



Alameda County Employees' Retirement Association
BOARD OF RETIREMENT

NOTICE and 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 18, 2025
2:00 p.m.**

LOCATION AND TELECONFERENCE	BOARD OF RETIREMENT TRUSTEES	
ACERA C.G. "BUD" QUIST BOARD ROOM 475 14TH STREET, 10TH FLOOR OAKLAND, CALIFORNIA 94612-1900 MAIN LINE: 510.628.3000 FAX: 510.268.9574 The public can observe the meeting and offer public comment by using the below Webinar ID and Passcode after clicking on the below link or calling the below call-in number. Link: https://zoom.us/join Call-In: 1 (669) 900-6833 US Webinar ID: 879 6337 8479 Passcode: 699406 For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193	KELLIE SIMON	ELECTED GENERAL CHAIR
	TARRELL GAMBLE	APPOINTED
	ELIZABETH ROGERS	ELECTED RETIRED
	OPHELIA BASGAL	APPOINTED
	KEITH CARSON	APPOINTED
	ROSS CLIPPINGER	ELECTED SAFETY
	HENRY LEVY	TREASURER
	STEVEN WILKINSON	APPOINTED
	GEORGE WOOD	ELECTED GENERAL
	CYNTHIA BARON	ALTERNATE RETIRED¹
	KEVIN BRYANT	ALTERNATE SAFETY²

¹ The Alternate Retired Member votes in the absence of the Elected Retired Member, or, if the Elected Retired Member is present, then votes if both Elected General Members, or the Safety Member and an Elected General Member, are absent.

² The Alternate Safety Member votes in the absence of the Elected Safety Member, either of the two Elected General Members, or both the Retired and Alternate Retired Members.

Note regarding accommodations: If you require a reasonable modification or accommodation for a disability, please contact ACERA between 9:00 a.m. and 5:00 p.m. at least 72 hours before the meeting at accommodation@acera.org or at 510-628-3000.

Public comments are limited to four (4) minutes per person in total. The order of items on the agenda 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 posted online at www.acera.org and also may be inspected at 475 14th Street, 10th Floor, Oakland, CA 94612.

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. REPORT ON SERVICE RETIREMENTS:

Appendix A

B. LIST OF DEFERRED RETIREMENTS:

Appendix B

C. LIST OF DECEASED MEMBERS:

Appendix C

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

None

E. APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON DISABILITY RETIREMENTS AND DEATH BENEFITS:

Appendix E

F. APPROVE UNCONTESTED HEARING OFFICER RECOMMENDATIONS FOR DISABILITY RETIREMENTS AND DEATH BENEFITS:

None

G. APPROVE MINUTES of BOARD and COMMITTEE MEETINGS:

November 20, 2025 Minutes of the Regular Board Meeting

November 20, 2025 Audit Committee Minutes

November 20, 2025 Operations Committee Minutes

December 3, 2025 Retirees Committee Minutes

December 3, 2025 Investment Committee Minutes

H. MISCELLANEOUS:

- *Operating Expenses as of 10/31/25*
- *Approve Staff Recommendation regarding Alameda County's New Pay Code: Coroner Assignment – 43K*
- *Approve Staff Recommendation regarding Alameda Health System's New Pay Code: MHS Escort – 22F*
- *2026 Travel Allotment*

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

**REGULAR CALENDAR
REPORTS AND ACTION ITEMS**

5. DISABILITY, DEATH AND OTHER BENEFIT CLAIMS:

Victoria Valdez and Rebecca Valdez (Deceased Member Regina Romer-Valdez) Claim for Payment of Lump Sum Benefit Under Gov't Code § 31781.

6. COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS:

A. Retirees: [See December 3, 2025 Retirees Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of December 3, 2025 Meeting.
2. Motion to continue to provide the Medicare Part B Reimbursement Plan (MBRP) benefit to eligible retirees in 2026, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$202.90. 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 2026.

B. Investment: [See December 3, 2025 Investment Committee Agenda Packet for public materials related to the below listed items.]

1. Summary of December 3, 2025 Meeting.

7. NEW BUSINESS:

- A.** ACERA Board Election Results.
- B.** Consideration of Rita Wadhwani’s Claim Regarding the Cost of Her Purchase of Service Credit for Service Prior to Membership Under Government Code Section 31641.5.
- C.** Discussion and Possible Motion Regarding a Possible Change to How ACERA Calculates the Cost to Purchase Service Credit for Service Prior to Membership Under Government Code Section 31641.5 for Tier 4 Members.
- D.** Presentation on the use of Artificial Intelligence in the Pension Administration Industry.
- E.** Chief Executive Officer’s Report.
- F.** Discussion and Possible Motion regarding Chief Executive Officer Compensation.

8. CONFERENCE/ORAL REPORTS

9. ANNOUNCEMENTS

10. BOARD INPUT

11. ESTABLISHMENT OF NEXT MEETING:

Thursday, January 15, 2026 at 2:00 p.m.

12. CLOSED SESSION:

- A.** Existing litigation pursuant to paragraph (1) of subdivision (d) of Section 54956.9: Alberto Mendoza v. Board of Retirement of the Ventura County Employees’ Retirement Association, Cal. Court of Appeal Second Appellate District Case No. B327347 (consider whether to request publication of unpublished decision)—unpublished opinion included in public agenda backup.
- B.** Conference with Designated Representative (Kellie Simon) regarding Compensation Negotiations with the Chief Executive Officer (Cal. Gov’t Code § 54957.6).

13. REPORT ON ACTION TAKEN IN CLOSED SESSION

14. ADJOURNMENT

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

BALOLONG, Arnolfo
Effective: 9/27/2025
Social Services Agency

BRADY, Tiona
Effective: 9/27/2025
Library

BUSBY, Scott
Effective: 10/22/2025
Sheriff's Office

CAISON, Kimberly
Effective: 9/18/2025
Alameda County Health

CARRASCO, Heidi
Effective: 9/27/2025
Social Services Agency

CHEUNG, Alice
Effective: 11/4/2025
Alameda Health System

DELGADILLO, Maritza
Effective: 10/1/2025
General Services Agency

GONZALES, Tina
Effective: 9/13/2025
Social Services Agency

HAZELWOOD, Philip
Effective: 10/11/2025
Superior Courts

HOULE, Clyde
Effective: 10/9/2025
Sheriff's Office

JAMPAS, Merita
Effective: 9/13/2025
Auditor-Controller

JOE, David
Effective: 10/1/2025
Superior Courts

JONES, Carmen
Effective: 9/13/2025
Social Services Agency

KING, Debra
Effective: 9/11/2025
Housing Authority

MARTINEZ, Kimberly
Effective: 9/27/2025
Social Services Agency

MANAGAD, Cholly
Effective: 9/13/2025
Alameda Health System

MATEO, Maria Carmelina
Effective: 10/11/2025
Superior Courts

MILLER, Donald
Effective: 9/30/2025
Alameda Health System

MYERS, Stephanie
Effective: 10/7/2025
Social Services Agency

NGWANYIA, George
Effective: 9/13/2025
Social Services Agency

POLLARCA-GAMBUCCI, Norayda
Effective: 9/27/2025
Assessors Department

ROBINSON, Cecelia
Effective: 9/27/2025
Social Services Agency

**APPENDIX A
REPORT ON SERVICE RETIREMENTS**

SEYMOUR, Kathie
Effective: 9/19/2025
Non-Member

WENSLEY, Paul
Effective: 9/13/2025
Alameda County Health

SKINNER, Tammy
Effective: 8/30/2025
Child Support Services

WHEELOCK, Janice
Effective: 9/9/2025
Social Services Agency

STEPHENS, Irma
Effective: 9/19/2025
Superior Courts

WILLIAMS, Elizabeth
Effective: 10/1/2025
Superior Courts

STONEBERGER, Anne
Effective: 10/13/2025
Non-Member

WINSTON, Gerald
Effective: 8/30/2025
Social Services Agency

SUMMERS, Leslie
Effective: 10/1/2025
Superior Courts

YABUT-BALOLONG, Maria Janet
Effective: 9/27/2025
Registrar of Voters

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

BUSNARDO, GERALYN
District Attorney's Office
Effective Date: 9/30/2025

HASHIMI, Hafizullah
Alameda County Health
Effective: 10/10/2025

CUARESMA, Julius
ACERA
Effective: 10/10/2025

MANCHAMEE, Lesley
Alameda County Health
Effective: 10/17/2025

DE LOS ANGELES, Martin Patrick
County Counsel
Effective: 10/6/2025

MCCABE, Laurel
Alameda Health System
Effective: 10/10/2025

HARRIS, Jessica
Alameda County Superior Court
Effective: 10/9/2025

MONCREASE-ROMINE, Lalah
Social Services Agency
Effective: 10/21/2025

HARTWELL, Ann
Alameda Health System
Effective: 10/3/2025

OJEH, Richard
Alameda Health System
Effective: 10/21/2025

**APPENDIX B
LIST OF DEFERRED RETIREMENTS**

PHAM, Tiffany
Public Works Agency
Effective: 10/10/2025

REED, Emma
Sheriff's Office
Effective: 10/9/2025

PORTER, Bryona
Social Services Agency
Effective: 10/10/2025

RUSH, Rebecca
Alameda County Health
Effective: 9/29/2025

RAMIREZ, Lisa
Alameda Health System
Effective: 10/8/2025

SAI, Ramondo
Social Services Agency
Effective: 10/3/2025

RAMOS, Rodrigo
Social Services Agency
Effective: 10/10/2025

SHERRY, Christopher
District Attorney's Office
Effective: 10/14/2025

SOSA, Angelica
Social Services Agency
Effective: 10/10/2025

**APPENDIX C
LIST OF DECEASED MEMBERS**

ACKERMAN, Marjorie R.
Non-Member Survivor of JAMES
ACKERMAN
11/16/2025

BENDER, Deborah E.
General Services Agency
10/29/2025

ALSTON, Rodrick
General Services Agency
10/31/2025

CLARO, Avelina G.
Non-Member Survivor of LEON CLARO
10/12/2025

ALTENBURG, Jody E.
Non-Member Survivor of PAUL RICH
6/6/2025

DI MICHELE, Ruth H.
Probation
11/14/2025

ANDRADE, Jeffrey E.
Sheriff's Office
11/4/2025

FEMMINIS, Maria D.
Non-Member Survivor of JOHN FEMMINIS
11/10/2025

FLETCHER, Bruce D. Assessor 11/17/2025	HARLAN, Wilma G. Non-Member Survivor of WILLIAM HARLAN 10/3/2025
FOLLRATH, Robert H. Sheriff's Office 11/15/2025	HENSLEY, John C. Social Services Agency 10/17/2025
GRASBERGER, William H. Non-Member Survivor of HELEN MORTON 10/31/2025	HERZOG, Timothy L. General Services Agency 10/26/2025
HAILEY, Germannell L. Social Services Agency 10/27/2025	OSBORN, Raymond L. Alameda County Health 11/3/2025
HAMROL, Carol A. Alameda Health System 11/4/2025	SCHPERBERG, Dee A. Sheriff's Office 10/28/2025
	UY, Manuel Information Technology Dept. 11/3/2025

APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS

Name: Fernandez, Janet
Type of Claim: Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, denying Ms. Fernandez's application for a service-connected.

APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS

Name: **Saeteurn, Nai**
Type of Claim: Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, denying Ms. Saeteurn's application for a service-connected disability.

1. The Board of Retirement is not a court of law and does not have the authority to hear testimony or receive evidence. The Board's role is to review the recommendations of the Medical Advisor and the Staff. The Board's decision is final and binding.



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT
MINUTES

Thursday, November 20, 2025

Chair Kellie Simon called the meeting to order at 2:01 p.m.

Trustees Present: Ophelia Basgal
 Keith Carson
 Tarrell Gamble
 Henry Levy
 Elizabeth Rogers
 Kellie Simon
 Steven Wilkinson
 George Wood

Trustees Excused: Ross Clippinger
 Cynthia Baron (*Alternate*)
 Kevin Bryant (*Alternate*)

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

Before calling for Public Input, Board Chair Kellie Simon announced the unexpected passing of ACERA's Fiscal Services Officer, Erica Haywood. Trustees and Staff offered their condolences and expressed their heartfelt appreciation for Erica, honoring her as a person and acknowledging her many contributions to ACERA. Erica will be truly missed. Chief Executive Officer Dave Nelsen will provide Trustees/Staff with the date and time of Erica's Memorial Service.

Mr. Nelsen announced the retirement of Eva Hardy, ACERA's long-time employee affectionately known as the "Rock" of the Benefits Department. Trustees, Staff, and ACRE President Pete Albert congratulated Eva, expressed their gratitude, and acknowledged Eva's many contributions to ACERA. Assistant CEO of Benefits Carlos Barrios, and Eva's supervisor, presented her with a Certificate of Appreciation honoring her 15 years of dedicated service to ACERA. Eva will be truly missed.

PUBLIC INPUT

None.

**CONSENT CALENDAR
REPORTS AND ACTION ITEMS**

Chief Counsel Jeff Rieger reported that, prior to today's Board meeting, Staff from the Alameda County Counsel's Office raised questions about what was on Appendix E on today's Board agenda. Mr. Rieger reported that the Neil Gonzalgo and Jose Ramirez matters listed in Appendix E should also both include the denial of an earlier effective date. Mr. Rieger stated that, aside from the earlier effective date issue, the agenda is in order and the Board may move forward with approval. Staff will make the necessary corrections to both matters.

REPORT ON SERVICE RETIREMENTS

Appendix A

LIST OF DEFERRED RETIREMENTS

Appendix B

LIST OF DECEASED MEMBERS

Appendix C

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

None

**APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS**

None

**APPROVE UNCONTESTED HEARING OFFICER RECOMMENDATIONS FOR
DISABILITY RETIREMENTS AND DEATH BENEFITS**

None

APPROVE MINUTES of BOARD and COMMITTEE MEETINGS

October 16, 2025 Minutes of the Regular Board Meeting

MISCELLANEOUS

Operating Expenses as of 09/30/25

Quarterly Financial Statements as of 09/30/25

Quarterly Cash Forecast Report

Board Member Conference Expense Report for 3rd Qtr. 2025

Senior Manager Conference and Training Expense Report for 3rd Qtr. 2025

Approve Staff Recommendation regarding Alameda County's New Pay Code:

Recruit/Supervisor Recruit Training Officer-43J

25-89

It was moved by Tarrell Gamble and seconded by Ophelia Basgal that the Board adopt the Consent Calendar. The motion carried 8 yes (*Basgal, Carson, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions.

REGULAR CALENDAR
REPORTS AND ACTION ITEMS

DISABILITY, DEATH AND OTHER BENEFIT CLAIMS

None.

COMMITTEE REPORTS, RECOMMENDATIONS AND MOTIONS

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

Audit:

Henry Levy reported that the Audit Committee met earlier today and that there were no Action Items. However, the Committee was presented with the following Information Items: **1)** ACE Award Recognition; **2)** Progress Report on the Internal Audit Plan; **3)** Review of Completed Audits and Projects; and **4)** Business Impact Analysis/Dark Website Update (Cybersecurity).

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the December 18, 2025 Board meeting.

Operations:

Ophelia Basgal reported that the Operations Committee met earlier today and that the Committee was presented with and discussed ACERA's 2026 proposed Operating Expense Budget. Trustee Basgal reported that Staff made one point of clarification regarding the balance of the total fund as of June 30, 2025. Staff will make the necessary corrections before finalizing and publishing the 2026 Board approved budget.

25-90

It was moved by Ophelia Basgal and seconded by Tarrell Gamble that the Board approve the proposed 2026 ACERA Operating Expense Budget of \$27,874,000, with the correction of the total fund balance, as recommended by the Operations Committee. The motion carried 8 yes (*Basgal, Carson, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, and 0 abstentions.

There were no Information Items.

Minutes of the meeting will be presented to the Board for adoption on the Consent Calendar at the December 18, 2025 Board meeting.

NEW BUSINESS:

Disability Process Overview

Human Resources Services Division Manager of Benefits Ava Lavender and Medical Leave and Accommodation Services Administrator Herlinda Morales-Chacon appeared via Zoom because Ms. Lavender announced that her Father had recently passed away. Trustees and Staff expressed their condolences. Ms. Morales-Chacon and Ms. Lavender presented a high-level overview of Alameda County's Disability Process, Programs and Benefits and how those processes interact with ACERA's disability and benefits processes. Mr. Barrios presented information on ACERA's Disability Process and explained the different types of disability retirement benefits available to its members. Mr. Rieger offered explanations regarding ACERA's Disability Process.

Presentation of Member Engagement Videos

Mr. Nelsen reported that ACERA's Member Engagement Video Tutorials are part of ACERA's 2025 Project Objectives. ACERA Communications Manager Michael Fara presented a couple of video tutorials that address members' frequently asked questions and demonstrated how members would access and view them. The video tutorials are now available on ACERA's Website. Mr. Fara responded to Trustees questions.

Chief Executive Officer's Report

Mr. Nelsen presented his November 20, 2025 written CEO Report which provided an update on: **1)** Committee and Board Action Items; **2)** Other Items: **a)** Business Planning; **b)** Legislative Update; **c)** Stand-by Pay Issue; **d)** Budget; and **3)** Key Performance Indicators.

Mr. Rieger responded to Mr. Albert's inquiry regarding the status of the Stand-by Pay Issue.

CONFERENCE/ORAL REPORTS

None.

ANNOUNCEMENTS

None.

BOARD INPUT

None.

To view the November 20, 2025 Board meeting YouTube video in its entirety, go to ACERA's Website at: <https://youtu.be/cmtweQXaDPY>.

CLOSED SESSION

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

The Board reconvened into Open Session and the following Trustees returned:
Carson, Levy, Rogers, Simon and Wilkinson.

Trustee Simon reported that she would serve as the Board's Designated Representative for compensation negotiations with Chief Executive Officer Dave Nelsen.

ADJOURNMENT

The meeting was adjourned at approximately 3:48 p.m.

Respectfully Submitted,



David Nelsen
Chief Executive Officer

12/18/25

Date Adopted

APPENDIX A
REPORT ON SERVICE RETIREMENTS

BELL, Delana
Effective: 9/13/2025
Sheriff's Office

HUEHNERFUSS, Gary
Effective: 9/13/2025
Information Technology

CHOI, Sungkyu
Effective: 9/22/2025
Superior Courts

IBAY, Jessica
Effective: 9/6/2025
Alameda Health System

CORBETT, John
Effective: 9/16/2025
Alameda Health System

JOHNSON, Marcus
Effective: 8/5/2025
Alameda Health System

CRANE, Julie
Effective: 9/10/2025
ACERA

LOPEZ, Anthony
Effective: 8/21/2025
Sheriff's Office

DIEW, Ryant
Effective: 8/17/2025
Probation

MARTINEZ, Katherine
Effective: 8/30/2025
ACERA

DOBBS, Desiree
Effective: 9/13/2025
Child Support Services

MCGUIRE, Sheila
Effective: 9/1/2025
LARPD

EASHMAN, Willie
Effective: 4/1/2025
Probation

MILINA, Eric
Effective: 8/30/2025
District Attorney

FREEMAN, Christine
Effective: 9/1/2025
Social Services Agency

REDD, Joyce
Effective: 8/30/2025
Social Services Agency

HEBERT, Patricia
Effective: 8/16/2025
Social Services Agency

WALLACE, Paul
Effective: 8/13/2025
Sheriff's Office

YU, Kay
Effective: 8/30/2025
Auditor - Controller

APPENDIX B
LIST OF DEFERRED RETIREMENTS

ACACIO, Kristel
Alameda County Health
Effective Date: 9/26/2025

ADAMS, Che
Social Services Agency
Effective: 9/18/2025

CONTI, Lakeeta
Alameda Health System
Effective: 9/3/2025

HIPKIN, Christopher
Public Works Agency
Effective: 9/23/2025

HOLLAND, David
Sheriff's Office
Effective: 9/6/2025

HOWARD, Erik
Sheriff's Office
Effective: 9/25/2025

LIANG, William
Auditor-Controller Agency
Effective: 9/26/2025

LIU, Yi
County Library
Effective: 9/26/2025

MACARIOLA, Yasmin
County Counsel
Effective: 9/19/2025

MANZO, Javier
Sheriff's Office
Effective: 9/8/2025

MARTINEZ R, Cesar
General Services Agency
Effective: 9/26/2025

MARTINEZ, Victoria
Probation
Effective: 9/19/2025

PAULSEN, Allison
Alameda Health System
Effective: 9/21/2025

PERSON, Monique
Social Services Agency
Effective: 9/2/2025

POSTWAY, Shronidia
Social Services Agency
Effective: 9/22/2025

RODRIGUEZ, Cindy
Alameda Health System
Effective: 9/26/2025

RODRIGUEZ, Elena
Alameda County Superior Court
Effective: 9/19/2025

SCOTT ZSUTTY, La vonne
Public Works Agency
Effective: 9/26/2025

THROWER, Tavio
Alameda County Superior Court
Effective: 9/3/2025

APPENDIX C
LIST OF DECEASED MEMBERS

ALARCON, Peter G.
Sheriff's Office
10/12/2025

BORDES, Nancy
Non-Member Survivor of JOHN BORDES
9/30/2025

BROWN, Charles K.
Probation
10/1/2025

DILUSTRO, Susan L.
Non-Member Survivor of ELAINE
LAESSLE
10/3/2025

DURKEE, Linda
Social Services Agency
9/28/2025

EDMONDSON, Wanda F.
Alameda Health System
10/5/2025

ELLIOTT, Mabele S.
Social Services Agency
9/26/2025

ENRIGHT, Richard
Sheriff's Office
10/25/2025

GASKILL, Robyn infelt F.
Non-Member Survivor of JAY GASKILL
10/2/2025

GLANCY, Roger F.
Alameda Health System
9/21/2025

GORDON, Robin G.
Superior Court
2/12/2025

HALLISEY, Michael J.
Non-Member Survivor of BARBARA
HALLISEY
10/2/2025

ISKOW, Eva
Alameda Health System
10/19/2025

MARCUS, Lavella
Alameda Health System
10/20/2025

MCCLAIN, Edith M.
Alameda Health System
10/2/2025

MOLES, Karen K.
Non-member DRO Recipient of Dennis
Jeglum
9/13/2025

NEWTON, Lois A.
Non-Member Survivor of WILLIAM
NEWTON
9/12/2025

NOONAN, James J.
Sheriff's Office
10/19/2025

PARGETT, Robert A.
Assessor
10/16/2025

PICKETT, Raife
Alameda Health System
9/30/2025

**APPENDIX C
LIST OF DECEASED MEMBERS**

SCHNELLER, David
Public Defender
10/11/2025

WENSLER, Shirley M.
Superior Court
9/29/2025

SMITH, Latonia P.
Community Development Agency
10/12/2025

ZAHN, Patricia L.
County Library
10/27/2025

**APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS**

Name: Barao, Donald
Type of Claim: Service-Connected

Staff's Recommendation:

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

Based on the Medical Advisor's finding regarding Mr. Barao's ability to ascertain the permanency of his incapacity on or before the date following the day for which he last received regular compensation, to deny the request for an earlier effective date.

