



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

NOTICE and AGENDA

THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE [SEE EXECUTIVE ORDER N-29-20 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, December 17, 2020
2:00 p.m.**

ZOOM INSTRUCTIONS	BOARD OF RETIREMENT - 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: 870 7259 0726 Passcode: 770289 For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193	HENRY LEVY	TREASURER
	CHAIR	
	ELIZABETH ROGERS	ELECTED GENERAL
	FIRST VICE-CHAIR	
	JAIME GODFREY	APPOINTED
	SECOND VICE-CHAIR	
	DALE AMARAL	ELECTED SAFETY
	OPHELIA BASGAL	APPOINTED
	KEITH CARSON	APPOINTED
	TARRELL GAMBLE	APPOINTED
	LIZ KOPPENHAVER	ELECTED RETIRED
	GEORGE WOOD	ELECTED GENERAL
NANCY REILLY	ALTERNATE RETIRED¹	
DARRYL L.WALKER	ALTERNATE SAFETY²	

¹ 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 Elected Safety Member and an Elected General member, are absent).

² Alternate Safety Member (Votes in the absence of (1) the Elected Safety, (2) either of the two Elected General Members, or (3) both the Retired and Alternate Retired members).

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 agendized 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.

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 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:

November 19, 2020 Operations Committee Minutes

November 19, 2020 Minutes of the Regular Board Meeting

December 2, 2020 Operations Committee Minutes

December 2, 2020 Retirees Committee Minutes

December 9, 2020 Investment Committee Minutes

I. MISCELLANEOUS MATTERS:

Approve Staff Recommendations regarding First 5 Alameda County's New Pay Items/Codes PTO Term Payout T2 – PP2 and PTO Term Payout T4 – PP4

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

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

5. DISABILITIES, RECOMMENDATIONS AND MOTIONS:

None.

6. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:

A. Operations: [See December 2, 2020 Operations Committee Agenda Packet for all materials related to the below listed items.]

1. Summary of December 2, 2020 Meeting.
2. Motion to approve the annual agreement for \$127,200 effective January 1, 2021, for ACERA's Benefits Consultant, the Segal Group.
3. Motion to reduce by \$41,296.39 the amount payable under the *Employer Reimbursement Policy* for calendar year 2020 to account for the payments in excess of the maximum amounts payable under the *Employer Reimbursement Policy* for calendar years 2017, 2018, 2019. [

B. Retirees: [See December 2, 2020 Retirees Committee Agenda Packet for all materials related to the below listed items.]

1. Summary of December 2, 2020 Meeting.
2. Motion to continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2021, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$148.50. The MBRP benefit is a non-vested benefit 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 adopt the revised and updated Appendix A to Resolution No. 07-29, which reflects the changes approved by the Board to the Monthly Medical Allowance amounts for Group and Individual Plans as well as the Retiree Health Benefit contribution amounts for Plan Year 2021.

C. Investment: [See December 9, 2020 Investment Committee Agenda Packet for all materials related to the below listed items.]

1. Summary of December 9, 2020 Meeting.
2. Motion to adopt a New Real Assets Structure, approve Related Amendments to the Real Assets Policy, and adopt the 2020 – 2026 Real Assets Investment Plan.
3. Motion to adopt the 2021 – 2023 Private Equity Investment Plan.

D. Governance: [See December 17, 2020 Governance Committee Agenda Packet for all materials related to the below listed items.]

1. Summary of December 17, 2020 Meeting.
2. Motion to affirm the existing *Board Communications Policy* with the revisions recommended by the Governance Committee.
3. Motion to affirm the existing *Membership Policy* with the revisions recommended by the Governance Committee.
4. Motion to affirm the existing *Service Provider Policy* with the revisions recommended by the Governance Committee.

7. OLD BUSINESS:

- A. Potential motion to exclude County Pay Codes 741, 742, 743 from “compensation earnable,” or other appropriate action on that subject.
- B. Potential motion to adopt proposed interpretation of Gov’t Code § 31461(b)(1)(B), as set forth in the public memorandum from Chief Counsel, or other appropriate action on that subject.

8. NEW BUSINESS:

- A. Educational Presentation on Conflicts of Interest by Chief Counsel, Jeff Rieger.
- B. Cal. Gov. Code § 7514.7 Alternative Investment Vehicles Information Report.
- C. Chief Executive Officer’s Report.
- D. Discussion and Possible Motion regarding Chief Executive Officer Compensation.

9. CLOSED SESSION:

- A. Conference with Designated Representative (Henry Levy) for Compensation Negotiations with Chief Executive Officer (Cal. Gov’t Code § 54957.6).

10. REPORT ON ACTION TAKEN IN CLOSED SESSION:

- 11. CONFERENCE/ORAL REPORTS:**
- 12. ANNOUNCEMENTS:**
- 13. BOARD INPUT:**
- 14. ESTABLISHMENT OF NEXT MEETING:**
Thursday, January 21, 2021 at 2:00 p.m.
- 15. ADJOURNMENT:**

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

AIZAWA, Bruce
Effective: 11/16/2020
LARPD

BENDER, Lydia L.
Effective: 10/3/2020
Sheriff's Office

BIRDEN, Claudene
Effective: 10/4/2020
Sheriff's Office

CARDENAS, Vilma
Effective: 10/17/2020
Alameda Health System

CASTRO, Patricia M.
Effective: 10/3/2020
Social Services Agency

CHON, Luna
Effective: 10/3/2020
Social Services Agency

COSTA, Paul
Effective: 10/18/2020
Sheriff's Office

CRISTOBAL, Elvira
Effective: 9/1/2020
Alameda Health System

CROSBY, Neola M.
Effective: 9/19/2020
Probation Department

DUTTON, Wendy
Effective: 9/19/2020
Alameda Health System

ENCARNACION, Albert
Effective: 10/16/2020
Alameda Health System

GANNON, Catherine
Effective: 10/6/2020
Child Support Services

HARTMAN, Robert
Effective: 10/14/2020
District Attorney

HEIL, Lisa
Effective: 9/9/2020
Alameda Health System

HIRAKI, Atsuko
Effective: 10/3/2020
Alameda Health System

HSU, Patricia Y.
Effective: 10/3/2020
Probation

KILDEGAARD, Sharon C.
Effective: 10/3/2020
Social Services Agency

KNIGHT, Shawn
Effective: 10/17/2020
District Attorney

LEINES, Cheryl A.
Effective: 10/3/2020
Sheriff's Office

MACINTYRE, Kathy M.
Effective: 10/3/2020
Social Services Agency

MANANSALA, Rosemarie
Effective: 10/17/2020
Alameda Health System

MYERS, Kenise B.
Effective: 9/13/2020
Sheriff's Office

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

PEREZ, Enrique Effective: 10/10/2020 Sheriff's Office	SEIULI-HAZZARD, Malia Effective: 10/3/2020 Social Services Agency
PERKINS, Gregory D. Effective: 10/1/2020 Sheriff's Office	SEPT, Joyce A. Effective: 8/11/2020 Alameda Health System
PETERSEN, Nancy Effective: 10/1/2020 Alameda Health System	TAYLOR, Patricia Effective: 9/24/2020 Alameda Health System
RICE, Sharon Effective: 11/1/2020 Social Services Agency	TRINKL, Peter Effective: 10/17/2020 Health Care Service Agency
SALER, Barbara F. Effective: 10/3/2020 Health Care Services Agency	VALLE, Delfredda H. Effective: 10/3/2020 Superior Court

**APPENDIX B
APPLICATION FOR DEFERRED RETIREMENT**

LUCKETT, Robin L. Social Services Agency Effective: 9/18/2020	PFENNING, Kirsten M. Auditor-Controller Effective: 9/18/2020
MURAKAMI, Jenna C. County Administrator Effective Date: 9/4/2020	TOUSSAINT, Meghan E. Sheriff's Office Effective: 9/1/2020
	ZACHLOD, Chris G. Information Technology Department Effective: 9/4/2020

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

BRONSTON, Aram L. Health Care Services Agency Effective: 9/4/2020	GORDON, Cameron A. Social Services Agency Effective: 9/1/2020
GOMEZ, Francisco J. Community Development Agency Effective: 9/14/2020	STEPHENSON, Nancy K. Health Care Services Agency Effective Date: 9/4/2020
	WANG, Chat-Ju Alameda Health Systems Effective: 9/1/2020

**APPENDIX D
LIST OF DECEASED MEMBERS**

CLOSE-CIBULL, Jeanette
Social Services Agency
11/1/2020

JOHNSTON, Winifred
Non-Mbr Survivor of Harry Johnston
10/30/2020

FORD, Stephen
General Services Agency
11/7/2020

JONAS, Gail
Non-Mbr Survivor of Arnold Jonas
11/1/2020

GARLAND, Glenda
Social Services Agency
11/9/2020

KROGER, Donald
Assessor's Office
11/8/2020

GEX, Wilbert
Assessor
11/2/2020

LA CHAPELLE, Peter
County Counsel
11/3/2020

GOLOYOGO, Remedios
Social Services Agency
10/26/2020

LUANGRATH, Khamson
Social Services Agency
9/28/2020

HECKENLIABLE, Barbara
Alameda Health System
10/20/2020

MARTIN, Linda
Assessor's Office
11/22/2020

HESS, Claude
Social Services Agency
11/6/2020

SCHAFER, Charles
Public Health Care Services
9/25/2020

JACKSON, Sherrye
Social Services Agency
11/7/2020

SHIBLEY, Ruth
Alameda Health System
11/12/2020

WHYTE, Donald
District Attorney
11/25/2020

APPENDIX F
APPLICATION FOR DISABILITY RETIREMENT

Name: **Catalan, Yolanda**
Type of Claim: Annual Review for NSCD (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. Catalan’s non-service connected disability and as Ms. Catalan will turn 55 years old in the next several months, in accordance with Govt. Code section 31729 future annual medical examinations and questionnaires will not be required.

Name: **Jackson, Benita**
Type of Claim: Annual Review for NSCD (Granted on 10/17/19)

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

Name: **Knox-Banks, Janay**
Type of Claim: Annual Review for SCD (Granted on 5/16/19)

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

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-29-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

WHEREAS the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

WHEREAS time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

WHEREAS social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded 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.

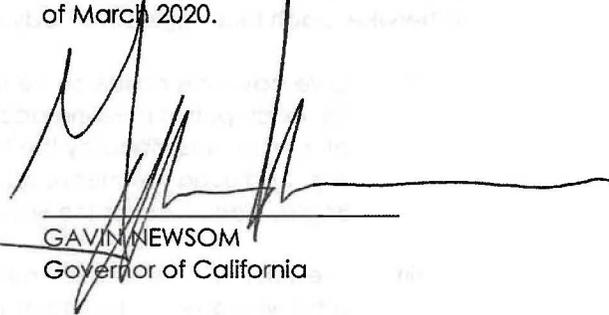
All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



A handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line. The signature is stylized and extends to the right of the line.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

November 19, 2020
Minutes of the Regular Board Meeting
For approval under December 17, 2020
Board “Consent Calendar”



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT
MINUTES

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

Thursday, November 19, 2020

Chair Henry Levy called the meeting to order at 2:00 p.m.

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

Staff Excused: Betty Tse, Chief Investment Officer

PUBLIC INPUT

None.

**CONSENT CALENDAR
REPORTS AND ACTION ITEMS**

APPROVAL of APPLICATIONS FOR SERVICE RETIREMENT

Appendix A

APPROVAL of APPLICATIONS FOR RETIREMENT, DEFERRED

None

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

None

APPROVAL of STAFF RECOMMENDATIONS (UNCONTESTED) FOR DISABILITY RETIREMENTS

Appendix F

APPROVAL of HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS

None

APPROVAL of COMMITTEE and BOARD MINUTES

October 14, 2020 Investment Committee Minutes

October 15, 2020 Actuarial Committee Minutes

October 15, 2020 Audit Committee Minutes

October 15, 2020 Minutes of the Regular Board Meeting

November 4, 2020 Investment Committee Minutes

MISCELLANEOUS MATTERS

Approve Staff Recommendations regarding the County's New Pay Codes 42L and 897 Operating Expenses as of September 30, 2020

Quarterly Financial Statements as of September 30, 2020

Quarterly Cash Forecast Report as of September 30, 2020

Board Member Conference Expense Report as of September 30, 2020

Senior Manager Conference and Training Expense Report as of September 30, 2020

Quarterly Report on Member Under/Overpayments

3rd Quarter Call Center Report

20-55

It was moved by Ophelia Basgal seconded by Keith Carson and approved by a vote of 8 yes (*Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Rogers, Wood*), 0 no, and 1 abstention (*Darryl Walker recused himself*):

BE IT RESOLVED BY THIS BOARD that the Consent Calendar is approved

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

DISABILITIES, CURRENT AND CONTINUING RECOMMENDATIONS AND MOTIONS

None.

COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS

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

Investment:

Elizabeth Rogers gave an oral report stating that the Investment Committee met on November 4, 2020 and was presented with, reviewed information for, and discussed an up to \$75 million Investment in HPS Specialty Loan Fund V as part of ACERA's Private Credit Portfolio.

20-56

It was moved by Elizabeth Rogers and seconded by Liz Koppenhaver to adopt an up to \$75 million investment in HPS Specialty Loan Fund V as part of ACERA's Private Credit Portfolio, pending completion of legal and investment due diligence and successful contract negotiations. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Rogers, Wood*), 0 no, and 0 abstentions.

Elizabeth Rogers further reported that the Committee was presented with, reviewed information for, and discussed the following Information Items: **1)** an up to \$10 million investment in Canvas Ventures 3 as part of ACERA's Private Equity Portfolio – Venture Capital; **2)** review of the Real Assets Structure and Investment Plan; and **3)** an update on the Real Estate Market.

Minutes of the meeting were presented to the Board for adoption on the Consent Calendar at today's Board meeting.

Operations:

Ophelia Basgal gave an oral report stating that the Operations Committee met on November 19, 2020 and was presented with, reviewed information for, and discussed the proposed 2021 ACERA Operating Expense Budget, which is \$21,427,000, a .01% increase over ACERA's approved 2020 Operating Expense Budget.

20-57

It was moved by Ophelia Basgal and seconded by Elizabeth Roger to approve the proposed 2021 ACERA Operating Expense Budget. The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Levy, Reilly Rogers, Wood*), 0 no, and 0 abstentions.

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the December 17, 2020 Board meeting.

NEW BUSINESS:

SACRS Fall Conference Business Meeting:

Report on Proxy Vote on Business Meeting Action Items at the Virtual SACRS Fall Conference.

Chief Executive Officer Dave Nelsen reported that at the Virtual SACRS Fall Conference Business Meeting, he voted ACERA's proxy on behalf of the Board of Retirement in favor of all the action items presented, which are: acceptance of the Auditor's Report and three revisions to the Bylaws, which included one revision to allow remote voting. All the motions passed unanimously.

LACERA Legislative Proposal

Mr. Nelsen presented his November 19, 2020, memo that stated SACRS has requested that the Systems provide input on LACERA's legislative proposal that would establish a statute in the California Employees' Retirement Law to add COVID-19 to the list of presumptive illnesses for Disability Retirements. Mr. Nelsen provided examples of who would qualify for this type of disability retirement and explained that it would be a cost increase to the Systems. After discussion, the Board felt that SACRS should not sponsor this type of legislation and; therefore, does not support it. Mr. Nelsen will report the Board's feedback to the SACRS Legislative Committee.

David Nelsen, Chief Executive Officer's Report

Mr. Nelsen presented his November 19, 2020, written CEO Report which provided an update on: **1) Committee and Board Action Items** and **2) Other Items**, which included updates on: COVID-19 Responses, the Pension Administration System, Personnel Items and Budget, and Customer Service.

Mr. Nelsen announced that Betty Tse is expected to return to work on December 1, 2020.

Mr. Nelsen announced that ACERA's portfolio is now approximately \$9.6 billion.

CONFERENCE/ORAL REPORTS

Trustees that attended the SACRS Virtual Fall Conference stated that they enjoyed the Breakout Sessions and the Ethics and Sexual Harassment Prevention Trainings. However, they would have liked to see and inter-act more with the attendees. Mr. Nelsen will report the Board's feedback to SACRS.

Trustee Liz Koppenhaver stated she attended and enjoyed the CALAPRS Virtual Trustees' Round Table, hosted by Trustee Henry Levy.

ANNOUNCEMENTS

None.

BOARD INPUT

None.

CLOSED SESSION

- A. Government Code Section 54957(b)(1): Public Employee Evaluation (Chief Executive Officer).

The Board reconvened into Open Session and Chair Henry Levy announced that the Trustees nominated him (Chair Levy) to serve as the Board's Labor Negotiator for compensation discussions with Chief Executive Officer Dave Nelsen.

ADJOURNMENT

The meeting adjourned at approximately 3:25 p.m.

Respectfully Submitted,



David Nelsen
Chief Executive Officer

12/17/20

Date Adopted

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

ARANA, Karl
Effective: 7/1/2020
Social Services Agency

BALZOUAN, Paul
Effective: 9/5/2020
District Attorney

BODAS, Diane
Effective: 9/5/2020
Department of Child Support Services

CHOY, Bruce
Effective: 8/11/2020
Social Services Agency

CORNIST DHATI, Rodney
Effective: 10/6/2020
Probation Department

COUNCIL, Susan
Effective: 9/3/2020
Alameda Health System

DANFORTH, Brian
Effective: 8/29/2020
Public Works Agency

DATUIN, Edna
Effective: 9/5/2020
Human Resources Service

FONTENETTE, Benita
Effective: 9/29/2020
Library

GARCIA, Carol Ann
Effective: 8/29/2020
Superior Court

GOMEZ, George
Effective: 8/9/2020
Alameda Health System

GRAHAM, Johnnie
Effective: 9/19/2020
Sheriff's Office

HALPER, Catherine
Effective: 8/10/2020
Alameda Health System

HARRELL, Darilyn
Effective: 9/1/2020
Alameda Health System

HART, Estelle
Effective: 8/23/2020
Alameda Health System

HILST, Patricia
Effective: 9/19/2020
Sheriff's Office

HUGHES, Leelee
Effective: 7/29/2020
Alameda Health System

KLEINJAN, Joyce
Effective: 8/22/2020
Health Care Services Agency

LAWSON, Regina
Effective: 9/3/2020
Health Care Services Agency

LOFTON-BRADLEY, Theresa
Effective: 8/22/2020
Probation Department

MARTINEZ, Robert
Effective: 8/29/2020
LARPD

MOORE, John
Effective: 9/2/2020
Probation Department

**APPENDIX A
APPLICATION FOR SERVICE RETIREMENT**

NGO, Lan
Effective: 8/15/2020
Alameda Health System

TEJANO, Frances
Effective: 9/5/2020
Sheriff's Office

POWELL, Leonard
Effective: 9/16/2020
LARPD

THOMPSON, Gary
Effective: 9/4/2020
Health Care Services Agency

RODRIQUES, Kay
Effective: 9/4/2020
Community Development Agency

TSEGAYE, Hirut
Effective: 8/12/2020
Alameda Health System

SHER, Jayne
Effective: 9/30/2020
Health Care Services Agency

VIERRA, Teresa
Effective: 9/19/2020
Department of Child Support Services

SMITH, Mable
Effective: 9/15/2020
Community Development Agency

WARREN, Cathy
Effective: 8/29/2020
Social Services Agency

SNYDER, Paula
Effective: 9/1/2020
Health Care Services Agency

WONG-SING, Douglas
Effective: 9/11/2020
Alameda Health System

**APPENDIX D
LIST OF DECEASED MEMBERS**

ANGLERO, Georgina
Probation Department
10/11/2020

BINONGCAL, Remedios H.
Superior Court
10/19/2020

ANTOINE, Charles R.
Treasurer-Tax Collector
10/12/2020

BREWER, Joyce P.
Community Development Agency
9/15/2020

BERGGREN, William A.
Sheriff's Office
9/13/2020

BROUGHAM, Gail A.
Probation Department
10/20/2020

BERNSTEIN, Melvin S.
Environmental Health Department
10/12/2020

CORDON, Joan
Non-Mbr Survivor of Walter M. Cordon
10/7/2020

**APPENDIX D
LIST OF DECEASED MEMBERS**

EMBRY, Barbara
Non-Mbr Survivor of George Embry Jr
10/5/2020

OTT, Emily S.
Non-Mbr Survivor of Gareth S. Ott
10/17/2020

EMMERT, Rowland D.
Probation Department
10/18/2020

PETERSON, Teri L.
Social Services Agency
10/12/2020

HEALY, Norman
District Attorney
10/7/2020

RICHARDS, Bernice H.
Alameda County Office of Education
10/1/2020

HOLYOAKE, Rose M.
Non-Mbr Survivor of Frank A. Holyoake
10/7/2020

RODRIGUEZ, Barbara
Alameda Health System
5/30/2020

JACKSON, Maggie L.
Non-Mbr Survivor of James E. Jackson
9/28/2020

SANCE, Nathalia
Alameda Health System
9/22/2020

JOHNSON, Dorothy A.
Public Works Agency
10/6/2020

SHELTON, Mary E.
Alameda Health System
9/5/2020

JORDAN, Delores
Alameda Health System
10/9/2020

SHERMAN, Jeanette
Non-Mbr Survivor of David L. Sherman
10/24/2020

LEONE, Ethel P.
Alameda Health System
10/12/2020

SHORES, William L.
General Services Agency
8/19/2020

MEEHAN, John J.
District Attorney
10/6/2020

SIMMS, Charles E.
Probation Department
9/4/2020

MUELLER, Jorunn H.
Social Services Agency
10/10/2020

SUTA, Joseph J.
Assessor's Office
9/18/2020

NICHOLSON, Eileen B.
Non-Mbr Survivor of Robert E. Nicholson
10/4/2020

TAYLOR, Paula A.
Public Health Department
9/18/2020

**APPENDIX D
LIST OF DECEASED MEMBERS**

WALLER, Ellen C.
Non-Mbr Survivor of Raymond R. Waller
10/17/2020

WONG, Donald M.
Social Services Agency
9/24/2020

WHITE, Harold W.
Sheriff's Office
10/23/2020

ZAMBOANGA, Luz O.
Assessor's Office
9/2/2020

**APPENDIX F
APPLICATION FOR DISABILITY RETIREMENT**

Name: Finley, Laura
Type of Claim: Annual Review for SCD (Granted on 11/21/19)

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. Finley's service-connected disability and to waive future annual medical examinations and questionnaires at this time.

Name: McDaniel, Michael
Type of Claim: Service-Connected

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. McDaniel's application for a service-connected disability, and waiving future annual medical examinations and questionnaires at this time.

Based on the Medical Advisor's and Staff's review and determination of Mr. McDaniel's ability to determine the permanency of his incapacity, to deny Mr. McDaniel's request for an earlier effective date.

Name: Willis, Taia
Type of Claim: Annual Review for NSCD (Granted on 4/21/16)

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

November 19, 2020
Operations Committee Minutes
For approval under December 17, 2020
Board “Consent Calendar”



**MINUTES OF THE NOVEMBER 19, 2020 OPERATIONS COMMITTEE'S MEETING
THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO**

Date: November 19, 2020
To: Members of the Operations Committee
From: Ophelia Basgal, Chair
Subject: Summary of the November 19, 2020, Operations Committee Meeting

Operations Committee Chair Ophelia Basgal called the November 19, 2020, Operations Committee Meeting to order at 1:00 p.m. Committee members present were Ophelia Basgal, Chair; Liz Koppenhaver, Vice Chair; Dale Amaral; Jaime Godfrey; and Elizabeth Rogers. Other Board members present were Tarrell Gamble; George Wood and Alternate Nancy Reilly. Trustee Keith Carson and Alternate Trustee Darryl Walker arrived after the roll call. Staff present were David Nelsen, Chief Executive Officer; Margo Allen, Fiscal Services Officer; Kathy Foster, Assistant Chief Executive Officer; Jeffrey Rieger, Chief Counsel; Harsh Jadhav, Chief of Internal Audit; Jessica Huffman, Benefits Manager; Sandra Dueñas-Cuevas, Benefits Manager; and Victoria Arruda, Human Resources Officer.

ACTION ITEMS

1. Discussion and possible motion to approve the proposed 2021 ACERA Operating Expense Budget

After discussion, it was moved by Liz Koppenhaver and seconded by Elizabeth Rogers, that the Operations Committee recommend to the Board of Retirement that the Board approve the proposed 2021 ACERA Operating Expense Budget.

The motion carried 9 yes (*Basgal, Carson, Gamble, Godfrey, Koppenhaver, Rogers, Walker (for Amaral) Wood*), 0 no, 0 abstention.

INFORMATION ITEMS

None

TRUSTEE/PUBLIC INPUT

None

FUTURE DISCUSSION ITEMS

None

Operations Committee Meeting Summary
November 19, 2020
Page 2 of 2

ESTABLISHMENT OF NEXT MEETING DATE

December 2, 2020 at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 1:49 p.m.

**December 2, 2020
Operations Committee Minutes
For approval under December 17, 2020
Board “Consent Calendar”**



**MINUTES OF THE DECEMBER 2, 2020 OPERATIONS COMMITTEE'S MEETING
THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO**

Date: December 2, 2020
To: Members of the Operations Committee
From: Ophelia Basgal, Chair
Subject: Summary of the December 2, 2020, Operations Committee Meeting

Operations Committee Chair Ophelia Basgal called the December 2, 2020, Operations Committee Meeting to order at 9:30 a.m. Committee members present were Ophelia Basgal, Chair; Liz Koppenhaver, Vice Chair; Dale Amaral; Jaime Godfrey; and Elizabeth Rogers. Other Board members present were Henry Levy; George Wood and Alternates Nancy Reilly and Darryl Walker. Keith Carson and Tarrell Gamble arrived after the roll call. Staff present were David Nelsen, Chief Executive Officer; Margo Allen, Fiscal Services Officer; Kathy Foster, Assistant Chief Executive Officer; Jeffrey Rieger, Chief Counsel; Harsh Jadhav, Chief of Internal Audit; and Sandra Dueñas-Cuevas, Benefits Manager.

