



Alameda County Employees' Retirement Association
BOARD OF RETIREMENT

GOVERNANCE COMMITTEE/BOARD MEETING
NOTICE and AGENDA

THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE PER GOV'T CODE § 54953(e)

ACERA MISSION:

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

**August 3, 2022
1:00 p.m.**

ZOOM INSTRUCTIONS	COMMITTEE MEMBERS	
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: 879 6337 8479 Passcode: 699406 Call-In Number: 1 (669) 900-6833 US For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193	GEORGE WOOD, CHAIR	ELECTED GENERAL
	KELLIE SIMON, VICE CHAIR	ELECTED GENERAL
	DALE AMARAL	ELECTED SAFETY
	KEITH CARSON	APPOINTED
	LIZ KOPPENHAVER	ELECTED RETIRED

This is a meeting of the Governance Committee if a quorum of the Governance Committee attends, and it is a meeting of the Board if a quorum of the Board attends. This is a joint meeting of the Governance Committee and the Board if a quorum of each attends.

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.

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

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

GOVERNANCE COMMITTEE / BOARD MEETING

NOTICE and AGENDA, Page 2 of 3 – August 3, 2022

Call to Order: 1:00 p.m.

Roll Call

Public Input (Time Limit: 4 minutes per speaker)

Action Items: Matters for Discussion and Possible Motion by the Committee

1. Review of the *Board of Retirement Charter*.

Staff Recommendation

That the Governance Committee recommend to the Board that the *Board Retirement Charter* continues to be necessary and appropriate and that the Board make the revisions to the *Board of Retirement Charter* shown in the redline included with this agenda packet.

– Jeff Rieger, Chief Counsel

2. Review of the *Board Policy Development Process*.

Staff Recommendation

That the Governance Committee recommend to the Board that the *Board Policy Development Process* continues to be necessary and appropriate and that the Board make the revisions to the *Board Policy Development Process* shown in the redline included with this agenda packet.

– Jeff Rieger, Chief Counsel

3. Review of the *Remote Access to Meetings Policy*

Staff Recommendation

That the Governance Committee recommend to the Board that the *Remote Access to Meetings Policy* continues to be necessary and appropriate and that the Board make the revisions to the *Remote Access to Meetings Policy* shown in the redline included with this agenda packet.

– Jeff Rieger, Chief Counsel

GOVERNANCE COMMITTEE / BOARD MEETING

NOTICE and AGENDA, Page 3 of 3 – August 3, 2022

4. Direction to Staff for Development of a Reciprocity Policy

Staff Recommendation

That the Governance Committee direct staff to prepare a proposed Reciprocity Policy for consideration by the Governance Committee and the Board at future meetings later this year.

– Jeff Rieger, Chief Counsel

Trustee Input

Establishment of Next Meeting

Adjournment



Office of the Chief Counsel

To: Governance Committee

From: Jeff Rieger, Chief Counsel 

Meeting: August 3, 2022

Subject: **Review of the Board of Retirement Charter, Board Policy Development Process and Remote Access to Meetings Policy**

At this meeting, the Committee will review the Board of Retirement Charter, Board Policy Development Process and Remote Access to Meetings Policy. The proposed revisions to are shown in the attached redlines. Clean copies of the proposed revised Charter and Policies are included after each redline. The recommended revisions are explained below:

Board of Retirement Charter

None of the proposed revisions is legally required. The proposed revisions are intended to enhance clarity, eliminate redundancy, focus more on the duty to members and beneficiaries and make use of terms that are more consistent with the language used in other policies and in ACERA's normal operations (e.g., using "ACERA" rather than "pension plan" or "Association").

Board Policy Development Process

All proposed revisions are non-substantive and proposed only for clarity and consistency.

