Surgical Techs are Surgical Technicians working within the Surgical Department. Regular benefited Surgical Techs are employed at the Hospital for at least twenty (20) hours per week and Short-Hour Surgical Techs are employed at the hospital for less than twenty (20) hours per week. During the first ninety (90) day probationary period, a Surgical Tech may be discharged for any reason which, in the opinion of the Hospital, is just and sufficient.

Except for temporary assignments agreed upon in advance, a Short-Hour or Casual employee who is regularly scheduled for a period in excess of ninety (90) calendar days to work twenty (20) hours or more per week shall be classified as a regular full-time or regular part-time employee, depending on their schedule.

It is not the intent of the last paragraph of this provision to preclude Casual or Short-Hour from being reclassified to regular full-time or regular part-time status. In the event the Union believes there is a misapplication of this provision, the parties agree to convene the Negotiating Committee to seek a solution.

SECTION.8 PHARMACY TECHNICIAN

All full-time Technicians will be assigned to at least one of each shift within a forty hour work week.

Monday through Friday
 Shift one 7:30 am - 4:00 pm
 Shift Two 8:00 am – 4:30 pm
 Shift Three 8:30 am – 5:00 pm
 Shift four 10:30 am – 7:00pm

SECTION 9. DISCHARGE FOR CAUSE

The Hospital shall have the right to discharge any employee for proven dishonesty, insubordination, insobriety, incompetence, willful negligence, failure to perform work as required, or for violating Hospital House Rules which must be conspicuously posted. The Hospital agrees to exercise fair and reasonable judgment in the application of this section.

SECTION 10. WAGES

Refer to Appendix “A”

Shift Differentials	Effective 7/1/06
	PM \$2.90 per hour I
	Nights \$3.63 per hour I
In Lieu	15% after 90 days of employment*

*Part-time, Short-Hour and Casual employees on the payroll for ninety (90) calendar days but who worked less than twenty (20) hours per week and do not qualify for benefits described in the above paragraphs of this Section shall receive in lieu thereof an additional fifteen percent (15%) of their hourly compensation based upon rates set forth in the Wage Section of this Agreement.

The Hospital will reimburse a Technologist with a State Fluoroscopy license for the cost paid by such a Technologist to the State for a license renewal fee.

A Technologist who performs-three (3) or more hours a day of CT procedures shall receive an additional five percent (5%) over his or her current wage rate for all hours worked that day.

The Hospital will offer in-house CAT Scan and/or X-ray training to any Technologist who currently is

not proficient in both functions and who wants the training to become proficient in both functions. Such training will be conducted on-the-job with the Hospital incurring no overtime expense because of the training, unless it chooses to do so.

Upon approval of the manager a Technologist who is assigned to train one or more Technologist in any modality will receive an additional ten percent (10%) over and above the employee's regular rate of pay for the first eighty (80) hours and five percent (5%) over and above the employee's regular rate of pay for the next forty (40) hours. Training shall be monitored by the manager and shall be terminated at such time the manager determines that the Technologist is proficient in the new modality.

A Technologist assigned to the position of student preceptor in Radiology and Ultra Sound Technology shall be paid additional ten (\$10) dollars per shift while performing in that capacity. The monthly amount for the student preceptor(s) shall not exceed two-hundred (\$200) dollars per student. The selection and assignment to the position of preceptor shall be at the sole discretion of the Hospital.

A premium of not less than twelve percent (12%) over Step 6 of the Senior Radiology and Lead Surgical Technician classification or the Technologist's base modality rate, whichever is higher, shall be applied to the individual at the Hospital who exercises Lead Technologist duties.

SECTION 11. MERIT EVALUATION

The Hospital may, at its discretion, after employing a new Technologist at the Staff Technologist or Senior Technologist basic rate, whichever is applicable, evaluate his or her ability, experience and performance during the applicable probationary period and place such employee in a higher step within the classification program. Newly employed Technologists shall receive one (1) year tenure credit for salary purposes only for three (3) years previous experience within the last five (5) years prior to the date of employment at the Hospital or, if the Technologist so qualifies, two (2) years of credit for six (6) years of previous experience within the last ten (10) years prior to the date of employment at the Hospital. Surgical Technicians hired after May 22, 2011, will also be subject to the terms of this Section.

Effective July 1, 2010, promotion of Short-Hour and Casual employees into Steps 2, 3, 4, and 5 shall automatically take place when an employee covered by this Agreement completes or her first (1st), second (2nd), third (3rd) and fourth (4th) year of employment. Promotion into Step 6 shall take place when an employee covered by this Agreement reaches his or her eighth (8th) anniversary of employment.

SECTION 12. SHIFT DIFFERENTIAL

Except in the case of on-call and call-in assignments, hereinafter covered, employees assigned to the evening or night shift work, commencing on or after 2 p.m., will be paid the appropriate shift differential (see Section 8. Salaries).

For the purpose of shift premium computation only, shifts are defined as follows

Day Shift	7:00 a.m. -3:00 p.m.
Evening Shift	3:00 p.m. - 11:00 p.m.

Night shift 11:00 p.m. - 7:00 a.m.

- A. For regular shifts, the applicable shift premium for all hours worked shall be the shift premium for the shift within which the majority of the first eight (8) hours worked fall, except that if equal hours are worked in each of two (2) shifts as defined above, the higher shift rate will apply to all hours worked.
- B. Evening and night shifts on Sunday through Saturday will consist of eight (8) consecutive paid hours with no scheduled meal break but employees will be afforded the opportunity to eat during the shift.
- C. **Weekend Differential** If a Technologist is scheduled to work all or part of a weekend (defined as any shift starting between the hours of 12:01 a.m. Saturday and 11:59 Sunday), then that Technologist will receive a differential of \$16.00 per shift.

SECTION 13. WORK WEEK

The straight-time work week shall be no more than forty (40) hours, five (5) days per week. A straight-time day's work will consist of no more than eight (8) hours.

If an employee covered by this Agreement is required to work in excess of forty (40) hours in any one (1) work week, or in excess of eight (8) hours in any one (1) day, the employee shall be paid overtime at the rate of time and one-half (1 ½) the appropriate straight-time rate paid for the given period of work. Time and one-half (1 ½) shall be paid for hours worked on the sixth (6¹¹¹) day of work within the Hospital's work week. However, an employee or group of employees may, by mutual agreement with the Hospital, work six (6) days in one (1) workweek and four (4) days in the next work week provided that overtime shall be paid for all hours in excess of eight (8) hours per day and in excess of eighty (80) hours in the two (2) week period of fourteen (14) consecutive days.

All employees will be entitled to a twelve (12) hour rest period following the completion of their shift. Any hours worked within that twelve (12) hour period will be compensated at a minimum of time and one-half (1 ½).

An employee called back to work during a meal period shall be paid for time worked during that period.

Payment for lunch time worked: If an employee is required to wear a beeper during his or her lunch period, and is required to and does report back to work before the end of the lunch period, the entire lunch period will be considered as time worked for all purposes, including the computation of overtime.

Ten (10) hour shift schedule: Ten (10) hour shifts may be implemented on the following basis: All ten (10) hour shift positions will be posted. No current employee shall lose their eight (8) hour shift position as the result of the implementation of ten (10) hour shifts. The shift length shall be eleven (11) hours including an unpaid one (1) hour meal period. All hours worked shall be compensated at straight-time. Time and one-half (1 ½) shall be paid after forty (40) hours in any one (1) week, and all hours worked beyond twelve (12) hours in any one (1) day shall be paid at the rate of double time.

For work between noon Saturdays and the beginning of the day shift on Mondays, the Hospital shall, at its option:

1. First offer any such work opportunities to full-time and part-time regular employees under the above provisions of this Section. In the event that none of the regular employees accept such offer of work, the Hospital shall be free to staff the Department for these hours from any source, subject to the conditions of the contract.
2. Engage in weekend scheduling subject to Section 11, the work week provision of this Section,

When an employee works seven (7) consecutive days because of weekend work, there shall be no premium pay for any consecutive days thereafter.

SECTION 14. REPORTING PAY

A regular full-time or a regular part-time employee covered by this Agreement who continues to work on a regular shift of twenty (20) or more hours per week will be guaranteed four (4) hours of pay at straight-time for reporting to work as scheduled. If such employee works in excess of four (4) hours, he or she will be guaranteed eight (8) hours at straight-time pay unless the schedule is understood to call for a short-hour shift. In the cases where the employee is entitled overtime, the employee will receive pay at the rate of time and one-half (1 ½) for actual hours worked or the appropriate guarantee, whichever is higher.

SECTION 15. ON-CALL, CALL-IN, AND CALL-BACK WORK

- A. On-Call. An employee covered by this Agreement scheduled to be "on-call" shall be paid one-half (1 ½) his or her straight-time rate when on-call. To be eligible for "on-call", an employee must be capable of performing both x-ray work and CAT scans. An employee scheduled to be on-call on a regular holiday shall be paid three-fourths (¾) of his or her straight-time rate while on-call.
- B. Call-In. If called-in to work when on-call, an employee covered by this Agreement shall be compensated at the rate of time and one-half (1 ½) his or her straight-time rate for all hours worked when called in, with a guaranteed minimum of-three (3) hours at the rate of time and one-half (1 ½) for each call. If the employee is called-in again within the three (3) hour guarantee, those additional hours worked are considered part of the original call-in and do not constitute another three (3) hour minimum guarantee.
- C. Call-Back. An employee not "on-call", who is called back to work after completing his or her regular shift, will be compensated as follows: For the first two (2) hours or fraction thereof, one hundred seventy-five dollars (\$175.00); for additional time, at a rate of time and one-half (1 ½) the employee's regular rate of pay. A Surgical Technician not "on-call" who is called back to work after completing his or her regular shift will be compensated as follows: For the first two (2) hours or fraction thereof, one hundred fifty (\$150.00); for additional time, at a rate of time and one-half (1 ½) the Surgical Tech's regular rate of pay.
- D. Ultra Sound On-Call and Call-In. An Ultra Sound Technologist scheduled to be on-call shall be paid as follows: Pay one-half of employee's hourly rate for on-call commencing at 3:15 pm to midnight.

Monday through Friday (Weekdays):

Pay one-half of the employee's hourly rate for on-call shifts commencing at 4:30 pm to midnight.

Saturday and Sunday (Weekends):

Pay one-half of the employee's hourly rate for on-call shifts commencing at 7:30 am Saturday to midnight Saturday and 7:30 am Sunday to midnight Sunday.

When called in to work from on-call, the Ultra Sound Technologist will be paid at time and one-half (1.5x) their base rate of pay for a minimum of two (2) hours.

Students and interns will not be placed on-call for independent work. Students and interns will be supervised when performing work and a regular employee will be on duty. Students and interns are not subject to coverage of the Union contract.

The above premiums apply to all employees covered by this Agreement.

SECTION 16. HOLIDAYS

The following holidays shall be recognized:

New Year's Day

Martin Luther King, Jr.'s Birthday

Presidents Day

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Christmas Day

Employee Birthday

1 floating Holiday

The Hospital will make its best effort to grant Friday off when Saturday is a holiday and Monday off when Sunday is a holiday.

Employees shall be paid time and one-half (1½) for all hours worked on a holiday plus shift differential when applicable. Additional time off without pay may be granted upon agreement between the Hospital and the employee.

SECTION 17. PAID TIME OFF/EXTENDED SICK LEAVE

The Hospital will establish a Paid Time Off (PTO) plan which may be used for vacation, holidays, religious observances, personal or family business, maternity, disability or illness, health or dental appointments, caring for seriously ill family members, or other reasons deemed appropriate by the employee covered by this Agreement and in compliance with this Section. In addition, the Hospital will provide eligible employees with an Extended Sick Leave (ESL) plan to be used, in accordance with the provisions of this Agreement, for severe or long-term illness or injury or as a supplement to State Disability or Workers' Compensation.

1. Paid Time Off (PTO)

A. **Eligibility.** All regular full-time and part-time benefited employees covered by this Agreement are eligible for the PTO program. PTO is in addition to Jury Duty, Bereavement Leave, Continuing Educational Opportunities, and ESL.

B. Accumulation of PTO.

PTO accrues during all hours worked, including call-in and call back hours, PTO/ESL, and HC time. Eligible part-time employees covered by this Agreement accrue PTO hours on a prorated basis determined by normally scheduled hours worked.

C. Unpaid Absences.

If an employee covered by this Agreement is on unpaid status (e.g. unpaid leave of absence, layoff, unpaid disciplinary status) for an entire pay period, there will be no accumulation of PTO for that pay period. "Unpaid status" means there were no paid hours in that period.

D. Scheduling of PTO and Annual Vacation Requests.

1. PTO may be scheduled at any time, but requires prior approval by the Department manager.
2. The Department Manager may use a yearly cut-off date for employees covered by this Agreement to submit annual PTO requests. Other requests for PTO should normally be submitted to the Department Manager no later than thirty (30) days prior to the requested dates. With the exception of annual requests, the Manager will approve or deny the request within fourteen (14) days of receiving the request.
3. If disapproved, employees covered by this Agreement will be informed of the reasons for such denial. However, such requests will not be unreasonably denied and every effort will be made to schedule employees to use earned PTO.
4. Employees shall submit their requests for annual vacation by January 1st of each year. Vacation schedules will be posted in the department no later than February 1st of the same year. Employees shall be given preference on the basis of seniority.

5. Requests for vacation made after January 1 and requests to change posted vacation schedules shall be considered on a first-come, first-served basis and shall be responded to by the Hospital no later than thirty (30) days after receipt of the request. If granting the request would conflict with the selection of another employee, the request will only be granted if it is mutually agreeable to the employees involved and the Hospital.

E. Requests for Unpaid Time Off

Employees covered by this Agreement may not take unpaid time off if they have PTO in their account, except as provided below:

1. Employees may elect not to use PTO for a scheduled holiday off.
2. Employees may elect not to use PTO for day(s) off taken as voluntary daily cancellation.
3. Employees may elect not to use PTO for day(s) taken as daily cancellation (HC Time).
4. Employees on FMLA leave may "bank" up to eighty (80) hours which they may elect not to use while on FMLA leave.