ACTION ITEMS

1. Discussion and possible motion to approve the annual agreement for Segal Consulting, ACERA's Benefits Consultant

Staff reported that it has negotiated a new agreement for benefits consulting services with the Segal Group. The agreement is effective January 1, 2021 through December 31, 2021. The annual cost for the new agreement is \$127,200, which is a 1.4% increase, due to inflation.

Recommendation

After discussion, it was moved by Jaime Godfrey and seconded by Liz Koppenhaver, that the Operations Committee recommend to the Board of Retirement that the Board approve the annual agreement for \$127,200 effective January 1, 2021, for ACERA's Benefits Consultant, the Segal Group.

The motion carried 8 yes (*Amaral, Basgal, Carson, Godfrey, Koppenhaver, Levy, Rogers, Wood*), 0 no, 0 abstention/recusal.

2. Discussion and possible motion to recommend to the Board a remedy for the excess payments to active member trustees' employers under the Employer Reimbursement Policy for calendar years 2017, 2018, 2019

Staff reported that it was recently discovered that the employer reimbursement cap was not applied for calendar years 2017, 2018, and 2019, resulting in excess payments. Staff presented three possible remedies to the committee.

Recommendation

After discussion, it was moved by Liz Koppenhaver and seconded by Jaime Godfrey, that the Operations Committee recommend to the Board of Retirement that the Board approve the subtraction of the total excess payments without interest from the reimbursements ACERA will otherwise make under the Employer Reimbursement Policy for 2020 and staff will advise the affected employers of the proposed recommendation.

The motion carried 7 yes (*Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Reilly*), 0 no, 3 abstention/recusal.

INFORMATION ITEMS

1. Operating Expenses as of October 31, 2020

Staff provided the operating expenses as of October 31, 2020. As of October 31, 2020, actual expenses were \$2,278K under budget. Budget overage noted was Professional Fees (\$52K over budget). Budget surpluses noted were Staffing (\$1,408K under budget) with 7 unfilled positions, Staff Development (\$285K under budget), Office Expense (\$89K under budget), Insurance (\$11K under budget), Member Services (\$165K under budget), Systems (\$101K under budget), Depreciation (\$4K under budget), and Board of Retirement (\$267K under budget).

2. Technology Update

Staff presented a technology update to the committee.

TRUSTEE/PUBLIC INPUT

None

FUTURE DISCUSSION ITEMS

None

ESTABLISHMENT OF NEXT MEETING DATE

February 3, 2021 at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 10:08 a.m.

December 2, 2020
Retirees Committee Minutes
For approval under December 17, 2020
Board “Consent Calendar”



MINUTES OF DECEMBER 2, 2020 RETIREES COMMITTEE MEETING

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

December 2, 2020

To: Members of the Retirees Committee

From: Liz Koppenhaver, Chair, Retired Trustee

Subject: Summary of the December 2, 2020 Retirees Committee Meeting

Committee Chair Liz Koppenhaver called the December 2, 2020 Committee meeting to order at 10:30 a.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Liz Koppenhaver, Jamie Godfrey, Dale Amaral, Keith Carson and George Wood. Also present were Ophelia Basgal, Tarrell Gamble, Henry Levy, and Elizabeth Rogers, and alternate members Nancy Reilly 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 Dueñas-Cuevas, Benefits Manager; Ismael Piña, Assistant Benefits Manager; Vijay Jagar, Chief Technology Officer; and Harsh Jadhav, Chief of Internal Audit.

ACTION ITEMS

1. Adoption of Medicare Part B Reimbursement Plan Benefit for 2021

Staff and the Segal Group, ACERA's Benefits Consultant, provided information on ACERA's Medicare Part B Reimbursement Plan (MBRP) benefit, including retirees' out-of-pocket costs, and the percentage of retirees affected at each of the designated income levels, based on the retirees' ACERA retirement allowances only. Staff recommends to continue the benefit for 2021 based on the reimbursement at the lowest standard premium rate of \$148.50.

It was moved by Ophelia Basgal and seconded by Jaime Godfrey that the Committee recommend to the Board of Retirement to continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2021, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$148.50. The MBRP benefit is a non-vested benefit 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.

The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Rogers, Wood*), 0 no, 0 abstentions.

2. Adoption of Updates to Appendix A of 401(h) Account Resolutions

Staff stated that in order for Resolution No. 07-29 to remain current for the upcoming 2021 Plan Year, Appendix A was amended to reflect the Board of Retirement's (Board) decisions regarding the Monthly Medical Allowance amounts for Group and Individual plans; and medical, dental, and vision premium amounts as adopted by the Board.

It was moved by Jaime Godfrey and seconded by Keith Carson that the Committee recommend to the Board of Retirement (Board) to adopt the revised and updated Appendix A to Resolution No. 07-29, which reflects the changes approved by the Board to the Monthly Medical Allowance amounts for Group and Individual Plans as well as the Retiree Health Benefit contribution amounts for Plan Year 2021.

The motion carried 9 yes (*Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Rogers, Wood*), 0 no, 0 abstentions.

INFORMATION ITEMS

1. Annual Retired Member (Lump Sum) Death Benefit Report

Staff provided information on the number and amount of the Retired Member (lump sum) Death Benefit payments made to eligible beneficiaries of retirees for the 12-month period December 1, 2019 through November 30, 2020, including the payments made by reciprocal agencies. This \$1,000 benefit is funded by the Supplemental Retiree Benefit Reserve and is a vested benefit, as long as there are funds available.

2. Virtual Retiree Health and Wellness Fair Results and Open Enrollment Activity

Staff provided a report on the results of the Virtual Retiree Health and Wellness Fair, which was held through Zoom on October 30, 2020. The live presentations from Kaiser, VSP, Delta Dental and a Qi-Gong demonstration were recorded and posted to ACERA's website, as well as links to the various vendors' webpages for additional information and resources. There were 236 online visitors during this virtual event. A report on open enrollment plan changes and processing status will be provided at the February 2021 Committee meeting.

Trustee Reilly expressed her appreciation to Kathy Foster and Ish Piña for addressing a retiree's questions and difficulties with Via Benefits.

3. Miscellaneous Updates

The Segal Group (Segal) commented that there is still a lot of activity in Congress, particularly related to pharmaceutical benefits. Segal is monitoring the activity, but there is currently nothing report.

In response to Pete Albert, President of Alameda County Retired Employees (ACRE) retiree association, Segal stated that Kaiser has not directly communicated its plans related to the COVID-19 vaccine availability, priority for distributing to various groups, or the timeframe. However, Kaiser is working on this and is immersed in discussions regarding this issue. Segal believes the timeline for distributing the vaccine will be accelerated with the recent approval of a vaccine in the United Kingdom.

TRUSTEE INPUT AND DIRECTION TO STAFF

None.

PUBLIC INPUT

Pete Albert, President of Alameda County Retired Employees (ACRE) retiree association, wished everyone happy holidays.

FUTURE DISCUSSION ITEMS

- Annual Supplemental Cost of Living Adjustment (COLA)

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for February 3, 2021 at 10:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 10:59 a.m.

December 9, 2020
Investment Committee Minutes
For approval under December 17, 2020
Board “Consent Calendar”



MINUTES OF THE DECEMBER 9, 2020 INVESTMENT COMMITTEE'S MEETING

THIS MEETING WAS CONDUCTED VIA TELECONFERENCE WITH VIDEO

To: Members of the Board of Retirement
From: Tarrell Gamble - Vice Chair
Subject: Summary of December 9, 2020 Investment Committee Meeting

The Investment Committee ("Committee") met on Wednesday, December 9, 2020 at 9:31 a.m. The Committee members present were Dale Amaral, Ophelia Basgal, Keith Carson, Tarrell Gamble, Jaime Godfrey, Liz Koppenhaver, Henry Levy, and George Wood. Also present were Alternate Retired Member, Nancy Reilly and Alternate Safety Member Darryl Walker. ACERA Senior Managers and Presenting Staff present were David Nelsen – Chief Executive Officer, Jeff Rieger – Chief Counsel, Vijay Jagar – Chief Technology Officer, Harsh Jadhav – Chief of Internal Audit, and Betty Tse – Chief Investment Officer.

Action Items: Matters for discussion and possible motion by the Committee

1. Discussion and Possible Motion to Recommend that the Board Adopt a New Real Assets Structure, Approve Related Amendments to the Real Assets Policy, and Adopt the 2020 – 2026 Real Assets Investment Plan
 - Staff and Verus provided an overview of the new proposed Real Assets structure, recommended amendments to the Real Assets Policy, and proposed the 2020 – 2026 Real Assets Investment Plan. The outlook for inflation and commodities and the rationale for including a 5% allocation in the new structure to commodities were also discussed.
 - After further discussion, Trustee Koppenhaver moved, seconded by Trustee Godfrey, to recommend that the Board adopt a new Real Assets Structure, approve related amendments to the Real Assets Policy, and adopt the 2020 – 2026 Real Assets Investment Plan.
 - The motion carried with 9 Yes (Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, and Wood) 0 No, and 0 Abstention.
2. Discussion of and Possible Motion to Recommend to the Board to Adopt the 2021 – 2023 Private Equity Investment Plan
 - Representatives from Verus discussed the 2021-2023 Private Equity Investment Plan. The sub-asset class weightings to Buyouts, Venture Capital, and Debt-Related Special Situations were also discussed in conjunction with the current market environment for Private Equity.

- After further discussion, Trustee Godfrey moved, seconded by Trustee Basgal, to recommend that the Board adopt the 2021 – 2023 Private Equity Investment Plan.
- The motion carried with 9 Yes (Amaral, Basgal, Carson, Gamble, Godfrey, Koppenhaver, Levy, Walker, and Wood) 0 No, and 0 Abstention.

Information Items: These items are not presented for Committee action but consist of status updates and cyclical reports

1. Semiannual Performance Review for the Period Ending September 30, 2020 – Equities and Fixed Income
 - For the 6-month period ending 9/30/2020, ACERA's Total Fund returned 18.31% net, compared to the Policy Index return of 17.64%. For the year ending 9/30/2020, the Total Fund returned 6.48% net compared to the Policy Index of 6.81%. The Total Fund's results ranked in the 18th and 43rd percentile for the semi-annual and one year periods, respectively.
 - Specific to equities, the U.S. Equity asset class was up net 33.56% and 13.96% for the 6 month and 1-year periods ending 9/30/2020, respectively. The International Equity asset class was up net 29.13% and 7.72% for 6 month and 1-year periods ending 9/30/2020, respectively.
 - Specific to Fixed Income, the asset class was up net 10.26% and 9.05% for the 6 month and 1-year periods ending 9/30/2020, respectively.
 - As of 9/30/2020, the market value of the Total Fund was \$8,682,251,317
2. Semiannual Performance Review for the Period Ending September 30, 2020 – Absolute Return
 - No presentation was made for this item.
 - As of September 30, 2020, the Absolute Return Portfolio had a total market value of \$631.7 million, representing 7.3% of ACERA's Total Fund (class target is 9.0%). For the six-month period ending 09/30/20, the Absolute Return Portfolio returned 2.51% versus the HFRI Fund of Funds Composite Benchmark return of 12.44%. For the one-year period ending 09/30/20, ACERA's Absolute Return Portfolio returned -7.48% versus the HFRI Fund of Funds Composite Index Benchmark return of 5.72%.
3. Semiannual Performance Review for the Period Ending June 30 2020 – Private Equity
 - Verus provided a brief overview of the Private Equity Program through 06/30/20. As of 06/30/20, the Private Equity Portfolio had a total market value of \$633.2 million which represented 7.7% of the Total Fund in comparison to its 8.0% asset class target. For the one-year period ending 06/30/20, the Private Equity Portfolio returned a net IRR of 1.47%

vs the Thomson Reuters C|A Global All Private Equity Benchmark net IRR of 5.28%. For the three-year period ending 06/30/20, ACERA's Private Equity Portfolio returned a net IRR of 9.80% vs. the same Benchmark which returned a net IRR of 11.63%.

4. Semiannual Performance Review for the Period Ending June 30, 2020 – Private Credit

- No presentation was made for this item.
- As of June 30, 2020, the Private Credit Portfolio had a total market value of \$39.1 million which represented 0.5% of the Total Fund (class target is 4.0%). Since the Private Credit Portfolio's inception through June 30, 2020, the Portfolio's net IRR was -2.03%, 115 basis points above the same cash flows invested in the S&P LSTA US Leveraged Loan Index of -3.18%.

5. Semiannual Performance Review for the Period Ending June 30, 2020 – Real Assets

- No presentation was made for this item.
- As June 30, 2020, the Real Assets Asset Class had a total market value of \$400.0 million, representing about 4.9% of ACERA's Total Fund (class target is 5.0%). For the one-year period ending 06/30/20, the Real Assets Portfolio returned -11.38% versus its blended benchmark (50% S&P Global LargeMidCap Commodity and Resources Index/35% S&P Global Infrastructure Index/15% Bloomberg Commodity Index) return of -15.80%. For the three-year period ending 06/30/20, ACERA's Real Assets Portfolio returned -5.97% versus its blended benchmark return of -1.05%.

6. Semiannual Performance Review for the Period Ending September 30, 2020 – Real Estate

- Callan presented the Semi-annual Portfolio Measurement Report for ACERA's Real Estate portfolio as of 9/30/2020. For the last 6-months, ACERA's Real Estate portfolio had a return of -0.54%, outperforming the NFI-ODCE benchmark return of -1.49%.
- For the trailing 1-year period, ACERA's Real Estate portfolio had a net return of 1.60% outperforming the NFI-ODCE benchmark return of 0.52%.
- For the trailing 3-year period, ACERA's Real Estate portfolio had a net return of 5.66%, outperforming the benchmark return of 4.25%.
- For the year ending 9/30/2020, ACERA's Real Estate portfolio is valued at \$ 608.132 million, representing 7.0% of the Total Fund. The Real Estate Market Value and Unfunded Commitment \$681.05 million, representing 7.84%.

7. CA Gov. Code § 7514.7 Alternative Investment Vehicles Information Report

- Staff presented its annual CA Gov. Code § 7514.7 Alternative Investment Vehicles Information Report to the Investment Committee.

TRUSTEE/PUBLIC INPUT

None

FUTURE DISCUSSION ITEMS

None

ESTABLISHMENT OF NEXT MEETING DATE

Wednesday, January 13, 2021 at 9:30 a.m.

Adjournment into Closed Session

1. Consider the Purchase or Sale of a Particular, Specific Pension Fund Investments (CA Gov. Code § 54956.81)

Reconvene into Open Session to Report on Action Taken in Closed Session

The Committee reconvened into open session at 12:35 p.m. and announced that no reportable action was taken.

ADJOURNMENT

The meeting ended at 12:38 p.m.

December 17, 2020
Governance Committee Minutes
For approval under January 21, 2021
Board “Consent Calendar”

CONSENT CALENDAR

**Approve Staff Recommendations regarding
First 5 Alameda County's New Pay
Items/Codes PTO Term Payout T2 – PP2 and
PTO Term Payout T4 – PP4**



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: December 17, 2020

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Exclusion of Two New Pay Items/Codes from “Compensation Earnable” and “Pensionable Compensation” – First 5 Alameda County**

First 5 Alameda County (First 5) requested that new pay items/codes PTO Term Payout T2 – PP2 and PTO Term Payout T4 – PP4 be reviewed to determine whether they qualify as “compensation earnable” and “pensionable compensation”.

These pay items/codes are effective October 4, 2020, and replace the existing pay item/code PTO Paid Time Off – Term. Any regular full-time or part-time employee is eligible to receive this pay item when the employee terminates employment with a remaining balance of Paid Time Off hours. This pay item is for accrued unused Paid Time Off hours, and is paid to the employee at the time of termination.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that the pay items/codes do not qualify as “compensation earnable” (for Legacy members), or “pensionable compensation” (for PEPRA members).

All cash outs and termination pays are excluded from “pensionable compensation”, based on Government Code Section 7522.34(c)(4)(5). Regarding “compensation earnable,” Government Code Section 31461(b)(4) excludes: “Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.” Since these pay items/codes are “payable” only at termination, and First 5 employees cannot cash out unused paid time off during service under any other pay codes, they are excluded from “compensation earnable.” The two relevant Government Code sections are attached for the Board of Retirement’s (Board) reference.

Staff informed First 5 that its determination will be included on the Board’s consent calendar for its December 17, 2020 meeting. If this item is not pulled from the consent calendar for discussion, then the Board will approve Staff’s determination to exclude pay items/codes PTO Term Payout T2 – PP2 and PTO Term Payout T4 – PP4 from “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’S REVIEW
OF A NEW PAY ITEM/CODE

Employer Name: First 5 Alameda County Date: 10/8/2020

Contact Person/Employer (include title/position): Steven Quach, Payroll & Finance Manger

Contact Person Telephone: 510-227-6997

Email: steven.quach@first5alameda.org

Pay Item Name (and code number): “PTO Term Payout T2” Pay Code Number: PP2

“PTO Term Payout T4” Pay Code Number: PP4

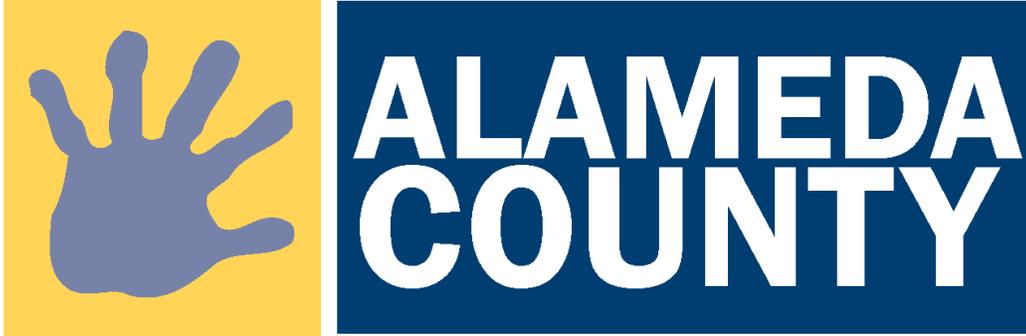
The following information is required before ACERA can review and respond to your request. Please provide substantive responses on separate paper and return with this form prior to issuing (paying) the pay item to any employee who is an ACERA member.

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). Any regular F5 Alameda County employee with Paid Time Off hours at termination.
2. State employment status of employees eligible to receive the pay item (i.e., full time employees, part time employees) Either full-time or part-time employees may receive this pay item.
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”) Any F5 employee is eligible to receive this pay item provided that he or she has a balance greater than zero at the time of termination.
4. State whether pay item is for overtime or regular base pay. The pay item would be for regular base pay.

5. State whether pay item is calculated as a fixed amount or percentage of the base pay. This pay item is calculated by multiplying the number of Paid Time Off hours by the base pay rate.
6. State whether the pay item is paid one time (i.e., incentive pay, referral pay, bonus, award). This pay item would be paid whenever an employee terminates and has a Paid Time Off balance greater than zero.
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 nonworking 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) The pay item is not a 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). Regular employees working full-time (40 hours/week) or part-time may receive this pay item. Part-time employees earn prorated Paid Time Off hours based on their FTE.
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). This pay item is not for work performed outside regular work week.
11. State whether the pay item is for deferred compensation. Pay item is not for deferred compensation.
12. State whether the pay item is for retro payments. Pay item is not 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). Yes, this pay item is for accrued unused Paid Time Off hours.
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. It is not.
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). This pay item is not severance. It is paid with the employee's final paycheck.

16. State whether the pay item is paid in one lump sum or bi-weekly (or over some other time period-monthly, quarterly, annually). The pay item is a lump sum based on the number of Paid Time Off hours the employee has at termination.
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). Any regular full-time or part-time employee who has Paid Time Off hours available at the time of termination.

FIRST 5



Employee Handbook

Revised October 2019

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Welcome

Welcome to employment with First 5 Alameda County (F5AC). Through the efforts of our employees, F5AC has established itself as a leading organization in our community and we are excited to have you join our team.

Our vision and mission, along with our strategic plan, guide our work. To ensure our continued success, all employees also need to understand our policies and procedures. This Handbook contains important F5AC information including a summary of our policies, benefits, and work expectations. We encourage you to use it as a reference throughout your employment with us.

If you have any questions, please do not hesitate to ask either your supervisor or our Human Resources team.

Sincerely,



Kristin Spanos, Chief Executive Officer

Our Vision

Every child in Alameda County will have optimal health, development and well-being to reach their greatest potential.

Our Mission

In partnership with the community, we support a county-wide continuous prevention and an early intervention system that promotes optimal health and development, narrows disparities and improves the lives of children aged 0 to 5 years and their families.

Part One: Introduction

This handbook is designed to help you familiarize yourself with important information about First 5 Alameda County (“F5AC”), and information regarding your own privileges and responsibilities as employees.

It is not possible to anticipate every situation that may occur in the workplace or to provide information that answers every possible question. Also, future circumstances may require changes in the policies, practices, and benefits described in this handbook. Accordingly, except for the principle of At-Will Employment relationship with its employees, F5AC reserves the right to modify, rescind, supplement, or revise any provision in this handbook. While F5AC makes reasonable efforts to provide you with advance notice of any modifications or revisions to the handbook, and distributes updated pages as revisions are made, advance notice of policy changes may not always be possible. Changes to policies apply to F5AC employees on their effective date.

This handbook is not intended to be a contract. The policies and procedures in this handbook are intended to and do replace all previous employee policies, practices, and guidelines.

All employees are expected to comply with all policies in this handbook. Employees who fail to comply with any policy will be subject to discipline, up to and including immediate termination.

Any questions regarding the contents of this handbook may be addressed to your supervisor or to the Human Resources Administrator.

At-Will Employment

Employment with F5AC is “at will.” This means that the employment relationship is not for any specified period and can be terminated by either the employee or F5AC at any time with or without any particular reason, with or without cause, and with or without advance notice. Nothing contained in these policies is intended to, or should be construed to, alter the at-will relationship between F5AC and its employees. Although other terms, conditions and benefits of employment with F5AC may change, the at-will relationship of employment is one aspect that cannot be changed except by an agreement in writing with the F5AC Commission, signed by the chair of the board on behalf of the entire board, and by the employee.

Equal Opportunity

F5AC affords equal opportunity in all aspects of employment to all people without discrimination on the basis of race, religion (including religious dress or grooming), creed, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, national origin, ethnicity, ancestry, citizenship, age, physical or mental disabilities, color, marital status, registered domestic partner status, sexual orientation, gender identity or expression, genetic information, medical condition, military or veteran status, exercise of rights under the Pregnancy Disability Leave Law or the California Family Rights Act, or any other basis protected by applicable law. This policy applies to all employees and applicants for employment, and extends to all phases of employment, including but not limited to: recruitment, hiring, training, promotion, discharge or layoff, rehiring, compensation, and any benefits.

Reasonable Accommodation for Protected Disabilities

F5AC complies with the employment-related reasonable accommodation requirements of applicable law, including the obligation to engage in the interactive process to identify possible reasonable accommodations for employees and applicants with disabilities. Employees or applicants who wish to request a reasonable accommodation should make this request to the Human Resources Administrator. Alternatively, employees may make their request to their direct supervisor, who will be responsible for communicating the request for accommodation to Human Resources.

Any complaints or concerns regarding reasonable accommodation should be directed promptly to the Human Resources Administrator.

Policy Prohibiting Harassment & Discrimination

Harassment and discrimination in employment on the basis of sex (including pregnancy, childbirth, breastfeeding, or related medical condition), gender, race, color, national origin, ancestry, citizenship, religion, creed, age, physical or mental disability, medical condition, sexual orientation, gender identity or gender expression, military or veteran status, marital status, registered domestic partner status, genetic information, or any other protected basis (collectively the “Protected Characteristics”) is unlawful under federal and state law. All employees are entitled to work free of discrimination or harassment based on any Protected Characteristic. The law prohibits all employees (including coworkers, supervisors, and managers), as well as third parties the employee comes in contact, from engaging in this prohibited conduct. Accordingly, F5AC does not tolerate discrimination or harassment in the workplace or in a work-related situation. Unlawful discrimination and harassment is a violation of the F5AC's rules of conduct.

Unlawful harassment in employment may take many different forms. Some examples are:

- **Verbal conduct** such as epithets, derogatory comments, slurs, or unwanted comments and jokes;

- **Visual conduct** such as derogatory posters, cartoons, drawings, or gestures;
- **Physical conduct** such as blocking normal movement, restraining, touching, or otherwise physically interfering with work of another individual;
- **Threatening or demanding** that an individual submit to certain conduct or to perform certain actions in order to keep or get a job, to avoid some other loss, or as a condition of job benefits, security, or promotion; and
- **Retaliation** by any of the above means for having reported harassment or discrimination, or having assisted another employee to report harassment or discrimination.

Sexual harassment under these laws includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of conduct by an individual is used as the basis for employment decisions affecting such individual; or
- conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Internal Complaint Procedure

Discrimination and harassment are not tolerated. In addition, F5AC prohibits retaliation for making a report, and/or participating in the reporting or investigative process, under this policy. Violation of this policy will result in disciplinary action up to, and including, immediate discharge.

Any individual who believes they are the object of harassment or discrimination on any prohibited basis, or who has observed harassment or discrimination, or who believes they have been subjected to retaliation, should notify their supervisor, F5AC's Human Resources Manager, or any supervisor or manager. Supervisors who receive a complaint under this policy will report it to Human Resources. F5AC will conduct a fair, timely, and thorough investigation, and will do so in a confidential manner, to the extent possible. The investigation will be performed by impartial and qualified people and will be appropriately documented. Following the investigation, F5AC will take action as is warranted under the circumstances and will timely close the matter.

External Agency Complaint Procedure

Both the state and federal governments have agencies to address unlawful discrimination in the workplace. If an employee believes they have been harmed by an unlawful practice and is not satisfied with F5AC's response to the problem, they may file a written complaint with these agencies. For the State of California, the agency is called the Department of Fair Employment and Housing ("DFEH"). The local address for the DFEH is 2218 Kausen Drive, #100, Elk Grove, California 95758. For the federal government, the agency is called the Equal Employment Opportunity Commission ("EEOC"). The local address for the EEOC is 1301 Clay Street, #1170, Oakland, California 94612.