Remote Access to Meetings Policy

The redline appears to show many changes to the Policy, but it is mostly showing the elimination of redundancy and non-substantive reorganization for clarity. There are three proposed substantive revisions:

1. Sections II(D) and III(E) state that the Board will operate according to law at the time of the applicable Board meeting. For example, during the pandemic, the Board has operated under Executive Orders and Gov't Code § 54953(e), which eliminated most of the requirements that are reference in the Policy.
2. The Policy currently requires a Trustee who is appearing at a meeting remotely to have copies of the meeting packet available at the remote location. This is not a legal requirement, and it seems to be unnecessarily burdensome to the Trustee and a waste of paper, given (a) it is unlikely a member of the public will ever show up to a Trustee's remote location and (b) all meeting packets are available online.
3. The optional script, Exhibit A to the current Policy, is not legally required and appears cumbersome. If the Chair wants to follow such a script the Chair can do so, but my recommendation is to eliminate the optional script from the policy.

Redline of Charter



Board of Retirement Charter

The role of the Board of Retirement (“Board”) is to administer ~~the pension plan~~ ACERA in accordance with ~~the provisions of the County Employees Retirement Law of 1937¹, the California Public Employees’ Pension Reform Act of 2012² as well as relevant Federal and State law to applicable law,~~ protect the assets of the ACERA Retirement Plan (“Plan”) and the interests of prudently serve the plan members and beneficiaries; and ~~to prudently manage the critical risks facing ACERA~~ the Association. ~~The Board shall retain all authority granted by the above legislation, except as delegated by specific resolution.~~ The following is a general description of the essential functions of the Board ~~in respect of the administration of the Plan:~~

- A. Establish the mission, goals, and objectives of ~~the Association~~ ACERA;
- B. Establish a framework of critical risks facing ~~the Association~~ ACERA;
- C. Appoint and delegate responsibilities clearly to the Chief Executive Officer, committees of the Board, and the Board’s actuary, custodian bank, external auditor, investment managers, legal counsel and general investment consultants;
- D. Monitor and establish remuneration for the above firms and individuals;
- E. Adopt and monitor all policies and practices required to effectively mitigate ~~the risks of the Association~~, covering as a minimum the areas of governance, funding, and investments, administration, human resources and technology;

¹ ~~County Employees’ Retirement Law of 1937 at Title 3, Division 4, Part 3, Chapter 3 of the Government Code of the State of California, beginning with Section 31450 (1937 Act).~~

² ~~California Public Employees’ Pension Reform Act of 2012 at Title 1, Division 7, Chapter 21, Article 4 of the Government Code of the State of California, beginning at Section 7522 (PEPRA).~~

- F. Approve an annual ~~Association~~ budget ~~and business plan~~, and all necessary revisions, to support ACERA ~~the Association~~ in achieving its mission, goals, and objectives;
- G. Ensure the integrity of ~~the Association's~~ ACERA's finances, its internal control procedures, and performance monitoring practices;
- H. Monitor its own performance as a ~~b~~Board, ensuring that ~~T~~Trustees adhere to the policies of the Board, fulfill their fiduciary duties, and function as a cohesive and effective group;
- I. Work continually to define its role at a policy and oversight level, while allowing management and service providers to carry out the day-to-day implementation of Board policy.
- J. Ensure compliance with all applicable ~~legislation~~law.

Frequency of Meetings

The Board of Retirement shall generally meet on the third Thursday of each month, but may meet more or less frequently as required.

Charter History

- A. The Board reviewed and renewed this policy, with revisions, on ~~September 10, 2014~~August 18, 2022.³

³ The Board adopted this Charter on March 16, 2000 and previously amended it on September 10, 2014.