F. Use of PTO

1. PTO will be used for all paid time off with the exceptions of Jury Duty, Bereavement Leave, paid Education Leave, and Extended Sick Leave.
2. Employees have the option of using PTO for hours of Reduction of Staff (HC Time) or holidays. With the exception of Worker's Compensation, FMLA bank described in subsection 3 below, holidays, and HC Time, employees cannot take unpaid days until PTO has been exhausted. Personal leaves of absence will be governed according to the Leave of Absence Policy or Leave of Absence contractual requirements.
3. Employees on FMLA may choose to save (or "bank") up to eighty (80) hours of PTO.
4. PTO will be paid at straight time rate of pay, including scheduled shift differentials.
5. Employees begin accruing PTO from the date of hire, but new employees may not use PTO until completing their probationary period, except PTO may be used for holidays after thirty (30) days of employment.
6. Employees moving from Short-Hour or Casual status to benefited status may begin using PTO ninety (90) days from the date of the status change.
7. The Hospital will consider State Disability or Workers' Compensation as primary for the purpose of paying the employee for the employee's absence from work due to disability or illness and who are eligible for State Disability or Workers' Compensation. PTO and ESL benefits may be used to supplement these benefits up to the employee's regular earning level.
8. Hardship Distribution. Subject to approval of the Hospital, employees may receive a distribution from their PTO account to provide for an unforeseeable emergency. Distributions must comply with the guidelines issued by the IRS in Code 457-2(h) (4) and (5).

9. An employee becoming injured or sick while on vacation is eligible to utilize Extended Sick Leave provided the employee is admitted to a hospital.

G. Maximum Accrual (Cap).

Eligible employees may accrue up to a maximum of four hundred (400) hours of PTO. PTO accounts reaching this level do not accrue additional hours until the PTO balance is reduced below four hundred (400) hours. No employee will cease accruing PTO if the employee was approved PTO during the annual election and subsequently denied or if an employee is denied all requests for PTO.

11 Extended Sick Leave (ESL)

A. Eligibility.

All regular full-time and part-time benefited employees are eligible for the ESL program.

B. Accumulation of ESL.

ESL accrues during all hours worked, including call-in and call- back hours, PTO/ESL, and HC time.

C. Unpaid Absences.

If an employee is on unpaid status (e.g. unpaid leave of absence, lay off, unpaid disciplinary status) for an entire pay period, there will be no accumulation of ESL for that pay period. "Unpaid status" means there were no paid hours in that period.

D. Use of Extended Sick Leave (ESL)

1. ESL will be paid at straight time rate of pay, including scheduled shift differentials.
2. Employees begin accruing ESL from the date of hire, but new employees may not use ESL until completing their probationary period.
3. Employees moving from Short-Hour or casual status to benefited status may begin using ESL ninety (90) days from the date of the status change.
4. The Hospital will consider State Disability or Workers' Compensation as primary for the purpose of paying the Employee for the employee's absence from work due to disability or illness and who are eligible for State Disability or Workers' Compensation. PTO and ESL benefits may be used to supplement these benefits up to the employee's regular earning level.

E. Extended Sick Leave (ESL) may be used under the following circumstances:

1. The employee is unable to work due to injury or illness for more than three (3) consecutive calendar days. The employee begins receiving ESL on the fourth (4th) consecutive day of absence due to illness or injury.
2. If hospitalized, from the first day of hospitalization.
3. Is placed in the status of "Observation Patient, overnight stay, twenty-three (23) hour hold.
4. Is admitted to outpatient surgery (including oral surgery) from the first day with a physician's verification of recovery period.
5. Begins receiving disability payments for a Workers' Compensation illness or injury.
6. Suffers a relapse of a qualifying illness or injury. Relapse is defined as an injury or illness occurring within seven (7) days of a prior absence for which the employee was using ESL and for the same illness or injury. ESL will be paid at straight-time rate of pay, including scheduled shift differentials.

F. Maximum Accrual (Cap) for ESL.

Eligible employees may accrue up to a maximum of seven hundred twenty (720) hours in their ESL account.

III. PTO/ESL ACCRUAL RATES

Employees will accrue PTO and ESL at the following hourly rates per pay period based on hours worked not to exceed eighty (80) hours.

Length of Service	PTO Hours per pay period	PTO Days per year	ESL Hours per pay period	ESL Days per year
First Year	7.693	25	2.154	7
Two (2) Years	9.233	30	2.154	7
Five (5) Years	10.770	35	2.154	7
Ten (10) Years	12.310	40	2.154	7

Accrual rates are based on a full-time, forty (40) hours worked per week. Employees move to the next level of accrual at the end of the designated service year on their benefited anniversary date. Eligible part-time employees accrue PTO hours on a pro-rated basis determined by normally scheduled hours worked.

- A. STATUS CHANGE.** If an employee changes status from benefited to Short-Hour or Casual, all accrued unpaid PTO will be paid out on the effective date of the status change. The employee's ESL account will be frozen and reinstated if the employee subsequently returns to benefited status.

- B. PTO CASH-OUT.** Employees will be allowed two (2) PTO cash-outs per year. Each cash-out is subject to the following provisions regarding the employee's length of service.
1. 0-5 years of service may cash-out up to forty (40) hours each cash-out.
 2. 6-9 years of service may cash-out up to eighty (80) hours each cash-out.
 3. 10 plus years of service may cash-out up to one hundred twenty (120) hours each cash-out
- C. PAYMENT OF PTO ON TERMINATION.** Eligible employees will be paid their accrued, unused PTO through the last day worked at their current rate of pay, including shift differential, upon termination.

SECTION 18. BEREAVEMENT LEAVE

Funeral leave providing for four (4) days leave of absence shall be granted to regular employees after ninety (90) days of employment in cases of death in the employee's immediate family, which shall be defined to include the spouse, mother, father (or individuals who have, prior to the employee having attained legal majority, officially stood in place of mother or father), domestic partner, daughter, son, sister, brother, current mother-in-law, current father-in-law, grandmother, grandfather, and natural grandchildren. Payment for scheduled workdays, which would have been worked except for the funeral, shall be paid for the day of the funeral, the day before the funeral and the day after the funeral. An additional two (2) days of funeral leave, with pay, shall be allowed for regular employees to attend a funeral out of the State of California. The Hospital may require a reasonable proof of death in order to qualify an employee for funeral leave.

SECTION 19. JURY DUTY

A regular employee who is covered by this Agreement who has completed the probationary period and who is called for jury duty (or is subpoenaed to appear as a witness in a State or Federal court proceeding in which the employee is not a party) will receive the difference between jury duty pay or witness fees and normal straight-time earnings (including shift differential).

If an employee is excused from serving in time to complete three (3) or more hours of his or her shift, he or she will be required to return to work.

SECTION 20. EDUCATION LEAVE

Eligibility Criteria

Regular full-time and regular part-time Technologists and bone density Aides working twenty (20) hours or more per week shall be entitled to five (5) days leave with straight-time pay each year to attend courses, institutes, workshops, or classes of an educational nature, provided:

- a. The employee applies in writing, specifying the course, institutes, workshops, or class the employee wishes to attend. An employee may use educational leave for in-service programs at the Hospital or other hospitals in the area;
- b. The employee obtains permission from the Department Head to attend;
- c. Such leave shall not interfere with staffing; and,

- d. If an employee submits a written request for educational leave at least one (1) month in advance, the Hospital will notify the employee in writing at least two (2) weeks in advance as to whether the requested leave will be permitted or denied.

Permission for such educational leave will not be unreasonably denied.

The full-time employee shall be eligible for five (5) days education leave as provided above on an anniversary year basis upon the completion of ninety (90) days of employment. An eligible part-time employee shall receive pro-rata educational leave. For example, if the employee works twenty-four (24) hours a week, he or she shall be entitled to three (3) days educational leave per year.

An employee entitled to apply for educational leave that does not apply waives it for that year. If an employee requests educational leave and does not receive it in a particular year for which qualified, the employee may accumulate it for the following year.

If the Hospital wishes the employee to engage in an educational program other than in-service education programs, the Hospital and the employee may mutually agree that this is charged against the employee's educational leave. If the employee declines to engage in such educational program, the Hospital has the option to withdraw its request or to require the employee to engage in such program, in which event it is not charged against the employee's educational leave. It is understood that an individual employee shall have a choice in the selection of the types of educational programs in which the employee will participate.

Employees may request unpaid leaves of absence not to exceed thirty (30) days for professional activities such as, but not necessarily limited to, educational workshops, seminars, continuing education courses, and participation in bona fide activities of the Union. The Hospital will grant such leaves except on those occasions when such leaves would seriously affect staffing requirements.

The following shall serve as guidelines for the programs covered by paid educational leave provided such are within the scope of the employee's function:

- a. Formally organized courses in radiology and bone density;
- b. Formally organized courses in related subjects leading to a degree in radiology;
- c. Formally organized seminars and symposia dealing with the contemporary practices of radiology and bone density;
- d. Formally organized specialized courses relating to radiology and bone density practice;
- e. Formally organized clinical Radiologic and bone density seminars and institutes.

The various areas covered above shall include those sponsored by a hospital, educational institutions, government agencies, or professional associations.

It is agreed that the above set forth activities shall be related to Radiologic practices within the employing hospital.

The Hospital may require a verbal report from the employee on education leave, describing the activities involved.

The Hospital shall establish an Educational Leave Bank Account for each regular employee. Each regular employee shall have an amount of seven hundred dollars (\$700.00) credited to his or her account as of January 1 of each odd numbered year beginning on January 1, 2011. Employees will be able to utilize an amount not to exceed five hundred dollars (\$500.00) in any one year. Subject to the approval of the Hospital, such leave may also be used for home study courses sponsored or approved by educational institutions, government agencies, professional associations (including CRT, ASRT, ARRT, SDMS, SNM), or courses accepted by specific modality licensing boards. Each unit of credit will be paid as one (1) hour of Educational Leave not to exceed the equivalent of five (5) days of straight-time pay each year for all Educational Leave combined."

Eligible employees hired during the calendar year, or eligible employees who change their employment category to regular during the calendar year, will be eligible for a prorated amount calculated from their date of hire or date of change to regular category.

Education Leave shall be paid whether the educational program occurs on a day the employee is scheduled to work or not.

An employee's unused funds at year-end do not carry over to the next calendar year unless education leave has been denied.

Alameda Hospital and ILWU Local #6 agree that the Surgical Department and the Surgical Technicians will continue, as they have in the past, to identify mutually agreeable training opportunities that are applicable to their job duties and relevant to the scope of surgical procedures performed at Alameda Hospital. If such training is after scheduled work hours or on weekends, the Surgical Tech will attend on their own time. If the training event is during regularly scheduled work hours, the attendance will be on paid time, not to exceed the Surgical Tech's regularly scheduled hours for that day.

SECTION 21. HEALTH AND WELFARE BENEFITS

A. Health Plans

1. AHS shall contribute toward the monthly provider's charge for a comprehensive group health plan for eligible full-time employees, as well as their spouses/domestic partners and eligible dependents. The current co-pays for office visits, services and prescriptions will be clearly described in the summary of each health plan made available to OPEIU Local 29 employees during open enrollment.
2. Employees shall be notified of changes and/or modifications of plans during open enrollment each year.
3. Those employees who are on the payroll as .50 FTE and higher but have not worked enough hours during the look back period to have an average FTE .50 or higher will not be benefit eligible. FMLA, Workers Compensation Disability leave and other paid leaves will be included in the calculation of hours worked.
4. Beginning January 1, 2015 Per Diem (on call) and Short hour employees will be eligible for Medical if they work on average 30 hours or more per week during the annual benefit look back period or as ACA dictates.

5. Duplicative Coverage. This applies to married AHS employees and employees in domestic partnerships both employed by AHS. The intent of this section limits AHS employees who are married or in a domestic partnership from both covering each other within the same health plan. Married AHS employees and employees in domestic partnerships, both employed by AHS, shall be entitled to one (1) choice from plans offered through AHS.
6. Share the savings will be a flat \$250 per month for opting out of the health plan altogether. Employees will be able to opt out of the Dental Plan as well for \$20 per month; again, they would have to opt completely out. Married couples or domestic partners who both work for AHS will not be eligible for either share the savings or double health and/or dental coverage.
7. Effect of Authorized Leave Without Pay On Health Plan Coverage. Employees who were absent on authorized leave without pay, and whose health plan coverage was allowed to lapse for a duration of three (3) months or less, will be able to re-enroll as a continuing member in the same plan which they had coverage prior to the authorized leave by completing the appropriate enrollment within thirty (30) calendar days of the date they return to work. The deductibles, maximums, and waiting periods shall be applied as though the employee had been continuously enrolled. The effective date of coverage will be based on guidelines established by AHS. Those whose health plan coverage was allowed to lapse for a duration greater than three (3) months will be able to re-enroll within thirty (30) calendar days of the date they return to work in the same manner as is allowed for new hired.
8. Open Enrollment. Eligible employees may choose among available options during an Open Enrollment period in the Fall of each year.

B. Dental Plans

1. AHS shall contribute the full cost of the provider's charge for a dental plan for full-time employees and their dependents, including domestic partners and their dependents, provided that the employee is benefit eligible based upon the number of hours worked during the annual look back period, the eligibility is the same as the Medical Plans. Eligible full-time employees may elect any one of the dental plan options provided through AHS.
2. The dental plan for less than full-time employees shall provide the same benefit coverage as in effect for full-time employees as described in Section A.5 above. To participate an employee must have a calculated FTE of .50 or higher in the prior benefit look back period.
3. Dental Plan Premium Payment On Final Paycheck Before Authorized Leave Without Pay Or Employee Separation. AHS shall make a dental plan premium payment on a final paycheck for employees who are on paid status at least forty (40) hours in the last biweekly pay period.
4. Full-time and Part-time employees. Full time and part time employees regularly scheduled to work 50% or more per pay period who were absent on authorized leave without pay, and whose dental plan coverage lapsed for a duration of ten pay periods or less, will be re-enrolled in the dental plan

as a continuing member with respect to the application of deductibles, maximums and waiting periods. Those whose dental plan coverage lapsed for a duration greater than ten (10) pay periods will be re-enrolled in the same manner as is allowed for new hires with respect to the application of deductibles, maximums and waiting periods. Coverage begins at the effective date of coverage and will be based on guidelines established by AHS.