Name: Barton, Crystal
Type of Claim: Service-Connected

Staff's Recommendation:

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

Based on the Medical Advisor's finding regarding Ms. Barton's ability to ascertain the permanency of her incapacity on or before the date following the day for which she last received regular compensation, to deny the request for an earlier effective date.

APPENDIX E

APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON DISABILITY RETIREMENTS AND DEATH BENEFITS

Name: Gabato, Edward
Type of Claim: Service-Connected

Staff's Recommendation:

Adopt the findings and conclusions and approve and adopt the recommendation contained in the Medical Advisor's report, including but not limited to, denying Mr. Gabato's application for a service-connected disability and granting a non-service connected disability, requiring annual medical examinations and questionnaires.

Name: Gonzalgo, Neil
Type of Claim: Service-Connected

Staff's Recommendation:

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

Name: Gums, April
Type of Claim: Service-Connected

Staff's Recommendation:

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

Name: Ramirez, Jose
Type of Claim: Service-Connected

Staff's Recommendation:

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



MINUTES OF NOVEMBER 20, 2025 AUDIT COMMITTEE MEETING

Date: November 20, 2025

To: Members of the Audit Committee

From: Henry Levy, Chair

Subject: **Summary of the November 20, 2025 Audit Committee Meeting**

The Audit Committee Chair, Henry Levy called the November 20, 2025, Audit Committee meeting to order at 11:33 a.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Henry Levy, Steven Wilkinson, and George Wood. Other Board members present were Ophelia Basgal, Keith Carson, and Elizabeth Rogers. Tarrell Gamble arrived after roll call.

Staff present were David Nelsen, Chief Executive Officer; Lisa Johnson, Assistant Chief Executive Officer; Jeff Rieger, Chief Counsel; Carlos Barrios, Assistant Chief Executive Officer; Harsh Jadhav, Chief of Internal Audit; Vijay Jagar, Chief Technology Officer; Sandra Dueñas-Cuevas, Benefits Manager; Jessica Huffman, Benefits Manager; and Betty Tse, Chief Investment Officer.

PUBLIC COMMENT

None

ACTION ITEMS

None

INFORMATION ITEMS

Internal Audit

1. ACE (Anti-Fraud, Controls, Excellence) Award Recognition

Kevin Weller received the ACE Award.

2. Progress Report on the Internal Audit Plan

Staff provided a progress report on the audits and other initiatives detailed on the 2025 Internal Audit Plan.

3. Review Completed Audits and Projects

Staff reported the results of the Benefit Certification Audit. The audit was performed to confirm that benefit recipients in the selected sample, were alive and eligible to continue receiving retirement benefits. The controls were effective.

4. Business Impact Analysis/Dark Website Update

Staff reviewed the purpose of the Business Impact Analysis, and its importance. Staff also provided an update on new threats found on the Dark Web.

TRUSTEE INPUT AND DIRECTION TO STAFF

None

FUTURE DISCUSSION ITEMS

None

ESTABLISHMENT OF NEXT MEETING DATE

TBD

MEETING ADJOURNED

The meeting adjourned at 12:25 p.m.



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From: Henry Levy, Chair

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ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

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Staff present were David Nelsen, Chief Executive Officer; Lisa Johnson, Assistant Chief Executive Officer; Jeff Rieger, Chief Counsel; Carlos Barrios, Assistant Chief Executive Officer; Harsh Jadhav, Chief of Internal Audit; Vijay Jagar, Chief Technology Officer; Sandra Dueñas-Cuevas, Benefits Manager; Jessica Huffman, Benefits Manager; and Betty Tse, Chief Investment Officer.

PUBLIC COMMENT

None

ACTION ITEMS

None

INFORMATION ITEMS

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TRUSTEE INPUT AND DIRECTION TO STAFF

None

FUTURE DISCUSSION ITEMS

None

ESTABLISHMENT OF NEXT MEETING DATE

TBD

MEETING ADJOURNED

The meeting adjourned at 12:25 p.m.

APPENDIX E
APPROVE UNCONTESTED STAFF RECOMMENDATIONS ON
DISABILITY RETIREMENTS AND DEATH BENEFITS

Name: Staysa, Lauren
Type of Claim: Service-Connected

Staff's Recommendation:

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

Name: Wilhelm, Erin
Type of Claim: Service-Connected

Staff's Recommendation:

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



MINUTES OF NOVEMBER 20, 2025 OPERATIONS COMMITTEE MEETING

To: Members of the Operations Committee

From: Ophelia Basgal, Vice Chair

Subject: **Summary of the November 20, 2025, Operations Committee Meeting**

Committee Vice Chair Ophelia Basgal called the November 20, 2025, Operations Committee meeting to order at 1:03 p.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Ophelia Basgal, Keith Carson, Tarrell Gamble, and George Wood. Also present were Elizabeth Rogers, Kellie Simon, Steve Wilkinson, and Henry Levy.

Staff present were Dave Nelsen, Chief Executive Officer; Lisa Johnson, Assistant Chief Executive Officer; Carlos Barrios, Assistant Chief Executive Officer; Jeff Rieger, Chief Counsel; Jessica Huffman, Benefits Manager; Sandra Dueñas-Cuevas, Benefits Manager; Vijay Jagar, Chief Technology Officer; Harsh Jadhav, Chief of Internal Audit; Vicki Arruda, Human Resource Officer; Betty Tse, Chief Investment Officer.

PUBLIC INPUT

None

Action Items

1. Discussion and Possible motion to approve the proposed 2026 ACERA Operating Expense Budget

Chief Executive Officer David Nelsen presented the proposed 2026 ACERA Operating Expense Budget.

Recommendation:

Staff recommends that the Operations Committee recommend to the Board of Retirement that the Board approve the proposed 2026 ACERA Operation Expense Budget.

It was moved by Elizabeth Rogers and seconded by Kellie Simon that the Operations Committee recommend to the Board of Retirement to approve the Proposed 2026 ACERA Operating Expense Budget with a correction being made to the wording in the *Portfolio Performance* section as described below:

The section previously read: As of June 30, 2025, ACERA's Total Fund returned 7.43% (net) YTD. The value of the Total Fund was \$13.0 billion (per NEPC performance report as of 06/30/2025) of June 30, 2025, ACERA's Total Fund returned 5.79% (gross) YTD. The value of the Total Fund was \$11.8 billion (per NEPC performance report as of 06/30/2025).

It was corrected to say: As of June 30, 2025, ACERA's Total Fund returned 7.43% (net) and 7.58% (gross) YTD. The value of the Total Fund was \$13.2 billion (per NEPC performance report as of 06/30/2025) as of June 30, 2025.

The motion carried 8 yes (Basgal, Carson, Rogers, Gamble, Wilkinson, Simon, Rogers and Levy), 0 no, and no abstentions.

INFORMATION ITEMS

None

TRUSTEE INPUT AND DIRECTION TO STAFF

FUTURE DISCUSSION ITEMS

ESTABLISHMENT OF NEXT MEETING DATE

T.B.D.

MEETING ADJOURNED

The meeting adjourned at 1:27 p.m.



MINUTES OF DECEMBER 3, 2025, RETIREES COMMITTEE MEETING

To: Members of the Retirees Committee

From: Elizabeth Rogers, Chair

Subject: Summary of the December 3, 2025, Retirees Committee Meeting

Committee Chair Elizabeth Rogers called the December 3, 2025, Committee meeting to order at 9:33 a.m.

ACERA TRUSTEES, SENIOR MANAGERS AND PRESENTING STAFF IN ATTENDANCE

Committee members present were Elizabeth Rogers, Steven Wilkinson (via Zoom for “just cause”) and George Wood. Also, present were Ophelia Basgal, Kellie Simon and alternate member Cynthia Baron. Committee member Henry Levy and Board member Tarrell Gamble joined the meeting after roll call.

Staff present were Carlos Barrios, Assistant Chief Executive Officer; Mike Fara, Communications Manager; Jessica Huffman, Benefits Manager; Vijay Jagar, Chief Technology Officer; Lisa Johnson, Assistant Chief Executive Officer; David Nelsen, Chief Executive Officer; and Jeff Rieger, Chief Counsel.

PUBLIC INPUT

None.

ACTION ITEMS

1. Adoption of Medicare Part B Reimbursement Plan Benefit for 2026

Staff and Segal, 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 recommended to continue the benefit for 2026 based on the reimbursement at the lowest standard premium rate of \$202.90, which is an increase of about 10%.

It was moved by George Wood and seconded by Kellie Simon 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 2026, and approve the reimbursement based on the lowest standard monthly Medicare Part B premium at the rate of \$202.90.

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 7 yes (*Basgal, Gamble, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, 0 abstention.

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

Staff stated that for Resolution No. 07-29 to remain current for the upcoming 2026 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.

Staff reported that a change was made in May to allow retired annuitants to continue receiving the monthly medical allowance. The first paragraph on the second page, which refers to Appendix A of Resolution No. 729, should be removed. Staff recommended that the committee adopt Appendix A, but without the first paragraph on the second page that references the prohibition against granting monthly medical allowance to retired annuitants. Any other related references to the prohibition against granting monthly medical allowance to retired annuitants will also be removed from the appendix.

It was moved by Kellie Simon and seconded by George Wood 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 2026.

The motion carried 6 yes (*Basgal, Levy, Rogers, Simon, Wilkinson, Wood*), 0 no, 1 abstention (*Gamble*).

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 twelve-month period December 1, 2024, through November 30, 2025, including the payments made by reciprocal agencies. In addition, Staff provided a five-year comparison of the total death benefits paid. This \$1,000 benefit is funded by the Supplemental Retiree Benefit Reserve and is considered a vested benefit, as long as there are funds available.

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

Staff provided a report on the results of the hybrid Retiree Health and Wellness Fair, which was held through Zoom and in person at DoubleTree in Pleasanton, CA on October 23, 2025. There were live presentations from ACERA, First United Credit Union, Kaiser Permanente and the Alameda County Deferred Compensation Program.

These presentations were recorded and posted on ACERA's website. 183 members attended the hybrid event virtually, and 234 attended in person, for a total of 417 attendees. Staff also reviewed the health fair survey results.