Clean Charter



Board of Retirement Charter

The role of the Board of Retirement (“Board”) is to administer ACERA in accordance with applicable law, prudently serve the plan members and beneficiaries and manage the critical risks facing ACERA. The following is a general description of the essential functions of the Board:

- A. Establish the mission, goals, and objectives of ACERA;
- B. Establish a framework of critical risks facing ACERA;
- C. Appoint and delegate responsibilities clearly to the Chief Executive Officer, committees of the Board, and the Board’s actuary, custodian bank, external auditor, investment managers, legal counsel and general investment consultants;
- D. Monitor and establish remuneration for the above firms and individuals;
- E. Adopt and monitor all policies and practices required to effectively mitigate risks, covering as a minimum the areas of governance, funding, investments, administration, human resources and technology;
- F. Approve an annual budget, and all necessary revisions, to support ACERA in achieving its mission, goals, and objectives;
- G. Ensure the integrity of ACERA’s finances, its internal control procedures, and performance monitoring practices;
- H. Monitor its own performance as a Board, ensuring that Trustees adhere to the policies of the Board, fulfill their fiduciary duties, and function as a cohesive and effective group;

- I. Work continually to define its role at a policy and oversight level, while allowing management and service providers to carry out the day-to-day implementation of Board policy.
- J. Ensure compliance with all applicable law.

Frequency of Meetings

The Board of Retirement shall generally meet on the third Thursday of each month, but may meet more or less frequently as required.

Charter History

- A. The Board reviewed and renewed this policy, with revisions, on August 18, 2022.¹

¹ The Board adopted this Charter on March 16, 2000 and previously amended it on September 10, 2014.

Redline of Board Policy Development Process



Board Policy Development Process

I. Purpose

A fundamental role of the Board is to establish policies guiding critical aspects of Board governance and ACERA's operations. This ~~p~~Policy provides a process for development, approval and review of ~~B~~board policies, thus reducing the risk of duplication or unnecessary proliferation of ~~B~~board policies.

II. Guidelines

- A. Board policies shall provide guidance to the Board and senior management and ~~are~~ intended to provide benefits ~~s, to or, and~~ mitigate ~~significant risks,~~ to, ACERA.
- B. Board policies will be developed only if each of the following conditions is met:
 - 1. The issue in question poses substantial risk or benefit to ACERA;
 - 2. The issue is expected to recur regularly (i.e., it is generic in nature);
 - 3. The issue is within the Board's responsibility to effectively administer ~~the pension plan~~ ACERA, including Board governance or high level oversight of administrative functions; and
 - 4. A Chief Executive Officer ~~internal~~ administrative procedure or process would not suffice.

III. Policy Development

- A. The need for a potential ~~B~~board policy may be identified by the Board, ~~Board-a~~ Committee or ~~Senior~~ ACERA staff.
- B. If the topic of the policy falls into the jurisdiction of a standing committee, that committee will evaluate and develop the policy. If the issue does not clearly fall under the jurisdiction

of another standing committee, the Governance Committee will evaluate and develop the policy.

- C. If the staff identifies the need for a Board policy, staff should bring a request for a policy to the relevant committee and shall provide the following information:
 - 1. A brief description of the policy issue;
 - 2. An explanation as to why the trustee or senior manager believes that a ~~B~~board policy is needed (~~as~~ per Section ~~H~~I.B. above) or whether a CEO administrative policy would suffice;
 - 3. The broad objective or purpose that will be served by such a policy; and
 - 4. Confirmation that no existing ~~B~~board policy already addresses the broad risk(s) posed by the issue under consideration. No other policy addresses the need.
- D. If a Committee determines that the policy is needed, the Committee and staff shall draft the policy for Committee and Board review and approval.

IV. Policy Review Process

- A. Policies shall be reviewed every three years unless the policy provides otherwise or there is a change in the law or circumstances or as requested of the relevant committee by a Trustee or Trustees at a sooner time.
- B. The Committees assigned to the policy shall consider the following when reviewing Board policies:
 - 1. Does the policy~~y~~~~ies~~ continue to be necessary?
 - 2. Does the ~~p~~Policy continue to be appropriate in meeting the needs of ACERA?
 - 3. Does the ~~p~~Policy require revisions due to changes in the law, current practices or any other relevant reasons?
- C. The Committee reviewing the ~~P~~policy will recommend to the Board that the specified policy~~y~~~~ies~~ continues to be necessary and appropriate, and recommend any revisions as warranted.