5. **AHS Open Enrollment.** Eligible employees may choose from among the options available during the annual Open Enrollment period. Premiums of all AHS dental options will be paid according to dependent status (single, two-party or family).

C. Effect of Mandated Fringe Benefits

In the event that State or Federal law shall mandate the granting to employees of benefits or other terms and conditions of employment which duplicate, supplement, or otherwise impinge upon benefits or other terms and conditions of employment set forth herein, the provisions of this Memorandum of Understanding so supplanted, supplemented, or impinged upon shall be void and of no further effect as of the date the mandated benefit or term and condition of employment becomes effective, but the parties hereto shall then meet and confer with regard to such benefit or other term and condition of employment in order to assure that the State or Federal mandate does not result in an overall loss of benefits to employees.

D. Dependent Care Salary Contribution

Subject to the applicable provisions of the Internal Revenue Service, employees may contribute up to \$5,000 each calendar year from their salaries for approved dependent care (Eligible employees may only contribute a portion of their salary for such expenses; there is no AHS contribution for dependent care.) PER DIEM employees are not eligible for this benefit.

Reimbursements are made on a monthly basis subject to submission of itemized statements, adequate accumulation of the salary contribution, proof of payment, and applicable AHS administrative procedures.

DISABILITY INSURANCE BENEFITS

E. Participation

AHS shall continue to participate under the State Disability Insurance (SDI) Program.

F. Employee Options

There are two (2) options available to an employee who is otherwise eligible for disability insurance benefits which are as follows:

1. **Option 1.** Not applying for disability insurance benefits and using accrued sick leave and vacation or;
2. **Option 2.** Applying for disability insurance benefits and integrating accrued paid leaves with the SDI benefits. Such accrued paid leaves shall include sick leave and vacation. The choice to integrate accrued and extended sick leave only with SDI benefits may not be waived by the employee or AHS.
3. **Amount of Supplement.** The amount of the supplement provided in this section for any hour of any normal workday, shall not exceed the difference between 100% of the employee's normal net, not

gross salary rate, including premium conditions specified in Section___or any other provision of this MOU, and the “weekly benefit amount” multiplied by two (2) and divided by 80.

G. How A Supplement To SDI Is Treated

Hours, including fractions thereof, charged against the employee’s accrued leave as a supplement to disability insurance benefits will be regarded as hours of paid leave of absence.

H. Paid Time Off shall be accrued based upon the proportion of the hours, charged against the employee’s accrued leave balances to the regular pay period.

I. Health And Dental Plan Coverage In Conjunction With SDI

For purposes of determining eligibility for AHS’s hospital and medical care contributions and dental coverage, employees who are receiving a supplement to disability insurance benefits paid from and charged to accrued leaves shall be regarded as on paid status for their regular work schedules with regard to the days for which such supplement is paid.

J. The group health care providers will permit employees who are dropped from health and/or dental plan coverage because of exhaustion of their accrued leaves, to re-enter the group plans upon returning to their former work schedules, if the employee is otherwise eligible pursuant to Article___herein.

ARTICLE 22. LONG TERM DISABILITY INSURANCE

A long-term disability insurance policy will be made available for the employee only. Coverage can be purchased through payroll deduction. This policy is subject to premium costs, eligibility requirements, age limitations, coverage exclusions, conversion rights, and all other provisions set forth in the applicable insurer contract.

ARTICLE 23 – LIFE INSURANCE

Except for Per Diem employees and any employee who is regularly scheduled to work less than half the regular work week for the job classification, basic group life insurance coverage of \$9,000 will be provided to each employee who meets the enrollment requirements. AHS shall continue to pay necessary premiums for two (2) pay periods after the employee goes on approved leave without pay. This coverage reduces by 33% at age 65. This reduction will apply to the amount in force just prior to each reduction interval. The reduced amounts will be rounded in accordance with the existing schedule.

SECTION 24. HOSPITAL RULES

The Hospital may draft reasonable House Rules necessary for governing the conduct of employees in matters relating to fire protection, safety, sanitation, care of the sick, etc. The Union will assist the Hospital in drafting safety procedures designed to comply with State Law.

SECTION 25. LEAVES OF ABSENCE

Application for a leave of absence shall be made in writing by an employee requesting leave and leave of

absence, if granted, will be approved in writing.

Authorized leave of absence for any purpose shall not affect previously accumulated sick leave, vacation time, or tenure. Maternity leave will not affect seniority dates.

An employee on a workers' compensable leave of absence shall not lose seniority during such leave of no more than twenty-four (24) months.

An employee on a non-worker's compensable leave of absence for injury or illness shall not lose seniority during such leave of no more than twelve (12) months.

Leaves of absence for reasons like parental leave or leave for family illness or emergency shall be granted only by agreement between the employee and the Hospital. Such leaves of absence shall not be unreasonably denied.

During the leave of absence, the employee shall not engage in substantial, regular, new employment that can lead to substantial, regular, long-term new employment unless authorized in writing to do so by the Hospital. The Hospital may terminate any Technologist who violates this provision.

SECTION 26. RETIREMENT PLAN

SECTION 27. RETIREE HEALTH BENEFITS

Retiree Health Program for Eligible Radiology Technologists

1. **Retiree health Care Bridge 63 ½ -65.** Alameda Hospital Radiology Technologists with a minimum of fifteen (15) years continuous benefited service at the date of retirement, retiring between the ages of 63 ½ -65 years of age, will be eligible to receive a monthly retiree health care stipend of one-hundred and fifty dollars (\$150.00). This retiree health care stipend must be put towards a bona fide health care plan or COBRA continuation.
2. **Retiree Health Care-65 years of age and beyond.** Alameda Hospital Radiology Technologists participating in Alameda Hospital's Retiree Health Care Bridge Program and newly retired Radiology Technologists with a minimum of the (10) years continuous benefited service at the date of retirement shall receive a quarterly Medicare supplement stipend of three hundred dollars (\$300.00). This Medicare supplement stipend must be put toward a bona fide Medicare supplement program.

Pension benefits are to be provided to regular Full-time and regular 0.50 FTE or higher Part-time staff through the Alameda Health System Enhanced Defined Contribution Plan and Alameda Health System Hybrid Plan. Eligible staff shall be provided an opportunity to choose which of the two (2) plans they elect to participate in, at their time of hire into an eligible position. All plan elections are irrevocable once made.

For plan eligibility purposes, Part-time FTE status is based on official AHS Human Resources records and not the number of hours actually worked by an employee in a given pay period or range of pay periods. Participation in one of the two plans is mandatory for all eligible staff. Terms and conditions of plan benefits and eligibility to participate are governed by plan rules.

SECTION 28. UNEMPLOYMENT AND DISABILITY INSURANCE

Long-term Disability (LTD) Insurance: The Hospital will continue to cover all benefit eligible members covered by this Agreement in the LTD insurance program.

SECTION - 29. BENEFITS FOR PART TIME EMPLOYEES

The Health Program set forth in Section 19 and applicable to individual employee coverage shall be provided for all regular part-time employees as long as they continue to work on a regular schedule of twenty (20) or more hours per week.

SECTION 30. SHOP STEWARDS

The Hospital shall recognize one (1) employee as Shop Steward at the Hospital and one (1) employee as alternate Shop Steward to act in the absence of the Shop Steward. The Hospital shall be notified in writing of such appointment.

The function of the Shop Steward shall be to handle grievances and to ascertain that the terms and conditions of the contract are observed. In handling grievances, the Shop Steward shall only deal with representatives of the Hospital designated to handle grievances. The Hospital's designated representatives are only required to meet with one (1) Shop Steward on any grievance except where the Shop Steward is the grievant.

The activities of the Shop Steward under this Section shall not unduly interfere with the Shop Steward's work or the work of any other employee.

SECTION 31. NOTICE OF TERMINATION

It is the intention of the Hospital, whenever possible, to give an employee ten (10) days notice of termination, except in the case of discharge for cause. In the case of resignation, an employee will give the Hospital ten (10) days notice.

After a probation period of ninety (90) days of employment, accumulated length of service will be broken by voluntary resignation, dismissal for cause, twenty-four (24) consecutive months unemployment as a result of reduction in force, or industrial injury of twenty-four (24) months, or six (6) consecutive months of other illness.

SECTION 32. UNION REPRESENTATIVE

The Business Agent or qualified representative of the Union shall be allowed to visit the Hospital for the purpose of ascertaining whether or not this Agreement is being observed. This privilege shall be exercised reasonably.

The Business Agent or qualified representative of the Union shall report to a designated management official when entering the Hospital, and such representative shall not interfere with the normal conduct of work in the Hospital.

SECTION 33. BULLETIN BOARDS

The Union may submit official notices to a designated Hospital Representative for posting.

SECTION 34. JOINT SAFETY PROGRAM

The Hospital will provide regular employees with an annual physical examination, annual chest plate, urinalysis and blood test every three (3) months.

In addition, a Joint Safety Committee comprised equally of employees and administrative personnel (including a radiologist) at the Hospital will study physical conditions of the Radiology Department and will recommend maximum precautions and safeguards.

In the event any employee exceeds the recommended maximum limit of safety with respect to exposure to ionizing radiation, the Safety Committee shall meet as promptly as possible to investigate the cause and to recommend immediate improved protection such as additional shielding, different technique, etc.

SECTION 35. GRIEVANCE PROCEDURE AND ARBITRATION

If any employee or the Union has a grievance or complaint concerning the interpretation or application of the terms of this Agreement, it shall be taken up in this matter:

The employee may first confer with the department head or with such other person as the Hospital may designate and attempt to settle the matter.

If any such grievance or complaint is not thus settled, the authorized representative of the Union shall confer with the Administrator of the Hospital, or his or her designated representative, to settle the matter.

If any such grievance or complaint has not been settled by the procedure above described, the question may, at the request of either party, be submitted to arbitration by an arbitrator to be selected by the representatives of the Hospital and the Union. The parties shall obtain a list of five (5) competent labor arbitrators from the State Conciliation Service from which the parties shall alternately strike names until only one name remains. Determination with respect to which party strikes the first name shall be decided by flipping a coin.

The award of the Arbitrator shall be final and binding on all concerned. The Hospital and the Union shall each pay one half (1/2) the cost of the arbitration, including fees of the arbitrator and other expenses of the arbitral proceedings, but not including compensation or cost of representation, advocacy or witnesses of either party.

No grievance shall be processed under this Section unless it has first been presented within thirty (30) calendar days of the day on which the employee had knowledge (or in the normal course of events should have had knowledge) of the event constituting the grievance. In the event the grievance concerns discharge of an employee, the grievance must be presented within five (5) working days following the discharge.

Authorized representatives of the Union shall be allowed, upon submission of a written grievance and upon request to the Hospital Administrator, to inspect appropriate material in an employee's personnel file which is related to the alleged contract violation and upon which the Hospital intends to rely, if the involved employee's written consent is presented to the Hospital. In arbitration, the Hospital will not submit any such material which it has denied the right of inspection to the Union.

The Arbitrator shall have no power to add to, to subtract from, or to change any of the terms or provisions of this Agreement. His or her jurisdiction shall extend solely to claims of violation of specific written provisions of this Agreement and involve only the interpretation and application of this Agreement. In this

connection, the matter of whether or not a claim is arbitrable shall be determined by the Arbitrator. The Award shall be based upon the joint Submission Agreement of the parties or, in the absence thereof, the questions raised by the parties in respect to the specific interpretation and application of the agreement.

After a year, a letter of warning shall be considered for removal from the file based upon the seriousness of the incident and only if there are no additional written warnings.

Expedited Arbitration

Both parties agree to attempt to resolve the issue quickly and amicably. After the alleged violation has been referred to expedited arbitration, the arbitration shall be concluded within ten (10) calendar days of referral or at some other mutually agreeable date. The Arbitrator's authority is limited to determining whether the Agreement has been violated.

The Union and the Hospital shall select an impartial third party to be the Arbitrator to hear and determine the issues. The parties shall obtain a list of five (5) competent labor arbitrators from the State Conciliation Service from which the parties shall alternately strike names until only one name remains. Determination with respect to which party strikes the first name shall be decided by flipping a coin.

The selection of the arbitrator shall be conditioned on his or her availability to hear the case within the specified period. The arbitration hearing shall be scheduled within that period. The arbitrator shall be requested to issue a decision within twenty-four (24) hours, which will be binding on all parties. The costs of the arbitration will be borne equally by the parties.

It will be a violation of this Section if employees refuse to work in honor of a picket line at the Hospital if the labor dispute about which the picket line is maintained is between Local 6 and/or another union and either Children's Hospital or any other employer/hospital located on the same premises as the Hospital, so long as the Hospital is not performing struck work of the employer/hospital with the labor dispute, and so long as the employees and suppliers of the employer/hospital with the labor dispute use a separate entrance to the Hospital.

Employees represented by the Union shall not be required to continue performing services that directly and exclusively benefit the operation of the employer/hospital with the labor dispute.

SECTION 36. NO STRIKE OR LOCKOUT

There shall be no strike, slow down or other stoppage of work by the Union employees and no lockout by the Hospital during the life of this Agreement. However, it is expressly understood this first sentence does not apply to a sympathy strike. In the event that a strike or a picket line by another union with a collective bargaining relationship with the Hospital occurs at the Hospital, due to a dispute between that union and the Hospital, the Union recognizes its obligation to maintain one Technologist per shift.

If said Technologist is not CT and/or ultrasound trained, then a stand-by CT and/or ultrasound-trained Technologist will be provided for CT and/or ultrasound emergencies only.

SECTION 37. GOVERNMENT COST CONTAINMENT POLICIES

A separate cover letter of transmittal will be sent to the Union concerning an agreement to meet and confer if the government cost containment policies are initiated.

SECTION 38. TECHNOLOGICAL AND OPERATIONAL CHANGE

In the event that the Hospital intends to subcontract work performed by the employees subject to this Agreement, or intends to sell the physical assets of the Department, or intends to merge or consolidate the Department with another organization, or plans to introduce new equipment in the Department which will materially affect work performed by employees subject to this Agreement, or intends to merge employers or close any part or all of its facilities or any department thereof affecting employees, the Hospital shall notify the Union at least ninety (90) days in advance of any intended action on its part and the parties shall discuss the impact of such action upon employees then working under the collective bargaining agreement. The parties will meet promptly in these matters and seventy-five (75) days after the initial notice, the No Strike provision found in this Agreement may be suspended by the Union if the Union files a proper 8(g) notice giving no less than ten (10) days notice of its intent to strike.