If, after an investigation and hearing, either of these agencies finds that unlawful discrimination has occurred, the injured employee may, depending on the circumstances, be entitled to reinstatement or promotion, with or without back pay.

Retaliation

Retaliation against any individual for making a report, or for participating in an investigation, under this policy is strictly prohibited. Individuals are protected by law and by F5AC policy from retaliation for opposing unlawful discriminatory practices, for filing an internal complaint under this policy or for filing a complaint with the DFEH or EEOC, or for otherwise participating in any proceedings conducted by F5AC under this policy and/or by either of these agencies.

Part Two: Employment and Hiring Policies

Work Eligibility

Employees who will be working alone with children are required to be fingerprinted prior to employment. Employees who will work directly with families are required to pass a TB test prior to employment, and periodically during employment.

California law requires that certain employees must report suspected child abuse or neglect to a child protective agency. Consistent with F5AC's mission to improve the lives of children and their families, all F5AC employees are considered mandated reporters. Employees are provided with training on these reporting procedures during their introductory period.

Introductory Period

The introductory period is typically the first one hundred eighty (180) days following the start of employment at F5AC. During this period, performance is carefully evaluated and a determination is made regarding whether the employee's job performance is sufficient to pass the introductory period. An employee's successful completion of the introductory period does not alter the employee's "at will" status and does not guarantee continued employment for any time period. Under certain circumstances and at its sole discretion, F5AC may extend an employee's introductory period for up to an additional 90 days.

Notwithstanding the introductory period, because your employment is at-will, it may be terminated by you or by F5AC, at any time during or after your introductory period, for any reason or no reason, with or without cause, and with or without advance notice.

Employee Classifications

Employees are placed into classifications based on job description, job duties, and applicable wage/hour laws.

- Exempt Employee: An executive, administrative, or professional employee who is exempt from the overtime pay requirements of applicable law.
- Non-exempt Employee: An employee (generally paid by the hour) who is eligible to receive overtime pay for overtime hours actually worked.
- Regular Full-Time Employee: An employee who is regularly scheduled to work forty (40) hours or more per workweek.
- Regular Part-Time Employee: An employee who is regularly scheduled to work at least twenty (20), but fewer than forty (40) hours per workweek.
- Temporary Employee: An employee who is hired on a full- or part-time basis for a specified period, usually not to exceed twelve (12) months.
- Intern: A temporary employee hired on a full- or part-time basis for a specified period, usually not to exceed twelve (12) months, to further a degree, and usually attached to an accredited University program.
- On-Call Employee: An employee who is not regularly scheduled to work a specified number of hours in any given workweek, but who is called in to work on an as-needed basis.

All employees are classified as: 1) exempt or non-exempt; 2) as regular, introductory, temporary, or on-call; and 3) as part-time or full-time. These classifications determine, e.g., eligibility for benefits, compensatory time, and overtime.

Changes in employee classification may occur when a significant job change occurs (for example, a promotion or a change in work hours, etc.) intended to last for more than four (4) months.

Job Postings

F5AC attempts to find the most qualified candidates to fill position vacancies. This is generally accomplished through a combination of internal and external recruiting. Consideration is given to the advancement of current employees. Employees are encouraged to apply for promotions or transfers for which they are qualified.

Open F5AC positions are posted through the HR system and typically announced by F5AC email. Internal postings may occur simultaneously with external postings. F5AC determines when to fill positions from within or to hire externally.

Only the Human Resources Administrator and the Chief Executive Officer have the authority to extend job offers. All employment offers are made in writing.

Hiring Relatives

Employees' or Commissioners' relatives may apply for F5AC positions. To avoid conflicts of interest, or appearances of conflicts, F5AC established these guidelines:

- Employees & Commissioners may not conduct a job interview or make employment-related decisions involving relatives.
- Employees may not supervise relatives under any circumstances.

The definition of "relative" for purposes of this policy is the employee's:

- Spouse/domestic partner
- Child, or spouse's or domestic partner's child (natural child, legally adopted child, or a child for whom the employee, spouse, or domestic partner has been awarded court-appointed legal guardianship)
- Parent or spouse's/domestic partner's parent
- Sibling or sibling's spouse/domestic partner
- Any other individual living in the same household as the employee

It is expected that all employees, regardless of any relationship status, will conduct themselves professionally in their interactions with each other and with other employees working at F5AC.

Part Three: Employee Development

Performance Management

Effective performance management is critical to our success. Employees need to know our expectations to carry out our strategic plan and achieve our mission. Supervisors are expected to provide ongoing, timely feedback and coaching to their team so that employees know how they are doing and to address any performance issues. Employees are expected to engage in dialogue with their supervisor to ensure a clear understanding of performance expectations and to identify any areas needing improvement.

Each employee's performance is formally reviewed at the end of the introductory period, and on an annual basis thereafter, to coincide with the approximate anniversary of the employee's start date with F5AC (or the anniversary date of any subsequent change in position). Performance review guidelines are provided by Human Resources for supervisors and employees to follow during the process.

Completed performance reviews, signed by the employee, supervisor and Human Resources Administrator, are placed in the employee's file. Employees may keep a copy of their review and may comment on the review in writing.

If an employee's overall performance is rated as less than satisfactory, or specific areas are identified that need improvement, the supervisor should develop a written performance improvement plan for the employee. Performance improvement plans should include specific goals for improvement along with the strategies and timeline to improve performance. Supervisors are required to work with the Human Resources Administrator when any performance issues are identified that require a written improvement plan.

Professional Development

F5AC encourages professional growth for all employees and has created the Staff Development and Training Program. The development and training team surveys staff on topics of interest and engages local trainers to present trainings that support employees' desired growth. These trainings are offered free to employees and require supervisor approval to attend. Supervisors are encouraged to allow employees to attend these trainings as work requirements allow.

In addition to trainings through the Staff Development & Training program, employees may request up to \$500 per year to spend on their own professional development needs. Employees may request to use these funds for trainings, seminars, courses, webinars and conferences that are approved in advance by their supervisor but are not necessarily required for their particular job. Professional development books, CDs, other materials, licenses or certifications may also be requested by an employee for professional development funds.

Supervisor and Human Resources approval is required prior to payment or reimbursement of professional development funds. Detailed information about submitting professional development requests can be found in F5AC's Procedures Manual.

Part Four: Employee Benefits

Health Insurance

Employer Sponsored Health Insurance (medical, dental and vision insurance) is offered as part of the benefits package to regular, full-time employees and regular, part-time employees who regularly work 20 hours or more per week. F5AC contributes to the cost of premiums for the employee, spouse/domestic partner and/or eligible dependents, up to an amount determined annually by F5AC. If an employee chooses health insurance that costs more than the employer contribution, the balance of the cost is paid by the employee on a pre-tax basis through payroll as applicable by law. The employer contribution is only used to offset the health premiums and may not be used for other purposes or paid out to employees. F5AC's share of benefit costs for part-time employees is pro-rated to the percent of time the employee is regularly scheduled to work.

Temporary employees with temporary assignments lasting more than 60 days who regularly work 30 or more hours per week and their eligible family members are offered health insurance. For these eligible temporary employees, F5AC covers the same amount of employer share of premiums as it does for regular employees. Any balance of premium costs is paid by the eligible temporary employee on a pre-tax basis through payroll. Temporary employees who work fewer than 30 hours per week and have temporary assignments lasting fewer than 60 days are not eligible for F5AC health insurance.

F5AC reserves the right to change medical, dental and vision insurance plans and benefits under those plans, to change the employer share of premium payments for the plans, or change the amount it pays employees who opt out of the plan(s) (see "Payment in Lieu" section), with or without notice, consistent with any legal obligations it may have. In general, the employer share of premiums is determined prior to each Open Enrollment period.

For the purposes of health insurance coverage, "eligible dependent" is defined as spouse or domestic partner and eligible dependent children who are up to age 26.

A dependent child is covered for health insurance through the end of the month when they turn 26. Dependent Life Insurance covers full-time students up to age 24.

Flexible Spending Accounts

All regular employees may enroll in F5AC's flexible spending account ("FSA") program, which allows employees to set aside pre-tax dollars to be used for eligible medical or dependent care expenses. The IRS determines annual election limits and provides a comprehensive list of reimbursable expenses.

Carefully estimate your expenses when making an FSA election. FSA plans are "Use it or Lose it" plans and reset each calendar year. Our Health Care FSA allows employees to carryover up to \$500 from one plan year to the next. If your balance exceeds \$500, that amount will be forfeited.

COBRA Insurance Continuation

When insurance ends, employees and covered dependents may have certain rights to remain on the insurance plan at their own expense through COBRA. More information regarding COBRA coverage, costs, and administrative procedures is available from Human Resources.

Employees who experience a "qualifying event" (e.g. marriage, divorce, adoption) must provide written notice to Human Resources within 60 days after the qualifying event occurs.

Payment in Lieu

Regular employees may choose not to enroll in employer sponsored health insurance if they have proof of medical insurance through another source. Regular employees who sign a waiver receive a "Payment in Lieu" of benefits at a set rate each pay period (pro-rated for part-time employees to the percent of time regularly scheduled to work). This amount is reviewed annually, generally prior to each Open Enrollment period, and F5AC reserves the right to change the amount. Payment in Lieu is subject to state and federal taxes.

Temporary employees who are offered health insurance and choose not to enroll are not eligible to receive a payment in lieu.

Flexible Benefit Credit

All regular, full-time employees receive an Annual Flexible Benefit Credit ("Flex Credit") per calendar year. This amount is reviewed annually, generally prior to each Open Enrollment period, and F5AC reserves the right to change the amount of the Flex Credit. Part-time, regular employees' Flex Credit is pro-rated based on the percent of time regularly scheduled to work. The Flex Credit may only be applied to the cost of pre-tax plans.

After applying the Flex Credit to pre-tax plans, the remaining balance is paid to employees as a taxable earning.

Life Insurance

Regular employees who work 20 or more hours per week are eligible to apply for basic \$25,000 life and accidental death and dismemberment insurance benefit paid for by F5AC. Employees may also elect supplemental coverage at their own expense, with premium payments made on a pre-tax basis through payroll under F5AC's Cafeteria (Section 125) Plan. Additionally, employees may elect supplemental life insurance for their spouse/domestic partner and/or

dependent children at their own expense. These premiums are paid on an after-tax basis through payroll deduction.

Alameda County Employees Retirement Association (ACERA) Pension Plan

All regular, full-time employees are required to become members of ACERA, a defined benefit retirement pension plan for public employees in Alameda County.

- Participating employees are required to make a pre-tax retirement contribution to ACERA through payroll deduction. Contribution rates are set by ACERA and are subject to change each year.
- Part-time or temporary employees are not eligible to become members of ACERA.
- Full-time employees who convert to part-time or temporary status are required to continue ACERA membership.
- Additional information about ACERA is available from Human Resources or can be found at the ACERA website: <http://www.acera.org>.

457 Deferred Compensation Plan

Regular, full-time and regular, part-time employees may participate in the Alameda County Deferred Compensation Plan. Pre-tax or Roth (after-tax) contributions are made through paycheck deduction. The plan offers a variety of investment options employees can select. Employees may enroll or change their deferred compensation election at any time during the year; however, any requested changes will not be effective until the month following receipt of the requested change. For more information, contact Human Resources or visit www.acgov.org/treasurer/deferred.htm.

Workers' Compensation

F5AC pays for workers' compensation insurance as required by law to protect employees who are injured on the job. This insurance provides medical, surgical, and hospital treatment to qualifying employees, in addition to compensation for a percentage of loss of pay resulting from work-related injuries or illness.

You must immediately report any work-related injury to your supervisor, regardless of how minor the injury may seem. Contact Human Resources with Questions concerning our workers' compensation coverage.

Additional Benefits

F5AC offers additional benefits to all regular employees working 20 or more hours per week including Long-Term Disability, Employee Assistance Program, Commuter Benefits and an Employee Discount Program. Enrollment and eligibility information is available from Human Resources.

Part Five: Paid Time Off

Vacations

F5AC provides paid vacation time to certain eligible employees so that they may take time off to relax, recuperate and recharge. Regular full-time employees earn paid vacation time on the following schedule, beginning on their hire date:

<u>Service Year</u>	<u>Total Possible Annual Accrual</u>
1–3 years:	10 days each calendar year (80 hours)
4–10 years:	15 days each calendar year (120 hours)
11-20 years:	20 days each calendar year (160 hours)
21+ years	25 days each calendar year (200 hours)

Regular part-time employees who are regularly scheduled to work twenty (20) or more hours per week earn paid vacation time on a pro-rated basis based on the number of hours worked per week. Certain long-term temporary employees may be eligible to accrue vacation, if approved in writing by the CEO. No other employee classifications are eligible for this benefit.

Accrued vacation time cannot be taken until three months after your first day of employment.

Employees may accrue vacation time up to two (2) times their annual accrual. For example, an employee with five years of service may accrue up to a maximum of 30 days of accrued vacation time. After reaching this accrual cap, the accrual stops until vacation time is taken to reduce the employee's balance to below the cap. Any unused vacation time is rolled over into the following year, up to the cap.

All vacation time must be requested through the HR system, typically 4 weeks in advance, and is subject to approval from your direct supervisor. Please note that F5AC may not be able to approve all time off requests due to organizational needs.

F5AC encourages employees to use their accrued vacation time. Employees may, however, request to receive a vacation pay-out for some of their accrued, unused vacation in lieu of taking paid time off work. Vacation pay-out is limited to the number of hours that an employee accrues in one calendar year under this policy, and employees who request a vacation pay-out are required to have a minimum of one year's accrual remaining after the pay-out.

When ending employment for any reason, employees are paid for any accrued, unused vacation.

F5AC does not pay employees for vacation time before it is accrued.

Holidays

F5AC generally observes the following holidays:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Veterans' Day
Lincoln's Birthday	Thanksgiving Day
Washington's Birthday	Friday after Thanksgiving
Memorial Day	Christmas Day through New
Independence Day	Year's Day (included)

Full-time regular employees are provided a paid day off for each F5AC-recognized holiday. Part-time regular employees and employees with a flexible work schedule who are regularly scheduled to work on one of the above identified holidays are paid for that holiday up to the number of hours they are regularly scheduled to work. Certain long-term temporary employees may be eligible for paid holidays, if approved in writing by the CEO. No other employee classifications are eligible for this benefit.

Employees on approved paid vacation at the time a holiday occurs will not have that day counted as vacation pay but will instead receive holiday pay as described above.

Paid Time Off (PTO)

All regular full-time employees receive 56 hours (7 days) of paid time off (PTO) each year in addition to vacation and paid sick leave and F5AC's regular holidays. PTO allows employees to have additional paid leave to cover absences for personal reasons such as religious observances. Eligible employees receive 56 hours of PTO on January 1 each year; eligible

employees hired during a calendar year receive a PTO allocation at the time of hire that is prorated based on the hire date. Eligible employees may request to use PTO on or following the day that it is received, including new employees who may request to use PTO during their introductory period. Requests to use PTO should be submitted as soon as possible. Please note that F5AC may not be able to approve all time off requests due to organizational needs.

Part-time employees are granted pro-rated PTO hours based on their regular part-time schedule.

No other classification of employees receives PTO.

The total amount of PTO an employee may have in their account at any time is 56 hours (or the pro-rated amount described above for part-time employees). If an employee has the maximum amount of PTO remaining in their account on next January 1, no additional PTO will be granted for that year.

When the employment relationship ends, employees will be paid out for any unused PTO in their final paycheck.

Paid Sick Time

Paid sick time provides employees with paid time off to recover from illness or injury, to care for medical needs of family members, or for any other reason permitted by law, including for an employee who is a victim of domestic violence, sexual assault or stalking to obtain relief, such as medical attention and psychological counseling. For purposes of this section "family member" means mother, stepmother, father, stepfather, husband, wife, domestic partner, son, stepson, daughter, stepdaughter, grandparent, grandchild, brother, sister, foster parent, foster child, mother-in-law, and father-in-law, or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, a brother-in-law or sister-in-law.

Sick time may also be used for health care appointments for the employee or an employee's family member.

Eligible regular full-time employees may accrue sick time at the rate of .5 days (4 hours) per pay period of service for a total possible accrual of thirteen (13) paid sick days per year. Regular part-time employees accrue sick time on a pro-rated basis, based on the number of hours they are regularly scheduled to work. Employees may use accrued sick time during their introductory period, beginning on their hire date, and may use paid sick time as soon as it accrues.

Temporary employees, whether full-time or part-time, are provided with three days (24 hours) of sick time at the time of hire. Temporary employees may not use sick time until their ninetieth (90th) day of employment.

Regular full-time and part-time employees' accrued, unused sick time may be carried over from one year to the next, and there is no limit to their sick time accrual. Sick time balances for temporary employees may not be carried over to the next year. Instead, temporary employees receive a new grant of three days (24 hours) of paid sick time every January 1.

No payment is made for accrued, unused sick time at termination or at any other time. However, regular employees who are rehired within twelve (12) months will have their sick leave balance at the time of separation reinstated. Temporary employees who are rehired within 12 months from their date of separation will also have their sick leave balance reinstated and will be provided with three days of sick time, as described above, up to a combined maximum of six (6) days of sick time.

Employees are responsible for directly notifying their supervisor prior to the start of the business day (or no later than one hour following their regularly scheduled start time) when prevented from starting or continuing a workday due to illness or injury. Employees must also keep their supervisor informed about the expected duration of the time away from work.

In most circumstances, a doctor's statement is required when an employee uses more than five (5) consecutive days of sick time (either for themselves, or to care for an ill family member) or when an accumulation of absences seems to establish (in the supervisor's judgment) a problematic use of sick time. However, F5AC may request medical verification of the need for any use of sick time, regardless of duration.

If sick leave is exhausted and additional time off for medical reasons is needed, employees may request or be required to use vacation and/or PTO leave, or may be granted unpaid time off. Such requests must be approved by F5AC.

F5AC County does not make any advance payments of sick time (e.g., employees may not use sick time before it is accrued). F5AC may give time off without pay to an employee who needs time off due to personal or family illness or injury as allowed above and who has exhausted their accrued paid leave (sick, PTO, and vacation).

Jury or Witness Duty

Leave is granted for an employee to serve jury duty or witness duty in response to a summons or subpoena. Regular, full-time and part-time employees receive paid time off for a maximum of two weeks when required to serve jury or witness duty (part-time employee's Jury or Witness Duty pay is pro-rated based on the percent of time regularly scheduled to work). If additional leave is required beyond the two-week period, or if the employee is not eligible to receive paid jury duty time, leave will be provided as unpaid time off. The employee serving unpaid jury/witness duty may use accrued vacation and/or PTO time during the unpaid portion of the leave.

Proof of attendance from the court is required to receive jury/witness duty pay. When an employee is excused from jury or witness duty in time to work for half or more of the normal work day, the employee is required to work the rest of that day.

Bereavement Leave

Time off with pay due to a death in the immediate family of a regular full-time employee may be granted for a period up to five days per occurrence. Regular part-time employees may be granted bereavement leave pro-rated based on the percent of time regularly scheduled to work. "Immediate family" means mother, stepmother, father, stepfather, husband, wife, registered domestic partner, son, stepson, daughter, stepdaughter, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, foster parent, foster child, mother-in-law, and father-in-law, or any other person sharing the relationship of in loco parentis with the employee. Temporary employees may request unpaid time off for bereavement leave. Please contact Human Resources if you need to take Bereavement Leave.

State Disability Insurance (SDI)

F5AC employees who are unable to work due to illness, injury, or pregnancy disability may be eligible for disability benefits through State Disability Insurance (SDI) for the time they are unable to work. SDI is an employee paid benefit that provides to employees deemed eligible by the state partial replacement of wages lost because of a disability not caused by work. The determination of benefits is up to the state Employee Development Department (EDD). The first seven calendar days of an employee's absence are considered a "waiting period," and SDI benefits are generally not paid during that period. Information and claim forms are available from the local EDD office or the EDD website.

Paid Family Leave (PFL) & Paid Parental Leave

The state-administered Paid Family Leave (PFL) insurance program is an employee-paid benefit that provides to employees deemed eligible by the state partial wage replacement when an employee is taking approved time off work to care for a seriously ill family member (as defined by the state), or to bond with a newborn or newly-placed child.

The state Employee Development Department (EDD) determines your benefits. Information and claim forms are available from the local EDD office, or from the EDD website.

As a special benefit to regular employees, F5AC offers additional parental leave compensation. When a regular employee is taking an approved leave to bond with their newborn, an adopted child or a child placed in foster care, the regular employee is compensated up to 100% of their regular pay for the period they are also receiving PFL benefits. Employees requesting this special additional compensation must provide the PFL Notice of Computation from the EDD to Human Resources.

Coordination of Benefits

If an employee is receiving State Disability Insurance (“SDI”), Paid Family Leave (“PFL”) or Workers’ Compensation benefits, and the employee has not exhausted their accrued paid benefits from the employer, F5AC will coordinate the outside paid benefit with the employee’s accrued paid benefit (to the extent permitted by law) so that total compensation does not exceed the employee’s regular wages for that pay period. Employees must communicate the outside benefit amounts and dates paid to Human Resources.

Part Six: Leaves of Absence

F5AC provides unpaid leaves of absence to eligible employees in a variety of circumstances. Information concerning legal requirements applicable to legally-required leaves of absence is posted in the workroom. Employees who are considering requesting a leave of absence are encouraged to meet with the Human Resources Administrator as early as possible to discuss the details of the leave and to coordinate the integration of benefits and payroll.

Employees may request a leave of absence without pay for reasons including, but not limited to: personal or family illness, qualifying exigency arising from a call to active duty, or justifiable personal or other reasons, or any reason required by law. “Without pay” means that F5AC does not pay for time on leave, other than the accrued, unused vacation, PTO, and/or paid sick leave that the employee uses consistent with F5AC policies. The employee must submit a written request to their supervisor as far in advance of the leave as possible. Generally, no benefits or seniority will accrue during any unpaid portion of the leave. Human Resources will explain to employees requesting unpaid leave how to continue health plan coverage while on a leave of absence.

The Following General Information is Applicable to All Unpaid Leaves:

Leave Requests

As soon as an employee learns of the need for a leave of absence, the employee should submit a written leave request to Human Resources. Request forms are available from Human Resources and on the F5AC intranet. If the need for the leave is foreseeable, employees are required to provide at least 30 days’ advance notice. Approval of the leave may be delayed if timely notice is not provided. If the employee learns of the need for leave less than 30 days before the leave is needed, the request must be made as soon as possible.

Medical Certification

Human Resources will notify the employee if medical certification is required for a requested leave to be approved. If the reason for leave is the employee's own injury or illness, medical certification of the employee's ability to return to work, with or without any work restrictions, at the conclusion of the leave is required before the employee will be permitted to return.

Concurrent Leaves

If an employee is on a leave that qualifies under more than one law (e.g. leave for a serious health condition under the FMLA/CFRA that is also a Workers' Compensation injury), the leave time will run concurrently to the extent permitted by law.

Unpaid Leaves

The most common types of unpaid leaves are described below. Please see Human Resources for additional information about any leaves, or if you have a need for leave that is not covered by the descriptions below.

Family/Medical Leave under the Family Medical Leave Act and California Family Rights Act ("FMLA"/"CFRA")

Eligible employees may request an unpaid leave of up to 12 workweeks in a rolling 12-month period for any of the following reasons:

- To care for the employee's child after birth, or following placement for adoption or foster care ("baby bonding");
- To care for the serious health condition of the spouse, registered domestic partner, child, or parent of an employee;
- For the employee's serious health condition; or
- To handle "qualifying exigencies" arising out of the fact that the employee's spouse, registered domestic partner, child, or parent is on active duty, or is called to active duty, in support of contingency operations as a member of the National Guard or Reserves.

In addition, eligible employees may be entitled to take a leave of up to 26 weeks in a 12-month period to care for a spouse, registered domestic partner, parent, child, or next-of-kin who has sustained serious illness/injury in the line of military duty.

Eligible employees are those who have at least one year of service with F5AC, and who have worked at least 1,250 hours in the 12 month period before the date the requested leave will begin.

Generally, employees taking FMLA/CFRA leave must use accrued paid sick (if applicable), PTO, and vacation time during the leave. The exceptions to this are:

- Employees on FMLA/CFRA leave for their own serious health condition and who are receiving temporary disability benefits (e.g., SDI) or workers' compensation benefits may elect to use their paid leave to supplement their disability benefit up to an amount that, when combined with the disability benefit, does not exceed their regular pay for the pay period.
- Employees taking leave to care for a family member or for baby bonding are required to use accrued vacation or PTO. They are not required to use accrued sick leave.
- Employees on leave for pregnancy disability concurrently to FMLA may elect to use PTO or vacation time during the leave.

Employees on approved FMLA/CFRA leave retain their employer-paid health insurance.

When an authorized FMLA/CFRA leave expires, employees will return to the same or to a comparable position to the extent required by law.

Non-FMLA/CFRA Medical/Family Leave

Employees who are not eligible for leave under the FMLA/CFRA may nonetheless request a leave for any of the reasons allowed for FMLA/CFRA leaves. The employee must provide evidence of one of the reasons for leave as stated in the FMLA/CFRA and provide 30 days' notice if the need for the leave is foreseeable.

If approved, in most cases, leaves of this type will not exceed a maximum duration of eight (8) work weeks within a rolling 12-month period. Generally, employees must exhaust any and all accrued sick leave (if applicable), PTO, and vacation time during the leave.

An employee whose medical condition temporarily precludes them from working may request an unpaid medical leave of absence as a reasonable accommodation.

F5AC will generally require the employee to provide reasonable medical documentation from a health care provider verifying the employee's temporary inability to work. The duration of leave will depend on the circumstances involved, which F5AC will evaluate on a case by case basis. Employees on leave must exhaust accrued paid sick, PTO, and vacation time during the leave.

Employees who have active health insurance with F5AC at the time they request this leave, will continue to be covered by health insurance through the end of the month when the unpaid portion of their leave begins. Afterwards, employees may continue coverage under F5AC's group insurance plans at their own expense pursuant to COBRA.