TRUSTEE REMARKS

Trustees directed staff to revise the wording of the medical plan information presented on the ACERA website. Staff will update the language to ensure greater clarity for retirees.

FUTURE DISCUSSION ITEMS

- Annual Supplemental Cost of Living Adjustment (COLA)

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for February 4, 2026, at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 9:56 a.m.

CONSENT CALENDAR ITEM

**December 3, 2025
Investment Committee Minutes
For approval under December 18, 2025
Board “Consent Calendar”**


**The December 3, 2025
Investment Committee Minutes
will be distributed under separate cover**



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: December 18, 2025

TO: Members of the Board of Retirement

FROM: Lisa Johnson, Assistant Chief Executive Officer 

SUBJECT: Operating Expenses & Budget Summary for October 31, 2025

ACERA's operating expenses are \$112K over budget for the period ending October 31, 2025. The overage is primarily due to depreciation expenses related to the capitalization of the Pension Gold V3. Other notable budget overages and surpluses are outlined below:

Budget Overages of \$742K

Depreciation Expense is \$660K over budget.

Pension Gold V3(PG3) was budgeted for capitalization in 2025. In accordance with GASB 51, PG3 was capitalized in 2024.

Professional Fees are \$62K over budget.

The overage is mainly due to higher actuarial fees.

Insurance \$20K over budget.

The overage in insurance is due to higher insurance premiums.

Budget Surpluses of \$630K

Staffing Expense is \$28K under budget.

The surpluses are attributed to the salaries of (\$233K) and fringe benefits of (\$860K); offset by overages in temporary staffing of \$246K, and 5% staff vacancy adjustment of \$819K.

Staff Development is \$76K under budget.

The surplus in staff development is due to unattended trainings.

Office Expense is \$13K under budget.

The surplus in office expense is mainly due to reduced ordering of ergonomic equipment and furniture.

Member Services Expense is \$195K under budget.

The member services expense is currently under budget, primarily due to fewer cases in disability medical review expenses and disability legal arbitration cases.

Systems Expense is \$241K under budget.

The surplus in systems expense is primarily due to the switch to the Microsoft Teams from the telephone landlines, a credit received from the overlapped payments of PGv2/PGv3, and the in-house execution of the OnBase software upgrade project that reduced external costs.

Board of Retirement is \$77K under budget.

The surpluses are attributed to board conferences and training of (\$54K), board reimbursement of (\$13K), board miscellaneous expense of (\$2K), and board strategic planning (\$8K).

Staffing Detail

Vacant positions as of October 31, 2025:

Department	Position	Qty	Comments
Administration	Administrative Specialist II	1	Vacant - currently budgeted for the year
Investments	Investment Analyst	1	Vacant - currently budgeted for the year
	Total Positions	2	

PAS Project:

Pension Administration System Project - as of October 31, 2025					
	Year-To-Date				
	Actual	Budget	Variance	2025 Budget	2019-24 Actual
Consultant Fees					
Levi, Ray and Shoup	\$1,050,375	\$1,105,000	\$(54,625)	\$1,130,000	\$5,410,677
Segal and other consultant fees					3,019,751
Total	1,050,375	1,105,000	(54,625)	1,130,000	8,430,428
Staffing	213,345	298,333	(84,988)	345,000	3,646,457
TOTAL	\$1,263,720	\$1,403,333	\$(139,613)	\$1,475,000	\$12,076,885

Attachments:

- Total Operating Expenses Summary
- Professional Fees – Year-to-Date – Actual vs. Budget
- Actual Operating Expenses comparison with last year



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL OPERATING EXPENSES SUMMARY

YEAR TO DATE - ACTUAL VS. BUDGET					
<u>October 31, 2025</u>					
	<u>Actual</u>	<u>Budget</u>	<u>YTD</u>	<u>2025</u>	<u>% Actual to</u>
	<u>Year-To-Date</u>	<u>Year-To-Date</u>	<u>Variance</u>	<u>Annual</u>	<u>Annual Budget</u>
			<u>(Under)/Over</u>	<u>Budget</u>	
Staffing	\$ 15,779,578	\$ 15,807,800	\$ (28,222)	\$ 19,033,000	82.9%
Staff Development	166,810	242,960	(76,150)	290,000	57.5%
Professional Fees (Next Page)	1,145,880	1,083,300	62,580	1,214,000	94.4%
Office Expense	315,672	328,690	(13,018)	396,000	79.7%
Insurance	564,948	544,780	20,168	655,000	86.3%
Member Services	523,039	718,300	(195,261)	838,000	62.4%
Systems	841,344	1,082,770	(241,426)	1,296,000	64.9%
Depreciation	1,522,655	861,920	660,735	1,034,000	147.3%
Board of Retirement	485,202	562,300	(77,098)	707,000	68.6%
Uncollectable Benefit Payments	-	-	-	78,000	0.0%
Total Operating Expense	\$ 21,345,128	\$ 21,232,820	\$ 112,308	\$ 25,541,000	83.6%



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

October 31, 2025

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2025</u> <u>Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
<u>Professional Fees</u>					
Consultant Fees - Operations and Projects ¹	\$ 392,496	\$ 381,600	\$ 10,896	\$ 448,000	87.6%
Actuarial Fees ²	523,982	453,000	70,982	496,000	105.6%
External Audit ³	140,510	145,000	(4,490)	145,000	96.9%
Legal Fees ⁴	88,892	103,700	(14,808)	125,000	71.1%
Total Professional Fees	\$ 1,145,880	\$ 1,083,300	\$ 62,580	\$ 1,214,000	94.4%

	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>YTD Variance</u> <u>(Under)/Over</u>	<u>2025 Annual</u> <u>Budget</u>	<u>% Actual to</u> <u>Annual Budget</u>
<u>1 CONSULTANT FEES - OPERATIONS AND PROJECTS:</u>					
Benefits					
Alameda County HRS (Benefit Services)	105,000	105,000	-	126,000	83.3%
Segal (Benefit Consultant/Retiree Open Enrollment)	164,167	164,100	67	187,000	87.8%
Total Benefits	269,167	269,100	67	313,000	86.0%
Human Resources					
Lakeside Group (County Personnel)	123,329	112,500	10,829	135,000	91.4%
Total Human Resources	123,329	112,500	10,829	135,000	91.4%
Total Consultant Fees - Operations	392,496	381,600	10,896	448,000	87.6%

<u>2 ACTUARIAL FEES</u>					
Actuarial Valuation	90,789	90,000	789	90,000	100.9%
GASB 67 & 68 Valuation	55,000	55,000	-	55,000	100.0%
GASB 74 & 75 Actuarial	16,500	17,000	(500)	17,000	97.1%
Actuarial Standard of Practice 51 Pension Risk	30,000	30,000	-	30,000	100.0%
Supplemental Consulting	285,693	215,000	70,693	258,000	110.7%
Supplemental Retiree Benefit Reserve valuation	46,000	46,000	-	46,000	100.0%
Total Actuarial Fees	523,982	453,000	70,982	496,000	105.6%

<u>3 EXTERNAL AUDIT</u>					
External audit	122,346	121,000	1,346	121,000	101.1%
GASB 67 & 68 audit	9,999	12,000	(2,001)	12,000	83.3%
GASB 74 & 75 audit	8,165	12,000	(3,835)	12,000	68.0%
Total External Audit Fees	140,510	145,000	(4,490)	145,000	96.9%

<u>4 LEGAL FEES</u>					
Fiduciary & Litigation	35,062	41,600	(6,538)	50,000	70.1%
Tax and Benefit Issues	47,029	20,500	26,529	25,000	188.1%
Miscellaneous Legal Advice	6,801	41,600	(34,799)	50,000	13.6%
Total Legal Fees	88,892	103,700	(14,808)	125,000	71.1%

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL
For the Ten Months Ending 10/31/2025

	<i>For the Month of October 2025</i>	<i>For the Month of October 2024</i>	<i>Variance</i>	<i>Year-To-Date 2025</i>	<i>Year-To-Date 2024</i>	<i>Variance</i>
STAFFING						
Salaries	1,120,334	1,019,565	100,769	10,548,602	9,469,793	1,078,809
Fringe Benefits	430,383	471,816	(41,433)	4,835,037	4,707,576	127,461
Temporary Staffing Cost	40,419	40,900	(481)	395,939	410,405	(14,466)
Staffing Total	1,591,136	1,532,281	58,855	15,779,578	14,587,774	1,191,804
STAFF DEVELOPMENT	20,391	22,576	(2,185)	166,810	181,371	(14,561)
PROFESSIONAL FEES						
Actuarial Fees	21,500	46,519	(25,019)	523,982	443,317	80,665
Consultant Fees - Operations	34,400	32,781	1,619	392,496	299,122	93,374
Consultant Fees - Legal	6,909	6,498	411	88,892	33,199	55,693
External Audit	0	0	0	140,510	141,618	(1,108)
Professional Fees Total	62,809	85,798	(22,989)	1,145,880	917,256	228,624
OFFICE EXPENSE						
Bank Charges & Misc. Admin	6,204	5,609	595	60,847	59,466	1,381
Building Expenses	6,497	30,447	(23,950)	55,256	56,299	(1,043)
Communications	4,807	11,190	(6,383)	49,747	107,627	(57,880)
Equipment Lease/Maintenance	6,921	31,673	(24,752)	88,940	115,098	(26,158)
Minor Equipment and Furniture	339	1,268	(929)	4,130	6,943	(2,813)
Office Supplies/Maintenance	3,466	1,987	1,479	35,203	34,355	848
Printing & Postage	1,792	1,797	(5)	21,549	12,771	8,778
Office Expense Total	30,026	83,971	(53,945)	315,672	392,559	(76,887)
INSURANCE	53,231	54,875	(1,644)	564,948	527,316	37,632
MEMBER SERVICES						
Disability - Legal Arbitration & Transcripts	13,263	7,543	5,720	55,133	116,507	(61,374)
Disability Medical Expense	11,985	4,000	7,985	145,588	190,505	(44,917)
Disability Claims Management	3,850	3,850	0	38,500	34,650	3,850
Health Reimbursement Acct. (HRA)	7,588	5,550	2,038	79,284	59,452	19,832
Member Training & Education	13,532	11,410	2,122	27,326	23,461	3,865
Printing & Postage - Members	21,330	64,531	(43,201)	117,387	144,572	(27,185)
Virtual Call Center	5,395	5,054	341	59,821	53,955	5,866
Member Services Total	76,943	101,938	(24,995)	523,039	623,102	(100,063)

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL
For the Ten Months Ending 10/31/2025