Discussion of this impact will include, but not be limited to, alternative employment for any employee who loses his or her job as a result of the change and the impact of change on patient care.

SECTION 39. TERM OF AGREEMENT

This Agreement shall remain in full force and effect through December 31, 2019 and shall be automatically renewed from year to year thereafter unless either party shall, at least ninety (90) days prior to January 1, 2020 or any other subsequent January 1 for which the Agreement is renewed, serve notice in writing of its desire to change, amend, or terminate this Agreement, modified only by the agreed-upon wage openers noted in Section 8 Wages.

IN WITNESS WHEREOF, the undersigned parties, duly authorized to do so, fix their signature on this ____ day of _____, 2018

For ILWU Local 6:

For Alameda Hospital/ AHS

Date _____
Maureen McManus
Business Agent

Date _____
Tony Redmond
Chief Human Resources Officer

Date _____

Date _____
John Hardy
Interim Director Labor Relations

Date _____

Date _____
Fran Jefferson
Sr Labor Relations Analyst

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONSENT CALENDAR ITEM

Approve Staff Recommendation regarding Superior Court of California, County of Alameda's New Pay Item/Code COVID-19 Supplemental Paid Sick Leave – 367A.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: July 15, 2021

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager *SDC*

SUBJECT: **Approval of One New Pay Item/Code as “Compensation Earnable” and “Pensionable Compensation” – Superior Court of California**

Superior Court of California (Superior Court) requested that new pay item/code COVID-19 Supplemental Paid Sick Leave – 367A be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation”. This new pay item/code was established to comply with Senate Bill 95 (SB-95), which was signed into law on March 19, 2021. SB-95 requires covered employers to provide full-time employees up to 80 hours of Supplemental Paid Sick Leave (SPSL) for specific COVID-19 related reasons. Part-time employees are eligible for prorated SPSL hours. The effective date of SB-95 and this new pay item/code is retroactive to January 1, 2021. This new pay item/code replaces the current use of pay item/code Emergency Sick Leave – 367 retroactively to January 1, 2021.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that the new pay item/code qualifies as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members). Paid leave is included in both “compensation earnable” and “pensionable compensation”. The two relevant Government Code sections are attached for the Board of Retirement’s (Board) reference.

Staff informed Superior Court that Staff’s determination will be on the Board’s consent calendar for approval at its July 15, 2021 meeting. If this item is not pulled from the consent calendar for discussion, then the Board will approve Staff’s determination that the pay item/code is “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members).

Attachments



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

Employer Name: Superior Court of California, County of Alameda

Date: 5/14/2021 (effective date of code: 1/1/2021)_____

Contact Person/Employer (include title/position): Jan Tillman/Senior Accountant (additionally: Sarah Ybarra/Payroll Specialist)

Contact Person Telephone: 510-891-6215 (Jan Tillman) or 510-891-6226 (Sarah Ybarra)

Email: Payrollunit@alameda.courts.ca.gov or jtillman@alameda.courts.ca.gov

Pay Item Name (and code number): **COVID-19 Supplemental Paid Sick Leave**; code# **367A**

The following information is required before ACERA can review and respond to your request. Please provide substantive responses on separate paper and return with this form prior to issuing (paying) the pay item to any employee who is an ACERA member.

1. State the job classification of employees eligible for the pay item (i.e., Job Code 0499-Nurse Practitioners II may receive this pay item).
2. State employment status of employees eligible to receive the pay item (i.e., full time employees, part time employees)
3. State the number of members or employees who are eligible to receive the pay item (i.e., all members or employers in a job classification eligible to receive the pay item, or “not to exceed one employee”)
4. State whether pay item is for overtime or regular base pay.
5. State whether pay item is calculated as a fixed amount or percentage of the base pay.
6. State whether the pay item is paid one time (i.e., incentive pay, referral pay, bonus, award).

7. State whether the pay item is an ad hoc payment (i.e., stipend, payment for attending a meeting during working hours, payment for attending a meeting during non working hours).
8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance)
9. State regular working hours of the employees who will receive the pay item (i.e., 37.5 hour workweek employees, 40 hour workweek employees)
10. State whether pay item is for work performed outside of the regular workweek (i.e., payment for work or services performed outside of the employee's 37.5 hour work week, or outside of the employee's 40 hour work week)
11. State whether the pay item is for deferred compensation.
12. State whether the pay item is for retro payments.
13. State whether the pay item is for accrued unused leave (i.e., sick leave, annual leave, floating holiday, vacation, comp time)
14. State whether the payment is compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee.
15. State whether the payment is severance or other payment in connection with or in anticipation of a separation from employment (and state if this payment is made while employee is working)
16. State whether the pay item is paid in one lump sum or bi-weekly (or over some other time period-monthly, quarterly, annually)
17. State the basis for eligibility for the pay item (i.e., certification of completion of training program conducted by an accredited university, or employee assigned as supervisor of badge distribution).

1. All job classifications eligible
2. Part Time and Full Time
3. All members in all job classifications eligible to receive this pay code
4. Regular base pay
5. Calculated as same amount of Base Pay (hour for hour)
6. This is not a one-time payment
7. provide paid sick leave for specified reasons related to COVID-19
8. Not a reimbursement
9. All employees eligible to receive pay: 37.5 and 40 hours (including Part Time)
10. This is not for payment outside regular work week
11. Not for deferred compensation
12. Not for retro payments
13. Not for accrued unused leave
14. Not for compensation that had previously been provided (only reverting hours that had been coded as regular pay or accruals used due to COVID-19 related reasons, effective 1/1/2021)
This is to replace the previous use of Emergency Paid Sick Leave effective 1/1/21 to present/future
15. Not for severance or separation
16. Paid bi-weekly, based on Hours used
17. employee must be eligible to receive regular wages

SPSL Benefits

Effective March 29, 2021; Retroactive to January 1, 2021; Expires September 30, 2021



COVID-19 Supplemental Paid Sick Leave (SPSL)

Up to 80 hours of additional paid sick leave if an employee is unable to work (or telework) due to a qualifying reason. The leave is available for use immediately. Labor Code Section 248.2.

ELIGIBILITY*

- All employees, regardless of hours of work or number of days employed
- Employee is unable to work (or telework) due to a qualifying reason

DURATION

- Up to 80 hours for 40-hour employees
- Up to 75 hours for 37.5-hour employees
- For part-time employees: up to the number of hours the employee normally works on average during a 2-week period

QUALIFYING REASONS

As related to COVID-19, the employee is:

- 1 Subject to a quarantine or isolation period as defined by an order or guideline of a specified federal, state, or local authority
- 2 Advised by a health care provider to self-quarantine
- 3 Experiencing COVID-19 symptoms and is seeking a medical diagnosis
- 4 Caring for a family member subject to #1 or #2
- 5 Caring for a child whose school or childcare is unavailable due to COVID-19
- 6 Attending an appointment to be vaccinated
- 7 Unable to work or telework due to vaccine-related symptoms

PAY

- Regular rate of pay up to \$511 per day
- Employees may use any of their available accruals to supplement the pay to achieve 100% of their regular pay
- **Retroactive.** An employee who took leave due to a qualifying reason between January 1, 2021, and March 28, 2021, may request the Court to credit the employee for any sick leave accruals used for such leave, or to compensate the employee if they went unpaid for such leave, at the rate required by SPSL, up to the maximum allowed by SPSL.

* The Court may require additional documentation to verify eligibility. Use of this leave has no effect on an employee's health insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CLOSED SESSION

5.A. This item will be addressed in Closed Session, per Gov't Code § 54957(b):

**Dennis Teichera, Deputy Sheriff II, Sheriff's Office
Non-Service-Connected Disability Effective: May 28, 2021**

POSSIBLE CLOSED SESSION

5.B. Possible Motion on Claim for Service-Connected Surviving Spouse Allowance


This item will be addressed in open session, but the Board may go into Closed Session to received advice from counsel, per Gov't Code § 54956.9(d)(2):

Deceased Member: Oscar Rocha

Surviving Spouse: Carol Maureen Ennor

Non-Service-Connected Surviving Spouse Allowance Effective: July 24, 2020



To: Members of the Board of Retirement
From: Jeff Rieger, Chief Counsel 
Meeting: July 15, 2021
Subject: **Maureen Ennor's Claim For A Service-Connected Surviving Spouse Allowance**

INTRODUCTION

Safety Member Oscar Rocha died of COVID-19 on July 23, 2020. ACERA has already granted Mr. Rocha's surviving spouse, Maureen Ennor, a non-service-connected surviving spouse allowance under Gov't Code § 31781.1, without prejudice to her right to pursue a service-connected surviving spouse allowance under Gov't Code § 31787. That request for a service-connected allowance will be before the Board at its July 15, 2021 meeting.

PROCEDURAL HISTORY

Since August 2020, I have been in contact with Ms. Ennor and her attorneys and I have advised that ACERA would process a claim for a service-connected surviving spouse allowance after receiving documents and arguments to support that claim. Ms. Ennor's attorney, Edward Lester, submitted such documents and arguments on April 26, 2021. I requested further information, which he provided on April 29, 2021.

The question at hand is whether Mr. Rocha caught the coronavirus at work (service-connected) or outside of work (non-service-connected). After reviewing the materials Mr. Lester submitted, I determined that I could not make a definitive recommendation to the Board one way or the other.¹ While it is possible that Mr. Rocha was exposed to the coronavirus at work, an OSHA Investigation Summary explains: "During the course of the investigation by the Division it was found that the employee had a significant exposure incident to [REDACTED] while they were in the community between June 16 and 19 of 2020." It also states that, on June 22, 2020, Mr. Rocha notified his employer that "[REDACTED] had been diagnosed with COVID-19, and as a result he would be self-quarantining at home." He wrote to another person that same day that "[REDACTED] had been diagnosed with COVID-19 and was hospitalized at San Ramon Regional Medical Center" and, at that time, Mr. Rocha "was experiencing mild symptoms." See Exhibit C.

¹ Other agencies have determined that Mr. Rocha's death was service-connected, but those determinations, which may have been reached based on different standards than those that apply to ACERA, are not binding on ACERA. See, e.g., *McIntyre v. Santa Barbara County Employees' Retirement System, Board of Retirement* (2001) 91 Cal.App.4th 730, 736 ("The Board is responsible for administering the retirement fund. The Board must, therefore, make its own determination on the factual question of whether a disability is service connected").

Based on the information Ms. Ennor has provided, it appears that Ms. Ennor is the person whose name is redacted in those records. These facts raise the possibility that Mr. Rocha may have contracted the coronavirus in the community, rather than on the job.

ACERA does not have established procedures for making service-connected death determinations when the service-connection is not obvious (e.g., gunshot or car accident on the job). ACERA does, however, have Disability Retirement Procedures ("DRP"), which are used, in part, to make service-connected determinations. In that process, the Board receives recommendations from its Medical Advisor, MMRO. That process also includes participation from the Office of County Counsel, which may investigate a service-connection claim and decide whether to advocate against that claim. On May 27, 2021, I advised Mr. Lester that staff's plan was to utilize the aspects of the DRP that pertain to service-connection determinations. This would enable the Board to receive a recommendation from MMRO and the Office of County Counsel would be able to play the same role it plays in the disability retirement process when service-connection is at issue.

In mid-June, Ms. Ennor requested an opportunity to appear before the Board, as she was concerned about the time and expense involved in the DRP process. Board Vice-Chair Godfrey granted that request and placed this matter on the July 15, 2021 agenda.²

Ms. Ennor and a representative from the Office of County Counsel were invited to submit materials for the Board's consideration at the July 15, 2021 meeting. Ms. Ennor's submission is attached as Exhibit A. The Office of County Counsel's submission is attached as Exhibit B.

BOARD PROCEEDINGS AT JULY 15, 2021 MEETING

This matter will be discussed in open session,³ but the Board will also have a closed session item on the agenda, pursuant to Gov't Code § 54956.9(d)(2), so that the Board may consult with outside counsel confidentially.⁴ In open session, Ms. Ennor's counsel and a representative from the Office of County Counsel will each have the opportunity to make an oral presentation to the Board and the Board may ask them questions.

At the July 15, 2021 meeting, the Board may take any action within its authority, including: (1) granting the service-connected surviving spouse allowance, (2) denying the service-connected surviving spouse allowance, (3) seeking further information for consideration at a later meeting (as staff recommends), or (4) referring the matter to a hearing officer to prepare a recommendation to the Board after conducting an evidentiary hearing.

² Board Chair Amaral has recused himself from this matter because, as a Commander in the Alameda County Sheriff's Office, he helped Ms. Ennor apply for federal benefits for officers who die in the line of duty.

³ The legal authority that allows for closed sessions for disability applications (Gov't Code § 54957(b)) does not apply to death benefit applications. See 88 Ops. Cal. Atty. Gen. 16 (2005).

⁴ No member of ACERA staff will attend any such closed session, which will include only the Board members and outside counsel.

STAFF RECOMMENDATION

As previously noted, staff's plan was to proceed through the DRP as it relates to service connection determinations. I believe this is a sound approach. If, however, the Board wishes to expedite the processing of this matter, I believe the following alternative procedures would be fair to all parties and help the Board reach a sound decision. The below alternative procedures should approximately cut in half the normal processing time to bring this back to the Board under the DRP:

- Allow Ms. Ennor to finalize her submission with any documents or arguments she believes are appropriate for consideration by MMRO, with the final submission forwarded to the Office of County Counsel.
- Allow the Office of County Counsel 30 days to respond to Ms. Ennor's submission with any documents or arguments it believes are appropriate for MMRO's consideration.
- Request that MMRO provide a Recommendation as soon as possible, aiming for 30 days if possible without compromising the quality of the analysis, after receiving the materials from Ms. Ennor and the Office of County Counsel.⁵
- Bring MMRO's Recommendation to the Board for consideration at the next Board meeting that is at least 20 days after ACERA receives that Recommendation, with copies of the Recommendation immediately provided to Ms. Ennor and the Office of County Counsel. This will provide adequate time for the parties to prepare written responses to the Recommendation, for inclusion in the Board's packet for that meeting. The Board would have the same options available to it at that meeting as at this meeting, but would have the benefit of MMRO's recommendation and the parties' responses thereto. At that point, there may be recommendation from MMRO that is not disputed or, if MMRO's recommendation is disputed, the Board could consider what, if any, additional procedures are appropriate.