D. The Board will consider and may approve the recommendations of the Committee.

V. Policy Modifications

This Policy shall be reviewed by the Governance Committee at least every three years. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

VI. Policy History

A. The Board affirmed this ~~P~~policy, with non-substantive revisions, -as revised- on August 18⁵, 20~~22~~¹⁹¹.

¹ The Board adopted the Board Policy Development Process on August 19, 1999. The Board reviewed and affirmed this Policy, without revisions, on October 19, 2006, and March 19, 2009. The Board reviewed and affirmed this Policy, with revisions, on August 18, 2011; December 19, 2013; December 17, 2015; November 9, 2017; and August 15, 2019.

Clean Board Policy Development Process



Board Policy Development Process

I. Purpose

A fundamental role of the Board is to establish policies guiding critical aspects of Board governance and ACERA's operations. This Policy provides a process for development, approval and review of Board policies, thus reducing the risk of duplication or unnecessary proliferation of Board policies.

II. Guidelines

- A. Board policies shall provide guidance to the Board and senior management and are intended to provide benefits, and mitigate risks, to ACERA.
- B. Board policies will be developed only if each of the following conditions is met:
 - 1. The issue in question poses substantial risk or benefit to ACERA;
 - 2. The issue is expected to recur regularly (i.e., it is generic in nature);
 - 3. The issue is within the Board's responsibility to effectively administer ACERA, including Board governance or high level oversight of administrative functions; and
 - 4. A Chief Executive Officer administrative procedure or process would not suffice.

III. Policy Development

- A. The need for a potential Board policy may be identified by the Board, a Committee or ACERA staff.
- B. If the topic of the policy falls into the jurisdiction of a standing committee, that committee will evaluate and develop the policy. If the issue does not clearly fall under the jurisdiction of another standing committee, the Governance Committee will evaluate and develop the policy.

- C. If the staff identifies the need for a Board policy, staff should bring a request for a policy to the relevant committee and shall provide the following information:
 - 1. A brief description of the policy issue;
 - 2. An explanation as to why the trustee or senior manager believes that a Board policy is needed (per Section II.B. above) or whether a CEO administrative policy would suffice;
 - 3. The broad objective or purpose that will be served by such a policy; and
 - 4. Confirmation that no existing Board policy already addresses the broad risk(s) posed by the issue under consideration. No other policy addresses the need.
- D. If a Committee determines that the policy is needed, the Committee and staff shall draft the policy for Committee and Board review and approval.

IV. Policy Review Process

- A. Policies shall be reviewed every three years unless the policy provides otherwise or there is a change in the law or circumstances or as requested of the relevant committee by a Trustee or Trustees at a sooner time.
- B. The Committees assigned to the policy shall consider the following when reviewing Board policies:
 - 1. Does the policy continue to be necessary?
 - 2. Does the policy continue to be appropriate in meeting the needs of ACERA?
 - 3. Does the policy require revisions due to changes in the law, current practices or any other relevant reasons?
- C. The Committee reviewing the policy will recommend to the Board that the specified policy continues to be necessary and appropriate, and recommend any revisions as warranted.
- D. The Board will consider and may approve the recommendations of the Committee.

V. Policy Modifications

This Policy shall be reviewed by the Governance Committee at least every three years. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

VI. Policy History

- A. The Board affirmed this Policy, with non-substantive revisions, on August 18, 2022¹.

¹ The Board adopted the Board Policy Development Process on August 19, 1999. The Board reviewed and affirmed this Policy, without revisions, on October 19, 2006, and March 19, 2009. The Board reviewed and affirmed this Policy, with revisions, on August 18, 2011; December 19, 2013; December 17, 2015; November 9, 2017; and August 15, 2019.

Redline Remote Access to Meetings



~~Policy Remote Access by Trustees to Board and Committee Meetings~~ Remote Access to Meetings Policy

I. Purpose

To provide guidance to the Board of Retirement (Board) and ~~ACERA~~ Staff (~~Staff~~) when ~~Board of Retirement~~ Trustees wish to appear at Board and Standing Committee meetings from a remote location.