	<i>For the Month of October 2025</i>	<i>For the Month of October 2024</i>	<i>Variance</i>	<i>Year-To-Date 2025</i>	<i>Year-To-Date 2024</i>	<i>Variance</i>
SYSTEMS						
Business Continuity Expense	41,287	33,895	7,392	229,388	203,512	25,876
County Data Processing	28,220	40,754	(12,534)	146,928	142,851	4,077
Minor Computer Hardware	13,603	4,798	8,805	52,363	64,291	(11,928)
Intangible right to use SBITA - GASB96	7,376	7,348	28	74,034	72,216	1,818
Software Maintenance & Support	58,586	91,252	(32,666)	338,631	637,454	(298,823)
Systems Total	<u>149,072</u>	<u>178,047</u>	<u>(28,975)</u>	<u>841,344</u>	<u>1,120,324</u>	<u>(278,980)</u>
DEPRECIATION						
Depreciation Expense	152,075	8,703	143,372	1,522,655	96,031	1,426,624
BOARD OF RETIREMENT						
Board Compensation	1,600	2,800	(1,200)	17,400	18,400	(1,000)
Board Conferences & Training	7,196	5,117	2,079	126,936	106,391	20,545
Board Election	6,027	1,500	4,527	6,027	1,500	4,527
Board Employer Reimbursement	32,490	31,570	920	312,200	316,000	(3,800)
Board Miscellaneous Expense	1,906	1,220	686	8,982	9,169	(187)
Board Software Maint. & Support	1,379	1,335	44	13,657	13,170	487
Board Strategic Planning	0	7,486	(7,486)	0	7,486	(7,486)
Board of Retirement Total	<u>50,598</u>	<u>51,028</u>	<u>(430)</u>	<u>485,202</u>	<u>472,116</u>	<u>13,086</u>
GRAND TOTALS	<u><u>2,186,281</u></u>	<u><u>2,119,217</u></u>	<u><u>67,064</u></u>	<u><u>21,345,128</u></u>	<u><u>18,917,849</u></u>	<u><u>2,427,279</u></u>



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: December 18, 2025

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **New Pay Code: Approve as “Compensation Earnable” and “Pensionable Compensation” – County of Alameda**

The County of Alameda (County) requested that new pay code 43K – Coroner Assignment be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation.” This new pay code establishes a footnote for employees in the classifications of Deputy Sheriff II (Job Code 8604) and Sergeant (Job Code 8617): 5% of the base pay when designated by the Sheriff or their designee for assignment in the Coroner’s Unit. This additional compensation is effective October 12, 2025.

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that this pay code qualifies as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members). This is an increase to base pay and does not fall under any of the exclusions for “compensation earnable” so it is included in “compensation earnable.” It is also included as “pensionable compensation” because it is an increase to base pay, it is paid to more than one employee in the classification, and it does not fall under any of the exclusions for “pensionable compensation.” Under the Board of Retirement’s (Board) historical practices, these kinds of pay items/codes have been included in both “compensation earnable” and “pensionable compensation.” The two relevant Government Code sections are attached.

Staff informed the County that its determination will be included on the Board’s Consent Calendar for its December 18, 2025, meeting. If this item is not pulled from the Consent Calendar for discussion, then the Board will approve Staff’s determination to include pay code 43K – Coroner Assignment as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRA members).

Attachments:

Pay Item Request, 11/13/25
DSA MOU, 6/22/25 – 7/1/28 (p. 24-25)



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

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

Employer Name:	County of Alameda
Date of Request	11/13/25
Employer Department Submitting the Request	Auditor-Controller's Agency
Contact Person/Employer (include title/position)	Stephanie Tsurumoto
Contact Person Telephone incl area code	(510)272-6581
Contact Person Email address	stephanie.tsurumoto@acgov.org
Pay Item Name (and code Number)	43K Coroner Assignment
Pay Item Effective Date per authorization:	10/12/25
State if additional documentation is attached	Yes – Board Letter

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: 8604 Deputy Sheriff II
8617 Sergeant**

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: Employees who are assigned to the Coroner's Unit

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

RESPONSE #4: Regular Base Pay

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

RESPONSE #5: Percentage – 5% of Base Pay

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

RESPONSE #6: No

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: No

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: 40.0 Hour Work Week

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 is 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

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: Biweekly

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: Board Letter/MOU

10/07/25 Board Meeting

33. *Human Resource Services* - Approve the following recommendations:
- A. Second reading and adoption of an Ordinance approving the 6/22/25 - 7/1/28 Memorandum of Understanding (MOU) between the County of Alameda (County) and the Deputy Sheriffs' Association of Alameda County (DSA);

Section 20.E Coroner's Unit Assignment

20.E. CORONER'S UNIT ASSIGNMENT.

Effective October 12, 2025, employees in Job Codes 8604 or 8617 who are assigned to the Coroner's Unit shall be compensated an additional five percent (5%) of the base rate of pay.

an additional forty dollars (\$40.00) for the biweekly pay period. Effective October 12, 2025, the bilingual pay shall be increased to sixty dollars (\$60.00) for each pay period in which the employee is directed by the Sheriff to use their bilingual skills in the course of the employee's assignment.

20.C. TRAINING OFFICER ASSIGNMENTS.

1. Field Training or Jail Training Officer. An employee occupying a position under JC 8604 and designated as a Field Training Officer or a Jail Training Officer shall receive a five percent (5%) footnote per pay period over their base rate of pay.

2. Supervising Field Training or Supervising Jail Training Officer. An employee occupying a position under JC 8617 and designated as a Supervising Field Training Officer or Supervising Jail Training Officer shall receive a five percent (5%) footnote per pay period over their base rate of pay.

3. Recruit or Supervising Recruit Training Officer. Effective October 12, 2025, employees in JCs 8604 and 8617 who are designated by the Sheriff or their designee as a Recruit Training Officer or a Supervising Recruit Training Officer shall receive an additional compensation of five percent (5%) of their base rate of pay.

4. The additional compensation shall cease when the employee is no longer designated by the Sheriff or their designee as a training officer under the respective premium conditions above.

20.D. CANINE UNIT ASSIGNMENT.

1. An employee occupying a position under JC 8604 and assigned to the Canine Unit, shall receive a minimum of three and one-half (3.5) hours overtime (5.25 straight time hours) per pay period, and additional overtime with supervisory approval, over their regular rate of pay for care of their dog beyond normal working hours. Effective October 12, 2025, this provision shall no longer apply and the compensation provided herein shall be replaced with the following:

- a. Effective October 12, 2025, not to exceed thirty (30) employees occupying a position under JC 8604 who are assigned as a Canine Handler, shall receive five percent (5%) additional compensation of the base pay and 5.25 straight time hours per biweekly pay period for the purpose of compensating the handler for the care, maintenance, and/or activities beyond their normal working hours.

Handlers are not to spend additional time caring for their dogs than provided in the agreement without seeking prior approval from their supervisor.

2. Up to two (2) employees in Job Code 8617 assigned to supervise the Canine Unit shall receive five percent (5%) additional compensation of the base pay.

20.E. CORONER'S UNIT ASSIGNMENT.

Effective October 12, 2025, employees in Job Codes 8604 or 8617 who are assigned to the Coroner's Unit shall be compensated an additional five percent (5%) of the base rate of pay.

20.F. LONGEVITY PAY.

1. **Ten (10) Years of Service.** Effective October 12, 2025, employees completing ten (10) or more years of continuous County service (equivalent to or at least 20,800 total service hours for 80-hour employees) shall receive an additional one percent (1%) compensation of the base pay.
2. **Twenty (20) Years of Service.** Effective October 12, 2025, employees completing twenty (20) or more years of continuous County service (equivalent to or at least 41,600 total service hours for 80-hour employees) shall receive an additional one percent (1%) for a total of two percent (2%) compensation of the base pay.

20.G. PREMIUM PAY. An employee on vacation or CTO who works a different shift than normally scheduled or the same shift at a different work assignment, shall receive premium pay (time and one-half (1.5)) for all hours worked on that shift. Similarly, an employee on vacation or CTO who is assigned to work the Coliseum or Alameda County Fair detail, shall receive premium pay (time and one-half (1.5)) for all hours worked.

SECTION 21. NOTICE OF LAYOFF.

The County shall give reasonable notice to the Association before effecting any layoffs which materially affect employees represented under this MOU. Upon receiving such notice, the Association may meet and confer regarding the effect of the layoff.

SECTION 22. LEAVES OF ABSENCE

22.A. LEAVE MAY NOT EXCEED SIX (6) MONTHS. A leave of absence without pay may be granted by the Sheriff upon the request of the employee seeking such leave, but such leave shall not be for longer than six (6) months, except as hereinafter provided.

22.B. NO LEAVE TO ACCEPT OUTSIDE EMPLOYMENT. A leave of absence without pay may not be granted to a person accepting either private or public employment outside the service of the County of Alameda, except as hereinafter provided.

22.C. MILITARY LEAVE. Every employee shall be entitled to military leaves of absence as specified in Chapter 7, Part 1, Division 2 of the California Military and Veterans Code. The employee must present to the supervisor a copy of their military orders which specify the dates and duration of such leave.

If such employee shall have been continuously employed by the County for at least one (1) year prior to the date such absence begins, they shall be entitled to receive paid military leave as follows:


1. Paid military leave which may be granted during a fiscal year is limited to an aggregate of 30 calendar days during ordered military leave, including weekend days and travel time.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: December 18, 2025

TO: Members of the Board of Retirement

FROM: Sandra Dueñas-Cuevas, Benefits Manager 

SUBJECT: **New Pay Code: Approve as “Compensation Earnable” and “Pensionable Compensation” – Alameda Health System**

Alameda Health System (AHS) requested that new pay code 22F - MHS Escort be reviewed to determine whether it qualifies as “compensation earnable” and “pensionable compensation.” This new pay code establishes a footnote, effective September 3, 2025, for employees in the classifications of Mental Health Specialist II (Job Code 522655) and Mental Health Specialist (Job Code 522657): “All MHS Escorts shall receive a 5% premium for all hours worked during the escort.”

Staff and Chief Counsel reviewed the required supporting documentation (attached) and made the determination that this pay code qualifies as “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members). This compensation is paid to the employee and does not fall under any of the exclusions for “compensation earnable” so it is included in “compensation earnable.” The attached memorandum for a similar pay code that was before the Board at the September 18, 2025, meeting explains staff’s recommendation regarding “pensionable compensation.” The two relevant Government Code sections are attached.

Staff informed AHS that its determination will be included on the Board’s Consent Calendar for its December 18, 2025, meeting. If this item is not pulled from the Consent Calendar for discussion, then the Board will approve Staff’s determination that pay code 22F - MHS Escort is “compensation earnable” under Government Code Section 31461 (for Legacy members) and “pensionable compensation” under Government Code Section 7522.34 (for PEPRAs members).

Attachments:

Pay Item Request, 11/1/25
SEIU Meet and Confer, 9/15/25
September 18, 2025 Memorandum from Chief Counsel (Pay Code 843)



Request for ACERA's Review of a New Pay Item

Employer Name:	ALAMEDA HEALTH SYSTEM
Date of Request:	11/01/25
Employer Department Submitting the Request:	PAYROLL
Contact Person/Employer (including title/position):	MARYLOU MAYO
Contact Person Telephone (include area code):	510-346-7506
Contact Person Email Address:	mlestro@alamedahealthsystem.org
Pay Item Name and Pay Code/Number:	22F MHS ESCORT 5%
Pay Item Effective Date per Authorization:	09/03/2025
Pay Item End Date (if applicable/known):	

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 and return with all of the supporting documentation prior to issuing (paying) the pay item to any employee who is an ACERA member.

Please attach the approving document from your agency (Board Letter, Salary Ordinance, Side Letter, MOU Agreement, or Approving Memo from Department Head; include resolution, or similar document) that verifies the formal adoption of the new pay item.