A representative from the Office of County Counsel will be at the July 15, 2021 meeting. It is my understanding that the Office of County Counsel opposes any expedited process and requests that ACERA follow the DRP, as applied to service-connection determinations. Doug Minke from MMRO will also be available to help the Board determine a reasonable course of action. I will answer the Board's questions about this memorandum. Outside counsel, Ashley Dunning, will be available to advise the Board in closed session, if the Board determines a closed session is necessary (based on my involvement in this matter to date, under California and federal due process case law, I cannot advise the Board confidentially on this matter).

⁵ Issues MMRO might analyze are, for example: (1) how likely it is that Mr. Rocha would have contracted the coronavirus in early April, but tested negative and improved before experiencing mild symptoms in late June; and (2) based on the timing of Mr. Rocha's and Ms. Ennor's development of symptoms in June, whether it can be determined who likely contracted the coronavirus first. ACERA and the parties might pose additional questions when the materials are provided to MMRO. Further, the recommendation from MMRO might be qualified based on proposed factual determinations that could be proven to the Board's satisfaction (e.g., the extent to which Mr. Rocha and Ms. Ennor avoided contact with others outside of Mr. Rocha's work).

Exhibit A

Maureen Ennor's Submission



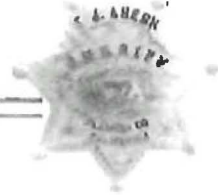
Summary of Events Leading to Oscar Rocha's Death

- **March 16, 2020**, Alameda County Superior Court announces a closure of Court Facilities in support of County Health Officer's Shelter-in-Place Order. Sheriff's Office staff, including Deputy Sheriff Oscar Rocha, are reassigned to Santa Rita Jail.
- **March 27, 2020**, Alameda County Superior Court announces that video arraignment for detainees at Santa Rita Jail would begin. Sheriff's Office deputies including Rocha were reassigned to escort detainees to Santa Rita Jail to and from Intake, Transfer and Release Unit to Rooms 412 and 413 at Sandy Turner Educational Center.
- **April 4, 2020**, Alameda County Sheriff's Office issues memorandum regarding first confirmed case of COVID-19 among prison population at Santa Rita Jail. Deputies are ordered to wear N95 masks while within Santa Rita Jail facility. (Exhibit "A").
- **April 10, 2020**, the total number of inmates at Santa Rita Jail testing positive for COVID-19 reaches 15. Two Santa Rita Jail staff members test positive for COVID-19.
- **April 11, 2020**, Oscar Rocha presents to the emergency room at John Muir Hospital and is diagnosed with COVID-19. (Exhibit "B").
- **Between June 09, 2020 to June 17, 2020**, three Sheriff's Office employees test positive for COVID-19. The Sheriff's Office Log of Work-Related Injuries shows two employees working in Santa Rita Jail test positive for COVID-19 on June 17, 2020. A third employee working in Santa Rita Jail has a known exposure to COVID-19 on June 16, 2020. (Exhibit "C").
- **June 18, 2020**, Oscar Rocha's final full date of work and date of injury in his workers' compensation claim for COVID-19. County of Alameda stipulates that the injury occurred in the line of duty and caused Oscar Rocha's death. (Exhibit "D").
- **June 19, 2020**, Oscar's wife Maureen Ennor Rocha is diagnosed with COVID-19, and she goes to the emergency room at San Ramon Medical Center.
- **June 29, 2020**, Oscar Rocha presents to the emergency room at John Muir Hospital and is diagnosed with acute hypoxic respiratory failure and COVID -19. (Exhibit "E").
- **July 23, 2020**, Death certificate issues showing Oscar Rocha died of acute respiratory failure due to COVID-19. (Exhibit "F").
- **August 04, 2020**, Attorney General Xavier Becerra issues statement acknowledging the service-related death of Deputy Sheriff Oscar Rocha. (Exhibit "G").
- **September 30, 2020**, Sheriff Gregory Ahern acknowledges a gift due to a fallen officer, Deputy Sheriff Oscar Rocha, after a 25-year career with the Sheriff's Office. (Exhibit "H").
- **February 2, 2021**, Cal-OSHA cites Alameda County Sheriff's Office for failure to maintain records regarding Oscar Rocha's N95 respiratory testing. "Oscar Rocha was one of several employees who are required to enter housing units of Santa Rita Jail where inmates are confirmed or are suspected of having SARS-COV-2." (Exhibit "I").

Exhibit “A”

Alameda County Sheriff's Office

Santa Rita Jail
5325 Broder Boulevard, Dublin, CA 94568-3309



Gregory J. Ahern, Sheriff

Director of Emergency Services
Coroner - Marshal

MEMORANDUM

DATE: April 4, 2020
TO: All Sheriff's Office Personnel
FROM: Yesenia Sanchez, Commander
SUBJECT: CONFIRMED COVID-19 SRJ INMATE

From the onset of the Coronavirus Pandemic, our Agency has taken extraordinary precautions to avoid and/or slow the introduction and spread of COVID-19 into Santa Rita Jail. As of this morning, April 4, 2020, we have been notified by our medical provider Wellpath of our first confirmed positive inmate.

[REDACTED] On April 1st, the inmate began experiencing symptoms associated with possible COVID-19 and was immediately rehoused in OPHU. The inmate was tested, and the test results were received today. The inmate is now recovering in the OPHU and his condition is improving.

Per our protocols, Housing Unit 7E has been on quarantine since April 1st when the inmate first presented with symptoms associated with COVID-19. Housing Unit 7A is also on quarantine. Housing Unit 7E will be on quarantine through April 11th and A Pod through April 18th. Wellpath will be regularly monitoring the inmates housed within these two pods for any evidence of COVID-19 symptoms. In an abundance of caution, Housing Unit 7A and 7E will be professionally cleaned and sanitized.

As an Agency, we have been following CDC guidelines for the use of Personal Protective Equipment. As of this writing staff are required to wear the N95 mask and eyewear protection while within the Santa Rita Jail facility, regardless of work assignment. These precautions should be taken if you are standing within 6 feet of another person. Also, if you normally wear prescription eyeglasses, the wearing of additional eye protection is not necessary. Protective eyewear is available in the Santa Rita Jail Ready Room and Watch Commanders Office. These precautions exceed the CDC guidelines but are being implemented to protect both our employees and inmates in our custody.

Exhibit “B”

ED AFTER VISIT SUMMARY



Oscar Rocha MRN: 21774897

4/11/2020 Walnut Creek Emergency Department 925-947-4444

EMERGENCY DEPARTMENT DISCHARGE INSTRUCTIONS

Instructions

Your personalized instructions can be found at the end of this document.



Read the attached information
Febrile Illness, Uncertain Cause (Adult) (English)



Call JOHN ROBERTS, MD in 3 days (around 4/14/2020)
Specialty: Family Medicine
Contact: 4165 Blackhawk Plaza Cir. #100
Danville CA 94506-4691
925-736-7070

Today's Visit

You were seen by STEPHEN LEVINSON, MD

Reason for Visit

Cough

Diagnoses

- Febrile illness
- COVID-19

Lab Tests Completed

CBC w/ diff

Comprehensive metabolic panel

ER troponin-I

INFLUENZA A&B NUCLEIC ACID AMP.(SWAB) **Deliver to lab within 2 hrs of collection** Click here for collection instructions

Lab Tests in Progress

COVID-19 (LabCorp)

Culture, blood performed 2 times

Imaging Tests

X-ray chest AP portable

Done Today

Cardiac monitoring

Monitor blood pressure

Pulse oximetry, continuous

Saline lock IV

Exhibit “C”

Wojcik, Spencer@DIR

From: Dorsey, Natisha, Sheriff <ndorsey@acgov.org>
Sent: Wednesday, June 17, 2020 6:02 PM
To: Sanchez, Yesenia L., Sheriff
Cc: Evans, Robert M., Sheriff; Evans, Alysia R., Sheriff; Firmeza, Gina, Sheriff; Pech, Christopher O., Sheriff; Gutierrez, Herminia P., Sheriff
Subject: SRJ-Employees on SELF-QUARANTINE

Good afternoon Commander Sanchez,

I have a few to add.

The following employees have been directed to self-quarantine:

- [REDACTED] COVID-19 positive-Self-Quarantined for 10-days, beginning 6/11/20.
 - 06/09/20-Last day worked-confirmed wearing PPE
 - 06/11/20-Onset of COVID-19 symptoms. Dep. Bowe confirmed he was not symptomatic at work.
 - 06/15/20-Positive COVID-19 test result
- [REDACTED] COVID-19 positive-Self-Quarantined for 10-days, beginning 6/14/20.
 - 06/11/20-Last day worked-confirmed wearing PPE
 - 06/14/20-Onset of COVID-19 symptoms. Not symptomatic at work
 - 06/17/20-Positive COVID-19 test result
- [REDACTED] Prolonged direct contact with COVID-19 positive individual -Self-Quarantined for 14-days, beginning 6/15/20.
 - 06/15/20-Last contact with positive individual
 - 06/16/20-Last day worked
 - 06/17/20-Tested, pending results, no symptoms. May return to work before the 14-day quarantine period, if NEGATIVE test results and have not exhibited any COVID-19 symptoms.
- [REDACTED] COVID-19 positive-Self-Quarantined for 10-days, beginning 6/16/20.
 - 06/15/20-Last day worked-confirmed wearing PPE
 - 06/16/20-Onset of COVID-19 symptoms. Not symptomatic at work.
 - 06/16/20-Positive test result

Formal notices have been sent to all the above employees and their immediate supervisors.

Along with the quarantine timeframes listed above, all have been advised that they must meet the following guidelines before returning to work:

1. 10-days after the first onset of symptoms (fever, or cough and headache)
AND
2. 72-hours fever-free (under 100.4° F) without the use of fever-reducing medication
AND
3. Symptoms have improved

Have a good evening.

Wojcik, Spencer@DIR

From: Evans, Alysia R., Sheriff <AEvans@acgov.org>
Sent: Monday, June 29, 2020 9:16 AM
To: Okada, Reiko, Public Health, DCDCP
Subject: RE: Oscar Rocha's schedule

Hi Reiko,
Oscar Rocha lives in [REDACTED]

Name: Oscar Rocha
DOB: [REDACTED]
Address: [REDACTED]
Phone: [REDACTED]

Also I got word of two additional positives on Sunday, one from ITR-Mids and D-Team Security. [REDACTED]

The D-Team Security person is: [REDACTED]

ACPHD
Communication



Alysia Evans, MPA | Chief, Human Resources
Alameda County Sheriff's Office Human Resources
1401 Lakeside Drive | Oakland, California 94612
Office 510-208-9813 | Facsimile 510-208-9868
AEvans@acgov.org | QIC 26018

From: Okada, Reiko, Public Health, DCDCP
Sent: Sunday, June 28, 2020 3:15 PM
To: Evans, Alysia R., Sheriff <AEvans@acgov.org>
Subject: RE: Oscar Rocha's schedule

Sorry, also forgot to ask if this is an Alameda County resident.

Thanks,
Reiko

From: Okada, Reiko, Public Health, DCDCP
Sent: Sunday, June 28, 2020 3:08 PM
To: Evans, Alysia R., Sheriff <AEvans@acgov.org>

Exhibit “D”



STATE OF CALIFORNIA
 DIVISION OF WORKERS' COMPENSATION
 WORKERS' COMPENSATION APPEALS BOARD
 STIPULATIONS WITH REQUEST FOR AWARD
 (Death Case)



ADJ13527325

Case Number 1

Case Number 2

Venue Choice is based upon: (Completion of this section is required)

- County of residence of employee (Labor Code section 5501.5(a)(1) or (d).)
- County where injury occurred (Labor Code section 5501.5(a)(2) or (d).)
- County of principal place of business of employee's attorney (Labor Code section 5501.5(a)(3) or (d).)

OAK

Select 3 Letter Office Code For Place/Venue of Hearing (From the Document Cover Sheet)

Adult Dependent #1 Information

CAROL MAUREEN

First Name

MI

ENNOR

Last Name

3300 TOWERS BLVD., #1338

Address/PO Box (Please leave blank spaces between numbers, names or words)

SEABROOK

City

TX

State

77586

Zip Code

Adult Dependent #2 Information

First Name

MI

Last Name

Address/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Adult Dependent #3 Information

First Name

MI



Last Name

Address/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Employer Information (Completion of this section is required)

Insured

Self-Insured

Legally Uninsured

Uninsured

COUNTY OF ALAMEDA

Employer Name (Please leave blank spaces between numbers, names or words)

1401 LAKESIDE DRIVE 12TH FLOOR

Employer Street Address/PO Box (Please leave blank spaces between numbers, names or words)

OAKLAND

CA

94612

City

State

Zip Code

Insurance Carrier Information (If known and if applicable - include even if carrier is adjusted by claims administrator)

Insurance Carrier Name (Please leave blank spaces between numbers, names or words)

Insurance Carrier Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Claims Administrator Information (If known and if applicable)

YORK ROSEVILLE

Name (Please leave blank spaces between numbers, names or words)

PO BOX 619079

Street Address/PO Box (Please leave blank spaces between numbers, names or words)

ROSEVILLE

CA

95661

City

State

Zip Code

The parties to the above-entitled action hereby enter into the following stipulations and request the Division of Workers' Compensation to issue Findings and Award forthwith, without further proceedings.

IT IS HEREBY STIPULATED AS FOLLOWS:

1. That OSCAR _____ ROCHA _____, age 56, _____
(First Name) (Last Name) (Years)

while employed at 5325 BRODER BLVD. DUBLIN, CA _____
(Place of injury)

as a DEPUTY SHERIFF _____
(Occupation)

by COUNTY OF ALAMEDA _____ on 06/18/2020;
(Name of employer; an individual, co-partnership or corporation) (Date of injury: MM/DD/YYYY)

sustained injury arising out of and occurring in the course of his/her employment, proximately resulting in the death of _____

said employee on 07/23/2020 _____. That at said time, employer's workers' compensation insurance carrier
(Date of Death: MM/DD/YYYY)

covering said injury was PERMISSIBLY SELF INSURED _____, and both the employer

and the employee were subject to the provisions of the Labor Code of the State of California.