II. Assumptions

A. ~~The Board is subject to California's open meeting law that applies to local agencies, the Brown Act, Gov't Code §54950 et seq. The Brown Act authorizes a legislative body such as the ACERA Board of Trustees or Board Committees to use any type of teleconferencing in connection with any meeting "for the benefits of the public and the legislative body."¹ For purposes of this section, "teleconference" means "a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both."²~~

B. ~~Gov't Code §54953(b) permits the Board to hold a teleconference meeting if the Board follows certain requirements. A legislative body may, but is not required to, permit a meeting that includes remote teleconferencing if the legislative body concludes that teleconferences will be "for the benefit of the public and the legislative body. . ."³ If teleconferencing is permitted, Section 54953(b) contains the following specific requirements:~~

1. ~~Teleconferencing may be used for all purposes during any meeting.⁴~~

2. ~~All votes must be by rollcall.⁵~~

¹ Government Code section 54953(b)(1). All future reference are to the Government Code unless specified otherwise.

² Section 54953 (b)(4).

³ Section 54953(b)(1)

⁴ Section 54953(b)(2)

⁵ Section 54953(b)(2).

~~3. Agendas must be posted at each teleconference location.⁶~~

~~4.B. The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body.⁷~~

~~5. Each teleconference location must be identified in the notice and agenda of the meeting.⁸~~

~~6. Each teleconference location must be accessible to the public.⁹~~

~~7. At least a quorum of the legislative body must be present within ACERA's jurisdiction (Alameda County) either in one location or remotely.¹⁰~~

~~8. The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.¹¹~~

~~C. The Board finds that providing a teleconferencing option meetings can will benefit the public, and the legislative bodies the Board and its Standing Committees and therefore, and wishes to make teleconferencing should be available as an option for Trustees to facilitate their Trustees' participation in Board and Standing Committee meetings.~~

~~E.D. This Policy does not limit the Board's authority under applicable law. The Board may apply all legal authority that relates to the requirements for a teleconference meeting that are operative at the time of the meeting without amending this Policy.~~

III. Policy Guidelines

~~A. At least a quorum of the legislative body Board or Standing Committee must be present within Alameda County ACERA's jurisdiction boundaries during a teleconference meeting.¹² There is no limit to the number of teleconference locations permitted, meaning~~

⁶ ~~Section 54953(b)(3)~~

⁷ ~~Section 54953(b)(3)~~

⁸ ~~Section 54953(b)(3)~~

⁹ ~~Section 54953(b)(3)~~

¹⁰ ~~Section 54953(b)(3)~~

¹¹ ~~Section 54953(b)(3)~~

¹² ~~Section 54953(b)(3)~~

~~that all members of the legislative body could appear at remote locations so long as a quorum are appearing from remote locations within Alameda County.~~

B. ~~The~~ Each Trustee appearing from a remote location is responsible for ~~verifying ensuring~~ that:

1. The agenda ~~was is~~ properly posted at the site at least 72 hours before the meeting in a location that is accessible to the public. Weekend hours may be included to satisfy this requirements, but the agenda must be accessible to the public for the entire 72-hour period. Thus, the agenda may need be posted both outside a main entrance (visible outside an office building) and outside the room in which the Trustee will teleconference. Such agendas must remain visible until the meeting is completed.;
2. ~~Copies of the agenda and public materials are available at the site; Members of the public can access the site during the meeting (even if the location is a hotel room, cruise ship cabin or a residence) and the site is ADA compliant.~~
3. ~~The~~ Teleconference equipment is working, with a speaker reasonably loud enough for attendees to hear and that members of the public are able to hear what is happening in the meeting.;
4. Members of the public who wish to ~~address the legislative body~~ make a public comment ~~are permitted to~~ may do so.