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: ALL EMPLOYEES WITH JOBCODE 52265 & 52267 MENTAL HEALTH SPECIALIST II, MENTAL HEALTH SPECIALIST

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

RESPONSE #2: ALL EMPLOYEES FT, PT AND SAN

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: ALL EMPLOYEES IN CLASSIFICATIONS LISTED ABOVE

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

RESPONSE #4: 5% OF ALL PAY DURING THE SERVICE PERIOD

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

RESPONSE #5: THE PAY IS A PERCENTAGE OF EMPLOYEES BASE PAY

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

RESPONSE #6: NO

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: NO

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: 8-hour workweek employees and up to 40-hour workweek employees

10. State whether pay item is for work performed outside of the regular workweek (i.e., payment for work or services performed outside of the employee's 37.5-hour workweek, or outside the employee's 40-hour workweek)

RESPONSE #10: NO

11. State whether the pay item is for deferred compensation.

RESPONSE #11: NO

12. State whether the 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

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 a lump sum or biweekly (or over some other time period-monthly, quarterly, annually)

RESPONSE #16: NO

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: ANYONE IN THE JOB CLASSIFICATIONS LISTED ARE ELIGIBLE FOR THE DIFFERENTIAL

MHS Escort Meet and Confer Agreement

1. All efforts will be made to preschedule appointments and escorts prior to the date/time of appointment. If staff must be pulled from the floor due to medical necessity for an escort, all efforts will be made to find a replacement for the staff that is pulled.
2. Different situations call for different levels of intervention.
3. For the safety of patients and staff, and to guarantee staff's legally required breaks while complying with the AHS 1-to-1 policy, The MD, in consultation with the Treatment Team and staff, shall make a determination regarding how many MHS escorts are needed. If an MHS Escort must go to the bathroom while on 1-to-1 escort, the MHS will not be disciplined for violation of 1-to-1 policy.
4. All currently admitted patients, regardless of legal status, will be escorted via non-emergency ambulance for required appointments.
5. There is no mandatory overtime. Transportation will be provided for the staff to return to John George if staff has declined to receive overtime and needs to return before the end of their shift.
6. Patients discharged from the program will not be accompanied by Mental Health Specialists. When escorts are pre-scheduled, the staffing office will be notified and attempt to find staff to conduct the escort duty. Extra staff will be called pursuant to the procedures in the MOU for assigning extra shifts.

If a patient escort is necessary unexpectedly and no extra staff has been secured, the MHS assigned to escort will be selected based on seniority of the staff on that unit. If the MHS with higher seniority declines, the escort duty will be offered to the MHS with the next highest level of seniority. If MHSs with higher seniority decline the escort duty will be assigned to the MHS with lowest seniority. (In the best interest of safety for patients and staff, seniority may be superseded by clinical necessity).

7. MHS escorts shall receive a 5% premium for all hours worked during the escort.

Michael Askin

DocuSigned by:

Michael Askin

149AE095D9F6487
Employee Relations Consultant

Shane Ruiz

Signed by:

Shane Ruiz


13F0873BA6C549F
SEIU Field Representative

MHS Escort Meet and Confer Agreement



Office of the Chief Counsel

To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: September 18, 2025
Subject: **Recommended Change To County Pay Code 843**

Handwritten initials in blue ink, possibly "MR", are written over the "From" and "Meeting" lines.

INTRODUCTION

At the Board's March 20, 2025 meeting, the Board approved the Consent Calendar, which included staff's recommendations that the Board include pay code 843 in "compensation earnable" for Tiers 1, 2 and 3 members, and exclude pay code 843 from "pensionable compensation" for Tier 4 members.

At this meeting, staff recommends that the Board change pay code 843 to be included in "pensionable compensation" for Tier 4 members.

ANALYSIS

Pay code 843 is used for an additional 5% of base pay for the specific hours an employee trains other employees.¹ Following this memorandum are the materials from the County that were before the Board at the March 20, 2025 meeting.

"Pensionable compensation" is defined by Gov't Code § 7522.34:

(a) "Pensionable compensation" ... 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, subject to the limitations of subdivision (c).

...

(c) Notwithstanding any other law, "pensionable compensation" of a new member does not include the following: ... (3) Any one-time or ad hoc payments made to a member.

The question at hand is whether pay code 843 is part of a member's included "base pay" or if, instead, it is an excluded "ad hoc" payment.

When pay code 843 was presented to the Board at the March 20, 2025 meeting, staff was analyzing five AHS pay codes (220, 221, 222, 240 and 241), which historically had been included in "pensionable compensation," to determine if those pay codes should

¹ Some pay codes provide a pay increase for generally having training responsibilities and the increase applies to all hours in a pay period without regard to which hours the employee is engaged in training activities. Those pay codes have been treated as "pensionable compensation" at all times. The memorandum relates only to pay codes that are paid for the specific hours based on work duties/conditions during those hours.

have been excluded. Like pay code 843, those five pay codes are paid for specific hours that an employee is training another employee. At the time, staff expected to recommend at a later meeting that the Board exclude those five pay codes from "pensionable compensation" because it appeared that they might be "ad hoc" payments rather than "base pay." Staff's recommendation on pay code 843 at the March 20, 2025 meeting was consistent with the expected recommendation regarding the other five pay codes.

An important part of staff's analysis of pay code 843 and the other five pay codes was an understanding that there was little historical practice or analysis regarding those pay codes. Three of the five pay codes were described as "ad hoc" by the employer in 2018 when they were presented to the Board, so it appeared the 2018 inclusion of those pay codes may have been an oversight. The other two pay codes were included in "pensionable compensation" when PEPR was implemented for dozens of pay codes and staff could not find an explanation for why those two pay codes were included.

Staff has since determined there are at least four other similar pay codes that are included in "pensionable compensation."² Indeed, some of those pay codes were recommended for inclusion in "pensionable compensation" based on the Board's historical practices.³

Based on further analysis, staff has determined that no change to those five pay codes is warranted. Instead, staff recommends that the Board change pay code 843 to "pensionable compensation" to be consistent with the Board's historical practices. Staff's recommendation is based on the following:

- Although these pay codes are paid for specific hours based on work duties/conditions during those hours, and may be paid in different amounts in different pay periods, they are paid for duties that may be regularly recurring for members. The phrase "ad hoc" can mean different things and there is no clear legal authority for what it means in Section 7522.34. Based on ACERA's past practices, ACERA's historical interpretation of "ad hoc" appears to be a payment that is not expected to be regularly recurring. The pairing of "one-time" and "ad hoc" in Section 7522.34 arguably supports this reading.
- None of the ten pay codes at issue can easily be manipulated to spike a member's allowance. Most provide an additional 10% or less of the member's hourly rate for the relevant hours. The highest amount (Courts INT 25) is an additional 25% of hourly pay when a court assigns an employee to perform interpreting for another court. Even at that highest amount, a member would

² In addition to AHS 220, 221, 222, 240 and 241, staff has identified AHS 26Q and 26R, County 841, and Courts: INT25.

³ On June 18, 2020, staff recommended inclusion of County pay code 841. On the July 15, 2021 agenda, staff recommended inclusion of AHS pay codes 26Q and 26R. On September 15, 2022, staff recommended inclusion of Courts pay code INT 25.

have to earn that pay every hour for three straight years (and not exceed the PEPRA salary cap) to increase final compensation by 25%.”⁴

- There is substantial value in consistent application of the rules related to “pensionable compensation.” After the Board makes determinations on pay codes, member/employer contributions and estimated/actual allowances are impacted. Also, changes to pay codes can cause substantial work for staff and ACERA and employers. Finally, to the extent ACERA’s practices are challenged, courts will take account of a public agency’s longstanding interpretations of the laws it is charged with administering. See *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 25.

RECOMMENDATION

For the above reasons, staff recommends that the Board include pay code 843 in “pensionable compensation” retroactively (pay code effective January 19, 2025) and prospectively.

⁴ ACERA has procedures to detect substantial increase in reported compensation at the end of a member’s career. ACERA can investigate further on a case-by-case basis if it appears that the employer and member substantially manipulated the timing of pays like this. Also, the PEPRA “pensionable compensation” cap applies to all reported compensation, which further limits the ability of high earners to manipulate reported compensation with pay codes like this.



MEMORANDUM TO THE BOARD OF RETIREMENT

DATE: December 18, 2025

TO: Members of the Board of Retirement

FROM: Lisa Johnson, Assistant Chief Executive Officer

SUBJECT: 2026 Travel Allotment

A handwritten signature in blue ink, appearing to read "Lisa Johnson", is written over the printed name in the "FROM:" field.

Board Travel Policy:

“The allotment for each Trustee shall automatically increase by the Consumer Price Index (CPI) for the greater San Francisco area effective January 1 of each year, subject to budgetary constraints. Staff will automatically update the Policy to reflect the new allotment and will notify the Committee of the new amount each year.”


Annual Travel Allotment:

Currently, the allotment for each Trustee is \$18,300. Effective January 1, 2026, the allotment will increase to \$18,500.



Office of the Chief Counsel

To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: December 18, 2025
Subject: **Claim For Regina Romer-Valdez Death Benefits**



The two daughters of deceased member Regina Romer-Valdez appeal from the decision of the Chief Executive Officer to deny their request that ACERA pay them death benefits per Gov't Code § 31781 (after my denial of the claim). This appeal is before the Board pursuant to the Administrative Hearing Policy. A copy of that Policy follows this memorandum. The Board may decide this matter at this meeting or it may order any further proceedings it deems appropriate.¹

Regina Romer-Valdez died while in active member status. She designated her two daughters, Rececca Valdez and Victoria Valdez, as her beneficiaries in her April 9, 2002 Member Enrollment Questionnaire, which was her operative beneficiary designation. Per Gov't Code §§ 31780 and 31781, if no allowance is elected by a surviving spouse or a qualifying child under age 22, then ACERA would owe the claimants \$117,158.85 each.

ACERA has not paid the claimants the amounts they seek because it appears Regina Romer-Valdez was married to Hector Valdez when she died. Per Gov't Code § 31781.1, a surviving spouse may elect a lifetime allowance. Subdivision (f) states: "The rights and privileges conferred by this section upon the surviving spouse ... are not dependent upon whether ... [the spouse has] been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated." Section 31780 also confirms that the benefit under Section 31781 is paid to designated beneficiaries only if no allowance is elected under Section 31781.1. Copies of Sections 31780, 31781 and 31781.1 follow this memorandum. The monthly surviving spouse allowance, effective as of the date of death and before any COLA increases, is estimated to be \$2,066.58.

Following this memorandum is a letter from the claimants. They do not dispute that Regina Romer-Valdez and Hector Valdez may have been married when Regina died. Claimants state, however, that many years ago Hector Valdez was deported to Mexico and there has been no contact with him since then. They have no relationship with their father's side of the family and all contact with him has been lost. ACERA has made reasonable efforts to locate Hector Valdez, or determine that he has died, using the resources available to ACERA, but ACERA has not been able to locate him or confirm he is deceased.

¹ Such further proceedings might include, for example: (1) sending the matter to a hearing officer, (2) holding a hearing before the Board, or (3) deferring this matter to a future meeting to receive further information from the claimants, staff or the Board's outside counsel.