When an authorized leave ends under this section, employees will be returned to the same, or to a comparable, position to the extent required by law.

Pregnancy Disability Leave ("PDL")

Employees who are disabled and unable to work due to pregnancy, childbirth, or a related condition are eligible to request a leave up to four months per pregnancy. PDL does not need to be taken all at once but can be taken on an as-needed basis as certified by the employee's health care provider.

Employees on PDL retain their employer-paid health insurance during their approved leave (e.g., up to a maximum of four months). Eligible employees who take CFRA leave for baby bonding (or other qualifying reason) following their PDL leave, may receive employer-paid health insurance for up to an additional 12 workweeks.

Employees returning from approved PDL will be returned to the same, or a comparable position, to the extent required by law.

Workers' Compensation Leave

Employees who are temporarily unable to work due to a job-related illness or injury may be eligible for a leave of absence until the earlier of the following:

- The employee is released to return to work; or
- The employee is determined to be permanently unable to return to their usual duties.

Employees must exhaust all accrued sick, vacation, and PTO during this leave. The exception to this is that employees receiving workers' compensation benefits whose leave runs concurrent with FMLA/CFRA leave are not required to use their paid leave but may elect to do so.

Employees who have active health insurance with F5AC at the time of their leave, and who do not have FMLA/CFRA leave running concurrently, will have health insurance coverage through the end of the month when the unpaid portion of their leave begins. Thereafter, employees may

continue coverage under F5AC's group insurance plans at their own expense pursuant to COBRA.

Employees returning from workers' compensation leave will be returned to the same, or a comparable position, to the extent required by law.

Personal Leave of Absence

F5AC may grant time off without pay to an employee, whether exempt or non-exempt, who needs time off for personal reasons and who has exhausted their accrued paid vacation and PTO leave. Time off granted in this circumstance, if any, is limited to a maximum of three (3) days. If an employee needs additional time away from work, the employee should request a Personal Leave of Absence.

F5AC may consider granting a personal leave of absence without pay. Personal leaves are limited to a maximum of two months in any two-year period (measured in a rolling 24-month period). Personal leaves may generally not be added to any of the previously described leaves.

All regular employees of F5AC who have completed their introductory period may request an unpaid personal leave of absence. Job performance, attendance, and work/program requirements are all taken into consideration before a request is approved. Requests for unpaid personal leave may be denied or granted by F5AC within the sole discretion of the Agency.

Personal leaves of absence must be requested in writing, and 30 days' advance notice is required if the need for leave is foreseeable. All requests must first be reviewed and recommended by your supervisor and the Human Resources Administrator and approved by your director.

Employees are required to exhaust any and all accrued sick (if applicable), vacation, and PTO time prior to requesting an unpaid personal leave of absence.

Employees who have active health insurance with F5AC at the time of their unpaid personal leave will have paid health insurance coverage through the end of the month when the unpaid portion of their leave begins. Thereafter, employees may continue coverage under F5AC's group insurance plans at their own expense pursuant to COBRA.

An employee is required to return from the personal leave on the originally scheduled return date. If the employee is unable to return, they must request an extension of the leave in writing within five (5) business days before expiration of the leave, explaining the reason for and requested duration of the additional leave sought. If the leave is not extended, the employee must return to work on the originally scheduled return date or be considered to have voluntarily resigned from employment. Extensions of leave are considered only on a case-by-case basis.

Upon expiration of an approved personal leave, the employee will generally be returned to the same or comparable position, but there is no guarantee of reinstatement following a personal leave.

Catastrophic Sick Leave Bank

An employee may be eligible to receive voluntary donations of paid leave from other employees if they have suffered a catastrophic illness or injury, or if they must care for an immediate family member (as defined in the Sick Time policy in this Handbook) who has suffered a catastrophic illness or injury. Catastrophic illness or injury is a critical, terminal medical condition or a long-term major physical impairment or disability that temporarily prevents the employee from working their usual hours, or from working at all.

The Catastrophic Leave (“CL”) Program is designed to be as confidential as possible and is strictly voluntary. Employees who donate benefits to the CL bank will be made aware of the value of their donation to the bank. The recipient of CL benefits will be made aware of the value of their benefits received from the CL bank. Individual donations, and the identities of donors and recipients of benefits, are confidential, will not be disclosed except on a need-to-know basis for administrative purposes.

Any regular F5AC employee working 20 or more hours per week is eligible to participate in the CL Bank, either by donating paid vacation leave, or by requesting a donation. The donor employee may donate accrued paid vacation time only. No other paid time off may be donated to the CL bank. The donor’s hourly value of paid vacation time donated will be converted into a dollar value and deposited into the bank. Subsequently, CL leave will be withdrawn from the bank and converted into paid sick hours to be granted to eligible requesting employees.

To be considered for a CL Bank donation, the requesting employee, family member of the requesting employee, or another person designated in writing by the requesting employee must submit a request for donation to Human Resources. Human Resources administers the Catastrophic Leave Bank.

The requesting employee must provide a medical verification of the employee’s qualification for this CL program, including an explanation of the employee’s work limitations and estimated date of return to work, if applicable. If the employee requesting CL benefits has left work to care for a critically ill family member, they must provide medical documentation confirming the critical illness/injury of the family member, the need for the employee’s care, and the expected duration of the care period is required for the family member.

The determination of whether to award employee donations from the CL bank will be at F5AC’s sole discretion and will be final (e.g., not subject to challenge).

While the CL bank donation request may be initiated prior to the anticipated date of the exhaustion of paid leave balances, the requesting employee is not eligible to receive and use donations when they have paid leave available. No retroactive requests will be permitted (e.g., employees will not be granted donations for time off already treated as unpaid leave). Exhaustion of paid leaves alone is not justification for requesting a donation from the catastrophic leave bank.

A requesting employee may be eligible to receive up to a total of 40 working days of donated CL time throughout the tenure of their employment. Donations are considered on a first-come, first-served basis. Donations from the bank may be received only if there are funds available in the bank.

Periodically, F5AC may notify all employees that they may choose to donate to the bank, particularly at year-end.

Donations are made in half day increments. Once the donation is made, and deposited in the CL Bank, it is a final transaction and cannot be retrieved by the donating employee. The maximum donation in a calendar year is ten donor days per employee, except spouses or registered domestic partners, both employed by F5AC, may donate unlimited amounts of paid vacation time between one another. In any case, donations that would result in vacation leave balances falling below 40 hours are not permitted.

Part Seven: Work Hours & Pay

Pay Periods

For all employees, the standard pay period is biweekly. Employees are paid every other Friday. If the payday falls on a Holiday, employees receive pay on the prior work day.

Work Schedules

The regular work schedule is from 8:30 a.m. to 5:00 p.m. Monday through Friday. Some employees may have different work hours and 9/80 Schedules if agreed in writing by the employee and their supervisor, and reviewed by Human Resources, subject to the demands and limitations of the job and department.

9/80 schedule

Any full-time employee scheduled to work at least 40 hours per week is eligible to request a 9/80 schedule. A 9/80 schedule allows an employee to work 9 days in a 2 week pay period: Five days on one calendar week and 4 days the following calendar week. Eight of the days are 9 hours and one day is 8 hours. Employees on this schedule receive one day off per 80-hour pay period. Employees approved for this schedule sign a written 9/80 agreement and cannot accumulate 9/80 days off. Hourly employees cannot change 9/80 days off. Exempt Employees may need to adjust their Flex days due to organizational needs or their manager's request.

Meal Periods

Non-exempt employees who work five (5) hours or more should take an unpaid lunch break of a minimum of thirty (30) minutes (up to one (1) hour if desired) towards the middle of their work day during which no work should be performed. When being relieved of all duties during lunch is not possible due to work requirements of F5AC, employees will be paid for their meal period. Employees may not skip meal breaks to shorten the workday without prior approval from their supervisor.

Timekeeping Requirements

Non-exempt employees must accurately complete and submit time sheets to be approved by their supervisor or manager for each pay period. Non-exempt employees record actual hours worked and any paid or unpaid leave taken during the period; non-exempt employees must report all hours worked and are prohibited from performing any work "off the clock."

Exempt employees should accurately complete a time sheet for each pay period showing their regular work schedule and any paid or unpaid leave taken.

Overtime Pay

F5AC provides overtime compensation to non-exempt employees for all hours worked in excess of 40 hours per workweek. All overtime must be approved in advance by the supervisor and the Director of Operations and Technology.

At the option of the employee, F5AC provides compensatory time off (CTO) as a substitute for overtime pay. For all hours worked in excess of 40 in the workweek, the employee receives CTO at the rate of one and one-half hours of paid time off for each hour of overtime worked, up to a maximum of 240 CTO hours. Any employee wishing to receive CTO under this policy must have a written CTO agreement on file with HR in advance of performing the overtime work. When the employee takes off the compensatory time earned will be determined between the employee and the supervisor; however, employees are encouraged to take compensatory time off as soon as possible after it is earned. F5AC will not unreasonably deny such requests.

Vacation, PTO, holiday, and sick time do not constitute hours worked for the purposes of computing overtime.

Bilingual & Trilingual Pay

If an employee is required by their job duties to use a second or third language at least 20% of the time on the job (in the sole determination of F5AC), the employee's supervisor may request that the employee be provided bilingual or trilingual pay.

Prior to any recommendation or approval for this special pay is made, the employee must first pass a language proficiency exam administered through F5AC's designated testing agency. A passing score is 70% and if the eligible employee passes the test, and F5AC approves, a taxable earning will be added to the employee's paycheck each pay period in an amount consistent with the Alameda County bilingual or trilingual pay rate.

Supervisors contact Human Resources to schedule testing for eligible employees. Supervisors must also confirm that the employee is continuing to use the second/third language at least 20% of the time and reauthorize bilingual/trilingual pay on an annual basis.

Part Eight: Workplace Health & Safety

Drug-Free Workplace

As part of F5AC's ongoing commitment to a safe and healthy workplace, we maintain a drug-free workplace. Any employee who reports to work while under the influence of drugs or alcohol runs the risks of endangering their safety and the safety of others, destruction of or damage to personal or F5AC property, and a loss of productivity and workplace morale.

All employees of F5AC are required to understand and comply with F5AC's drug-free workplace policy. Employees either in our offices or conducting business on behalf of F5AC regardless of location are prohibited from the following:

- Unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol or drugs
- Reporting to work, or working, while under the influence of alcohol or drugs.

If an employee is taking prescription or over-the-counter medications that may impair their ability to work safely, the employee should inform the supervisor of that fact prior to commencing work.

Smoking

Smoking, including the use of e-cigarettes, is prohibited in all F5AC offices, and while conducting F5AC business, regardless of location.

Part Nine: Work Practices and Environment

Punctuality & Attendance

If employees are unable to work as scheduled, they must let their immediate supervisor know prior to the start of the work day or no later than one hour following their regularly scheduled start time. Employees must also keep their supervisor informed about the expected length of time away from work.

Employees are expected to be responsible and demonstrate respect for fellow employees by establishing a record of punctuality and regular attendance. These are factors considered in evaluating overall job performance.

Unexcused or frequent lateness or absenteeism is not generally tolerated.

Facilities & Property Use

Employees are expected to treat F5AC facilities and property with respect and keep their work area and common areas clean and well-maintained. F5AC equipment use is limited to work-related purposes. Employees must have written supervisory approval prior to removing any F5AC property from the premises. Employees may decorate their own work spaces, as long as decorations are consistent with F5AC policies and project a professional image appropriate to our work. Employees must have Office Manager approval before making any changes to public spaces or common areas.

Visitors

All visitors sign in and out and receive a visitor badge to wear in the office. Visitors should stay in the reception area until escorted by an employee. Please keep non-work-related visitors to a minimum to be mindful of interruptions to coworkers.

Security

F5AC strives to provide a secure work environment for our employees, volunteers, clients, and visitors. Our building is equipped with an alarm system that is activated during non-business hours, and exterior doors (except the front entrance and conference center entrance which are unlocked during business hours) are locked at all times. You are required to comply with all F5AC security procedures and immediately report any security breach to your supervisor.

We encourage employees to be prudent about bringing personal items to work. F5AC is not responsible for losses resulting from property theft.

Immediately report lost or stolen keys/fobs or missing F5AC property to your supervisor. Copying or giving F5AC keys/fobs, alarm codes, or lock combinations to an unauthorized individual is strictly prohibited.

Breastfeeding-Friendly Workplace

F5AC recognizes that breastmilk is the optimal food for infants' growth and development, and encourages all employees to have a positive, accepting attitude toward working women and breastfeeding. F5AC promotes and supports breastfeeding and the expression of breastmilk by breastfeeding employees.

F5AC provides:

- Information about breastfeeding support prior to employees' leave for pregnancy disability or related condition.
- Reasonable time to express milk or breastfeed. Supervisors are encouraged to consider flexible break times, schedules, or other reasonable accommodation to meet employees' needs.
- A designated Lactation Room, furnished with an electrical outlet, refrigerator for breastmilk storage, comfortable seating, a table, and appropriate furnishings/signage to ensure privacy.

Children in the Workplace

F5AC values family and work-life balance and strives to create an employee-friendly workplace. Our employment policies and benefits reflect our beliefs. F5AC also believes in creating an environment that is conducive to work and generally should not be used in lieu of child care.

While we are sensitive to our employee's childcare needs, it is not appropriate for minor children and other minor relatives of employees to be in the workplace during working hours, except for brief visits. This policy has been adopted to minimize potential liability to F5AC, the risk of harm to children, and decreased employee productivity due to distractions and disruptions.

We recognize that there are occasions when childcare is not available and work demands are such that the employee needs to be available for work. In those situations, the employee may request to work from home on a temporary basis, or, if the work must be done in the office, may request to bring in their child(ren) for a short period of time. In those cases where children are in the workplace, they must be directly supervised by the parent at all times. In the interest of maintaining the health and well-being of all F5AC employees, children who are ill must not be brought to the workplace. Employees may consult F5AC's Employee Assistance Program for assistance with finding emergency care providers to care for sick children.

Remote Work

Remote Work is a pre-authorized arrangement where some of the employee's work is performed at home. Remote Work is a privilege that may be appropriate for some employees and some jobs. It is not an entitlement or Agency-wide benefit. A Remote Work arrangement in no way changes any other terms or conditions of employment with F5AC.

Remote Work can be short-term, such as occasionally working from home for a short-term project with the pre-approval of the supervisor/manager, or long-term as described below. All Remote Work arrangements are made on a case-by-case basis at the discretion of the supervisor and are memorialized in writing in advance. The specific work to be performed and the projected amount of time expected before permission is granted, even for short-term Remote Work arrangements. All employees who work remotely are responsible for a safe home workplace, and for taking appropriate steps to safeguard F5AC confidential information. Non-exempt employees working remote are required to reporting hours worked timely and accurately.

Requests for a Remote Work arrangement are considered on a case-by-case basis when an employee's work can reasonably be carried out from home without unduly impacting either the employee's own level of work productivity or that of their fellow employees. In general, Remote Work requests are considered only for employees who have passed their probationary period, have received above satisfactory performance reviews, and have demonstrated their ability to manage their work independently. Due to the high degree of interaction required for most positions at F5AC, Remote Work schedules are generally limited to one (1) day per week, or a maximum of 25% of the employee's regularly scheduled work hours.

Requests for Remote Work arrangements must be made using F5AC's Remote Work Application Form and require approval by the supervisor, Senior Administrator (if applicable), and HR Administrator. If the Remote Work arrangement is approved, the employee will be required to sign a Remote Work Agreement and complete a self-certification safety and security checklist.

If approved, any Remote Work arrangement made will be on a trial basis for the first three (3) months. Remote Work arrangements are reviewed by the employee and supervisor at least annually and can be terminated at any time by either party, even during the initial three-month period.

Personal Automobile Use

Prior to using their personal vehicle for work, employees must have supervisory approval and provide a copy of their driver license and proof of personal automobile insurance (with required minimum coverage for property damage and public liability). Employees who use their own

automobiles for travel on authorized F5AC work will be reimbursed for mileage at the rate established by the Internal Revenue Service.

Attire

Attire at F5AC should enable our employees to be comfortable in the workplace, while also projecting a professional image to co-workers, clients, partners, volunteers, and the general public.

The following guidelines have been developed to provide general parameters for appropriate work attire and to help you exercise good judgment about items not specifically addressed. A clean and neat appearance should be maintained at all times. In all situations, clothing should be comfortable and practical for work, but not distracting, revealing or offensive to others. Torn, frayed, ripped, messy or overly casual clothing are not considered appropriate for the office.

Employees may observe dress and/or grooming practices consistent with their religious beliefs, and employees requiring special clothing accommodation for any reason should advise their supervisor or Human Resources in advance. Supervisors, in collaboration with HR, are responsible for interpreting and monitoring dress and grooming standards, including counseling employees whose attire is inappropriate.

Expense Reimbursement

Reasonable and customary expenses incurred in the performance of one's job will be reimbursed. Reimbursement requires prior authorization by the employee's immediate supervisor, written approval, itemized actual expenses, and the employee's signed expense reimbursement form with all required documentation/receipts attached. Employees should consult the Finance team or the F5AC Procedures Manual for specific instructions.

References

F5AC provides limited reference information about current and former employees to prospective employers. References may only be provided by Human Resources.

F5AC only discloses employment dates, job titles and earnings.

Part Ten: Communication & Technology

Technology, Voicemail and Email

F5AC employees are permitted to use F5AC's voice mail, electronic mail, computers, networking sites and internet access (collectively "Technology Systems") to communicate with others for work purposes. The email system is primarily used for F5AC or work-related email, and not for personal purposes. Minimal personal use is permitted, provided any use is during non-working time only, and that it does not interfere with the employee's work responsibilities. Employees are not permitted to use F5AC's Technology Systems to send jokes, comments or information to others that may be perceived as discriminatory, harassing, offensive, or disruptive, or otherwise in violation of any F5AC policy. Any technology provided by F5AC may not be used to send material that disparages an individual, company, or business entity, or to disclose personal or confidential information without authorization.

Employees may not install, copy, stream, or download software onto F5AC computers unless authorized by the IT team. Employees are also prohibited from downloading personal files onto work computers.

Employees do not have any right or expectation of privacy in any F5AC Technology Systems, including email or documents created on, maintained on, sent to, or received by, F5AC computers or transmitted via F5AC's servers and networks. F5AC may monitor and/or search the contents of all voice mail, computer files, and electronic communications (including email) to promote the administration of F5AC operations and policies or for any other business reason.

Social Media

F5AC has a social media presence and we encourage our employees to connect to help spread the word about the great work that we're doing and the services and support that are available to children and families in Alameda County. Use of social media presents certain risks and carries responsibilities.

Social Media includes all means of communicating or posting information or content of any sort on the Internet whether or not associated or affiliated with F5AC. The same principles and guidelines found in F5AC's policies apply to your activities online that may relate to F5AC. Ultimately, you are solely responsible for what you post online. Keep in mind that any conduct on social media or otherwise that adversely affects your job performance, the performance of fellow employees, or otherwise adversely affects staff, volunteers, contractors/grantees, vendors, or any other people who work on behalf of or receive services from F5AC is not permitted.

Employees are expected to ensure their social media postings that may relate to F5AC are consistent with these and all other F5AC policies.

Always be respectful

Always be fair and courteous to fellow employees, volunteers, contractors/grantees, vendors, or other people who work on behalf of or receive services from F5AC. Remember that colleagues, supervisors, and agency partners often have access to the online content you post. Keep in mind that you are more likely to resolve any work-related complaints by speaking directly with your co-workers or by utilizing our Open-Door Policy than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism that may relate to F5AC, avoid any content that could reasonably be viewed as unlawful, malicious, obscene, threatening or intimidating, that disparages employees, volunteers, clients, contractors/grantees or vendors, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant intentionally to harm someone's reputation or posts that could contribute to a hostile work environment.

Be honest and accurate

Make sure you are always honest and accurate when posting information or news that may relate to F5AC, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false.

Be conscious about mixing your work and professional lives

- Maintain the confidentiality of F5AC's confidential, private, or sensitive information (see the Confidentiality policy contained in Part Eleven of this Handbook for examples). Do not post internal reports or memos, policies, procedures or other internal business-related confidential or sensitive communications.
- Do not create a link from your blog, website or other social networking site to a F5AC website without identifying yourself as a F5AC employee.
- Express only your personal opinions, and never represent yourself as a spokesperson for F5AC. If F5AC is a subject of the content you are creating, be clear and open about the fact

that you are an employee of F5AC; make it clear that your views do not represent those of F5AC and you are not speaking on behalf of F5AC. It is best to include a disclaimer such as “The postings on this site are my own and do not necessarily reflect the views of F5AC.”

- Do not use your F5AC email address to register on social networks, blogs, or other online tools utilized primarily for personal/social purposes.
- Refrain from using social media while on work time or on F5AC’s Technology Systems, unless it is work-related as authorized by your supervisor or consistent with F5AC’s Technology Use Agreement.

F5AC’s social media presence

The Communications team is primarily responsible for our Social Media presence. Only designated staff may post content on F5AC-affiliated social media sites. Employees who have ideas, suggestions, or resources for posts are encouraged to share them with the Communications team.

Employee Information & Records Inspection

It is important that employee files are current. Employees should update their information in the HR system (address, phone, emergency contacts, etc.) and inform Human Resources when there are changes, such as marital status, domestic partnership, and number of dependents, that may affect pay or benefits.

Employees have the right to inspect employee records relating, e.g., to their performance or to any grievance concerning them, or otherwise as permitted by law. Employees wishing to inspect personnel records may do so during regular office hours, after a written request is made to the Human Resources Administrator. An inspection request form is available from Human Resources and also on the F5AC intranet that employees may use to make their request. Records will be made available for inspection within 30 days of receipt of the written request. An appointment to inspect the file is made with the Human Resources team, who is present with the employee while they inspect the file. Employees may receive copies, at their own cost, of any document in their employee file to the extent required by law. Employee records are the property of F5AC and are not allowed to be taken from Human Resources without prior written authorization.

Internal Communication

We use bulletin boards, mailboxes, meetings, intranet, and email to regularly communicate important F5AC information. Each of our employees is responsible for reading posted or distributed information.

Media Relations

Employees should not respond to any inquiries or requests received from the media for comments or statements on behalf of F5AC. Instead, employees should refer requests to the Chief Executive Officer or, if the CEO is unavailable, to the Communications Specialist. The CEO will respond directly or designate another staff member to serve as the F5AC spokesperson.

Part Eleven: Conduct

Workplace Conduct

F5AC requires employees’ cooperation, efficiency, productivity, and compliance with all policies and procedures. We treat each other with dignity and respect at all times at work and in work-related situations.

Some examples of conduct that may result in disciplinary action, up to and including immediate termination, include, but are not limited to:

- Substandard job performance
- Unauthorized or frequent tardiness or absenteeism
- Rudeness or discourtesy or disrespect toward a fellow employee, supervisor, volunteer, supporter, or member of the general public
- Fighting, roughhousing, bullying, or engaging in violent or threatening language or gestures, or conduct that is abusive, hostile, or disrespectful (such as slandering or ridiculing others, making false accusations, humiliating others in public, or shunning/ostracizing others, etc.)
- Theft of or unauthorized use of F5AC or a coworker's property
- Disregarding established safety or security procedures, or creating an unsafe work situation for anyone
- Refusing to perform a work-related task when directly instructed to do so by a supervisor or member of management
- Possessing a weapon or firearm on F5AC's property
- Violating F5AC policy prohibiting workplace discrimination, harassment, and retaliation, or violating any other F5AC policy

Open Door Policy

F5AC has an open-door policy that encourages employee participation in decisions affecting them and their daily professional responsibilities. Employees who have a different opinion, misunderstanding or conflict with another F5AC employee are encouraged to address the situation directly with the employee(s) involved, if it is appropriate and safe to do so. We also encourage employees who have job-related problems or complaints to talk them over with their supervisor or a manager at any level of management. We believe that employee concerns are best addressed through informal and open communication.

To the extent possible, F5AC maintains confidentiality in addressing and resolving concerns brought to its attention. However, while investigating and resolving concerns, some information will likely be shared on a need-to-know basis.

No employee will be retaliated against for raising a concern in good faith.

Disciplinary Procedures

While F5AC may use any disciplinary step, it concludes is appropriate given the circumstances, including immediate termination, any, all, or none of the following disciplinary steps may be taken, as appropriate:

- **Record of Counseling:** The supervisor counsels the employee, generally following a relatively minor offense to communicate or clarify acceptable conduct or performance. Counseling records are documented by the supervisor and placed in the employee's employee file. They are signed by the employee to acknowledge receipt of the Record of Counseling.
- **Written Warning:** The supervisor presents the written notice of corrective action, or written warning, to the employee in person. A written warning includes a description of the misconduct or performance problem, degree of seriousness and the consequences if the problem is not corrected. Written warnings are signed by the employee to acknowledge receipt and placed in the employee's file.
- **Suspension:** Employees may be suspended without pay for a period of time for relatively serious offenses at the sole discretion of F5AC.
- **Discharge:** Termination can result from a single, serious offense, or it can be the final step in a process designed to correct offenses or performance problems. It can also occur as the result of conduct inconsistent with F5AC policy.

Other disciplinary steps not described above may or may not be taken, depending on the circumstances. Supervisors are required to consult with the Human Resources Administrator prior to taking or recommending any step of the progressive discipline process, including discharge.

The use of any of the above disciplinary procedures in no way alters the at-will employment relationship.

Conflict of Interest

It is important that employees avoid conflicts of interest. A conflict of interest is a situation where an employee's personal or economic interest interferes or may interfere with, influence, appear to interfere or influence, or is, in the judgment of F5AC, incompatible with the employee's duties and responsibilities at F5AC or with F5AC's general activities. A conflict may exist even if the conflict or incompatibility has no adverse impact on job performance.

In compliance with California's Political Reform Act, designated employees complete a Statement of Economic Interests (Form 700) within 30 days of hire, annually and within 30 days of terminating employment.

If employees have outside employment, they must advise their supervisor and the Finance Officer.

Any employee needing advice about a potential conflict of interest should contact the Finance Officer or Human Resources Administrator. Outside employment that may or does create a conflict of interest with the employee's employment at F5AC will not be permitted.