C. Each ~~audio/video teleconference~~ remote location must be identified in the notice and agenda of the meeting including:

- ~~1. The teleconferencing location, the street address, and any suite or office number so the teleconference can be readily located by members of the public seeking to join the meeting.¹³~~
1. The identity of the Trustee appearing ~~remotely~~ at that location.
2. The street address and any room, apartment, suite or office number.
- ~~3. Agenda must be posted at all teleconferencing locations at least 72 hours before the meeting in a location that is freely accessible to the public. Weekend hours may be included to satisfy this requirements, but the agenda must be accessible for the entire~~

¹³ ~~Section 54953(b)(3).~~

~~72-hour period.¹⁴ Thus, the agendas should be posted both outside the main facility of a teleconference location at a main entrance (e.g., visible outside an office building) and outside the specific teleconference location (e.g., outside the particular room or office door). Agendas should remain visible at these location until the meeting is completed.~~

~~4. Each audio-video teleconference location must be accessible to the public, which precludes setting a teleconference location in moving vehicles or offices not accessible to the public, or which are not ADA accessible. Vacationing members wishing to teleconference should realize that the public must have access to the member's hotel room or cruise ship cabin if that is where the teleconference will occur, and that the specific location will appear on the agenda.~~

~~5. All telephones used for teleconferencing must have a functioning speaker to enable public access, even if there are no members of the public present at a particular location. If mobile phones are used, they must be physically located at the physical location listed on the agenda for the remote meeting.~~

~~6.3. The agenda must provide the opportunity for the public to address the legislative body Board or Standing Committee directly at each teleconference location.¹⁵ All members of the legislative body must be able to hear and respond to public comments from all locations, and the public must be able to hear all Board or Committee deliberations.¹⁶ The meeting must be conducted so that participants by audio alone are clearly identified.~~

~~D. All votes during a teleconference meeting must be taken by roll call, even if only one Trustee is participating video/telephone.~~

~~7.E. Gov't Code §54953(e) eliminates the requirements stated in Sections III(A-C) above during a proclaimed state of emergency if the Board makes certain findings relating to the protection of the health and safety of meeting attendees (roll call votes are still required). As of August 18, 2022, Section 54953(e) is set to be repealed on January 1, 2024. When the Board holds a teleconference meeting pursuant to Section 54953(e), the Notice and Agenda will prominently state as on the first page of the Agenda: "THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE [GOV'T CODE § 54953(e)].~~

¹⁴ 78 Ops. Cal. Atty. Gen. 327 (1995)

¹⁵ Section 54953(b)(3)

¹⁶ Section 54953(a).

~~D. The Board Chair may use the script attached as Attachment A (or a similar script) as a guide during the meeting to ensure that all procedures are followed when a Trustee is appearing remotely.~~

IV. Policy Review

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

V. Policy History

~~4) The Board adopted this policy on November 21, 2019.~~

~~A. _____~~

~~B. The Board revised this Policy on August 18, 2022.~~

Attachment A

~~SAMPLE SCRIPT FOR BOARD MEETING~~

~~WITH TRUSTEE APPEARING REMOTELY VIA TELECONFERENCE~~

~~2) _____ Administrative support staff member will call the remote Trustee and ensure that the Trustee is on the speaker phone in the Board chambers.~~

~~3) _____ Board Chair: "I call this meeting to order. As reflected on the agenda, Trustee _____ will appear via telephone from the remote address listed on the agenda. I will now ask Trustee _____ to identify himself (or herself) and confirm that he (or she) is able to hear the proceedings."~~

~~4) _____ Remote Trustee: "This is Trustee _____. I am able to hear the proceedings."~~

~~5) _____ Board Chair: "Trustee _____, is there anyone else present at the remote location besides yourself?"~~

~~6) _____ Remote Trustee: "There is no one else present. [Or, identify the number of individuals present.]"~~

~~7) _____ Board Chair: "Trustee _____, can you confirm that the agenda for this meeting is posted at the remote location, and has been posted in a location visible to members of the public for at least 72 hours before the start of this meeting?"~~