If ACERA were to pay the lump sum death benefit to the claimants, Hector Valdez could later elect a surviving spouse allowance and ACERA would potentially have to pay out more death benefits than provided by law.

If Hector Valdez were confirmed to be deceased or if he were to decline a surviving spouse allowance, ACERA could pay the lump sum benefit to the claimants. Also, if claimants were to obtain a court order requiring ACERA to pay them the benefits, ACERA could safely follow that order. If such an order were sought, the Board could decide whether or not to oppose the request. The Board's denial of the claim now would not prevent ACERA from paying benefits to the claimants under those scenarios. Further, ACERA can revisit this matter in the future. Gov't Code § 31783.5 may reduce the risk of paying the claimants in five years.² A copy of Section 31783.5 follows this memorandum.

The Chief Counsel and Chief Executive Officer conclude that the risk for liability beyond what is authorized by law is too high to pay the lump sum benefits, without Board direction to do so. If the Board finds that it is reasonable to pay claimants benefits, staff recommends that the Board consider imposing conditions that reduce the risk that ACERA pays out more than provided by law. For example, the Board might require the claimants to receive the benefits in monthly payments over a period of up to ten years, per Section 31784 and require claimants to sign agreements confirming that they will be responsible for making ACERA whole if Hector Valdez ever elects an allowance.

This matter was before the Board at its September 18, 2025 meeting. Shortly before that meeting, the claimants received information that suggested Hector Valdezs might have died. The Board directed that the matter should be brought back to this meeting to give ACERA and the claimants time to investigate. ACERA staff and the claimants have investigated, but still cannot confirm if Hector Valdez is alive and, if so, where he is.³

This matter will proceed in open session and the claimants will have the opportunity to present to the Board and answer questions.

² Although it is unclear whether, and to what extent, Section 31783.5 would result in Hector Valdez's forfeiture of benefits, I believe there is a strong case that, at minimum, he would begin forfeiting monthly benefits on a rolling basis in five years. ACERA could take account of the situation at that time and may be able to pay the claimants benefits (possibly through installments under Section 31784) with substantially less risk.

³ ACERA staff has checked its usual resources for reporting deaths and has followed up with the Mexican Consulate by providing additional information. We understand that the claimants have also made efforts with the Mexican Consulate. I reached out to a debt collection company that sent claimants a letter that suggested Hector Valez had died, but that company would not provide further information to me.

June 1, 2025

To: ACERA
Jeff Reiger

From: Victoria and Rebecca Valdez

Re: Retirement Funds Regina Romer-Valdez (I.D. [REDACTED])

Dear, Mr. Jeff Reiger,

This is a formal appeal to the recent decision on Regina Romer-Valdez retirement funds.

I am formally appealing for a reconsideration of the decision made to releasing the retirement funds to my sister and I, who are listed beneficiaries.

Our Mother was still legally married to our Father Hector Valdez at time of her death (11/28/24). Hector Valdez is entitled to the funds per Government Code Section 31781.1. Unless he is deceased or is willing to waive his right to elect the allowance.

Approximately, 10+ years ago, my mother's husband (Hector Valdez) was deported to Mexico. No further contact has been established. My mother attempted to file for divorce from Hector Valdez but was advised that she still needed a signature from spouse to proceed with a divorce. My mother's attempt to file for divorce failed, due to inability to make contact to Hector Valdez.

My sister and I have no relationship with my father's side of the family and cannot recall when we last saw someone from the Valdez side of the family. All contact has been lost.

Due to financial hardship, my sister and I are unable to obtain legal representation to settle this matter. We lack the knowledge of Hector Valdez's location and remain unaware how to contact him. Therefore, hopefully this matter can be settled out of court.

If there is further paperwork that needs to be filed, please let us know.

We appreciate your attention to this matter and remain hopeful for a positive resolution.

Thank you for your time and consideration.

Sincerely,

Victoria Valdez
[REDACTED]



Administrative Hearing Policy

I. Purpose

This Policy provides a procedure for the Board to review ACERA Staff decisions, except for disability matters. Hearings on disability matters are governed by the Disability Retirement Procedures. The objective of this Policy is to ensure a fair and efficient consideration of member and beneficiary requests.

II. Definitions

- A. Applicant: A member or beneficiary of ACERA.
- B. Board: The ACERA Board of Retirement.
- C. Day: Calendar day.
- D. Hearing: The presentation of sworn testimony, other evidence, and legal argument before the Board or Hearing Officer.
- E. Hearing Officer: Person who conducts an administrative hearing on issues related to a matter referred to that person and who provides Findings of Law and Fact to the Board and a Proposed Recommendation. Government Code section 31533 provides who may be a Hearing Officer.
- F. CEO: Chief Executive Officer of ACERA.

III. Matters Regarding Policy and Board Discretion

- A. Nothing in this Policy requires staff to take a position on an applicant's request. Staff may elevate an applicant's request to the CEO without denying the request.
- B. Nothing in this Policy requires the CEO to take a position on an applicant's request. If the CEO determines that the applicant's request implicates matters of policy or falls within the Board's discretion to grant or deny, the CEO may bring the matter to the Board for resolution without proceeding through the procedures in Section IV below. In such cases:

1. The CEO will provide the applicant with at least 30-day notice that the matter will be brought to the Board for consideration at a public meeting.
2. The applicant will be permitted to submit written materials for the Board's consideration no later than 15 days before the Board meeting at which the matter will be considered. Ordinarily such materials will be included in the Board's public agenda backup but may be provided in the Board's confidential packet when authorized by law.
3. The matter will ordinarily be placed on the Board's agenda for open session at a regularly scheduled Board meeting. The CEO may place the matter on the Board's closed session agenda if the matters to be discussed are protected from public disclosure pursuant to the Brown Act.
4. The applicant will have the opportunity to address the Board at the meeting when the matter is considered, subject to the Board Chair's control of the meeting.
5. The Board may hold a closed session to consult with Chief Counsel or outside counsel when authorized and properly agendaized under the Brown Act.
6. The Board may issue a final decision or may require further proceedings, which may (but need not) include the procedures outlined in Section IV below.

IV. Guidelines and Procedures for Appeals of Denied Requests

A. Filing a Timely Appeal from a Denied Request

1. An applicant may appeal ACERA staff's decision in writing to the CEO within 30 calendar days of the date of staff's notification to the applicant of the decision. The CEO may consider a late appeal if the CEO determines there was good cause for the late appeal or consideration of the late appeal is in the interests of ACERA and its membership. The CEO will respond in writing with a decision either supporting the position taken by ACERA staff or modifying or overturning that decision.
2. The Board delegates to the CEO full authority to make all initial determinations regarding claims by applicants and participating employers. The CEO will consult with appropriate advisers as the CEO deems necessary.

3. If the applicant does not agree with the decision of the CEO, the applicant may appeal the decision in writing to the Board within 30 calendar days of the date on the CEO's notification to the applicant of the decision.
4. Appeals to the Board from administrative decisions will ordinarily be placed on the Board's agenda for open session at a regularly scheduled Board meeting. The CEO may place the matter on the Board's closed session agenda if the matters to be discussed are protected from public disclosure pursuant to the Brown Act.
5. Failure to file a timely appeal will constitute a waiver of the right to have the appeal heard, although the CEO may allow an untimely appeal to proceed to the Board, if the CEO determines there was good cause for the late appeal or consideration of the late appeal is in the interests of ACERA and its membership.

B. Date and Notice of Hearing:

1. The Board may hear the matter directly or refer it to a Hearing Officer for a recommendation to the Board for final decision. (Govt. C. 31533).
2. If the Board hears the matter directly, the hearing shall be set by the office of the CEO at the earliest mutually agreeable date and the office of the CEO shall deliver by US mail and email (if available), a notice of hearing to the applicant and all other parties at least 30 days before the hearing, unless the parties agree to a shorter notice period. ACERA shall provide a copy of this Policy and any applicable regulations regarding the administrative hearings.
3. When the Board hears a matter directly, the Board may alter or truncate the procedures described in this Policy when it determines that doing so is in the interests of justice and efficiency.

C. Appointment of Hearing Officer

1. If the Board refers the matter to a Hearing Officer, the process will be as follows:
 - a. The Board will refer the matter to the Legal Department for assignment of a *Hearing Officer* from a rotating list of approved Hearing Officers.
 - b. The Legal Department will provide the first name on the rotating list to the parties.

- c. Either party may challenge a Hearing Officer for cause by filing a written objection with the Legal Department with 10 calendar days of the date of the notice of the list. A challenge for cause is an allegation that the Hearing Officer cannot be fair and impartial. The Legal Department shall review the challenge for cause and, if sustained, select another name from the list of Hearing Officers and advise the parties accordingly. If circumstances giving rise to a challenge for cause arise or are discovered after appointment of the Hearing Officer, and the Hearing Officer does not recuse him or herself, the party challenging the Hearing Officer may make a record of the circumstances and present them to the Board when the matter is before the Board pursuant to section F(1)(b) below.
 2. The Hearing Officer will set the date of the hearing in conjunction with the schedules of the parties.
- D. Conduct of Hearing
 1. The Board Chair or Hearing Officer shall preside over the hearing.
 2. The Chair or Hearing Officer shall make all rulings necessary for fair and efficient proceedings, including the admissibility of evidence, conduct of witnesses and parties and scheduling.
 3. Parties (including ACERA Staff) and their counsel are prohibited from having communications with Board members or Hearing Officers regarding matters related to the hearing without the presence or knowledge of the other party.
- E. Hearing Process
 1. All parties are entitled to representation by an attorney licensed to practice in the State of California at any hearing at the sole expense of that party. Once ACERA has notice that an attorney is representing an applicant, all notices and other papers shall be served on the attorney.
 2. The party seeking relief from ACERA has the burden of proof and shall present their case first, followed by ACERA staff. In all cases, the presentation may include:
 - a. Opening statement;

- b. Testimony of witnesses and presentation of documentary evidence;
 - c. Cross examination of witnesses;
 - d. Rebuttal evidence;
 - e. Closing statements
 - 3. Both ACERA staff and the applicant are entitled to submit written evidence or argument to the Board or Hearing Officer. Each side will provide copies of the materials proposed to be offered at the hearing to the other side at least 10 days before the hearing is held.
 - 4. Evidence
 - a. Witnesses must testify under oath or affirmation administered by the Hearing Officer or the Board Chair.
 - b. Each party is responsible for obtaining those subpoenas it deems necessary for the presentation of its evidence at hearing. All subpoenas are to be issued in accordance with Government Code section 31535.
 - c. The hearing need not be conducted accordingly to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
 - d. The Hearing Officer or Board Chair has discretion to admit relevant and reliable evidence to or exclude irrelevant or repetitious evidence.
 - e. The record shall be closed to new evidence at the conclusion of the final day if hearing unless each party stipulates to leave the record open.
- F. Board Consideration and Action
 - 1. Hearing Officer Findings of Fact, Conclusion of Law and Recommended Decision

- a. Following a hearing by a Hearing Officer, the Hearing Officer shall transmit to the Board written proposed findings of fact, conclusions of law, and recommendations.
 - b. Upon receiving proposed findings of fact and recommendations, the Board may do one of the following:
 - 1) Approve and adopt the proposed findings and recommendations; or
 - 2) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon receipt thereof the Board shall take such action in its opinion is indicated by such evidence; or
 - 3) Refer the matter back to the hearing office with instructions for further proceedings; or
 - 4) Set the matter for hearing before the Board. At such hearing, the Board shall hear and decide the matter as if it had not been referred to the Hearing Officer.
 - c. Staff will notify the applicant in writing of the Board's determination within 10 days of the hearing.
2. Board Hearing
- a. Following the hearing, the Board will deliberate and vote on the matter and instruct staff to notify the applicant in writing of the Board's determination within 10 days. The determination may, but need not, include a statement of decision.
 - b. A Board member who did not attend all portions of a Board hearing may not participate in the Board's deliberations and vote, unless all the following conditions are met:
 - 1) A quorum of members who attended the full hearing is not available;
 - 2) The member has read the transcript (or listened to the audio recording) of that portion of the hearing during which he or she was not in attendance; and

- 3) The member has stated on the record that he or she has undertaken and completed such review.