2. That said employee left surviving him/her, wholly dependent/partially dependent, dependents listed herein: (Give name and if a minor, date of birth and relationship to the employee. Adult dependents are listed above and minor dependents are listed below.)

Minor dependents

Minor dependents?

Minor Dependent # 4 Information

Name _____

Minor

Relation _____

Date of Birth: MM/DD/YYYY _____

Minor Dependent # 5 Information

Name _____

Minor

Relation _____

Date of Birth: MM/DD/YYYY _____

Minor Dependent # 6 Information

Name _____

Minor

Relation _____

Date of Birth: MM/DD/YYYY _____

3. That the said dependents are entitled to a death benefit of \$

[REDACTED]

based upon earnings of \$ 2,458.85 , payable at \$ 1,299.43 a week.
(State weekly or monthly wages)

+

4 That the sum of \$ 0.00 is payable to

Total Sum Paid

on account of the burial expense. The sum of \$ None, all paid by DSA has previously been paid to

5. That all necessary medical, surgical and hospital expenses on account of said injury has been paid by defendants.
(If not paid, explain):

Yes

No

[Empty rectangular box for explanation]

+

6. That defendants have heretofore paid the sum of \$

on account of death benefit, for which they request credit.

Total Death Benefits Paid

7. It is necessary that a guardian ad litem and trustee be appointed for the minors, and the parties request that

First name

Last Name

be appointed such guardian ad litem and trustee.

~~The Workers' Compensation Administrative Law Judge may assume that no attorney fee is involved in the above entitled matter and should the facts be otherwise a detailed explanation shall be attached to these stipulations.~~

[Signature] 11/27/20
Dependant or guardian signature (Date)

[Signature] 11/21/20
Dependant or guardian signature (Date)

[Signature] 11/21/20
Dependant or guardian signature (Date)

+

Applicant's Attorney or Authorized Representative:

Law Firm/Attorney Non Attorney Representative

EDWARD

First Name

LESTER

Last Name

4124853

Law Firm Number

GEARY SHEA SANTA ROSA

Law Firm Name

90 SOUTH E STREET SUITE 300

(Address/PO Box (Please leave blank spaces between numbers, names or words))

SANTA ROSA

City

CA

State

95404

Zip Code

Dated 11/18/2020

MM/DD/YYYY

Edward W. Lester
Applicant Attorney Signature

Defendant's Attorney or Authorized Representative:

Law Firm/Attorney Non Attorney Representative

SUSAN

First Name

HASTINGS

Last Name

4868748

Law Firm Number

LAUGHLIN FALBO OAKLAND

Law Firm Name

ONE CAPITOL MALL SUITE 400

(Address/PO Box (Please leave blank spaces between numbers, names or words))

SACRAMENTO

City

CA

State

95814

Zip Code

Dated

11/23/20

MM/DD/YYYY

S. Hastings

Defense Attorney Signature

Applicant/Employee: Carol Maureen Ennor (Oscar Rocha Dec'd) WCAB NO(s). AOJ 13527325
ADJ13527325

(Legacy number(s): _____)

AWARD

Based upon the Stipulations with Request for Award submitted herein:

AWARD IS MADE in favor of Carol Maureen Ennor for Oscar Rocha (deceased) against
County of Alameda, PSI and adjusted by York/SEADWICK of:

- (A) Additional Temporary Disability Indemnity in accordance with Section 2(a) above;
- (B) Permanent Disability Indemnity in accordance with Section 3 above;
- Less the sum of \$, payable to Applicant's Attorney as the reasonable value of services rendered. Fees are to be commuted pursuant to Section 6;
- (C) Liens in accordance with Section 7;
- (D) Further medical treatment in accordance with Section 4;
- (E) Reimbursement for Medical-Legal expenses in accordance with Section 5;
- (F) Stipulations in Sections 8 and 9 are approved;
- (G) The matter is ordered taken off calendar.

(H) Settlement is for death of Deputy Oscar Rocha due to Covid. See attached addendum explaining basis of settlement.
12/8/20
(Dated) Thomas Russell Jr.

WORKERS' COMPENSATION JUDGE
WORKERS' COMPENSATION APPEALS BOARD

VIA EMAIL NOTICE TO: SUSAN HASTINGS/LEWIS
Pursuant to Rule 10629, you are designated to serve this document on all parties shown on the Official Address Record, together with a Proof of Service. You shall maintain this Proof of Service, which shall not be filed with the WCAB unless a dispute arises regarding service. A copy of the current Official Address Record accompanies this notice.

On _____, this document was personally served on all persons appearing at the hearing on that date as set forth in the minutes of that hearing was personally served on:

was served by US Mail Email Fax on all persons listed on the Official Address Record was served by US Mail Email Fax on the following party or parties: _____

Exhibit “E”

Criteria Review

1. **Attempts to transfer to higher level of care for ECMO ongoing.**
 2. **Continue restarted decadron given decline - no guidelines for ongoing steroids beyond 10 day Recovery Trial data**
 3. **Continue cefepime for possible secondary pneumonia or bacterial infection**
 4. **Continue vancomycin but will discontinue tomorrow if no MRSA found**
 5. Unfortunately blood cultures not sent prior to initiation of antibiotics
- No need to treat rare mold found in sputum culture**

7/14: ICU

Muir Pulmonary Critical Care
Walnut Creek Campus: Critical Care Hotline (925) 939-9912
Concord Campus: Critical Care Hotline (925) 939-8912

Date of Consultation: 7/14/2020

Reason for Consultation: Acute hypoxia, respiratory failure due to SARS-CoV2

PCP: JOHN ROBERTS, MD

LOS: 15

Payor: WORKERS' COMP / Plan: SEDGWICK CLAIMS / Product Type: Workers Comp /

Overnight Events

Persistent high PEEP and FIO2 requirements. Variable hypercapnia. Off paralytics. Stanford declined transfer for ECMO.

Assessment & Recommendations

56 y.o. adult with PMH HTN, h/o TIA presents with worsening shortness of breath due to SARS-CoV2 pneumonia with acute hypoxic respiratory failure.

1. Neurology: Intubated and sedated
Continue midazolam and fentanyl infusion. Paralytics held.
2. Cardiovascular: Hypotensive. Colloid bolus and norepinephrine infusion. Wean as able.
3. Respiratory: Acute hypoxic respiratory failure due to SARS-CoV2 pneumonia
Patient currently paralyzed, unable to ventilate on volume CMV, changed to PCV. Would pursue permissive hypercapnea to limit ventilator trauma.
Continue nightly proning
Aggressive pulmonary toilet
Diuresis as patient is net positive-switched from Lasix drip to twice daily dosing.

Patient was referred to several surrounding ECMO centers, because condition has been slowly deteriorating. He was declared not a candidate by both CPMC and UCSF, Stanford due to high BMI and duration of time on the ventilator. The patient's current status, reason for referral, and denials for transfer were explained in detail via telephone to patient's wife.

Heme: High risk for thromboembolic complications.

Lovenox 40 mg BID. Will consider increasing dosing depending on hemoglobin trend and renal function.

Physical Examination:

Exhibit “F”

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

COUNTY OF CONTRA COSTA
MARTINEZ, CALIFORNIA

3052020169305

CERTIFICATE OF DEATH

3202007601769

DECEASED'S PERSONAL DATA		DECEASED'S PERSONAL DATA		DECEASED'S PERSONAL DATA	
NAME: OSCAR		WALTER		ROCHA	
DATE OF BIRTH: 11/14/1963		AGE: 55		SEX: M	
STATE OF BIRTH: CA		PHONE: 571-59-9266		MARRIAGE: MARRIED 07/27/2020 1850	
EDUCATION: SOME COLLEGE		ETHNICITY: HISPANIC		HISPANIC	
OCCUPATION: DEPUTY SHERIFF		INDUSTRY: LAW ENFORCEMENT		25	
USUAL RESIDENCE					
CITY: DANVILLE		COUNTY: CONTRA COSTA		ZIP: 94528 42 CA	
MARRIAGE					
SPOUSE: CAROL MAUREEN ENNOR ROCHA SPOUSE 208 VALLEY CREEK LANE RD, DANVILLE CA 94526					
MARRIAGE HISTORY					
NAME: CAROL		MAUREEN		ENNOR	
NAME: OSCAR		ROCHA		NICARAGUA	
NAME: ROSARIO		MAYORGA		NICARAGUA	
FUNERAL DIRECTION					
DATE: 08/04/2020		LOCATION: 1965 RELIEZ VALLEY RD LAFAYETTE CA 94549		DIRECTOR: JEREMY JIMENEZ EMB9120	
LOCAL INSTITUTION: SAN LEANDRO FUNERAL HOME		FD442		FUNERAL HOME: CHRISTOPHER FARNITANO, MD 08/03/2020	
PLACE OF DEATH					
HOSPITAL: JOHN MUIR MEDICAL CENTER		CITY: CONTRA COSTA		ADDRESS: 1601 YGNACIO VALLEY RD WALNUT CREEK	
CAUSE OF DEATH					
ACUTE RESPIRATORY FAILURE					
COVID 19					
RENAL FAILURE PNEUMOTHORAX, HYPERTENSION					
CHEST TUBE PLACEMENT 06/29/2020					
PREVIOUSLY QUALIFICATION					
DATE: 07/20/2020		DATE: 07/23/2020		DATE: 07/31/2020	
NAME: RAMIN KHASHAYAR M D		G77458		1399 YGNACIO VALLEY RD STE 14, WALNUT CREEK CA 94598	
CONTRACTOR'S USE ONLY					
STATE: A B C D E					

CACONTRAD1



CERTIFIED COPY OF VITAL RECORD
STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA



100088977

This is a true and exact reproduction of the document officially registered and placed on file in the office of the Contra Costa County Department of Health Services

DATE ISSUED 08/03/2020

MS

Christopher Farnitano
CHRISTOPHER FARNITANO MD
CONTRA COSTA HEALTH OFFICER

This copy is not valid unless prepared on an engraved border, displaying the date, seal and signature of the County Health Officer

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

Exhibit “G”

State of California Department of Justice



ROB BONTA

Attorney General

[Translate Website](#) | [Traducir Sitio Web](#)

Attorney General Becerra Issues Statement on Fallen Officer Oscar Walter Rocha, Alameda County Sheriff's Deputy

Press Release / *Attorney General Becerra Issues Statement on Fallen Officer ...*

Tuesday, August 4, 2020

Contact: (916) 210-6000, agpressooffice@doj.ca.gov

SACRAMENTO — California Attorney General Xavier Becerra today issued the following statement regarding the death of and today's funeral services for Alameda County Deputy Sheriff Oscar Walter Rocha:

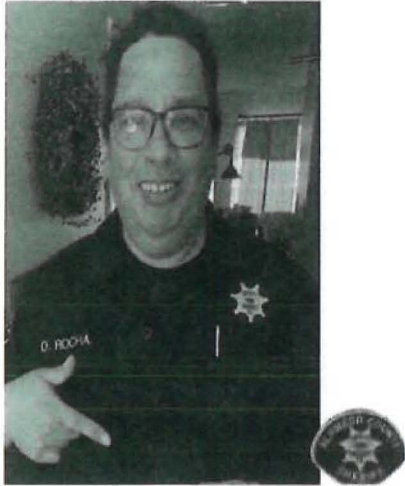
"I ask every Californian to take a moment today to pause and honor the life and service of Oscar Walter Rocha, Deputy Sheriff with the Alameda County Sheriff's Department. Deputy Rocha passed away on July 23, 2020 from complications

due to COVID-19. Deputy Rocha performed his duties to protect and serve the people of Alameda County for 25 years. We extend our deepest sympathies to his dear wife Maureen Ennor Rocha and his loving family. Rest in eternal peace, Deputy Rocha. EOW: 7/23/20."

###

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Deputy Sheriff Oscar Walter Rocha

Alameda County Sheriff's Office, California

End of Watch: Thursday, July 23, 2020

[ADD TO MY HEROES](#)

OSCAR WALTER ROCHA

Deputy Sheriff Oscar Rocha died after contracting COVID-19 during an outbreak among staff and inmates at the Santa Rita Jail in Dublin, California.

He remained on a ventilator for approximately one month before passing away.

Deputy Rocha had served with the Alameda County Sheriff's Office for 25 years and was planning on retiring in January 2021. He is survived by his wife, son, two stepchildren, and parents.

Beginning in early 2020, thousands of law enforcement officers and other first responders throughout the country contracted COVID-19 during the worldwide pandemic due to requirements of their job. Many of these first responders have died as a result of COVID-19, and continue to do so as the virus spreads across the United States.

BIO

Age: 57 **Tour:** 25 years **Badge:** Not available

 Communicable Disease, COVID-19

[LODD Mapping FAQs](#)

Exhibit “H”

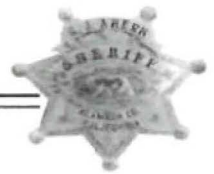
11:37



🔒 usdeputy.org

Alameda County Sheriff's Office

Lakeside Plaza, 1401 Lakeside Drive, 12th Floor, Oakland, CA 94612-4305



Gregory J. Ahern, Sheriff

Director of Emergency Services
Coroner - Marshal

510-272-6866

September 30, 2020

David Hinnners, Executive Director
United States Deputy Sheriff's Association
2909 S. Spruce
Wichita, KS 67216

Dear Executive Director Hinnners:

Thank you for your very kind letter of condolence to our Agency in memory of our fallen officer, Deputy Sheriff Oscar Rocha. I want to extend my sincere appreciation for your thoughtfulness during this time of sorrow. Your letter and check in the amount of \$1,000.00 was forwarded to Deputy Rocha's family, Maureen Ennor. I know they will cherish your kind gesture.

Deputy Sheriff Oscar Rocha became a valued member of the Alameda County Sheriff's Office in 1996. During his 25-year career with the Sheriff's Office, he was assigned to Santa Rita Jail, Civil Section and North County Marshal. Oscar was well known at the Rene C. Davison Courthouse in Oakland, where he spent most of his career. He was an extremely kind man who loved his family, friends, co-workers and the community he served. Deputy Rocha embodied the finest qualities of a public safety officer. Even though the death of this exemplary man will long be felt by everyone who had the privilege of working with him, the memory of Deputy Rocha's dedication and courage will survive in all the men and women who knew him.