~~8) _____ Remote Trustee: "Yes."~~

9) ~~Board Chair: "Trustee _____, can you also confirm that the remote location is open to the public, is ADA accessible and the proceedings are being heard via a speaker phone which can be heard by anyone in the remote location?"~~

10) ~~Remote Trustee: "Yes."~~

11) ~~Board Chair: "Finally, Trustee _____, can you confirm the copies of the agenda [and related public materials, if any] are available at the remote location for any member of the public who attends the meeting?"~~

12) ~~Remote Trustee: "Yes."~~

13) ~~Board Chair: I will take this opportunity to ask all Trustees, staff members and others to identify themselves when speaking during the meeting to assist the remote Trustee in understanding the participation in the meeting.~~

14) ~~Staff member: "I will now call the roll (calls roll). Trustee _____ is appearing remotely."~~

15) ~~Board Chair: When calling for public comment: "I now call for Public Comment from any members of the public at the ACERA headquarters location for any matter on the agenda or within the jurisdiction of this Committee."~~

16) ~~If there is public comment: Board Chair: "I now recognize the speakers from the ACERA headquarters location and give them each 4 minutes for public comment."~~

17) ~~Board Chair: "Trustee _____, is there anyone who wishes to make a public comment at your location?"~~

18) ~~Remote Trustee: "There is no public comment at this location. [Or, there is one speaker at this location.]"~~

19) ~~Board Chair: [If needed] "I now recognize the speakers from the remote location and give them each 4 minutes for public comment."~~

~~20) Board Chair: [go through the process of introducing agenda items and hearing from staff and other participants. If new speakers address the Board, the Board Chair states: "Trustee _____ is appearing via teleconference from a remote location and will be participating in this meeting over a speaker phone. Please introduce yourselves and when you are speaking before this Committee identify yourself for the benefit of the remote Trustee."~~

~~21) If there are motions, at the end of discussion, Board Chair will announce a roll call vote.~~

~~22) Administrative Staff member will conduct a roll call vote of all voting Trustees, including the remote Trustee, and announce the results of the vote.~~

~~23) Board Chair: "As all business on the agenda has been completed, I declare this meeting adjourned. Trustee _____, we will now disconnect the phone line to the remote location."~~

~~24) Administrative Staff member will disconnect the phone line to the remote location and confirm it has been disconnected.~~

Clean Remote Access to Meetings

Remote Access to Meetings Policy

I. Purpose

To provide guidance to the Board of Retirement (Board) and Staff when Trustees wish to appear at Board and Standing Committee meetings from a remote location.

II. Assumptions

- A. The Board is subject to California's open meeting law that applies to local agencies, the Brown Act, Gov't Code §54950 et seq.
- B. Gov't Code §54953(b) permits the Board to hold a teleconference meeting if the Board follows certain requirements
- C. The Board finds that providing teleconference meetings can benefit the public, the Board and its Standing Committees and therefore teleconferencing should be available to facilitate Trustees' participation in Board and Standing Committee meetings.
- D. This Policy does not limit the Board's authority under applicable law. The Board may apply all legal authority that relates to the requirements for a teleconference meeting that are operative at the time of the meeting without amending this Policy.

III. Policy Guidelines

- A. At least a quorum of the Board or Standing Committee must be within Alameda County during a teleconference meeting.
- B. Each Trustee appearing from a remote location is responsible for ensuring that:
 - 1. The agenda is properly posted at the site at least 72 hours before the meeting in a location that is accessible to the public. Weekend hours may be included to satisfy this requirements, but the agenda must be accessible to the public for the entire 72-hour period. Thus, the agenda may need be posted both outside a main entrance (visible outside an office building) and outside the room in which the Trustee will teleconference. Such agendas must remain visible until the meeting is completed.
 - 2. Members of the public can access the site during the meeting (even if the location is a hotel room, cruise ship cabin or a residence) and the site is ADA compliant.