Confidentiality

Careful custody and handling of F5AC files, documents or materials (in hard copy or electronic format), and especially those files and documents containing confidential information, is critically important to the well-being and success of F5AC and our clients. Each employee is responsible for safeguarding against the theft, loss, and unauthorized use or disclosure of this information and for following F5AC's best practice policies and procedures addressing confidentiality including, but not limited to, HIPAA compliance. Further, employees must not, directly or indirectly, disclose any F5AC-related confidential information to any other person except as necessary to perform their job responsibilities. Employees who have access to confidential information must take all steps necessary to ensure F5AC confidential information is handled, stored, transmitted or destroyed, if appropriate, in a way that protects against loss or misuse, as outlined in F5AC's Confidentiality Procedures Manual.

Confidential matters include, but are not limited to:

- Employee or client names, addresses, telephone numbers, social security numbers, and medical/health information
- Information contained in employee or benefits files, including but not limited to disciplinary action records, performance evaluations, benefit applications, beneficiary information, etc.
- Anything marked "Confidential" or "Personal," such as incoming mail, internal documents marked with these terms, etc.

Private and confidential information should be given or disclosed only those who have both the need and authority to know about the information to properly perform their jobs.

Further, data contained in F5AC web-based applications is also subject to HIPAA compliance and Agency Confidentiality best practices policies as outlined in F5AC's Confidentiality Procedures Manual and training.

Employees are expected to maintain F5AC confidential information as confidential even after separation from F5AC. Employees will, at F5AC's request at any time and/or when employment terminates, return all documents, papers, computer files or storage devices, web application passwords, or any other material in their possession that may contain or be derived from F5AC confidential information.

External requests for documents or information, including those that may be governed by the Public Records Act, must be referred immediately to the Chief Executive Officer, Director of Operations & Technology or Finance Officer.

Part Twelve: Ending Employment

Voluntary Termination

In all cases of voluntary resignation (e.g., separation of employment that is voluntarily initiated by the employee), employees are asked to provide a written notice to their supervisor at least 10 working days in advance of their expected last day of work. If F5AC asks an employee who has voluntarily resigned to leave our employ before the end of the notice period (for example, if a replacement is to begin immediately), the employee will be paid for the entire notice period, up to a maximum of two weeks.

Employees may use available accrued vacation and PTO to extend their employment for up to 4 weeks following their final day in office.

Human Resources will coordinate and/or conduct an exit interview with each employee who voluntarily terminates employment prior to the employee's exit from F5AC. These conversations enable F5AC to gather important information about employee policies and procedures, and the work environment, that may be of benefit to many other employees. Although exit interviews are not mandatory, employees are encouraged to participate in them and to speak frankly about their employment experience with F5AC.

Payroll and Returning F5AC Property

All employees separating from F5AC receive their final paycheck on the next regularly scheduled payroll date. Employees are required to return all F5AC property or equipment to the Human Resources or the Office Manager before leaving on their last day of work.

Reduction in Workforce

In the event F5AC requires a reduction in workforce, guidelines similar to these may be used.

In its sole discretion, F5AC determines: when and whether it is necessary for a reduction in force (RIF); which employees are affected by the RIF; and the implementation method. Generally, we give primary consideration to the program and F5AC's needs and circumstances.

- To reduce the need for a potential RIF, employees may be hired for temporary positions, with the duration of the position dependent on funding. Employees hired for temporary positions are not eligible for severance pay but may be eligible to receive outplacement services at the conclusion of the temporary position.
- F5AC may reduce positions through attrition instead of RIF.
- F5AC may require a furlough (e.g., require employees to work fewer hours per week or take a specified period of time off work without pay). During the period of furlough, F5AC will attempt to maintain employees' health and dental insurance benefits at the same level as they were prior to the furlough for a period not to exceed eighteen (18) months.

- F5AC may reduce positions from full-time to part-time depending on program needs and funding availability. If F5AC reduces a position to part-time, we will attempt to maintain the employee's health and dental benefits at the same level immediately prior to the hours reduction for a period not to exceed eighteen (18) months, and subject to any future changes in the F5AC's benefit package. Employees who voluntarily request a part-time schedule are not eligible for this benefit.
- F5AC may eliminate positions. We will determine if the RIF will occur on an agency-wide basis or in one or more programs, departments, and/or classifications.

Length of Service

An employee's length of service is measured from the original employment date with F5AC (including time as a County employee, Tri-Net employee, Diversified employee, or F5AC employee) as long as there has not been a break in service greater than 30 days (not including leave protected by law. Approved legally-protected leaves do not constitute a break in service).

Notice

Employees selected for RIF through position elimination will be given at least 10 business days' notice of the proposed final employment date.

Severance Pay

If positions are eliminated due to RIF, F5AC may authorize severance pay of two weeks' regular base salary or pay (e.g., the employee's regular base salary or regular straight-time hourly wages for the time period) less applicable tax and other withholdings, for every year of continuous service (according to the above length of service definition), not to exceed eighteen (18) weeks of pay. If severance pay is authorized, it will be paid in one lump sum on or after the termination date, and, according to ACERA, is not pensionable.

To receive severance pay, if payment is authorized, employees must first sign a waiver releasing F5AC from any and all liability related to their employment with F5AC and their separation from employment. Refusal to sign the waiver within the allowed period and/or lawful revocation of the waiver renders an employee ineligible to receive severance pay.

In addition to severance pay, F5AC may also make a payment equivalent to \$500 per year of service (as defined above in the length of service definition), but not to exceed \$3,000 total, to help with the cost of health insurance. This payment, if authorized by F5AC, will be made in one lump sum, and will be issued at the same as severance pay. To receive the payment described in this paragraph, if authorized, employees must first sign a waiver releasing F5AC from any and all liability from their employment with F5AC and their separation from employment. Refusal to sign the waiver within the allowed period and/or lawful revocation of the waiver renders an employee ineligible to receive severance pay.

If an employee who was previously part of a RIF and received any severance pay is rehired and then subsequently laid off, that employee may be eligible for severance only up to a maximum of eighteen (18) weeks of pay when all severance payments (e.g., from the first and second RIFs) are combined.

Outplacement Services

Employees whose positions are eliminated in a RIF, or who were hired for temporary positions in connection with a RIF, may be eligible for F5AC outplacement services. These services are designed to help F5AC employees find positions in Alameda County where they can continue to use their skills and expertise on behalf of children aged 0 to 5 years. Outplacement services, if provided, will not exceed three months following the date of separation. F5AC makes no guarantee that utilizing its outplacement services will result in an employment offer.



Acknowledgment

I acknowledge that I have received a copy of the First 5 Alameda County (“F5AC”) Employee Handbook. I understand that the Handbook contains important information on the general employment policies of F5AC and on my privileges and obligations as an employee. I acknowledge that I am expected to read, understand, and adhere to F5AC’s policies, and I understand I am governed by the contents of this Handbook. I further understand that F5AC may change, rescind, or add to any policies, benefits, or practices described in the Handbook, other than the concept of at-will employment. By my signature below, I also acknowledge and understand that employment at F5AC is at-will employment. That is, either I or F5AC may terminate my employment at any time, for any reason or no reason, with or without cause, and with or without advance notice.

Steven Quach

Employee Name

DocuSigned by:

Steven Quach

Employee Signature

11/20/2019

Date

Change Log

Item	Date
Original adoption of Employee policies adopted by Commission	5/21/2004
Handbook Update - Approved by Commission Includes addition of fingerprinting under "Work Eligibility", "Tools and Technology"; and "Bilingual Pay". Medical and Dental Insurance sections rewritten to reflect current benefit structure; "Floating Personal Days" and "Personal Use Time" merged under "Paid Time Off (PTO)"; "Unpaid Time Off and Leaves of Absence" section reformatted to include matrix of leaves	5/26/2005
Addition of Catastrophic Leave Bank – approved by Commission	9/29/2005
Year End Manual Clean-up – reviewed by Executive Committee	6/19/2006
Year End Manual Clean-up – reviewed by Executive Committee Includes Addition of Professional Development, Payment in Lieu Long Term Disability, Children in the Workplace, Telecommuting, & References sections; Change in Full Time Status definition, Remove Position Description section	5/22/2008
Formatting Update	2/25/2009
Year End Manual Clean-up – reviewed by Executive Committee Includes addition of Paid Family Leave, Breastfeeding-Friendly Workplace section Addition of Reduction in Workforce section – approved by Commission 12/11/08, with addition of severance pay cap 3/26/09	6/25/2009
Year End Manual Clean-up – reviewed by Executive Committee Includes Addition of Personal Leave of Absence modifications to sick leave policy - approved by Commission on 12/10/09; Deleted Tools and Technology benefit – approved by Commission on 12/10/09	6/24/2010
Year End Manual Clean-up – Reviewed by Executive Committee Addition of Child Abuse Reporting, Confidentiality policies & Temporary Military Duty Leave; Removed Lent to Other Government or Educational Institution Leave	12/8/2011
Deleted ACERA offset benefit – approved by Commission on 12/13/12	12/13/2012
Year End Manual Clean-up – Reviewed by Executive Committee Revisions to Unpaid Leave section, including deletion of the Matrix format, Separation of Pay Periods into Pay Periods and Work Schedules, addition of Reasonable Accommodation Leave, Social Media, Media Relations; Removed Educational, Temporary Military Duty and Military Leaves	5/23/2013
Year End Handbook Clean-up – Reviewed by Executive Committee Consolidation of Medical and Dental Insurance sections, deletion of Wage Garnishments and Appeal of Serious Discipline sections	6/26/2014
Year End Handbook Clean-up – Reviewed by Executive Committee, including modifications to Sick Time to reflect provisions in the Healthy Workplace Healthy Family Act, and to Health and Dental Insurance to reflect provisions in the Affordable Care Act	6/18/2015
Year End Handbook Clean-up – Approved by Commission on 6/16/16 Title change from "Employee Policies and Procedures Handbook" to "Employee Handbook" Addition of "Paid Time Off" usage during Introductory Period Addition to Eligibility of Dependent Children of Temporary Employees; Employer Share of Health and Dental Premiums for Temporary	6/16/2016

Employees and Their Eligible Dependents; Definition for Eligible Dependents; Vacation Time off Requests; Modification to “Workplace Conduct”	
Addition of \$500 per Fiscal Year for Professional Development, to Be Reimbursed After Completion of Course(s) – Any Unused Funds Will not Carryover	7/20/2016
Addition to Leaves of Absence – Paid Leave, Work Hours and pay – Flex schedule	8/18/2016
Modify Leaves of Absence – Paid Leave	6/15/2017
Week of Christmas Off & 3% Cola Eff. 01/26/18; In Lieu update from \$125 per month to \$137.50 per month - Approved by Commission.	12/14/2017
Year End Handbook Clean-up – Approved by Commission Includes Extension of Employee’s Introductory period, modify Leaves of Absence – Unpaid, Paid Sick Time, Workplace Conduct	6/21/2018
Modify Benefits & CA Paid Family Leave – Approved by Commission	12/13/2018
Handbook Clean-up – Approved by Commission, including updates to approval levels and titles, Reasonable Accommodation, Replaced Policy Prohibiting Harassment & Discrimination, Benefits, Added “additional benefits” section, Vacations, Jury Duty, Pay Periods, 9/80 Schedule, Bereavement, Leave Policies and Catastrophic Leave Bank, Paid Parental Leave, Children in workplace, Telecommuting has been renamed Remote Work, Attire, Technology-Voicemail & Email, Social Media, Workplace Conduct, Open-door Policy, Conflict of Interest, Voluntary Employment Terminations, Reduction in Workforce. The following have been removed: References to pre-employment/onboarding processes, sections on Employing Commissioners, Executive Benefits Package, Long-Term Disability, Payroll Deductions, and Parking.	10/17/2019

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.

OLD BUSINESS

- 7.A. Potential motion to exclude County Pay Codes 741, 742, 743 from “compensation earnable,” or other appropriate action on that subject.**

- 7.B. Potential motion to adopt proposed interpretation of Gov’t Code § 31461(b)(1)(B), as set forth in the public memorandum from Chief Counsel, or other appropriate action on that subject.**



To: Members of the Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: December 17, 2020
Subject: County Pay Codes 741, 742, 743 and Other One-Time/Ad Hoc Payments

INTRODUCTION

At the August 20, 2020 Board Meeting, there was a recommendation on the Consent Calendar that the Board exclude three County recruitment bonus codes (741, 742 and 743) from being characterized under ACERA's pay code system as "pensionable compensation" for PEPRA members and "compensation earnable" for Legacy members. The item was pulled from the Consent Calendar and, after further discussion, the Board decided to exclude the pay codes from "pensionable compensation" but defer making a decision on "compensation earnable" to a later meeting.

After further analysis, I agree with staff's recommendation that the Board should exclude these pay codes from being characterized as "compensation earnable" for purposes of ACERA's pay code system. This memorandum explains the basis for my agreement with staff's recommendation. Further, I recommend that the Board confirm that the below rationale is the reason why the Board excludes from "compensation earnable" all "one-time or ad hoc payment[s] made to a member, but not to all similarly situated members in the member's grade or class."

ANALYSIS

Before 2013, ACERA played a less active role in determining which pay codes employers would report to ACERA as "compensation earnable." Beginning in 2013, however, after the passage of PEPRA and amendments to the definition of "compensation earnable," ACERA established a thorough process to make such determinations. One of the 2013 amendments to the definition of "compensation earnable" in Gov't Code § 31461 was:

(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: ... (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.

It appears from ACERA's historical records from 2013 that, in practice, ACERA interpreted the above language to exclude all "one-time or ad hoc payment[s] made to a member, but not to all similarly situated members in the member's grade or class." The statute is arguably more nuanced, because it states that those types of pay are excluded only if the Board determines the amount was "paid to enhance a member's retirement benefit." That leaves open the possibility that these types of payments may be included in "compensation earnable" if they are not "paid to enhance a member's retirement benefit."

Determining the best system for reporting payroll and collecting contributions, however, requires us to examine the Board's governing law as a whole—not just the definition of "compensation earnable."

One of the primary purposes of ACERA's pay code system is to identify elements of compensation against which to collect member contributions. Under ACERA's governing law, member contributions are based on the member's projected "final compensation." See Gov't Code §§ 31620 et seq. ACERA's pay code system accounts for "compensation earnable" throughout a member's career in order to estimate the member's ultimate "final compensation." That methodology may be a sound, but it is not legally required. Thus, if a member receives a one-time or ad hoc payment today and the Board has good reason to believe the member will not receive that one-time or ad hoc pay in the member's "final compensation" period, the Board has discretion not to collect member contributions on that payment even if it arguable would meet the definition of "compensation earnable."¹

Another primary purpose of ACERA's pay code system is to determine "final compensation" for the purpose of determining a member's benefit when a member retires. If a member receives a one-time or ad hoc payment during the member's "final compensation" period that the member did not typically receive during the member's career, it is likely that the payment was made to enhance the member's retirement benefit and therefore likely to be excluded from "compensation earnable" under Gov't Code § 31461(b)(1)(B) at retirement.

In light of the above, ACERA's current pay code practice is reasonable because:

- For a member who receives pay described in Gov't Code § 31461(b)(1)(B) before but not during the final compensation period, it is reasonable not to require member contributions on such pay, because that type of pay is not expected to be included when calculating the member's retirement benefit.
- For a member who receives pay described in Gov't Code § 31461(b)(1)(B) only in the "final compensation" period, it is reasonable to assume that the payment was most likely made to enhance the member's retirement benefit.

¹ ACERA also collects employer contributions as a percentage of "compensation earnable," but that method is not legally required. See *Mijares v. Orange County Employees' Retirement System* (2019) 32 Cal.App.5th 316, 329-31; *County of Orange v. Association of Orange County Deputy Sheriffs* (2011) 192 Cal.App.4th 21, 35.

- Most members who receive this kind of pay will fall under one of the two above scenarios, because of the pay's nature: "one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class."

Thus, excluding these amounts from being characterized as "compensation earnable" under ACERA's pay code system is fair and consistent with sound funding principles.

The determination of a member's benefit, and the "compensation earnable" on which it is based, occurs at retirement. At that point, if a member disputes the determination that a pay item is properly excluded from "compensation earnable," the member may challenge the determination and the Board will act accordingly. See Gov't Code § 31542. If a member makes a sound case for inclusion, the Board can then require the member to make any retroactive contributions the Board deems are appropriate. In *Marin Association of Public Employees v. Marin County Employees' Retirement Association* (2016) 2 Cal.App.5th 674, the court approved another CERL system's similar approach to the "paid to enhance" language in Gov't Code § 31461(b)(1). *Id.* at 693. Indeed, the California Supreme Court rejected a request to "depublish" that opinion on November 24, 2020.

Finally, ACERA's practices regarding Gov't Code § 31461(b)(1)(B) have been consistent since the Legislature made the change to the definition of "compensation earnable" in 2013. Over the course of eight years of litigation that challenges ACERA's implementation of the changes to "compensation earnable" in 2013, no court has ever ordered ACERA to change its practices regarding Gov't Code § 31461(b)(1)(B).

CONCLUSIONS AND RECOMMENDATIONS

County Pay Codes 741, 742 and 743

The exclusion of these recruitment bonuses from "compensation earnable" is consistent with this memorandum's rationale and ACERA's historical exclusion of recruitment bonuses. Thus, I recommend that the Board exclude these pay codes from "compensation earnable" as staff originally recommended.

Historical Application of Gov't Code § 31461(b)(1)(B)

The Board's historical practice of excluding from "compensation earnable" all "one-time or ad hoc payment[s] made to a member, but not to all similarly situated members in the member's grade or class" is reasonable and should continue based on this memorandum's rationale. I recommend that the Board confirm that the rationale in this memorandum is the reason why the Board excludes such payments.

OLD BUSINESS

- 7.A. Potential motion to exclude County Pay Codes 741, 742, 743 from “compensation earnable,” or other appropriate action on that subject.**

Attached below are additional materials for agenda Item 7.A. on the Board’s December 17, 2020 agenda. These materials were included in the Board’s August 20, 2020 Board Packet.

Chief Counsel Jeff Rieger, who will be presenting Item 7.A. at the December 17, 2020 meeting, asked that these materials be added to the December 17, 2020 Board Packet, so that the Trustees and the public have easy access to these materials before and during the discussion on Item 7.A.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: August 20, 2020

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **Denial of Three New Pay Items/Codes as “Compensation Earnable” and “Pensionable Compensation” – County of Alameda**

The County of Alameda (County) requested that the following new pay items/codes be designated as “compensation earnable” and “pensionable compensation”. To address ongoing recruitment and retention challenges, a hiring incentive program was established in the Alameda County Sheriff’s Office effective August 9, 2020 for newly hired or promoted persons, resulting in the following new pay items/codes.

- Deputy Sheriff Recruit Incentive (Job Code #8601NM) – 741
This pay item/code will be used for persons in this Job Code receiving a hiring incentive of \$10,000 to be paid in equal increments over a four-year period as follows:
 - \$2,500 upon graduation from Basic Academy
 - \$2,500 after successfully completing the 18-month probationary period
 - \$2,500 after three years of continuous service upon receipt of satisfactory annual performance evaluations
 - \$2,500 after four years of continuous service upon receipt of satisfactory annual performance evaluations

- Deputy Sheriff I Incentive (Job Code #8602NM) – 742
This pay item/code will be used for persons in this Job Code receiving a hiring incentive of \$12,000 to be paid in equal increments over a four-year period as follows:
 - \$3,000 first pay period after hire
 - \$3,000 after successfully completing the 18-month probationary period
 - \$3,000 after three years of continuous service upon receipt of satisfactory annual performance evaluations
 - \$3,000 after four years of continuous service upon receipt of satisfactory annual performance evaluations

- Deputy Sheriff II Incentive (Job Code #8604NM) – 743
This pay item/code will be used for persons in this Job Code receiving a hiring incentive of \$15,000 to be paid in equal increments over a four-year period as follows:
 - \$3,750 first pay period after hire
 - \$3,750 after successfully completing the 12-month probationary period
 - \$3,750 after three years of continuous service upon receipt of satisfactory annual performance evaluations
 - \$3,750 after four years of continuous service upon receipt of satisfactory annual performance evaluations

Denial of Three New Pay Items/Codes as “Compensation Earnable” and “Pensionable Compensation” – County of Alameda (continued)

August 20, 2020

Page 2 of 2

Staff reviewed the required supporting documentation (attached) and made the administrative determination that the new pay items/codes do not qualify as “compensation earnable” under Government Code Section 31461 (for Legacy members), or “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members). The two relevant Government Code sections are attached for the Board of Retirement’s (Board) reference.

Staff informed the County that its administrative determination will be included on the Board’s consent calendar for its August 20, 2020 meeting. If this item is not pulled from the consent calendar for discussion, then the Board will approve Staff’s determination to deny the inclusion of the pay items/codes as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members).

Attachments



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

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

Employer Name:	County of Alameda
Date of Request	7/30/2020
Employer Department Submitting the Request	Auditor-Controller's Agency
Contact Person/Employer (include title/position)	Dawn Duffy
Contact Person Telephone incl area code	(510) 272-6383
Contact Person Email address	dawn.duffy@acgov.org
Pay Item Name (and code Number)	741 Dep Sher Recr Incentive
Pay Item Effective Date per authorization:	8/9/2020
State if additional documentation is attached	No

NOTE: The following information is required before ACERA can review and respond to the request. To meet ACERA's requirements, please provide substantive responses below or on a separate paper and return, with this form, all of the supporting documentation 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)

RESPONSE #1: 8601NM Deputy Sheriff Recruit

2. State employment status of employees eligible to receive the pay item (i.e. full time employees, part time employees)

RESPONSE #2: Full Time

3. State the number of members or employees who are eligible to receive the pay item (i.e. all members or employees in a job classification eligible to receive the pay item, or "not to exceed one employee")

RESPONSE #3: Persons newly hired or promoted

4. State whether pay item is for overtime or regular base pay

RESPONSE #4: hiring incentive pay

5. State whether pay item is calculated as a fixed amount or percentage of the base pay

RESPONSE #5: Fixed Amount

6. State whether the pay item is paid one time (i.e. incentive pay, referral pay, bonus, award)



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

RESPONSE #6: No, it is not a one-time payment because employee can earn additional hiring incentive pay at different intervals.

7. State whether the pay item is an ad hoc payment (i.e, stipend, payment for attending a meeting during the working hours, payment for attending a meeting during non-working hours)

RESPONSE #7: Yes

8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance)

RESPONSE #8: No

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)

RESPONSE #9: 40 Hour Workweek

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 workweek, or outside the employee's 40 hour workweek)

RESPONSE #10: No

11. State whether the pay item if for deferred compensation

RESPONSE #11: No

12. State whether the pay item is for retro payments

RESPONSE #12: No

13. State whether the pay item is for accrued unused leaves (i.e., sick leave, annual leave, floating holiday, vacation, comp time)

RESPONSE #13: No

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

RESPONSE #14: No



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

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)

RESPONSE #15: No

16. State whether the pay item is paid in one lump sum or biweekly (or over some other time period-monthly, quarterly, annually)

RESPONSE #16: Lump Sum

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)

RESPONSE #17:

Office of the Auditor-Controller
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Fax: (510) 272-6502

Central Collections Division
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ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

SECTION III

Article 3, Section 3-15, Subsection 3-15.54 of the County of Alameda Salary Ordinance is hereby added, to be effective on August 9, 2020.

3-15.54 – Persons newly hired or newly promoted into Job Codes 8601NM, 8602NM, or 8604NM shall receive a hiring incentive to be paid in equal increments over a four (4) year period as follows:

Deputy Sheriff Recruit (JC #8601NM) - \$10,000

- \$2,500 upon graduation from Basic Academy.
- \$2,500 after successfully completing the 18-month probationary period.
- \$2,500 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.

- \$2,500 after four (4) years of continuous service upon receipt of satisfactory annual performance evaluation.

Deputy Sheriff I (JC #8602NM) - \$12,000

- \$3,000 first pay period after hire.
- \$3,000 after successfully completing the 18-month probationary period.
- \$3,000 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.
- \$3,000 after four (4) years of continuous service upon receipt of satisfactory annual performance evaluation.

Deputy Sheriff II (JC #8604NM) - \$15,000

- \$3,750 first pay period after hire.
- \$3,750 after successfully completing the 12-month probationary period.
- \$3,750 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.
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ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

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

Employer Name:	County of Alameda
Date of Request	7/30/2020
Employer Department Submitting the Request	Auditor-Controller's Agency
Contact Person/Employer (include title/position)	Dawn Duffy
Contact Person Telephone incl area code	(510) 272-6383
Contact Person Email address	dawn.duffy@acgov.org
Pay Item Name (and code Number)	742 Dep Sher 1 Incentive
Pay Item Effective Date per authorization:	8/9/2020
State if additional documentation is attached	No

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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)

RESPONSE #1: 8602NM Deputy Sheriff I

2. State employment status of employees eligible to receive the pay item (i.e. full time employees, part time employees)

RESPONSE #2: Full Time

3. State the number of members or employees who are eligible to receive the pay item (i.e. all members or employees in a job classification eligible to receive the pay item, or "not to exceed one employee")

RESPONSE #3: Persons newly hired or promoted

4. State whether pay item is for overtime or regular base pay

RESPONSE #4: hiring incentive pay

5. State whether pay item is calculated as a fixed amount or percentage of the base pay

RESPONSE #5: Fixed Amount

6. State whether the pay item is paid one time (i.e. incentive pay, referral pay, bonus, award)



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
MELISSA WILK
AUDITOR-CONTROLLER/CLERK-RECORDER

RESPONSE #6: No, it is not a one-time payment because employee can earn additional hiring incentive pay at different intervals.