We will honor Deputy Rocha by staying strong and continuing to do our jobs to the best of our ability. The overwhelming support from our community and our fellow agencies is truly remarkable.

Again, thank you for your support.

Sincerely,

Gregory J. Ahern
Sheriff-Coroner

GLA:dr

Exhibit “I”

Accident Report

47118

ENTERED OUT
7/27/20

State of California
Department of Industrial Relations

(21)

Fatality?

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Date of Death 7-23-20

MOD	Date	1. Reporting ID R D 9506 [1] [4]	2. Previous Activity If yes yes [] No [] enter type: Number:	3. Event Number (Identifies this report) 1631205		
4.a. []	b. Establishment Name Change? Alameda County Sheriff's Office	5. Employer ID (State's option)				
6.a. []	b. Site address (Street, City, State, ZIP) Change? 5325 Broder Blvd, Dublin, CA 94568	7. City Code 1054	8. County Code 001			
9. Mailing Address (if different) (Street, City, State, ZIP) 1401 lakeside dr, 12th floor, Oakland, CA 94612						
Industry & ownership	10. Type of Business County Sheriff's Office	11. Primary SIC/NAICS / 922120	12. No. of employees			
13. Ownership (Mark "X" in one box) a. <input type="checkbox"/> Private Sector b. <input checked="" type="checkbox"/> Local Government c. <input type="checkbox"/> State Government d. <input type="checkbox"/> Federal Agency Code						
Receipt Information	14. Reported By Laura Kitsch	15. Date 7/24/20	16. Time 3:40	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		
	17. Job Title Risk Analyst/Safety Manager	18. Telephone No. 510-272-6698				
Employee Representation Site	19. Group Name					
Contact	20. Name and Location Laura Kitsch		22. Telephone Number 510-272-6698			
Classification	Mark an "X" in one box a. <input checked="" type="checkbox"/> Fatality b. <input type="checkbox"/> Catastrophe c. <input type="checkbox"/> Non-Fat/Cat Rprtd by Professional or M Reported by EE, ER or OTHER					
Event	24. Event Date 7/23/20	25. Event Time 18:45 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	26. Number of fatalities 1	27. Number of Hospitalized	28. Number of Nonhospitalized	29. Number of Unaccounted for
30. Type of Event (e.g., Fall from scaffold) Employee died of COVID-19						
31. Preliminary Description Name/Address of Injured Age/DOB Occupation Injury Oscar Rocha [redacted] Deputy sheriff Employee died of COVID-19						
Accident Description (Specify Mechanism/Condition/Hazardous Substance): Last day of work June 19, 2020 at Santa Rita Jail - he was admitted to the hospital on 6/29/2020 and died on 7/23/2020 due to COVID-19. Next of Kin: Maureen Rocha; telephone #: [redacted]						
Location Where Injured Employee was Moved To: John Muir Health - Walnut Creek Medical Center Other Law Enforcement Agencies Present at Site: Workers' Compensation Insurance Carrier (Name & Address): (for Fatalities Only)						
TAKEN BY B0020						
Action:	32. Inspection Planned? <input checked="" type="checkbox"/> Yes [] No	If No, Reason:	33. Supervisor(s) Assigned a. N3190 b.	34. CSE/IH Assigned a. 47118 b.		
35. Optional Information						
Type	ID	Value	Type	ID	Value	
37. District Manager Signature: [Signature] Date: 7/27 Telephone Number ()						

Charles assigned N3190
7/24

Supplemental Violation Worksheet

Establishment Name: County of Alameda/Alameda County Sheriff's Office		Inspection Number: 1485096	
DBA Name: Enter the DBA name of the establishment here.		Opt. Insp. Number: 005-21	
Citation Number/Item Number: 1/1		Title 8 CCR: 5144(m)(2)(A)	
Citation/Notice Type: Regulatory Check if Accident Related: <input type="checkbox"/> Check if Failure-To-Abate: <input type="checkbox"/>		Date 1BY sent: Select a date.	CSHO ID: U7118
Employer provided pay statement and timecards for Oscar Rocha			
Employer supervisors Laura Kitsch, Lucretia Akil, Alysia Evans, Gina Firmeza, and Michael Tolero all acknowledged that Oscar Rocha was an employee of Alameda County Sheriff's Office.			
Employee Exposure within Six Months² Oscar Rocha – Fit test conducted on February 8, 2019. DOSH was made aware of the violation on August 13, 2020 via a document request.			
Additional Witnesses: Enter text here.			
Scope, Application, and Definition³ Alameda County Sheriff's Office is an employer within the State of California who employs roughly 1,640 employees.			

Elemental Analysis⁴

#	Element	How Violated/ How Applicable	Evidence
1.	(m) Recordkeeping. This section requires the employer to establish and retain written information regarding medical evaluations, fit testing, and the respirator program. This information will facilitate employee involvement in the respirator program, assist the employer in	the employer failed to establish and retain a record of the specific make and model of the respirator tested during a qualitative fit test administered to an employee required to wear a tight-fitting filtering facepiece respirator with occupational exposure to pathogens, including but not	On April 4, 2020 the ACSO put out a Memorandum to all Sheriff's Office Personnel that required the use of N-95 respirators while working within the Santa Rita Jail facility, regardless of work assignment, when standing within 6 feet of another person. This was due to the first confirmed COVID-19 positive inmate being identified within the jail on the morning of April 4, 2020. Oscar Rocha was one of these several employees who was required to wear an N-95 respirator per the April 4, 2020 Memorandum due to known and or probable exposure to inmates who have contracted SARS-CoV-2, the virus that causes COVID-19. The employer submitted to the Division, on August 13, 2020 via email, Oscar Rocha's fit testing records for an

Supplemental Violation Worksheet

Establishment Name: County of Alameda/Alameda County Sheriff's Office		Inspection Number: 1485096	
DBA Name: Enter the DBA name of the establishment here.		Opt. Insp. Number: 005-21	
Citation Number/Item Number: 1/1		Title 8 CCR: 5144(m)(2)(A)	
Citation/Notice Type: Regulatory		Date 1BY sent: Select a date.	CSHO ID: U7118
Check if Accident Related: <input type="checkbox"/>			
Check if Failure-To-Abate: <input type="checkbox"/>			
	auditing the adequacy of the program, and provide a record for compliance determinations by OSHA. (2) Fit testing. (A) The employer shall establish a record of the qualitative and quantitative fit tests administered to an employee including: 3. Specific make, model, style, and size of respirator tested;	limited to SARS-CoV-2, the virus that causes COVID-19	N95 style respirator. The records show that the employer failed to record the specific make and model of respirator that Oscar Rocha was tested for during a qualitative fit test on February 8, 2019. *See confidential "Fit Test" section in case file*
2.	Enter text here.	Enter text here.	Enter text here.
3.	Enter text here.	Enter text here.	Enter text here.
4.	Enter text here.	Enter text here.	Enter text here.

Supplemental Violation Worksheet

Establishment Name: County of Alameda/Alameda County Sheriff's Office	Inspection Number: 1485096
DBA Name: Enter the DBA name of the establishment here.	Opt. Insp. Number: 005-21
Citation Number/Item Number: 1/3	Title 8 CCR: 5199(g)(2)
Citation/Notice Type: General	Date 1BY sent: Select a date.
Check if Accident Related: <input type="checkbox"/>	CSHO ID: U7118
Check if Failure-To-Abate: <input type="checkbox"/>	

#	Element	How Violated/ How Applicable	Evidence
1.	<p>(g) Respiratory Protection.</p> <p>(2) Each employer who has any employee whose occupational exposure is based on entering any of the work settings or performing any of the tasks described in subsection (g)(4) shall establish, implement and maintain an effective written respiratory protection program that meets the requirements of Section 5144 of these orders, except as provided in subsections (g)(5) and (g)(6).</p>	<p>Instance 1: The employer failed to include written procedures and schedules within their respiratory protection program for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators.</p> <p>Instance 2: The employer failed to include written procedures within their respiratory protection program for regularly evaluating the effectiveness of the program.</p>	<p><u>Evidence for the Requirement to have a written Respiratory Protection Program:</u> The employer has employees, including Oscar Rocha, who are required to enter housing units of the Santa Rita Jail where inmates are confirmed or are suspected of having SARS-CoV-2, an AirID. While in the housing units Deputy Sheriff's including Oscar Rocha would supervise inmates, help nurses provide treatment to inmates, distribute meals, and perform roll call.</p> <p>On April 4, 2020 the ACSO put out a Memorandum to all Sheriff's Office Personnel that required the use of N-95 respirators while working within the Santa Rita Jail facility, regardless of work assignment, when standing within 6 feet of another person. This was due to the first confirmed COVID-19 positive inmate being identified within the jail on the morning of April 4, 2020.</p> <p><u>Evidence of Program Deficiencies:</u> The employer submitted a copy of their Respiratory Protection Program, with a revision date of 4/15/2020 to the Division in the month of August for review.</p> <p>Instance 1: Within page 2 of the employer's written respiratory protection program it fails to include written procedures and schedules for the cleaning, disinfecting, inspecting, repairing, discarding, and otherwise maintain respirator. On page 2, the program only states that "respirators will be stored in a manner that will assure protection against damage, dust, sunlight, heat and cold, excessive moisture, and damaging chemicals." The employer's plan only addresses the storing of respirators and is extremely vague and fails to include procedures for storage.</p> <p>Instance 2: The employer's respiratory protection program states that the Program Administrator is</p>

Supplemental Violation Worksheet

Establishment Name: County of Alameda/Alameda County Sheriff's Office		Inspection Number: 1485096	
DBA Name: Enter the DBA name of the establishment here.		Opt. Insp. Number: 005-21	
Citation Number/Item Number: 1/3		Title 8 CCR: 5199(g)(2)	
Citation/Notice Type: General Check if Accident Related: <input type="checkbox"/> Check if Failure-To-Abate: <input type="checkbox"/>		Date 1BY sent: Select a date.	CSHO ID: U7118
			responsible for implementing and maintain the program but the program does not contain any procedures for regularly evaluating the effectiveness of the program.
2.	Enter text here.	Enter text here.	Enter text here.
3.	Enter text here.	Enter text here.	Enter text here.
4.	Enter text here.	Enter text here.	Enter text here.
5:			

Exhibit B

**Office of County Counsel's
Submission**



OFFICE OF THE COUNTY COUNSEL

1221 Oak Street, Suite 450, Oakland, California 94612-4296
Telephone (510) 272-6700 Facsimile (510) 272-5020

DONNA R. ZIEGLER
COUNTY COUNSEL

July 8, 2021

Jeff Rieger, Chief Counsel
Alameda County Employees' Retirement Association
475 14th Street, Suite 1000
Oakland, CA 94612

RE: Maureen Ennor's Service-Connected Death Allowance Request

Dear Mr. Rieger:

I write in response to your June 28, 2021, letter regarding Maureen Ennor's request for a service-connected death allowance. This letter supersedes the County's July 2, 2021, letter in this matter. Based on my conversations with you and your June 28th letter, it is my understanding that Oscar Rocha, a Deputy with the Alameda County Sheriff's Office, contracted the COVID-19 virus last year and unfortunately died as a result of it. Mr. Rocha's surviving spouse, Ms. Ennor, has apparently requested a service-connected death allowance as the surviving spouse alleging that Mr. Rocha contracted the virus while working at Santa Rita Jail. Ms. Ennor, through her attorney, also provided ACERA with several documents in support of her request. In response, ACERA granted Ms. Ennor a non-service-connected death allowance, which she is currently receiving, and has placed her request for a service-connected death allowance on the ACERA Board's July 15, 2021, meeting agenda. In your letter, you inquire whether the County has an interest in Ms. Ennor's receipt of a service-connected death allowance and whether County Counsel would want to see any of the information Ms. Ennor submitted to ACERA in support of her request in advance of the Board meeting. You also state that you anticipate that your recommendation to the ACERA Board will be to seek a recommendation from your Medical Advisor as to the issue of service-connection.

As with disability retirement, the County has an interest in ensuring that the taxpayer monies in ACERA's retirement fund—to which the County substantially contributes—are appropriately distributed and thus has an interest in Ms. Ennor's receipt of a service-connected death allowance. While we agree with your recommendation to refer this matter to ACERA's Medical Advisor for a recommendation as to causation, we do not believe that that step alone provides the County with adequate due process. As an interested party to these proceedings, the County should be afforded a meaningful opportunity to weigh in as to whether Ms. Ennor is entitled to a service-connected death allowance.

While there are no set procedures for determining whether a surviving spouse is entitled to a service-connection death allowance, ACERA's Disability Retirement Procedures provide a good benchmark. These procedures recognize that the employer has an interest and vital role to play in the processing of disability benefits and provide adequate process to provide the employer notice, and an opportunity to meaningfully investigate and weigh in as to whether an employee is entitled to such benefits. For example, the procedures: (1) permit the employer to demand additional information from the employee in support of his or her application; (2) permit the employer to submit additional information related to the application to ACERA; (3) permit the employer to retain a medical specialist to review the employee's medical records and/or perform an independent medical examination of the employee; (4) permit the employer to submit a comment paper to ACERA's Medical Advisor regarding the application; (5) permit the employer

to request a hearing before a neutral hearing officer, during which evidence is received, and after which findings and recommendations are made as to issues such as service-connection and permanent incapacity; (6) permit the employer to submit written objections to the hearing officer's proposed findings and recommendations; and (7) permit the employer to request an opportunity to make an oral presentation to ACERA's Board before it makes its final decision on the application. (See ACERA Disability Retirement Procedures 2.10, 4.3, 5, 6.10-6.13, 6.22, 6.24, 6.25, & 8.2.)

No similar process has been applied in this instance, despite the County having a similar interest. Placing this matter before ACERA's Board at this juncture deprives the County of an opportunity to meaningfully investigate whether Ms. Ennor is entitled to a service-connected death allowance and, if appropriate, to advocate against the provision of such benefits. It also deprives ACERA's Board of an opportunity to make an informed decision as to these issues. While I appreciate you providing me with the documents that Ms. Ennor submitted to ACERA in support of her request, providing the County with nearly 1,600 pages of documents less than two weeks before the ACERA Board may decide to grant Ms. Ennor a service-connected death allowance, deprives the County of the ability to meaningfully review and analyze these records, consult a medical expert on the epidemiology of COVID-19, and make an informed decision as to causation.