3. Teleconference equipment is working, with a speaker reasonably loud enough for attendees to hear.
4. Members of the public who wish to make a public comment may do so.
- C. Each remote location must be identified in the notice and agenda of the meeting including:
 1. The identity of the Trustee appearing at that location.
 2. The street address and any room, apartment, suite or office number.
 3. The agenda must provide the opportunity for the public to address the Board or Standing Committee at each location.
- D. All votes during a teleconference meeting must be taken by roll call, even if only one Trustee is participating video/telephone.
- E. Gov't Code §54953(e) eliminates the requirements stated in Sections III(A-C) above during a proclaimed state of emergency if the Board makes certain findings relating to the protection of the health and safety of meeting attendees (roll call votes are still required). As of August 18, 2022, Section 54953(e) is set to be repealed on January 1, 2024. When the Board holds a teleconference meeting pursuant to Section 54953(e), the Notice and Agenda will prominently state as on the first page of the Agenda: "THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE [GOV'T CODE § 54953(e)]."

IV. Policy Review

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

V. Policy History

- A. The Board adopted this policy on November 21, 2019.
- B. The Board revised this Policy on August 18, 2022.

Memo Re: Reciprocity Policy



Office of the Chief Counsel

To: Governance Committee

From: Jeff Rieger, Chief Counsel 

Meeting: August 3, 2022

Subject: **Proposed Direction To Staff To Prepare A Reciprocity Policy**

Section III(C) of the Board Policy Development Process provides:

If the staff identifies the need for a Board policy, staff should bring a request for a policy to the relevant committee and shall provide the following information: (1) A brief description of the policy issue; (2) An explanation as to why the trustee or senior manager believes that a board policy is needed or whether a CEO administrative policy would suffice; (3) The broad objective or purpose that will be served by such a policy; and (4) Confirmation that no existing board policy already addresses the broad risk(s) posed by the issue under consideration. No other policy addresses the need.

Staff has identified a potential need for a Reciprocity Policy that will give direction to staff and communicate to members how the Board interprets several ambiguous "reciprocity" provisions within the County Employees' Retirement Law of 1937 (the "CERL").

Reciprocity is designed to prevent a loss in value of retirement rights when a member moves from one retirement system to another within six months. Reciprocity can result in, among other things, lower member contributions, earlier benefit eligibility and higher amounts of "compensation earnable" or "pensionable compensation" used to calculate a member's benefits. Reciprocity does not put reciprocal members in a better position than other members. Rather, reciprocity helps prevent reciprocal members from being put in a worse position than other members.

Reciprocity is one of the most complex topics within the CERL and it is filled with ambiguous language. Thus, staff is often confronted with challenging questions about members' rights. For example, questions arise regarding: (1) how to measure the no-more-than-six-month-break-in-service requirement to qualify for reciprocity, (2) how to account for members who move back and forth between ACERA and another system more than once, (3) how to harmonize other systems' laws with the CERL, (4) how to determine when a member is excused from the concurrent retirement requirement, because the member is unable to concurrently retire from the other system, (5) how to deal with overlapping service credit in two reciprocal retirement systems, and (6) how to properly reduce a member's benefits to avoid a windfall when they retire for disability and have service in more than one system, per Gov't Code § 31838.5.

The proposed Reciprocity Policy will establish formally adopted determinations of the Board's readings of these ambiguous CERL provisions. This will provide clear direction to staff, clear communication to members and consistency in the determinations staff makes in this complex area of law. Formally adopted Board determinations will also provide a stronger record to defend ACERA's decisions on these matters if those decisions are ever challenged in court. An internal administrative policy would not provide this same level of authority and protection in court proceedings. The Board's Membership Policy addresses the overlapping service credit issue identified above, but there is no other current policy that deals with any of the other issues that will be addressed in the proposed Reciprocity Policy. Having all of these issues addressed in one policy that can be accessed by staff and members will be helpful to all parties.

Section III(D) of the Board Policy Development Process provides: "If a Committee determines that the policy is needed, the Committee and staff shall draft the policy for Committee and Board review and approval." Staff is seeking direction that it should bring a proposed Reciprocity Policy to the Governance Committee later this year.