7. State whether the pay item is an ad hoc payment (i.e., stipend, payment for attending a meeting during the working hours, payment for attending a meeting during non-working hours)

RESPONSE #7: Yes

8. State whether the pay item is a reimbursement (i.e., car allowance, housing allowance, uniform allowance, mileage payment, cell phone allowance)

RESPONSE #8: No

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)

RESPONSE #9: 40 Hour Workweek

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 workweek, or outside the employee's 40 hour workweek)

RESPONSE #10: No

11. State whether the pay item if for deferred compensation

RESPONSE #11: No

12. State whether the pay item is for retro payments

RESPONSE #12: No

13. State whether the pay item is for accrued unused leaves (i.e., sick leave, annual leave, floating holiday, vacation, comp time)

RESPONSE #13: No

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

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ALAMEDA COUNTY
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MELISSA WILK
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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)

RESPONSE #15: No

16. State whether the pay item is paid in one lump sum or biweekly (or over some other time period-monthly, quarterly, annually)

RESPONSE #16: Lump Sum

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)

RESPONSE #17:



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Deputy Sheriff Recruit (JC #8601NM) - \$10,000

- \$2,500 upon graduation from Basic Academy.
- \$2,500 after successfully completing the 18-month probationary period.
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RESPONSE #1: 8604NM Deputy Sheriff II

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RESPONSE #2: Full Time

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ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
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Lakeside Plaza Building
1401 Lakeside Drive, Suite 200
Oakland, CA 94612-4305
TDD: (510) 272-3703

Human Resource Services

July 28, 2020

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, California 94612-4305

SUBJECT: ADOPT SALARY ORDINANCE AMENDMENTS TO 1) ADJUST THE SALARIES FOR THE CLASSIFICATIONS OF CAPITAL PROGRAMS MANAGER (#2218SM) AND SUPERVISING CRIMINALIST (#8526SM); 2) ESTABLISH THE CLASSIFICATIONS OF DEPUTY SHERIFF – SAN (#8603N) AND TRANSPORTATION & PARKING MANAGER (#0236SM); 3) AMEND SUBSECTION 3-11.9; 4) AND ADD NEW SUBSECTION 3-17.54

Dear Board Members:

RECOMMENDATION:

A. Adopt Salary Ordinance amendments to:

- i. update subsection 1-1.1 of Section 1-1 in Article 1, to 1) increase the salary range for two (2) classifications: Capital Programs Manager (Job Code ("JC") #2218SM) in the General Services Agency ("GSA") by 16.22% and Supervising Criminalist (JC #8526SM) in the Alameda County Sheriff's Office ("ACSO") by 10.0%, due to recruitment issues, effective August 9, 2020; and 2) establish two (2) new classifications: Deputy Sheriff – Services-As-Needed ("SAN") (JC #8603N) located in ACSO, and Transportation and Parking Manager (JC #0236SM) located in GSA, effective August 9, 2020;
- ii. amend Article 3, Section 3-11, subsection 3-11.9 to add salary administration criteria to include the new classification of Transportation and Parking Manager (JC #0236SM), effective August 9, 2020; and
- iii. add subsection 3-17.54 to Article 3, Section 3-17 to add a hiring incentive program which pays in the amounts of \$10,000, \$12,000 and \$15,000 for newly hired or newly promoted employees in the classifications of Deputy Sheriff Recruit (JC #8601NM), Deputy Sheriff I (JC #8602NM), or Deputy Sheriff II (JC #8604NM) respectively, and to be paid in equal increments based on defined criteria over a four (4) year period, effective August 9, 2020.

DISCUSSION/SUMMARY:

Staff recommends that your Board adjust the salary range of one (1) unrepresented classification of Capital Programs Manager (JC #2218SM) in GSA, effective August 9, 2020. The Capital Programs Manager is a critical position with oversight functions of the Design and Construction Division, which has responsibilities in the design and construction of building and modification projects of County buildings and facilities. A recent recruitment was conducted but was unsuccessful due to the low number of qualified applicants. In an effort to attract a stronger pool of qualified candidates prior to opening another recruitment, GSA requested a salary review of the classification. Staff conducted a comprehensive salary survey and determined the salary range maximum is approximately 16.22% below the market median. In addition, staff evaluated and determined there to be no compaction issues that may arise as a result of this salary adjustment recommendation. Therefore, staff recommends adjusting

the salary range (JC #2218SM) maximum of the Capital Programs Manager by 16.22%, including the same adjustment to the salary range minimum so that the salary for said classification comports with the County's standard salary range spread.

Staff also recommends adjusting the salary range for one (1) classification of Supervising Criminalist (JC #8526SM) in ACSO, effective August 9, 2020. In June 2019, ACSO conducted a recruitment for the Supervising Criminalist (JC #8526SM) classification that resulted in only three (3) applicants, and none was determined to be well-qualified for the position. Subsequently, ACSO conducted a recruitment for Supervising Criminalist (JC #8526SM) in October 2019 that resulted in only one (1) applicant, which was a resubmission from the prior recruitment. As a result, ACSO has not been able to make a viable hire and said critical position remains vacant. At the request of ACSO and to address recruitment issues for the classification of Supervising Criminalist (JC #8526SM), prior to opening another recruitment, staff completed a thorough review and analysis of this classification, including a salary survey, and determined that a salary adjustment is warranted. The survey data indicated that the Supervising Criminalist (JC #8526SM) classification is approximately 13.33% below the market median. Therefore, to address the recruitment issue noted above, remain competitive to attract a stronger pool of qualified applicants, and to ensure that there would be no compaction issue with the next higher level classification of Crime Laboratory Director (JC #8527SM), staff recommends increasing the salary for the Supervising Criminalist (JC #8526SM) classification by a one-time special adjustment of ten-percent (10.0%), effective August 9, 2020.

Further, staff recommends establishing one (1) new classification of Deputy Sheriff – SAN (JC #8603N) in ACSO, effective August 9, 2020. The creation of this classification was requested by ACSO to address its current staffing shortage due to low qualified applicants in recent recruitments and staff out on medical or COVID-19 related leave, and to provide relief to employees who are required to work mandatory overtime hours. Employees in the Deputy Sheriff – SAN (JC #8603N) classification will perform limited law enforcement on an as-needed basis and will primarily be assigned to work in the courts, detention facilities, and transport inmates to hospitals.

Staff also recommends establishing one (1) new classification of Transportation and Parking Manager (JC #0236SM) in GSA, effective August 9, 2020. The creation of this classification was requested by GSA and is warranted given the scope of work which is distinguished from the previously used countywide classification of Supervising Administrative Specialist (JC #0220SM). Due to a recent restructure, this new classification will oversee the Transportation and Parking and Messenger Units, manage the day-to-day logistics of various countywide transportation programs, and report to the Logistics Services Manager, GSA (JC #0184SM). Staff met and conferred and received agreement on the salary recommendation with the Alameda County Management Employees Association (ACMEA) General Government Unit. In addition, staff recommends amending the Article 3, Section 3-11, subsection 3-11.9 of the Salary Ordinance to include salary administration criteria for this one (1) new classification, effective August 9, 2020.

Lastly, at the request of ASCO to address ongoing recruitment and retention challenges, staff recommends establishing a hiring incentive program ("Program") in ASCO, effective August 9, 2020. The Program pays in the amount of \$10,000, \$12,000 and \$15,000 for newly hired or newly promoted employees in the classifications of Deputy Sheriff Recruit (JC #8601NM), Deputy Sheriff I (JC #8602NM), or Deputy Sheriff II (JC #8604NM) respectively, and paid in equal increments based on defined criteria over a four (4) year period. The said challenges faced by ASCO has recently been exacerbated by a shrinking qualified candidate pool, changing public opinion about the law enforcement profession, and a dramatic increase in competition for qualified safety personnel from neighboring jurisdictions that offer hiring bonuses and other enhanced benefits to attract lateral officers from other agencies. In addition, ACSO management reviewed exit interviews of 23 former officers between the period of January 2019 and June 2020, who left ASCO to work for other local agencies, which further supports the need to establish said Program in order to attract, hire and retain qualified and experienced officers in ASCO. This Program is consistent with the previous analysis and recommendations made by the staffing expert, which have been approved by your Board.

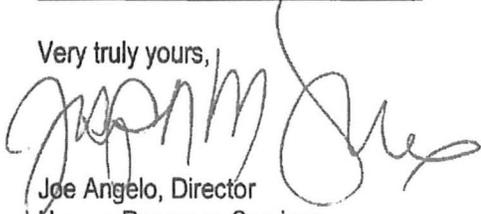
FINANCING:

Funds are available in the 2020-2021 Approved Budget and will be included in future years' requested budgets to cover the costs resulting from these actions.

VISION 2026 GOAL:

The Salary Ordinance amendments meet the 10x goal pathways of **Employment for All** in support of our shared vision of a **Prosperous and Vibrant Economy**.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joe Angelo", written over a horizontal line.

Joe Angelo, Director
Human Resource Services

c: CAO
Auditor-Controller
County Counsel
Director, GSA
Sheriff

SECOND READING - CONTINUED FROM 07/28/2020
REVISED

Approved as to Form
DONNA ZIEGLER, County Counsel

By 
Kristy van Herick, Asst. County Counsel

AN ORDINANCE AMENDING
CERTAIN PROVISIONS OF THE 2020 – 2021
COUNTY OF ALAMEDA SALARY ORDINANCE

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Article 1, Section 1-1, Subsection 1-1.1 of the County of Alameda Salary Ordinance is hereby amended to specify the following job codes, titles, and salaries, to be effective on August 9, 2020:

Job Code		Title	Unit Code	Step 01	Step 02	Step 03	Step 04	Step 05	FLSA Status
0236	SM	Transportation and Parking Manager	R15	2871.20				3848.00	X
2218	SM	Capital Programs Manager	U15	5,389.60				6878.40	X
8526	SM	Supervising Criminalist	029	4571.20	4801.60	5041.60	5293.60	5558.40	X
8603	N	Deputy Sheriff – SAN	U13	3289.60	3454.40	3627.20	3808.80	3999.20	N

SECTION II

Article 3, Section 3-11, Subsection 3-11.9 of the County of Alameda Salary Ordinance is hereby amended as follows:

3-11.9 - Persons occupying positions under Job Codes 0176PA, 0178SM, 0185SM, 0193EM, 0236SM, 0421SM, 0451SM, 2218SM, 2219SM, 7425SM, 9445SM, 9689M, 9690SM, 9691PA, 9692SM, 9693PA, 9695MA, 9698PA, 9699SM, or 9702SM may be compensated at any biweekly amount in the salary range for that class as determined by the Director, General Services Agency.

SECTION III

Article 3, Section 3-15, Subsection 3-15.54 of the County of Alameda Salary Ordinance is hereby added, to be effective on August 9, 2020.

3-15.54 – Persons newly hired or newly promoted into Job Codes 8601NM, 8602NM, or 8604NM shall receive a hiring incentive to be paid in equal increments over a four (4) year period as follows:

Deputy Sheriff Recruit (JC #8601NM) - \$10,000

- \$2,500 upon graduation from Basic Academy.
- \$2,500 after successfully completing the 18-month probationary period.
- \$2,500 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.

- \$2,500 after four (4) years of continuous service upon receipt of satisfactory annual performance evaluation.

Deputy Sheriff I (JC #8602NM) - \$12,000

- \$3,000 first pay period after hire.
- \$3,000 after successfully completing the 18-month probationary period.
- \$3,000 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.
- \$3,000 after four (4) years of continuous service upon receipt of satisfactory annual performance evaluation.

Deputy Sheriff II (JC #8604NM) - \$15,000

- \$3,750 first pay period after hire.
- \$3,750 after successfully completing the 12-month probationary period.
- \$3,750 after three (3) years of continuous service upon receipt of satisfactory annual performance evaluation.
- \$3,750 after four (4) years of continuous service upon receipt of satisfactory annual performance evaluation.

SECTION IV

This ordinance shall take effect immediately, and before the expiration of fifteen days after its passage, shall be published once with the names of the members voting for and against it in the Inter-City Express, a newspaper published in the County of Alameda.

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.

NEW BUSINESS

8.A. Educational Presentation on Conflicts of Interest by Chief Counsel, Jeff Rieger.



To: Members of the Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: December 17, 2020
Subject: **Conflicts of Interest**

A handwritten signature in black ink, appearing to read 'JR', is positioned to the right of the 'From' and 'Meeting' lines.

INTRODUCTION

California has strong conflict-of-interest laws to ensure that public officials make decisions based on the public interest rather than public officials' own interests. This memorandum discusses two important California conflict-of-interest laws, the Political Reform Act and Gov't Code § 1090, as they apply to ACERA trustees.¹ The key points are:

- Diligently identify the financial interests of you and your immediate family
- Consider interests in businesses, real property and sources of gifts/income
- Financial interests that may seem "small" can cause conflict of interest violations
- With a disqualifying financial interest, you cannot influence the decision at all
- The penalties for conflict-of-interest violations can be substantial
- Good intentions will not shield you from all liability
- When in doubt, seek legal counsel and proceed with caution

POLITICAL REFORM ACT

California's primary conflict-of-interest law is the Political Reform Act. The basic rule is in Gov't Code § 87100:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

¹ This memorandum focuses on the Political Reform Act and Gov't Code § 1090, but there are many other laws relating to conflicts of interests, such as limitations on post-governmental employment, incompatible offices, incompatible activities, restrictions and limitations on gifts, free travel and honoraria, and financial disclosure requirements (Form 700s). The California Attorney General prepared a guide to help navigate these laws, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/coi.pdf>, and trustees should seek legal counsel, as necessary.

ACERA trustees and executive staff are “public officials” in “local government” and ACERA decisions are “government decisions.” Thus, when ACERA trustees (and executive staff) are conducting ACERA business, conflict-of-interest questions will turn on whether the individual “knows or has reason to know he [or she] has a financial interest” in the decision. On that question, Gov’t Code § 87103 provides:

A public official has a financial interest in a decision ... if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.
- (d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating [\$500, subject to incremental increases] or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. ...

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

To determine if there is a prohibited conflict of interest, apply this three-question test:

1. Is it reasonably foreseeable that the governmental decision will have a financial effect on any of your financial interests?

If a financial interest is a named party in, or the subject of, an ACERA decision, the law presumes that the decision’s effect on that financial interest is reasonably foreseeable.

In all other cases, what is “reasonable foreseeable” turns on the facts and circumstances. A financial effect need not be “likely” to be “reasonably foreseeable.” Rather, if the financial

effect is a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. See 2 CCR § 18701 (attached).

Practical Advice: If you determine ACERA is making a decision that may effect your financial interests, that potential effect is “reasonable foreseeable” enough that you should seek legal counsel.

2. Will the reasonably foreseeable financial effect be material?

The FPPC provides guidelines for different types of financial interests to determine if a financial interest is “material.” 2 CCR §§ 18702.1 (business entity), 18702.2 (real property), 18702.3 (source of income), 18702.4 (source of gift), 18702.5 (personal finances). Regulations attached.

Practical Advice: Seek legal counsel if a financial interest surpasses the threshold amounts listed in Gov’t Code § 87103: \$500 for an effect on personal finances, immediate family finances, sources of income and sources of gifts; and \$2,000 for an effect on a business entity or real property. In some cases, recusal will be unnecessary, but without going through the analysis, you should assume that a financial interest above those threshold amounts is potentially problematic.

3. Is the material financial effect distinguishable from its effect on the public generally?

A financial interest is not a disqualifying conflict of interest if the ACERA decision will effect a significant segment of the public and the effect on the trustee’s interest is not unique compared to the effect on the significant segment. FPPC regulations provide guidance on what constitutes a “significant segment of the public,” which are not crafted for retirement plan trustees, but can be consulted for guidance based on the facts of a particular case. See 2 CCR § 18703 (attached).

Practical Advice: If a decision effects all active members substantially the same, all retired members substantially the same or all members of a tier substantially the same, recusal is not necessary for active member trustees or retired member trustees. When a decision effects a smaller segment of the membership (or effects a trustee’s financial interest uniquely), active member trustees and retired member trustees should seek legal counsel.

If the answer to each of the above three questions is “yes,” then, absent a rare exception, you have a conflict of interest and you must (1) publicly identify the financial interest in detail sufficient for the public to understand, (2) recuse yourself from the vote, (3) leave the room during the discussion of the item,² and (4) not do anything to influence the decision behind the scenes. See Gov’t Code § 87105.

² Gov’t Code § 87105(a)(4) states that an otherwise recused official “may speak on the issue during the time that the general public speaks on the issue.”

GOV'T CODE § 1090

Gov't Code § 1090 is based on the same fundamental principles as the conflict-of-interest provisions in the Political Reform Act, but the two laws differ in several important ways:

- Some Gov't Code § 1090 violations may not violate the Political Reform Act
- Some Political Reform Act violations may not violate Gov't Code § 1090
- Gov't Code § 1090 applies only to "contracts"
- Gov't Code § 1090 sometimes absolutely prohibits the contract, even with recusal
- A violation of Gov't Code § 1090 can be prosecuted as a felony

Section 1090 provides that public officials "shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members." A public official also may not aid or abet another in violating section 1090.

Although section 1090 applies only to "contracts," courts interpret "contract" broadly. The contract need not be in writing or comport with technical requirements that may apply for a contract to be binding in some circumstances. Courts "disregard the technical relationship of the parties and look behind the veil which enshrouds their activities in order to discern the vital facts. However devious and winding the trail may be which connects the officer with the forbidden contract, if it can be followed and the connection made, a conflict of interest is established." *People v. Honig* (1996) 48 Cal.App.4th 289, 315.

Gov't Code § 1090 starts with a broad prohibition of any financial interest. If an exception does not apply, the Board cannot enter into the contract, even if the interested trustee does not vote. Then, Gov't Code § 1091 establishes "remote interest" exceptions and Gov't Code § 1091.5 establishes "non-interest" exceptions.

"Remote Interests": ACERA can enter into the contract, but only if the trustee discloses the interest, recuses from making of the contract, and the Board authorizes the contract without the vote of the interested trustee. There are many "remote interest" exceptions, but most will never apply to ACERA trustees. See Gov't Code § 1091 (attached).

"Non-Interests": The trustee does not need to recuse, although in some cases the trustee must publicly disclose the "non-interest." There are numerous "non-interest" exceptions, but only a few are likely to apply to ACERA trustees. See Gov't Code § 1091.5 (attached).

PENALTIES

Potential penalties for violations of the Political Reform Act and/or Gov't Code § 1090:

- Forfeiture of financial gain
- Attorneys' fees to party that established the violation
- Administrative fines of up to \$5,000 fine per violation

- Civil/Criminal fines of up to the greater of \$10,000 or three times amount involved
- Disqualification from elective office
- Up to misdemeanor for Political Reform Act violations
- Up to felony for willful Gov't Code § 1090 violations

The most severe penalties are for willful violations, but less severe penalties can apply even when the trustee operated in good faith. The law assumes that a financial interest influenced the decision.

EXAMPLES

Agreement Between ACERA and Participating Employer

A trustee who is an employee of that participating employer (e.g., the County) may participate, so long as the employer has not promised the trustees special treatment for voting or influencing the vote in a particular way. Gov't Code § 1091.5(a)(9); 2 CCR § 18702.3(d) and § 18703(e)(7). This is true even if the agreement results in increased benefits for the trustee, so long as the trustee receives the same benefits as significant segment of other employees. Gov't Code § 1091.5(a)(3); *Lexin v. Superior Court* (2010) 47 Cal.4th 1050.

Agreement Between ACERA and a Trustee's Employing Department

A trustee employed by the department must identify the employment relationship and fully recuse from the process. Gov't Code § 1091(b)(13); Gov't Code § 1091.5(a)(9).

Trustee is One of 50 Overpaid ACERA Retirees Subject to a Correction Process

The trustee who received overpayments should not participate in the decision about how to correct the error. If ACERA had made the overpayments to a larger portion of ACERA retirees, the trustee might be able to participate, but 50 members is likely too small of a group to allow the trustee's participation. 2 CCR § 18702.5(b)(1) and § 18703.

Setting Employer and Employee Contributions

Active employee trustees may participate in setting employer contributions, even though the decision will effect the finances of their employers. 2 CCR § 18702.3(d) and § 18703 (e)(7). They also may participate in setting employee contributions, even though the decision will effect their personal finances. 2 CCR § 18702.5(b)(1).

Same Manager of Trustees' Investment and Potential ACERA Investment

In most cases, it will not be reasonably foreseeable that adding money to one investment fund will result in greater returns for a different investment fund, even if the funds have the same manager. 2 CCR § 18701. Further, if the trustee's financial interest is in mutual funds, ETFs and other similar diversified investment vehicles, such investments usually do not cause violations of conflict-of-interest laws. Gov't Code § 82034; 2 CCR §18237. Trustees are encouraged to seek legal counsel, however, out of an abundance of caution.

Trustee or Spouse Invested in Same Investment Fund in Which ACERA May Invest

Seek legal counsel. This may or may not be a conflict of interest, depending on circumstances. Gov't Code § 82034; 2 CCR §§ 18237, 18701 and 18702.1.

Trustee or Spouse Invested in Potential ACERA Vendor

Seek legal counsel. This may or may not be a conflict of interest, depending on circumstances. 2 CCR §§ 18701 and 18702.1; 1091.5 (a)(1).

Trustee or Spouse is Employee, Officer or on Board of Potential ACERA Vendor

Seek legal counsel. This may or may not be a conflict of interest, depending on circumstances. Gov't Code § 87103(d); 2 CCR §§ 18701, 18702.1; Gov't Code § 1090.

Trustee and ACERA Managed Fund Hold Stock in Same Publicly-Traded Company

This is not a conflict of interest, because it is not reasonably foreseeable that the selection of the fund will result in an investment in a particular stock or that such investment will increase the value of that stock. 2 CCR § 18701.

Trustee or Spouse Applies for Disability Retirement

A trustee must recuse from any decision that uniquely effects the benefits of the trustee or the trustee's immediate family. 2 CCR § 18702.5.

Trustee's Work Colleague Applies for Disability Retirement

This is not a conflict of interest under the Political Reform Act and there is no "contract" involved under Gov't Code § 1090. If a trustee cannot impartially analyze an application, as a good fiduciary the trustee should not vote on the application, but recusal is not required under the conflict of interest rules.



STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

GOVERNMENT CODE

Section 87100

87100. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

(Added June 4, 1974, by initiative Proposition 9.)

State of California

GOVERNMENT CODE

Section 87103

87103. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

(Amended by Stats. 2000, Ch. 130, Sec. 7. Effective January 1, 2001. Note: This section was added on June 4, 1974, by initiative Prop. 9.)



State of California

GOVERNMENT CODE

Section 87105

87105. (a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

(Added by Stats. 2002, Ch. 233, Sec. 1. Effective January 1, 2003.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18701. Determining Whether a Financial Effect Is Reasonably Foreseeable.

(a) Financial Interest Explicitly Involved: A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

(b) Financial Interest Not Explicitly Involved in Decision: A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. In determining whether a governmental decision will have a reasonably foreseeable financial effect on a financial interest other than an interest described in subdivision (a), the following factors should be considered. These factors are not intended to be an exclusive list of all the relevant facts that may be considered in determining whether a financial effect is reasonably foreseeable, but are included as general guidelines.

(1) The extent to which the occurrence of the financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency.

(2) Whether the public official should anticipate a financial effect on his or her financial interest as a potential outcome under normal circumstances when using appropriate due diligence and care.

(3) Whether the public official has a financial interest that is of the type that would typically be affected by the terms of the governmental decision or whether the governmental decision is of the type that would be expected to have a financial effect on businesses and individuals similarly situated to those businesses and individuals in which the public official has a financial interest.

(4) Whether a reasonable inference can be made that the financial effects of the governmental decision on the public official's financial interest might compromise a public official's ability to act in a manner consistent with his or her duty to act in the best interests of the public.

(5) Whether the governmental decision will provide or deny an opportunity, or create an advantage or disadvantage for one of the official's financial interests, including whether the financial interest may be entitled to compete or be eligible for a benefit resulting from the decision.

(6) Whether the public official has the type of financial interest that would cause a similarly situated person to weigh the advantages and disadvantages of the governmental decision on his or her financial interest in formulating a position.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18702.1. Materiality Standard: Financial Interest in a Business Entity.

(a) The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity is material if any of the following criteria are met:

(1) Explicitly Involved. The entity is a named party in, or the subject of, the decision, including any decision in which the entity:

(A) Initiates the proceeding by filing an application, claim, appeal, or other request for action concerning the entity with the official's agency;

(B) Offers to sell a product or service to the agency;

(C) Bids on, or enters into, a contract with the agency, or is identified as a subcontractor on a bid or contract with the agency;

(D) Is the named or intended manufacturer or vendor of any products to be purchased by the agency with an aggregate cost of \$1,000 or more in any 12-month period;

(E) Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement from the agency;

(F) Is the subject of any inspection, action, or proceeding under the regulatory authority of the agency; or

(G) Is subject to an action taken by the agency that is directed at the entity.

(2) Gross Revenues and Assets or Liabilities. The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or more than:

(A) \$1,000,000; or

(B) Five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.

(3) Expenses. The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than:

(A) \$250,000; or

(B) One percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.

(4) Real Property. The official knows or has reason to know that the entity has an interest in real property and:

(A) The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or

(B) There is clear and convincing evidence the decision would have a substantial effect on the property.

(b) Exception: Small Shareholder. If the official's only interest in the entity is an investment interest with a value of \$25,000 or less, and if that investment interest is less than one percent of the entity's shares, the decision's effect on the official's investment interest in the entity is only material under subdivisions (a)(2)-(3) or (a)(4)(B) of this regulation.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

Regulations of the Fair Political Practice Commission, Title 2, Division 6, California Coda of Regulations)

§ 18702.2. Materiality Standard: Financial Interest in Real Property.

(a) The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision:

(1) Involves the adoption of or amendment to a development plan or criteria applying to the parcel;

(2) Determines the parcel's zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries;

(3) Would impose, repeal, or modify any taxes, fees, or assessments that apply to the parcel;

(4) Authorizes the sale, purchase, or lease of the parcel;

(5) Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property;

(6) Involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the parcel will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services;

(7) Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property; or

(8) Involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel's:

(A) Development potential;

(B) Income producing potential;

(C) Highest and best use;

(D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or

(E) Market value.

(b) The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest involving property 1,000 feet or more from the property line of the official's property is presumed not to be material. This presumption may be rebutted with clear and convincing evidence the governmental decision would have a substantial effect on the official's property.