The disability retirement procedures provide the employer with at least 30-days to conduct such a review and comment upon the employee's disability retirement application, longer if it retains specialist to conduct a medical records review. (See ACERA Disability Retirement Procedure 2.10(d).) The procedures further provide for an evidentiary hearing before a neutral hearing officer, who makes a recommendation to the ACERA Board as how to proceed with the application. (See ACERA Disability Retirement Procedure 6.) Case law interpreting the provision of the County Employee's Retirement Law providing for service-connected death allowances suggests that an evidentiary hearing should take place before the retirement board renders its decision. (See *Kuntz v. Kern County Employees' Retirement Assn.* (1976) 64 Cal.App.3d 414, 419-420 [surviving spouse's application for a service-connected death allowance was heard before a referee appointed by the retirement board who received evidence, including a report by a doctor as to causation, and rendered a decision as to the issue which was subsequently adopted by the retirement board].)

For these reasons, the County requests that at the July 15, 2021, meeting the ACERA Board refer this matter back to ACERA's Disability Unit and order it to apply its Disability Retirement Procedures to Ms. Ennor's request for a service-connected death allowance, including permitting the County to submit a Comment Paper after it is given a meaningful opportunity to: (1) review and analyze the documents Ms. Ennor submitted to ACERA; (2) request and review Mr. Rocha's complete medical records; and, (3) consult a medical expert, if necessary. Following the Medical Advisor's recommendation, the County requests the opportunity to request an evidentiary hearing before a neutral hearing officer as to causation, and to submit written objections to the officer's proposed findings and recommendations, if necessary. If Ms. Ennor is concerned that following ACERA's Disability Retirement Procedures may cause her undue delay in receiving a service-connected death allowance, the procedures provide her with a remedy—she may request an expedited review. An expedited review aims to complete the application process in less than six months. (See Disability Retirement Procedure 3.1.)

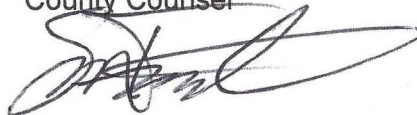
Jeff Rieger, ACERA Chief Counsel
July 8, 2021
Page 3

Alternatively, should the ACERA Board grant Ms. Ennor's request for a service-connected death allowance, without affording the County basic due process in this matter, the County may seek judicial review of the final decision under Code of Civil Procedure section 1094.6.

While I intend to relay this information to ACERA's Board at the July 15, 2021, meeting, I request that the Board be provided with a copy of this letter in advance of the meeting so that they are aware of the County's position. Please submit this letter to the ACERA Board. I respectfully request to withdraw my letter of July 2nd, which is superseded by this correspondence. If you have any questions regarding this letter, please call or email me.

Very truly yours,

DONNA R. ZIEGLER
County Counsel

A handwritten signature in black ink, appearing to read 'S. Feudale', written over the printed name of Scott J. Feudale.

By
SCOTT J. FEUDALE
Deputy County Counsel

cc: Edward Lester, Counsel for Maureen Ennor

Exhibit C

Portions of OSHA Report

Written Summary of Events- Oscar Rocha (ID #108709)

Employee Name: Oscar Walter Rocha

Job Classification: Deputy Sheriff II

Original Hire Date: 11/4/1996

DOB: [REDACTED]

Labor Organization: Deputy Sheriff's Association (DSA) of Alameda County
6689 Owens Drive, Suite 100, Pleasanton, CA 94588
Member President: Kevin Lewis (925) 463-3760

Two Duty Stations (sites) Assigned:

- Courts Services-North County, Rene C. Davidson Court House, 1225 Fallon Street, Oakland, CA 94612.
- Courts Services- Room 412/413, Sandy Turner II Educational Center, Santa Rita Jail, 5325 Broder Blvd., Dublin CA, 94568.

Summary of events preceding death:

- **On March 16, 2020**, the Alameda County Superior Court announced a closure of Court Facilities in support of the County Health Officer Shelter in Place order from March 17, 2020 through April 7, 2020. As a result of this closure, Sheriff's Office staff currently assigned to Courts Services were temporarily re-assigned to Santa Rita Jail.
- **On March 27, 2020**, The Alameda County Superior Court announced that video arraignment for detainees at Santa Rita Jail would begin. Sheriff's Office Deputies including Rocha were reassigned to escort detainees at Santa Rita Jail to and from the Intake, Transfer and Release (ITR) Unit to Rooms 412 and 413 in the Sandy Turner II Educational Center, to appear for their scheduled arraignment.
- **On June 19, 2020**, Deputy Oscar Rocha was assigned to video arraignment court appearance detail at Sandy Turner II Educational Center, rooms 412 and 413. This was Rocha's last working day.
- **On June 22, 2020**, Sergeant Cynthia Sass reported that she was contacted by Deputy Rocha who advised that [REDACTED] had been diagnosed with COVID-19, and as a result he would be self-quarantining at home. Deputy Rocha also sent an email to Acting Human Resources Manager Gina Firmeza, advising that [REDACTED] had been diagnosed with COVID-19 and was hospitalized at San Ramon Regional Medical Center. Additionally,

he reported that he was experiencing mild symptoms. Deputy Rocha was advised to continue to stay at home.

- **On June 26, 2020**, Deputy Rocha contacted Acting Human Resources Manager Gina Firmeza to report that he tested POSITIVE for COVID-19.
- **On June 30, 2020**, Courts Lieutenant Patrick Jones advised Human Resources Chief, Alysia Evans and Acting Human Resources Manager Gina Firmeza by email, that he had been in contact with Deputy Rocha's wife who advised that Rocha had been transported to the hospital and was currently in critical condition in ICU, in a medically induced coma and on a ventilator due to COVID-19.
- **On July 23, 2020**, Deputy Rocha passed away at John Muir Hospital in Walnut Creek, CA due to complications from COVID-19.

Investigation Summary

Reporting ID	Investigation#	UPA Number	Event Date	Event Time	Construction
0950614	128066	1631205	07/23/2020	06:45 PM	No

Establishment Info

Establishment/DBA Name	County of Alameda/Alameda County Sheriff's Office
------------------------	---

Site Information

Street Address 1	5325 Broder Blvd.				
Street Address 2					
County	ALAMEDA				
City	Dublin	State	CA	Zip Code	94568

Event

Type of Event	Death due to COVID-19			
Number of Employees				
Fatalities	Hospitalized	Non-Hospitalized	Unaccounted	
1	0	0	0	

Abstract

What was employee doing just before incident occurred?	The employer is a local government that is engaged in detention and correctional services at the site address of 5325 Broder Blvd., Dublin, CA 94568, which has approximately 1,640 employees employed throughout the establishment and controls 686 employees at the site address.
What happened?	On June 22, 2020 a Deputy Sheriff at the Santa Rita Jail reported to the employer that [REDACTED] was recently diagnosed and hospitalized with COVID-19 and that the Deputy Sheriff had exposure and was experiencing mild symptoms. The Deputy Sheriff's last day of work was on June 19, 2020 and they remained out of work for precautionary removal. The Deputy Sheriff had a telehealth visit with their physician on June 23, 2020 where they were experiencing fever, cough, and chills. On June 24, 2020 the Deputy Sheriff received a COVID-19 test and on June 26, 2020 the Deputy Sheriff

	<p>reported to the employer that test came back positive. On June 29, 2020 the Deputy Sheriff was transported by EMS to John Muir Health, Walnut Creek Medical Center where they were admitted due to worsening shortness of breath. On June 30, 2020 the Deputy Sheriff's spouse reported to the employer that the Deputy Sheriff had been admitted to John Muir Health Walnut Creek Medical Center and was in a medically induced coma in the ICU. On July 23, 2020 the Deputy Sheriff passed away due to complications with COVID-19 at John Muir Medical Center in Walnut Creek. The Division was notified of the employee's illness and death on July 24, 2020 at approximately 3:40 PM by the employer, which does not comply with the Divisions reporting requirements for a serious illnesses. The Division initiated an opening conference with the employers Risk Analyst and Director of Risk Management on July 25, 2020. During the course of the investigation by the Division it was found that the employee had a significant exposure incident to [REDACTED] while they were in the community between June 16 and 19 of 2020.</p>
What was the injury or illness?	<p>The Deputy Sheriff was tested for COVID-19 on June 24, 2020 and received a positive test result on June 26, 2020. The employee was hospitalized on June 29, 2020 at John Muir Medical Center in Walnut Creek for the treatment of COVID-19 related symptoms. The employee's symptoms included fever, cough, chills, and shortness of breath. The employee passed on July 23, 2020 at approximately 6:58 PM caused by acute respiratory failure due to COVID-19 at John Muir Medical Center in Walnut Creek.</p>
What was the object or substance that directly harmed the employee?	<p>The Division found that the employee was directly harmed by the SARS-CoV-2 virus, the virus that causes COVID-19.</p>

Victim	
Injured/Deceased Name	Oscar Rocha
Gender	
Age	56
Victim Injury	Fatality-OSHA covered
Cause	Other
Nature of Injury	Other
IMMLang?	N
Next of Kin	
Next of Kin Name	Maureen Rocha

NEW BUSINESS

7.A. Chief Executive Officer's Report.



**Office of the Chief Executive Officer
Office of Administration**

DATE: July 15, 2021
TO: Members of the Board of Retirement
FROM: Dave Nelsen, Chief Executive Officer *DW*
SUBJECT: **Chief Executive Officer's Report**

Senior Manager Recruitment

None.

Committee/Board Action Items

ASSIGNED FOLLOW-UP ITEMS				
Follow-Up Board Item	Assigned Senior Leader	Estimated Completion Date	Completion Date	Notes
Develop ACERA Re-Opening Plan.	Dave Nelsen	July 2021	On-going	The general guidelines of the Plan have been developed and implemented. We are responding to changes as necessary based on new information.
Additional Contributions from the County to pay on County Unfunded Actuarial Accrued Liability.	Dave Nelsen	June 2021	Completed. Funds received June 2021	This is regarding the on-going efforts to accept extra pension contributions from the County.

Conference/Event Schedule

I am taking the first week of August off for vacation. I will attend the Operations and Retirees Committee meetings via Zoom on August 4.

Other Items

COVID-19 Responses

The Governor's announcement about opening the State effective June 15th changed our plans regarding the timing of bringing customers back into the building. We have implemented a phased approach to re-establishing on-site service and have developed the staffing model to accommodate that approach. We are open for on-site appointments on Tuesdays and Thursdays, for approximately six hours. We may modify these hours depending upon customer need.

To serve these customers, we have half of our Benefits Staff come in to the office one day, and the other half the next day. Additional team members from other units, such as our IT unit, are also on-site in order to support the benefits people in the office. The remainder of the team members continue to work their prior schedule, with most working from home. We will continue to promote virtual service delivery options as the primary means of meeting our customers' needs.

It is our plan to continue this schedule for the remainder of the summer. We will be monitoring the infection rates, and maintaining contact with the County regarding any changes to this plan. The County currently has plans to open for customers in the Fall. Currently, the County has not made any changes to work site requirements regarding employee mask use and social distancing. These are still required in County work sites.

Pension Administration System Update

The project is continuing to work through its phases. We have completed the first deliverable, and have completed much of deliverable two. We are now working on Deliverable three, while we wrap up the remaining elements of deliverable two. The County has informed us they will be unable to provide several data elements we have asked for to be sent on the new transmittal file. Due to this change, we are revisiting some earlier requirements to accommodate the changes in expected data. This has resulted in a change request to LRS and will add several months to the overall project schedule. We will try to find time as the project progresses, but it is unlikely we will be able to return to our original end date. We are now looking at later 2024 as the final implementation of all elements of the new system.

Additional Contributions

The full \$800 million was wired to ACERA on June 29, 2021. This represents the conclusion of significant effort and coordination between ACERA's Legal and Fiscal Staff and Actuarial Consultants, as well as County Administration, Legal, and Actuarial Representatives.

Additionally, on June 29th, the Livermore Area Parks and Recreation District (LARPD) wired \$12.6 million in Pension Obligation Bond proceeds.

Repeal of Governor's Emergency Orders

The Governor's Office has provided communication that they intend to repeal the Order suspending the *Brown Act* requirements effective September 30th, 2021. At that time, the *Brown Act* requirements on remote attendance at meetings will be in place again. This includes the agendizing of remote attendance with locations noted, requiring public notice and access at the remote site, etc.

Additionally, the Order suspending the Retiree Return to Work provisions ended June 30, 2021. This means all retirees hired under the relaxed COVID-19 related standards will now need to comply with statutory hourly and position limitations.

Key Performance Indicators

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

Scorecard KPI	2020 Performance Goal
PRUDENT INVESTMENT PRACTICES	
Portfolio Performance vs. Policy Benchmark	<i>Annualized 10-year return will meet or exceed Policy benchmark at the total fund level Through May of 2021: .00%.</i>
EFFECTIVE PLAN ADMINISTRATION	
Actual Spent vs. Approved Budget	<i>On budget or 10% below 2021 approved budget As of end of May 2021: 14% under budget.</i>
COMPREHENSIVE ORGANIZATION DEVELOPMENT	
Employee Engagement Survey Results	<i>80% of responses in top two rating boxes on the question: "Is ACERA a great place to work?" As of last survey (Fall of 2020): 65%.</i>
SUPERIOR CUSTOMER SERVICE	
Service Excellence Survey	<i>80% of responses in top two rating boxes on the question: "Did ACERA meet or exceed my expectations for my customer service experience?" As of 1st Quarter of 2021: 100%</i>

CLOSED SESSION

12. A. Conference With Legal Counsel--Existing Litigation (Gov't Code § 54956.9(d)(1)):

Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association, Contra Costa County Superior Court, Case No. MSN12-1870.

IF THERE ARE ANY MATERIALS TO BE DISTRIBUTED FOR AGENDA ITEM 12.A. ABOVE, THEY WILL BE DISTRIBUTED UNDER SEPARATE COVER.