(c) Leasehold Interests. The reasonably foreseeable financial effects of a governmental decision on any real property in which a governmental official has a leasehold interest as the lessee of the property is material only if the governmental decision will:

(1) Change the termination date of the lease;

(2) Increase or decrease the potential rental value of the property;

(3) Change the official's actual or legally allowable use of the property; or

(4) Impact the official's use and enjoyment of the property.

(d) Exceptions. The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest is not material if:

(1) The decision solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities.

(2) The decision solely concerns the adoption or amendment of a general plan and all of the following apply:

(A) The decision only identifies planning objectives or is otherwise exclusively one of policy. A decision will not qualify under this subdivision if the decision is initiated by the public official, by a person that is a financial interest to the public official, or by a person representing either the public official or a financial interest to the public official.

(B) The decision requires a further decision or decisions by the public official's agency before implementing the planning or policy objectives, such as permitting, licensing, rezoning, or the approval of or change to a zoning variance, land use ordinance, or specific plan or its equivalent.

(C) The decision does not concern an identifiable parcel or parcels or development project. A decision does not "concern an identifiable parcel or parcels" solely because, in the proceeding before the agency in which the decision is made, the parcel or parcels are merely included in an area depicted on a map or diagram offered in connection with the decision, provided that the map or diagram depicts all parcels located within the agency's jurisdiction and economic interests of the official are not singled out.

(D) The decision does not concern the agency's prior, concurrent, or subsequent approval of, or change to, a permit, license, zoning designation, zoning variance, land use ordinance, or specific plan or its equivalent.

(e) Definitions. The definitions below apply to this regulation:

(1) A decision “solely concerns the adoption or amendment of a general plan” when the decision, in the manner described in Sections 65301 and 65301.5, grants approval of, substitutes for, or modifies any component of, a general plan, including elements, a statement of development policies, maps, diagrams, and texts, or any other component setting forth objectives, principles, standards, and plan proposals, as described in Sections 65302 and 65303.

(2) “General plan” means “general plan” as used in Sections 65300, et seq.

(3) “Specific plan” or its equivalent means a plan adopted by the jurisdiction to meet the purposes described in Sections 65450, et seq.

(4) Real property in which an official has a financial interest does not include any common area as part of the official's ownership interest in a common interest development as defined in the Davis-Stirling Common Interest Development Act (Civil Code Sections 4000 et seq.)

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18702.3. Materiality Standard: Financial Interest in a Source of Income.

(a) The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a source of income is material if any of the following criteria are met:

(1) The source is a named party in, or the subject of, the decision including a claimant, applicant, respondent, or contracting party.

(2) The source is an individual and:

(A) The decision may affect the individual's income, investments, or other assets or liabilities (other than an interest in a business entity or real property) by \$1,000 or more; or

(B) The official knows or has reason to know that the individual has an interest in a business entity that will be financially affected under the materiality standards in Regulation 18702.1; or

(C) The official knows or has reason to know that the individual has an interest in real property and:

(i) The property is a named party in, or the subject of, the decision as defined in Regulations 18701(a) and 18702.2(a)(1) through (6); or

(ii) There is clear and convincing evidence the decision would have a substantial effect on the property.

(3) The source is a nonprofit organization and one of the following applies:

(A) The decision may result in an increase or decrease of the organization's annual gross receipts, or the value of the organization's assets or liabilities, in an amount equal to or more than:

(i) \$1,000,000; or

(ii) Five percent of the organization's annual gross receipts and the increase or decrease is equal to or greater than \$10,000.

(B) The decision may cause the organization to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than:

(i) \$250,000; or

(ii) One percent of the organization's annual gross receipts and the change in expenses is equal to or greater than \$2,500.

(C) The official knows or has reason to know that the organization has an interest in real property and:

(i) The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or

(ii) There is clear and convincing evidence the decision would have a substantial effect on the property.

(4) The source is a business entity that will be financially affected under the materiality standards in Regulation 18702.1.

(b) Nexus. Any reasonably foreseeable financial effect on a source of income to a public official or the official's spouse is material if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official or the official's spouse receives or is promised the income for achieving the purpose or goal.

(c) Exception: Income from Retail Sales of a Business Entity. For purposes of applying Section 87103.5:

(1) The retail customers of a business entity constitute a significant segment of the public generally if the business is open to the public, and provides goods or services to customers that comprise a broad base of persons representative of the jurisdiction.

(2) Income from an individual customer is not distinguishable from the amount of income received from other customers when the official is unable to recognize a significant monetary difference between the business provided by the individual customer and the general clientele of the business. An official is unable to recognize a significant monetary difference when:

(A) The business is of the type that sales to any one customer will not have a significant impact on the business's annual net sales; or

(B) The business has no records that distinguish customers by amount of sales, and the official has no other information that the customer provides significantly more income to the business than an average customer.

(d) Government Entities. Where a government entity qualifies as a source of income as defined in Section 82030, including where a public official is paid by the entity as a consultant or contractor, this Regulation does not apply. Under Regulation 18703(e)(7), an official with an interest in a governmental entity is disqualified from taking part in a decision only if there is a unique effect on the official.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18702.4. Materiality Standard: Financial Interest in Source of Gift.

The financial effect of a governmental decision on the source of a gift to a public official, as identified in Section 87103(e), is material if:

(a) The source is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding; or

(b) The source is an individual that will be financially affected under the standards applied to an official in Regulation 18702.5, or the official knows or has reason to know that the individual has an interest in a business entity or real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.1 or 18702.2, respectively; or

(c) The source is a nonprofit organization that will be financially affected under the materiality standards applied to a nonprofit source of income interest in Regulation 18702.3; or

(d) The source is a business entity that will be financially affected under the standards as applied to a financial interest in Regulation 18702.1.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18702.5. Materiality Standard: Financial Interest in an Official's Personal Finances.

(a) A governmental decision's reasonably foreseeable financial effect on a public official's financial interest in his or her personal finances or those of immediate family, also referred to as a "personal financial effect," is material if the decision may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

(b) Notwithstanding subdivision (a), a personal financial effect is not material if the decision would:

(1) Affect only the salary, per diem, or reimbursement for expenses the public official or a member of his or her immediate family receives from a federal, state, or local government agency unless the decision is to appoint (other than an appointing decision permitted under subdivision (b)(2) and (3)), hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or a member of his or her immediate family, or to set a salary for the official or a member of his or her immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position, or when the member of the public official's immediate family member is the only person in the job classification or position.

(2) Appoint the official to be a member of any group or body created by law or formed by the official's agency for a special purpose. However, if the official will receive a stipend for attending meetings of the group or body aggregating \$500 or more in any 12-month period, the

effect on the official's personal finances is material unless the appointing body posts all of the following on its website:

(A) A list of each appointed position and its term.

(B) The amount of the stipend for each appointed position.

(C) The name of the official who has been appointed to the position.

(D) The name of any official who has been appointed to be an alternate for the position.

(3) Appoint the official to be an officer of the governing body of which the official is already a member, such as a decision to appoint a city councilmember to be the city's mayor.

(4) Establish or change the benefits or retirement plan of the official or the official's immediate family member, and the decision applies equally to all employees or retirees in the same bargaining unit or other representative group.

(5) Result in the payment of any travel expenses incurred by the official or the official's immediate family member while attending a meeting as an authorized representative of an agency.

(6) Permit the official's use of any government property, including automobiles or other modes of transportation, mobile communication devices, or other agency-provided equipment for carrying out the official's duties, including any nominal, incidental, negligible, or inconsequential personal use while on duty.

(7) Result in the official's receipt of any personal reward from the official's use of a personal charge card or participation in any other membership rewards program, so long as the reward is associated with the official's approved travel expenses and is no different from the reward offered to the public.

(c) If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately. The financial effect on the business entity or real property is analyzed only under the respective materiality standards in Regulations 18702.1 and 18702.2. Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18703. Public Generally.

(a) General Rule. A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on his or her financial interest is not unique compared to the effect on the significant segment.

(b) A significant segment of the public is at least 25 percent of:

(1) All businesses or non-profit entities within the official's jurisdiction;

(2) All real property, commercial real property, or residential real property within the official's jurisdiction; or

(3) All individuals within the official's jurisdiction.

(c) A unique effect on a public official's financial interest includes a disproportionate effect on:

(1) The development potential or use of the official's real property or on the income producing potential of the official's real property or business entity.

(2) An official's business entity or real property resulting from the proximity of a project that is the subject of a decision.

(3) An official's interests in business entities or real properties resulting from the cumulative effect of the official's multiple interests in similar entities or properties that is substantially greater than the effect on a single interest.

(4) An official's interest in a business entity or real property resulting from the official's substantially greater business volume or larger real property size when a decision affects all interests by the same or similar rate or percentage.

(5) A person's income, investments, assets or liabilities, or real property if the person is a source of income or gifts to the official.

(6) An official's personal finances or those of his or her immediate family.

(d) "Jurisdiction" means the jurisdiction of the state or local government agency as defined in Section 82035, or the designated geographical area the official was elected to represent, or the area to which the official's authority and duties are limited if not elected.

(e) Specific Rules for Special Circumstances. The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally if the official establishes:

(1) Public Services and Utilities. The decision establishes or adjusts assessments, taxes, fees, or rates for water, utility, or other broadly provided public services or facilities that are applied equally, proportionally, or by the same percentage to the official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate.

(2) General Use or Licensing Fees. The decision affects the official's personal finances as a result of an increase or decrease to a general fee or charge, such as parking rates, permits, license fees, application fees, or any general fee that applies to the entire jurisdiction.

(3) Limited Neighborhood Effects. The decision affects residential real property limited to a specific location, and the decision establishes, amends, or eliminates ordinances that restrict on-street parking, impose traffic controls, deter vagrancy, reduce nuisance or improve public

safety, provided the body making the decision gathers sufficient evidence to support the need for the action at the specific location.

(4) Rental Properties. The decision affects all renters of residential property within the official's jurisdiction and only interests resulting from the official's leasehold interest in his or her residence are affected.

(5) Required Representative Interest. The decision is made by a board or commission and the law that establishes the board or commission requires certain appointees have a representative interest in a particular industry, trade, or profession or other identified interest, and the public official is an appointed member representing that interest. This provision applies only if the effect is on the industry, trade, or profession or other identified interest represented and there is no unique effect on the official's interest.

(6) State of Emergency. The decision is made pursuant to an official proclamation of a state of emergency when required to mitigate against the effects directly arising out of the emergency and there is no unique effect on the official's interest.

(7) Governmental Entities. The decision affects a federal, state, or local governmental entity in which the official has an interest and there is no unique effect on the official's interest.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.



State of California

GOVERNMENT CODE

Section 1090

1090. (a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(b) An individual shall not aid or abet a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating subdivision (a).

(c) As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(Amended by Stats. 2014, Ch. 483, Sec. 1. (SB 952) Effective January 1, 2015.)

State of California

GOVERNMENT CODE

Section 1091

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit entity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office and the officer owns less than 3 percent of the shares of stock of the contracting party; and the employee or agent is not an officer or director of the contracting party and did not directly participate in formulating the bid of the contracting party.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent in the earnings of his or her minor child for personal services.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm that renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of 10 percent or more in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) Except as provided in subdivision (b) of Section 1091.5, that of a director of, or a person having an ownership interest of, 10 percent or more in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, architect, or planner employed by a consulting engineering, architectural, or planning firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(13) That of a person receiving salary, per diem, or reimbursement for expenses from a government entity.

(14) That of a person owning less than 3 percent of the shares of a contracting party that is a for-profit corporation, provided that the ownership of the shares derived from the person's employment with that corporation.

(15) That of a party to litigation involving the body or board of which the officer is a member in connection with an agreement in which all of the following apply:

(A) The agreement is entered into as part of a settlement of litigation in which the body or board is represented by legal counsel.

(B) After a review of the merits of the agreement and other relevant facts and circumstances, a court of competent jurisdiction finds that the agreement serves the public interest.

(C) The interested member has recused himself or herself from all participation, direct or indirect, in the making of the agreement on behalf of the body or board.

(16) That of a person who is an officer or employee of an investor-owned utility that is regulated by the Public Utilities Commission with respect to a contract between the investor-owned utility and a state, county, district, judicial district, or city body or board of which the person is a member, if the contract requires the investor-owned utility to provide energy efficiency rebates or other type of program to encourage energy efficiency that benefits the public when all of the following apply:

(A) The contract is funded by utility consumers pursuant to regulations of the Public Utilities Commission.

(B) The contract provides no individual benefit to the person that is not also provided to the public, and the investor-owned utility receives no direct financial profit from the contract.

(C) The person has recused himself or herself from all participation in making the contract on behalf of the state, county, district, judicial district, or city body or board of which he or she is a member.

(D) The contract implements a program authorized by the Public Utilities Commission.

(17) That of an owner or partner of a firm serving as an appointed member of an unelected board or commission of the contracting agency if the owner or partner recuses himself or herself from providing any advice to the contracting agency regarding the contract between the firm and the contracting agency and from all participation in reviewing a project that results from that contract.

(c) This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

(Amended by Stats. 2015, Ch. 495, Sec. 1. (SB 704) Effective January 1, 2016.)

State of California

GOVERNMENT CODE

Section 1091.5

1091.5. (a) An officer or employee shall not be deemed to be interested in a contract if his or her interest is any of the following:

(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided that the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.

(2) That of an officer in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duties.

(3) That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the body or board.

(4) That of a landlord or tenant of the contracting party if the contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of the contract is the property in which the officer or employee has the interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Section 1091.

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee of a public agency in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that this interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that this interest is noted in its official records.

(8) That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that this interest is noted in its official records.

For purposes of this paragraph, an officer is “noncompensated” even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing the duties of his or her office.

(9) That of a person receiving salary, per diem, or reimbursement for expenses from a government entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.

(10) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

(11) Except as provided in subdivision (b), that of an officer or employee of, or a person having less than a 10-percent ownership interest in, a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower, depositor, debtor, or creditor.

(12) That of (A) a bona fide nonprofit, tax-exempt corporation having among its primary purposes the conservation, preservation, or restoration of park and natural lands or historical resources for public benefit, which corporation enters into an agreement with a public agency to provide services related to park and natural lands or historical resources and which services are found by the public agency, prior to entering into the agreement or as part of the agreement, to be necessary to the public interest to plan for, acquire, protect, conserve, improve, or restore park and natural lands or historical resources for public purposes and (B) any officer, director, or employee acting pursuant to the agreement on behalf of the nonprofit corporation. For purposes of this paragraph, “agreement” includes contracts and grants, and “park,” “natural lands,” and “historical resources” shall have the meanings set forth in subdivisions (d), (g), and (i) of Section 5902 of the Public Resources Code. Services to be provided to the public agency may include those studies and related services, acquisitions of property and property interests, and any activities related to those studies and acquisitions necessary for the conservation, preservation, improvement, or restoration of park and natural lands or historical resources.

(13) That of an officer, employee, or member of the Board of Directors of the California Housing Finance Agency with respect to a loan product or programs if the officer, employee, or member participated in the planning, discussions, development, or approval of the loan product or program and both of the following two conditions exist:

(A) The loan product or program is or may be originated by any lender approved by the agency.

(B) The loan product or program is generally available to qualifying borrowers on terms and conditions that are substantially the same for all qualifying borrowers at the time the loan is made.

(14) That of a party to a contract for public services entered into by a special district that requires a person to be a landowner or a representative of a landowner to serve on the board of which the officer or employee is a member, on the same terms and conditions as if he or she were not a member of the body or board. For purposes of this paragraph, "public services" includes the powers and purposes generally provided pursuant to provisions of the Water Code relating to irrigation districts, California water districts, water storage districts, or reclamation districts.

(b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(Amended by Stats. 2013, Ch. 650, Sec. 1. (AB 1090) Effective January 1, 2014.)

NEW BUSINESS

**8.B. Cal. Gov. Code § 7514.7 Alternative Investment Vehicles
Information Report.**



TO: ACERA Board Trustees
FROM: Susan Weiss, ACERA Investment Counsel
MEETING: December 17, 2020
SUBJECT: CA Gov. Code § 7514.7 Alternative Investment Vehicles Information Report

The attached memo and its two statutory reports were prepared by ACERA Investment Staff, circulated to the Trustees, and presented at the December 9, 2020 Investment Committee.

We discovered that these three items were inadvertently omitted from the Investment Committee packet distributed to the public. To remedy this oversight, we have placed the matter on the ACERA Board Agenda to allow for public distribution of the reports. Investment Staff will be present at the Board meeting to answer any questions.

Attachments:

- #1 Memo to Investment Committee Members, dated December 9, 2020
- #2 Section 7514.7 Chart, prepared by ACERA Staff
- #2 Section 6254.26(b) Chart, prepared by ACERA Staff



TO: Members of the Investment Committee
FROM: John Ta, Investment Officer 
DATE: December 9, 2020
SUBJECT: CA Gov. Code § 7514.7 Alternative Investment Vehicles Information Report

Recommendation:

Not Applicable – This is an information item.

Background:

California Government Code Section 7514.7 (“Section 7514.7”) requires that California public pension funds such as ACERA disclose certain information regarding the alternative investment vehicles (“AIVs”) in which they invest at least once annually in a meeting open to the public. Specifically, Section 7514.7 mandates the disclosure of certain fees and expenses, as well as performance data and other information required to be disclosed under the California Public Records Act. (See CA Gov. Code § 6254.26(b).) The reporting is required for alternative investment contracts entered into on and after January 1, 2017. For contracts that pre-date January 1, 2017, the pension fund must undertake reasonable efforts to obtain the information. The intent of this statute is to increase transparency into the AIV fees and expenses paid by public pension plans.

Discussion:

Staff has created two disclosure charts, one to address the information required in Section 7514.7 (See **Attachment #1**) and another to address Section 6254.26 (b) (See **Attachment #2**). The charts reflect information for the calendar year ending December 31, 2019.

The Section 7514.7 Chart includes both the mandatory disclosure information for contracts entered into after January 1, 2017 (“Mandatory Funds”) and the voluntary disclosure information for contracts executed prior to January 1, 2017 (“Voluntary Funds.”) For earlier investment contracts, Staff has made considerable efforts to obtain the information either via contract amendment or information arrangement. For those legacy managers that agreed to provide the data, their information is listed under Voluntary Funds.

The Section 6254.26(b) Chart applies to all AIVs in which ACERA is invested, as the data contained in this Chart can be disclosed under the California Public Records Act.

Attachments:

- #1 Section 7514.7 Chart, prepared by ACERA Staff
- #2 Section 6254.26(b) Chart, prepared by ACERA Staff

Attachment #1 - Section 7514.7 Chart*

Fund Name	Board Approval Date**	Fees and Expenses		Carried Interest Distributed ³ (FY 2019)	Aggregate Fees and Expenses Paid by Portfolio Companies ⁴ (FY 2019)	Gross IRR ⁵ (Since Inception)	Net IRR ⁶ (Since Inception)
		Paid Directly ¹ (FY 2019)****	Indirectly (from AIV) ² (FY 2019)****				
Voluntary Funds (Pre-2017)							
Angeles Equity Partners I, L.P.	Aug-2016	\$0	\$704,609	\$0	\$81,063	12.0%	8.3%
CIM Infrastructure Fund II, L.P.	Dec-2015	\$0	\$233,388	\$0	\$37,938	13.6%	8.8%
CIM VI-2 (Urban REIT), LLC	Apr-2012	\$0	\$343,157	\$0	-\$47	9.0%	7.8%
Global Strategy LLC	May-2013	\$0	\$995,543	\$1,064,450	\$0	10.4%***	5.9%***
Great Hill Equity Partners IV, L.P.	Oct-2008	\$0	\$9,065	\$322,757	\$0	36.5%	26.5%
Great Hill Equity Partners V, L.P.	Aug-2013	\$0	\$444,389	\$572,183	\$2,177	32.9%	19.8%
Heitman American Real Estate Trust, L.P.	Jan-2013	\$0	\$516,665	\$0	\$0	9.8%	8.9%
Heitman Value Partners II, L.P.	Feb-2007	\$0	\$0	\$0	\$0	9.6%	8.6%
Jamestown Premier Property Fund, L.P.	Sep-2012	\$0	\$233,112	\$0	\$0	15.4%	11.6%
JLL Partners Fund VII, L.P.	Feb-2014	\$0	\$130,340	\$0	\$115,579	19.4%	15.2%
MetLife Core Property Fund, L.P.	Nov-2013	\$0	\$337,631	\$0	\$0	11.2%	10.7%
PRISA	Sep-2007	\$0	\$527,574	\$0	\$0	N/A	3.5%
PRISA III	Mar-2013	\$0	\$677,107	\$0	\$0	N/A	11.8%
Sycamore I, L.P.	Mar-2012	\$0	\$90,142	\$0	\$0	43.0%	28.3%
Sycamore II, L.P.	May-2014	\$0	\$374,027	\$0	\$79,814	12.0%	5.2%
UBS Trumbull Property Fund	Jul-2014	\$0	\$417,324	\$0	\$0	N/A	6.0%
Warburg Pincus Energy, L.P.	Apr-2014	\$0	\$163,756	\$0	\$0	5.6%	4.7%
Warburg Pincus Private Equity XI, L.P.	Sep-2012	\$0	\$473,110	\$4,023,069	-\$49,927	15.9%	13.4%
Warburg Pincus Private Equity XII, L.P.	Oct-2015	\$0	\$574,087	\$52,675	-\$521	16.8%	13.8%
Mandatory Funds (2017-2019)							
ABRY Advanced Securities Fund IV, L.P.	Sep-2018	\$0	\$584,354	\$0	\$0	N/A^	-1.8% [^]
AEW Partners Real Estate Fund VIII, L.P.	Apr-2018	\$0	\$312,500	\$0	\$0	24.1% [^]	13.7% [^]
AG Realty Value Fund X, L.P.	Jul-2018	\$0	\$368,084	\$0	\$0	17.0% [^]	-19.1% [^]
Altas Partners Holdings II, L.P.	Jun-2019	\$0	\$348,500	\$0	\$12,835	6.9% [^]	-8.4% [^]
AQR Global Stock Selection Institutional Fund, L.P.	Feb-2018	\$0	\$936,768	\$0	\$0	-13.1%***	-13.7%***
Artemis Real Estate Partners Income and Growth Fund, L.P.	Nov-2019	\$0	\$0	\$0	\$0	11.0% [^]	7.5% [^]
Audax Private Equity Fund VI, L.P.	Aug-2018	\$0	\$420,307	\$0	\$58,674	N/A [^]	134.8% [^]
BCP Fund II, L.P.	Oct-2017	\$0	\$825,540	\$0	\$0	N/A [^]	-47.3% [^]
Blackstone Strategic Opportunity Fund L.P.	Dec-2017	\$0	\$498,589	\$276,343	\$0	6.8%***	4.9%***
CapVest Equity Partners IV, L.P.	Jun-2018	\$0	\$559,795	\$0	\$0	N/A [^]	N/A [^]
CFM Institutional Systematic Diversified Fund LLC	May-2018	\$0	\$1,088,864	\$0	\$0	1.3%***	0.6%***
EQT Infrastructure Fund IV, L.P.	Nov-2018	\$0	\$925,520	\$0	\$0	12.0% [^]	-5.0% [^]
Genstar Capital Partners IX, L.P.	Feb-2019	\$0	\$319,679	\$0	\$0	16.2% [^]	12.4% [^]
Great Hill Equity Partners VI, L.P.	Jan-2017	\$0	\$1,129,116	\$0	\$4,970	41.2% [^]	59.4% [^]
Great Hill Equity Partners VII, L.P.	May-2019	\$0	\$166,615	\$0	\$0	N/A [^]	N/A [^]
Heitman Value Partners IV, L.P.	Jun-2017 / Mar-2018	\$0	\$78,197	\$63,157	\$0	15.6% [^]	12.9% [^]
ISQ Global Infrastructure Fund II, L.P.	Dec-2017	\$0	\$853,909	\$0	\$0	20.7% [^]	16.8% [^]
Khosla Ventures Seed D, L.P.	Mar-2018	\$0	\$83,241	\$0	\$92	12.9% [^]	-3.3% [^]
Khosla Ventures VI, L.P.	Mar-2018	\$0	\$147,235	\$0	\$133	9.8% [^]	-1.8% [^]
KPS Special Situations Fund V, L.P.	Oct-2019	\$0	\$0	\$0	\$0	N/A [^]	N/A [^]
KPS Special Situations Mid-Cap Fund, L.P.	Oct-2019	\$0	\$0	\$0	\$0	N/A [^]	N/A [^]
LHP Strategic Alpha Fund, LLC	Nov-2015 / May-2018	\$0	\$2,494,094	\$0	\$0	5.9%***	5.1%***
Lion Industrial Trust	Mar-2018	\$0	\$942,487	\$0	\$0	N/A [^]	16.4% [^]
NEA 16, L.P.	Mar-2017	\$0	\$150,464	\$0	\$0	21.9% [^]	14.0% [^]
Owl Rock First Lien Fund, L.P.	Sept-2019	\$0	\$1,035,619	\$0	\$0	19.8% [^]	5.7% [^]
Peak Rock Capital Credit Fund II, L.P.	Sep-2017	\$0	\$90,144	\$0	\$0	3.2% [^]	-8.2% [^]
Peak Rock Capital Fund II, L.P.	Sep-2017	\$0	\$544,363	\$0	\$192,500	58.5% [^]	30.4% [^]
Quantum Energy Partners VII Co-Investment Fund, L.P.	Sep-2017	\$0	\$5,556	\$0	\$0	-14.5% [^]	-15.1% [^]
Quantum Energy Partners VII, L.P.	Sep-2017	\$0	\$620,208	\$0	\$0	6.0% [^]	-1.6% [^]
SSGA Custom Real Assets Non-Lending Strategy	Nov-2018	\$195,883	\$0	\$0	\$0	3.8%***	3.7%***
Sycamore III, L.P.	Jan-2018	\$0	\$660,470	\$0	\$85,554	N/A [^]	-34.2% [^]
Taurus Mining Finance Fund No.2, L.P.	Feb-2019	\$0	\$263,736	\$0	\$0	51.8% [^]	25.6% [^]
Two Sigma Risk Premia Fund, L.P.	Oct-2019	\$0	\$86,805	\$0	\$0	N/A [^]	N/A [^]

* The information on this chart is prepared by ACERA. This chart has not been prepared, reviewed or approved by the fund managers.
 ** Date the Board approved the investment.
 *** Returns expressed as annualized total return instead of IRR.
 **** The total management fees and partnership expenses are net offsets and rebates, where applicable.
 ^ Calculated/Reported IRRs are typically not meaningful within the early stages of a fund's life due to a short time frame and lack of cash flows.
 N/A: Not available or not applicable.

Footnotes for the information being requested for each Alternative Investment Vehicle:

- The fees and expenses that the public investment fund pays directly to the alternative investment vehicle, the fund manager, or related parties.
- The Investor's pro rata share of fees and expenses not included in footnote #1 that are paid from the alternative investment vehicle to the fund manager or related parties.
- The Investor's pro rata share of carried interest distributed by the Partnership to the fund manager or related parties. For non private equity type vehicles, this category represents the performance fee charged in addition to a management fee.
- The Investor's pro rata share of aggregate fees and expenses paid by all of the portfolio companies held by the alternative investment vehicle to fund manager or related parties. This aggregate sum may or may not offset (or partially offset) management fees.
- Gross internal rate of return.
- Net internal rate of return.

Attachment #2 - Section 6254.26(b) Chart*

Fund Name ¹	Address ¹	Vintage Year ¹	Commitment ²	Cash		Net Asset Value (NAV)	Cash		Investment Multiple ⁷	Management Fees & Costs ⁸		Profit/(Loss) ⁹ (FY 2019)
				Contributions ³ (Since Inception)	Distributions ⁴ (Since Inception)		Distributions + NAV ⁵	Net IRR ⁶		Fees (FY 2019)	Costs (FY 2019)	
ABRY Advanced Securities Fund II, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2011	\$25,000,000	\$18,425,194	\$28,443,620	\$2,387,361	\$30,830,980	0.14x	1.64x	\$84,466	\$117,253	
ABRY Advanced Securities Fund III, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2014	\$20,000,000	\$13,534,559	\$4,262,499	\$13,999,439	\$18,261,938	0.09%	1.29x	\$187,523	\$2,516,523	
ABRY Advanced Securities Fund IV, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2018	\$33,000,000	\$5,483,528	\$0	\$5,438,019	\$5,438,019	-0.08%	0.97x	\$583,266	-\$18,748	
ABRY Partners VII, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2011	\$12,500,000	\$13,755,049	\$18,286,366	\$4,254,276	\$22,540,642	-0.08%	0.91x	\$29,265	-\$81,859	
ABRY Partners VIII, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2015	\$18,000,000	\$19,231,625	\$9,353,652	\$15,459,646	\$24,813,298	1.35%	1.23x	\$99,052	\$1,663,049	
ABRY Senior Equity IV, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2012	\$7,500,000	\$7,709,074	\$8,246,607	\$4,209,817	\$12,456,425	0.13%	1.53x	\$44,913	\$363,325	
ABRY Senior Equity V, L.P.	888 Boylston, Ste. 1600, Boston, MA 02199	2017	\$8,250,000	\$3,101,582	\$820,407	\$2,836,907	\$3,657,314	-0.47%	0.67x	\$102,039	\$290,430	
AEW Partners Fund VIII, L.P.	2 Seaport Lane, Boston, MA 02210	2018	\$25,000,000	\$15,044,319	\$7,059,867	\$13,827,132	\$20,886,999	8.46%	1.59x	\$725,616	\$1,902,864	
AG Opportunistic Whole Loan Fund, L.P.	245 Park Avenue, 26th Floor, New York, NY 10167	2014	\$50,000,000	\$50,000,000	\$53,476,601	\$56,169,017	\$60,169,017	0.07%	1.24x	\$97,415	\$1,234,720	
AG Realty Value Fund X, L.P.	245 Park Avenue, 26th Floor, New York, NY 10167	2019	\$35,000,000	\$7,350,000	\$263,508	\$7,063,884	\$7,327,392	1162.00%	1.77x	\$189,934	\$43,970	
AG Securitized Asset Recovery Fund, L.P.	245 Park Avenue, 26th Floor, New York, NY 10167	2012	\$25,000,000	\$25,134,858	\$36,222,721	\$2,627,273	\$38,849,994	12.10%	1.55x	\$180,734	\$510,162	
Altas Partners Holdings II, L.P.	79 Wellington Street West, Suite 3500, Toronto, Ontario, CA M5K 1K7	2019	\$33,000,000	\$7,432,308	\$11,041	\$7,218,692	\$7,229,733	N/A	N/A	\$345,407	-\$194,630	
Angeles Equity Partners I, L.P.	11661 San Vicente Blvd STE 808, Los Angeles, CA 90049	2016	\$35,000,000	\$17,589,700	\$1,450,382	\$14,543,712	\$15,994,094	14.67%	1.03x	\$508,371	\$1,104,751	
AQR Global Stock Selection Institutional Fund, L.P.	Two Greenwich Plaza, 4th Floor, Greenwich, CT 06830	2018	\$170,000,000	\$170,000,000	\$40,000,000	\$90,517,633	\$130,517,633	-14.39%	0.77x	\$936,768	-\$17,791,771	
Artemis Real Estate Partners Healthcare Fund I, L.P.	5404 Wisconsin Ave., Chevy Chase, MD 20815	2017	\$25,000,000	\$16,349,894	\$10,619,321	\$7,462,644	\$18,081,965	469.00%	1.66x	\$293,649	\$807,266	
Artemis Real Estate Partners Income and Growth Fund, L.P.	5404 Wisconsin Ave., Chevy Chase, MD 20815	2019	\$35,000,000	\$0	\$0	\$0	\$0	N/A	N/A	\$0	\$0	
Audax Private Equity Fund VI, L.P.	101 California Street, Suite 4750, San Francisco, CA 94111	2018	\$25,000,000	\$2,358,940	\$334,066	\$2,576,328	\$2,910,394	0.23%	2.05x	\$420,308	\$652,815	
Avista Capital Partners II, L.P.	65 East 55th Street, 18th Floor, New York, NY 10022	2010	\$30,000,000	\$39,435,718	\$55,850,532	\$4,520,850	\$60,371,382	10.26%	1.67x	\$0	\$82,136	
Bernhard Capital Partners II, L.P.	400 Convention Street, Suite 1010, Baton Rouge, LA 70802	2018	\$44,000,000	\$6,087,546	\$0	\$4,066,214	\$4,066,214	15.24%	1.38x	\$763,389	-\$762,455	
Blackstone Strategic Opportunity Fund, L.P.	345 Park Avenue, New York, NY 10154	2018	\$80,000,000	\$59,322,031	\$0	\$58,637,859	\$58,637,859	-1.18%	0.99x	\$774,932	\$1,897,766	
CapVest Equity Partners IV, L.P.	8, Rue Lou Hemmer, Findel, Lu L-1748	2018	\$31,610,000	\$0	\$0	\$0	\$0	16.76%	1.23x	\$174,663	\$0	
Catalyst Fund V, L.P.	181 Bay Street, Suite 4700, P.O. Box 792, Toronto, Ontario M5J 2T3, Canada	2015	\$50,000,000	\$26,250,000	\$4,524,760	\$18,925,487	\$23,450,247	N/A	N/A	\$1,169,302	-\$1,780,554	
Centerbridge Special Credit Partners, L.P.	375 Park Avenue, 12th Floor, New York, NY 10152	2009	\$35,000,000	\$33,250,000	\$52,447,620	\$1,316,839	\$53,764,459	-33.66%	0.96x	\$74,050	\$33,936	
Cerberus Offshore Levered Loan Opportunities Fund I, Ltd.	875 Third Avenue, New York, NY 10022	2011	\$16,780,742	\$34,476,622	\$37,287,664	\$99,261	\$37,386,925	8.15%	1.36x	\$0	\$39,895	
CFM Institutional Systematic Diversified Fund LLC	23 rue de l'Universite, 75007 Paris, France	2018	\$170,000,000	\$170,000,000	\$0	\$172,670,043	\$172,670,043	1.10%	1.02x	\$1,088,864	\$2,232,934	
CIM Infrastructure Fund II, L.P.	4700 Wilshire Boulevard, Los Angeles, CA 90010	2016	\$35,000,000	\$12,474,621	\$1,013,449	\$14,729,784	\$15,743,233	8.79%	1.26x	\$136,851	\$2,385,486	
CIM VI-2 (Urban REIT), LLC	4700 Wilshire Boulevard, Los Angeles, CA 90010	2012	\$25,000,000	\$25,000,000	\$6,474,000	\$32,176,116	\$38,650,116	0.15%	1.59x	\$320,601	\$1,325,453	
Dyal II US Investors LP	325 North Saint Paul Street, Suite 4900, Dallas, Texas 75201	2014	\$40,000,000	\$33,904,632	\$7,019,710	\$20,050,438	\$27,070,148	-0.11%	0.80x	\$1,255,471	-\$160,878	
EQT Credit Opportunities III, L.P.	15 Golden Square, 5 Floor, London, United Kingdom W1F 9JG	2017	\$38,150,000	\$16,916,343	\$2,048,215	\$14,621,332	\$16,669,546	32.28%	1.31x	\$1,012,973	\$407,271	
EQT Infrastructure IV	26A, Boulevard Royal, Luxembourg, Luxembourg L-2449	2019	\$40,000,000	\$7,948,410	\$0	\$7,795,070	\$7,795,070	-5.33%	0.98x	\$791,643	-\$70,467	
General Catalyst Group VI, L.P.	20 University Rd., Suite 450, Cambridge, MA 02138	2012	\$10,000,000	\$9,850,000	\$8,966,212	\$25,612,468	\$34,578,680	5.16%	1.12x	-\$146,019	\$4,284,872	
Genstar Capital Partners IX, L.P.	4 Embarcadero Center, Suite 1900, San Francisco, CA 94111	2019	\$25,000,000	\$5,794,151	\$0	\$5,947,945	\$5,947,945	-34.65%	0.63x	\$289,244	\$153,795	
Global Strategy LLC	75 State Street, 31st Floor, Boston, MA 02109	2013	\$25,000,000	\$25,000,000	\$0	\$36,484,968	\$36,484,968	5.87%	1.46x	\$2,059,992	\$2,989,882	
Great Hill Equity Partners IV, L.P.	One Liberty Square, Boston, MA 02109	2008	\$10,000,000	\$10,009,292	\$23,791,315	\$4,759,828	\$28,551,143	30.89%	1.96x	\$9,065	\$18,551,143	
Great Hill Equity Partners V, L.P.	One Liberty Square, Boston, MA 02109	2014	\$25,000,000	\$24,737,500	\$21,475,000	\$29,207,276	\$50,682,276	13.23%	1.63x	\$444,389	\$25,944,776	
Great Hill Equity Partners VI, L.P.	One Liberty Square, Boston, MA 02109	2017	\$50,000,000	\$35,094,162	\$14,676,931	\$36,661,348	\$51,338,279	11.50%	1.23x	\$1,129,116	\$16,244,116	
Great Hill Equity Partners VII, L.P.	One Liberty Square, Boston, MA 02109	2019	\$60,000,000	\$0	\$0	\$0	\$0	0.59%	1.46x	\$166,615	-\$166,615	
Heitman American Real Estate Trust, L.P.	191 North Wacker Drive, Suite 2500, Chicago, IL 60606	2013	\$40,000,000	\$40,000,000	\$10,006,111	\$53,665,402	\$63,671,513	10.80%	1.73x	\$523,665	\$685,530	
Heitman Value Partners IV, L.P. (HVP IV)	191 North Wacker Drive, Suite 2500, Chicago, IL 60606	2018	\$30,000,000	\$14,589,011	\$1,442,101	\$11,832,967	\$13,275,068	3.50%	1.43x	\$78,198	\$846,509	
Insight Equity II, L.P.	1400 Civic Place, Suite 250, Southlake, TX 76092	2009	\$16,875,000	\$17,056,481	\$13,953,515	\$14,511,344	\$28,464,859	N/A	N/A	\$236,175	\$358,127	
Insight Equity Mezzanine, L.P.	1400 Civic Place, Suite 250, Southlake, TX 76092	2009	\$5,625,000	\$5,577,013	\$5,508,486	\$2,064,468	\$7,572,954	13.67%	1.67x	\$25,020	\$108,109	
ISQ Global Infrastructure Fund II, L.P.	410 Park Avenue, Suite 830, New York, NY 10022	2018	\$40,000,000	\$18,061,273	\$1,930,584	\$18,285,594	\$20,216,178	15.79%	1.12x	\$1,322,313	\$1,405,208	
Jamestown Premier Property Fund	675 Ponce De Leon Ave. NE, 7th Floor, Atlanta, GA	2012	\$20,000,000	\$20,000,000	\$18,217,164	\$24,461,382	\$42,678,546	5.97%	1.35x	\$213,883	\$463,906	
JLL Partners Fund VII, L.P.	450 Lexington Avenue, 31st Floor, New York, NY 10017	2015	\$47,250,000	\$39,933,337	\$1,423,384	\$53,501,711	\$54,925,095	9.86%	1.35x	\$1,187,148	\$6,492,187	
JP Morgan Strategic Property Fund	270 Park Avenue, New York, NY 10017	2007	\$50,000,000	\$15,688,728	\$72,156,771	\$87,845,499	\$104,000,000	14.44%	1.13x	\$714,098	\$2,357,771	
Khosla Ventures III, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2009	\$12,000,000	\$11,833,157	\$18,121,177	\$2,986,420	\$21,107,597	-1.81%	0.99x	\$69,417	-\$112,418	
Khosla Ventures IV, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2011	\$15,000,000	\$14,715,000	\$19,937,675	\$23,435,521	\$43,373,196	15.10%	1.62x	\$3,336,563	\$7,277,948	
Khosla Ventures Seed B, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2012	\$5,000,000	\$4,985,000	\$2,424,983	\$10,009,359	\$12,434,342	14.06%	1.18x	\$599,339	\$1,374,947	
Khosla Ventures Seed D, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2018	\$3,000,000	\$1,155,000	\$0	\$1,133,910	\$1,133,910	-7.77%	0.89x	\$43,880	\$14,523	
Khosla Ventures Seed, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2009	\$3,000,000	\$3,000,555	\$624,210	\$3,845,880	\$4,470,090	13.51%	1.62x	\$210,616	\$359,042	
Khosla Ventures V, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2014	\$10,000,000	\$9,450,000	\$506,399	\$12,762,693	\$13,269,092	4.16%	1.08x	\$628,661	\$1,077,289	
Khosla Ventures VI, L.P.	2128 Sand Hill Road, Menlo Park, CA 94025	2018	\$7,000,000	\$2,646,000	\$0	\$2,613,351	\$2,613,351	-1.61%	0.99x	\$147,235	\$30,416	
KPS Special Situations Fund IV, L.P.	485 Lexington Ave., 31st Floor, New York, NY 10017	2014	\$14,580,000	\$11,491,462	\$3,293,019	\$10,800,060	\$14,093,079	6.73%	1.36x	\$413,533	\$720,234	
KPS Special Situations Fund V, L.P.	485 Lexington Ave., 31st Floor, New York, NY 10017	2019	\$20,000,000	\$0	\$0	\$0	\$0	12.68%	1.52x	\$0	\$0	
KPS Special Situations Mid-Cap Fund, L.P.	485 Lexington Ave., 31st Floor, New York, NY 10017	2019	\$5,000,000	\$439,966	\$0	\$422,513	\$422,513	14.76%	1.09x	\$12,598	\$20	
LHP Strategic Alpha Fund, LLC	3801 PGA Blvd., Suite 500, Palm Beach Gardens, FL 33410	2015	\$278,000,000	\$278,000,000	\$0	\$311,022,067	\$311,022,067	0.05%	1.12x	\$2,372,375	\$21,796,922	
Lindsay Goldberg III L.P.	630 Fifth Avenue, 30th Floor, New York, NY 10111	2008	\$45,000,000	\$48,599,225	\$58,810,011	\$398,326	\$59,208,337	0.09%	1.50x	\$55,820	-\$384,919	
Lion Industrial Trust	230 Park Avenue, New York, NY 10169	2012	\$55,000,000	\$55,000,000	\$8,441,612	\$80,860,528	\$89,302,140	-33.00%	1.00x	\$942,487	\$11,743,117	
MetLife Core Property Fund, L.P.	One MetLife Way, Whippany, NJ 07981	2013	\$50,000,000	\$50,000,000	\$16,021,044	\$71,730,562	\$87,751,606	794.00%	1.11x	\$337,630	\$5,490,309	
NEA 13, L.P.	5425 Wisconsin Avenue, Chevy Chase, MD 20815	2009	\$11,000,000	\$10,842,739	\$13,247,527	\$8,018,459	\$21,265,986	-12.16%	0.95x	\$75,301	\$1,059,398	
NEA 14, L.P.	5425 Wisconsin Avenue, Chevy Chase, MD 20815	2012	\$11,000,000	\$10,508,976	\$9,960,311	\$13,749,654	\$23,709,965	27.09%	3.12x	\$93,230	\$2,493,196	
NEA 15, L.P.	5425 Wisconsin Avenue, Chevy Chase, MD 20815	2015	\$5,000,000	\$4,525,000	\$1,065,150	\$7,105,038	\$8,170,188	26.65%	2.85x	\$41,529	\$1,190,722	
NEA 16, L.P.	5425 Wisconsin Avenue, Chevy Chase, MD 20815	2017	\$15,000,000	\$9,037,500	\$268,636	\$10,282,627	\$10,551,263	9.78%	1.78x	\$150,024	\$854,107	
OHA Strategic Credit Fund IB, L.P.	1114 Avenue of the Americas, New York, NY 10036	2009	\$20,000,000	\$17,902,850	\$27,173,099	\$0	\$27,173,099	22.16%	2.95x	\$11,416	\$78,529	
OHA Strategic Credit Fund II, L.P.	1114 Avenue of the Americas, New York, NY 10036	2017	\$50,000,000	\$20,000,000	\$0	\$21,818,297	\$21,818,297	17.80%	2.49x	\$722,872	\$1,176,569	
Owl Rock First Lien LP	399 Park Avenue, 38th Floor, New York, NY 10022	2019	\$80									

Attachment #2 - Section 6254.26(b) Chart*

Fund Name ¹	Address ¹	Vintage Year ¹	Commitment ²	Cash	Cash	Net Asset Value (NAV)	Cash	Net IRR ⁶	Investment Multiple ⁷	Management	Profit/(Loss) ⁹ (FY 2019)
				Contributions ³ (Since Inception)	Distributions ⁴ (Since Inception)		Distributions + NAV ⁵			Fees & Costs ⁸ (FY 2019)	
Sycamore Partners, L.P.	9 West 57th Street, 31st Floor, New York, NY 10019	2011	\$30,000,000	\$39,257,693	\$44,644,653	\$32,438,101	\$77,082,754	17.77%	2.26x	\$660,264	\$6,677,981
Taurus Mining Finance Fund No.2	Suite 4101, Level 41, 1 Macquarie Place, Sydney NSW 2000, Australia	2019	\$30,000,000	\$6,616,290	\$174,299	\$6,875,078	\$7,049,377	24.22%	1.07x	\$355,603	\$433,087
Third Rock Ventures II, L.P.	29 Newbury St., Suite 301, Boston, MA 02116	2010	\$12,500,000	\$12,500,000	\$42,178,304	\$2,476,558	\$44,654,862	21.26%	1.81x	\$222,555	\$833,112
Third Rock Ventures III, L.P.	29 Newbury St., Suite 301, Boston, MA 02116	2013	\$10,000,000	\$10,000,000	\$6,036,802	\$10,948,515	\$16,985,317	0.13%	1.17x	\$228,358	-\$544,595
Two Sigma Risk Premia Fund, L.p.	100 Avenue of the Americas 16th Floor, New York, NY 10013	2019	\$100,000,000	\$100,000,000	\$0	\$100,127,304	\$100,127,304	0.26%	1.00x	\$86,805	\$0
UBS Trumbull Property Fund	10 State House Square, 15th Floor, Hartford, CT	2014	\$40,000,000	\$40,000,000	\$7,574,225	\$46,242,219	\$53,816,444	1176.00%	1.54x	\$404,630	-\$1,425,500
Warburg Pincus Energy, L.P.	450 Lexington Avenue, New York, NY 10017	2014	\$15,000,000	\$12,315,000	\$1,648,292	\$12,059,205	\$13,707,497	4.52%	1.11x	-\$13,435	-\$539,447
Warburg Pincus Private Equity XI, L.P.	450 Lexington Avenue, New York, NY 10017	2012	\$75,000,000	\$75,876,966	\$76,853,230	\$47,002,101	\$123,855,331	39.15%	3.57x	-\$495,473	\$5,281,326
Warburg Pincus Private Equity XII, L.P.	450 Lexington Avenue, New York, NY 10017	2015	\$43,000,000	\$40,441,500	\$4,055,889	\$45,560,322	\$49,616,211	18.86%	1.70x	\$2,094,353	\$6,087,392

*The information on this chart is prepared by ACERA. This chart has not been prepared, reviewed or approved by the fund managers.

Footnotes:

1. The name and vintage year of each alternative investment vehicle.
2. The dollar amount of the commitment made to each alternative investment vehicle by public investment fund since inception.
3. The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.
4. The dollar amount of cash distributions received by the public investment fund from each alternative investment vehicle.
5. The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund plus remaning value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.
6. The net internal rate of return of each altnerative investment vehicle since inception.
7. The investment multiple of each alternative investment vehicle since inception.
8. The dollar amount of the total management fees and costs paid on an annual fiscal yearend basis, by the public investment fund to each alternative investment vehicle.
9. The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis. This item is understood to represent a net increase (or decrease) in capital from operations net of incentive allocations.

NEW BUSINESS

8.C. Chief Executive Officer's Report.



*Office of the Chief Executive Officer
Office of Administration*

DATE: December 17, 2020
TO: Members of the Board of Retirement
FROM: Dave Nelsen, Chief Executive Officer *DN*
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
Schedule Joint Board of Supervisors and Board of Retirement meeting.	Dave Nelsen	Spring of 2020		The meeting was scheduled for 3/24/2020. It was canceled due to the COVID-19 crisis. This will be rescheduled to a later date.
Develop ACERA Re-Opening Plan.	Dave Nelsen	July 2020		The general guidelines of the plan have been developed and implemented. We are responding to changes as necessary based on new information.
Develop Financial Conflict of Interest Training	Jeff Rieger	December 2020		This is to provide an update to the guidelines regarding financial conflict of interest issues. Given the lack of SACRS training at the conferences and a recent high profile incident at CalPERS, it is a good time to retrain on our responsibilities in this area.

Conference/Event Schedule

None.

Other Items

COVID-19 Responses

Given the current surge in case count of COVID-19 locally and nationally, and the Governor's shut down order adopted by Alameda County, our current operational environment and structure will likely remain in place well into 2021. Since we were able to transition most of our work to remote access, the recent upgrade in restrictions will not affect our operations. Our protocols and infrastructure to accommodate protection and safety guidelines for employees and customers remain in place. These protocols include but are not limited to the following:

- *Implementing a **daily employee health self-assessment certification** protocol at the worksite, which must be completed by each employee upon entering the worksite.*
- *Requiring **face coverings** to be worn by all individuals within the workspace.*
- *Implementing **physical distancing** requirements at each worksite.*
- *Implementing **cleaning and sanitization** practices for all high-traffic and high-touch areas.*
- *Modifying the reception desk area, break rooms and conference rooms to accommodate physical distancing requirements.*
- *Ensuring PPE is available as needed.*
- *Installing a secure document reception box outside the reception area on the 10th floor to limit customer interaction for routine business.*
- *Installing an electronic sign-in process for customers upon their return to building access.*
- *Installing plexi-glass shields at the front desk area.*

At this point, the majority of team members are working from home. Our on-site presence is limited to mail handling and imaging, IT support, occasional benefits team members, and management. We are working on establishing long term work from home policies for eligible employees. As always, we are taking into account the safety of our team members and our customers, while still providing value added services.

Pension Administration System Update

The project is continuing to work through design phase. We have begun testing some designs programmed by LRS. We have met with the Participating Employers on our Pension Administration System Replacement Project. This new system will require some changes for our employers, but will also give them great new tools to better manage the quality of the data transmitted to ACERA. We are working with the County to participate in a pilot effort to work through some of these design changes. Our first pilot meeting with ITD and the Auditor's office personnel was on 12/11/2020. The bulk of this work will be early next year, and won't be operational until the entire system is up and running in 2023.

Personnel Items and Budget

Betty has returned!! We are all excited to have our CIO, peer and friend back to work. She will be working less than full time to start. We have filled our vacant Retirement Technician positions, and will start to recruit for the vacant investment team positions shortly.

Customer Service Updates

Our new off-site call center software is meeting ours, and the customer's needs. We continue to explore new ways to utilize this IT capability and enhance our phone service while working from home. It may have uses for the rest of staff, not just call center personnel. We are answering live calls Monday through Friday, from 9 a.m. to 3 p.m. During times where calls are not answered live, we continue to provide same day turnaround on the vast majority of voicemails and emails. The Customer Service team members have rolled out Zoom counseling sessions, as well as a large number of on-line options for document management, completion, and transmission.

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 October: -.09% (8.18% v. 8.27%)</i>
EFFECTIVE PLAN ADMINISTRATION	
Actual Spent vs. Approved Budget	<i>On budget or 10% below 2019 approved budget As of end of third Quarter: 18% 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 3rd Quarter: 100%</i>

NEW BUSINESS

8.D. Discussion and Possible Motion regarding Chief Executive Officer Compensation.

CLOSED SESSION

- 9.A. Conference with Designated Representative (Henry Levy) for Compensation Negotiations with Chief Executive Officer (Cal. Gov't Code § 54957.6).**

IF THERE ARE ANY MATERIALS TO BE DISTRIBUTED FOR THE ABOVE-REFERENCED MATTER(S), IT WILL BE DISTRIBUTED UNDER SEPARATE COVER.