G. Review of the Board's Decision: The Board has exercised its discretion to establish the procedures outlined in this Policy. The procedures outlined in this Policy are not required by law. Board decisions made pursuant to this Policy are reviewable by ordinary mandamus under Code of Civil Procedure section 1085.

V. Policy Review

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

VI. Policy History

The Board adopted this policy on July 19, 2018¹.

The Board reviewed and affirmed this policy, with revisions on April 20, 2023.

¹ The Board adopted the Administrative Hearing Policy on July 19, 2018. The Board adopted the Administrative Appeals Procedures on September 17, 2015. The Board reviewed and affirmed the Administrative Appeals, with revisions, May 19, 2016 and September 17, 2020.



State of California

GOVERNMENT CODE

Section 31780

31780. Upon the death before retirement of a member while in service or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of service, or within one month after discontinuance of service unless the member's accumulated contributions have been paid to the member pursuant to Section 31628, the retirement system is liable for a death benefit which shall be paid:

(a) As provided in Section 31765 or 31765.1 or 31765.11 or 31781.1 or 31787, if the surviving spouse or guardian of one or more of the surviving children of the member so elects, or

(b) If no election is made pursuant to Section 31765, or 31765.1, or 31765.11, or 31781.1, or 31787 and no person is entitled to a survivor's allowance pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) to such person as he nominates by written designation duly executed and filed with the board, before the death of the member, or

(c) If no such election is made, and a parent as defined in Article 15.5 but no other person is entitled to a survivor's allowance pursuant to Article 15.5 or 16 and a surviving spouse or child is designated as beneficiary, to such surviving spouse or child, or

(d) If no such election is made, no person is entitled to a survivor's allowance pursuant to Article 15.5 or 16, and a member has not nominated a beneficiary, to his estate.

(Amended by Stats. 1980, Ch. 58.)



State of California

GOVERNMENT CODE

Section 31781

31781. The death benefit shall consist of:

(a) The member's accumulated contributions.

(b) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately preceding the member's death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.

(Amended by Stats. 2022, Ch. 231, Sec. 18. (AB 1824) Effective January 1, 2023.)



State of California

GOVERNMENT CODE

Section 31781.1

31781.1. (a) If a member of a retirement system established in a county subject to the provisions of Section 31676.1 would have been entitled to retirement in the event of a non-service-connected disability, but dies as the result of an injury or illness prior to retirement, the surviving spouse of the member shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided in Sections 31780 and 31781, an "optional death allowance."

(b) The allowance shall consist of a monthly payment equal to 60 percent of the monthly retirement allowance to which the deceased member would have been entitled if the member had retired by reason of non-service-connected disability as of the date of the member's death.

(c) If the surviving spouse elects to receive the "optional death allowance" the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the "optional death allowance," and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the "optional death allowance" shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in the guardian's judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of these persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to each child of the member shall be paid to each child up to the 22nd birthday of the child if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.



State of California

GOVERNMENT CODE

Section 31783.5

31783.5. (a) Whenever a person or estate entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) The board shall attempt to locate the claimant through means that the board in its sound discretion deems reasonable including, but not limited to, a registered or certified letter mailed to the last known address of the claimant.

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivision (a) shall be held for the claimant. If the amounts are not claimed within five years after the last attempted contact with the claimant, the amounts shall be deposited in and become a part of the pension reserve fund. The board may at any time after transfer of unclaimed amounts upon receipt of information satisfactory to it, authorize the return of amounts so held in reserve to the credit of the claimant. Those amounts shall be paid only to claimants who have not yet attained the age for mandatory distribution under the Internal Revenue Code.

(Amended by Stats. 2024, Ch. 117, Sec. 9. (AB 2770) Effective January 1, 2025.)

NEW BUSINESS

ACERA Board Election Results
(ORAL REPORT)



Office of the Chief Counsel

To: Board of Retirement
From: Jeff Rieger, Chief Counsel
Meeting: December 18, 2025
Subject: **Dr. Rita Wadhvani Claim for Lower Cost to Purchase Service Credit**



INTRODUCTION

Dr. Rita Wadhvani is an employee of AHS and a General Tier 4 (PEPRA) member who, in March 2023, purchased service credit for her AHS service prior to ACERA membership. She contends that her cost to purchase that service credit should have been lower. She has had several communications with me and other staff members, but she did not provide a definitive written submission for this meeting, so I am providing the Board with only this memorandum, which I believe fairly articulates her claims.

ACERA calculated the price of Dr. Wadhvani's service credit the same as it would for other similarly situated ACERA members. ACERA historically has followed a strict reading of the plain terms of the applicable statutes, but there may be alternate readings of those statutes that arguably are more consistent with the law's spirit. Staff brings this matter to the Board so that it may exercise its best judgment as to the best reading of applicable law, per Section III of the Board's Administrative Hearing Policy (in agenda backup for Item 5).¹

BACKGROUND

Dr. Wadhvani worked as a part-time employee of AHS from 2012 to 2022. Per the Board's Membership Policy, part-time employees are excluded from ACERA membership, unless they are ACERA members based on prior full-time service. Dr. Wadhvani was not enrolled as a member until October 16, 2022, after she became a full-time AHS employee.

Per Gov't Code § 31641.5, Dr. Wadhvani had a right to purchase service credit for her AHS service prior to her ACERA membership. Section 31641.5 states the cost:

an amount equal to the contributions [s]he would have made to the retirement fund if [s]he had been a member during the time for which [s]he has elected to receive credit, computed by applying the contribution rate first applicable to [her] upon becoming a member to the aggregate compensation [s]he actually received during the time [s]he was in [AHS] service ..., together with interest at the current rate on that amount from the time [s]he became a member until completion of payment.

To apply Section 31641.5, we must know how much "pensionable compensation" a member received during their service prior to membership. Section 7522.10 establishes a

¹ If the Board decides in Dr. Wadhvani's favor and applies its decision to all Tier 4 members, I would benefit from that decision. I determined that my financial interest does not prevent me from advising the Board on this issue. I discuss my interest in footnote 4 below.

cap on "pensionable compensation" for benefits and contributions. Since implementing PEPRA in 2013, ACERA has collected contributions as a percentage of the member's "pensionable compensation" until the cap is reached each calendar year. Then, ACERA collects no further contributions that calendar year and begins collecting contributions again the next calendar year. This is similar to how social security taxes are collected. It is also similar to how ACERA administers an IRS cap on compensation that may be used for benefits and contributions, per 26 USC § 401(a)(17).

To illustrate, if a full-time member earns double the "pensionable compensation" cap, ACERA will apply the member contribution rate to the member's full salary for the first half of the year and then collect no member contributions for the second half of the year. All seven CERL systems that responded to a survey apply the "pensionable compensation" cap in the same manner as ACERA.

ANALYSIS

There are two issues that Dr. Wadhvani raises. The "Main Issue" is far more impactful to her, and the general administration of ACERA, than the "Secondary Issue."

Main Issue

Following the plain terms of Section 31641.5, ACERA applied Dr. Wadhvani's 2022 member contribution rate to the "pensionable compensation" she earned prior to membership. ACERA did not include "pensionable compensation" that exceeded the cap each year. Thus, she essentially paid the same amount she would have paid if she had been a member when she provided the part-time service.

Dr. Wadhvani's complaint is that she paid essentially the same amount for about five years of service credit that she would have paid for ten years of service credit if she had been working full-time. If we ignore the time value of money,² she is correct. This happens because of how ACERA collects contributions up to the annual "pensionable compensation" cap each calendar year. She was making about twice the cap on "pensionable compensation" so she reached the cap by providing only about a half year of service. Unlike a full-time member at the same payrate, she did not receive the other half year of service credit each year without having to make further contributions. She argues that her cost should be proportional when compared to a full-time member's cost.

If the Board resolved the "Main Issue" in Dr. Wadhvani's favor, she would receive a refund of about \$42,500, plus interest.

There is some appeal to Dr. Wadhvani's claim because it would more directly tie the cost of service credit to units of work (if we do not account for the time value of money). ACERA is, however, following the terms of Section 31641.5 by applying the member contribution rate to the "pensionable compensation" she earned prior to membership. Also, per Section

² Under Section 31641.5, interest does not start running until her date of membership, so ACERA is deprived of the interest returns it would have made if she had been a contributing member when she was a part-time employee. If we account for the time value of money she will have paid substantially less than she would have paid as a member during that time period.

31641.5, she has made essentially the same contributions she “would have made ... if [s]he had been a member during the time for which [s]he has elected to receive credit.”

Dr. Wadhvani's complaint arises primarily from how ACERA implements “pensionable compensation” cap under Section 7522.10, and the terms of Section 7522.10 support ACERA's practices. Section 7522.10(h) states that ACERA “shall limit the pensionable compensation used to calculate the contributions required of an employer or a new member to the amount of compensation that would be used for calculating a defined benefit as set forth in subdivision (c) or (d).” Subdivisions (c) and (d) refer to annual limits and the “pensionable compensation” cap was initially tied to the social security cap on taxable compensation (“benefit base specified in Section 430(b) of Title 42 of the United States Code”). The social security tax rate is applied to all earnings up to the cap each calendar year and then no further taxes are collected for the rest of the calendar year.

In sum, ACERA follows the statutory language of the applicable statutes and “[w]hen engaging in statutory construction, we begin with the statutory language because it is generally the most reliable indication of legislative intent.” *Irvin v. Contra Costa County Employees' Retirement Assn.* (2017) 13 Cal.App.5th 162, 170. Also, ACERA's practices have been in place for almost 13 years and all seven CERL system that responded to a survey stated that they follow the same practices. To grant Dr. Wadhvani's claim on the Main Issue, the Board would have to apply an hourly cap rather than an annual cap. Section 7522.10 does not tell ACERA to do that. Rather, it establishes an annual cap that was initially tied to the social security cap. ACERA followed the social security cap model.

Using an hourly cap rather than an annual cap would (1) call into question the contributions of all Tier 4 members who reached the cap since January 1, 2013, (2) call into question the cost of prior service purchases by members who were similarly situated to Dr. Wadhvani since January 1, 2013, and (3) potentially have unforeseen impacts on ACERA's administration of benefits and contributions. This change would require many recalculations and ACERA would incur substantial costs to reprogram its pension administration system. These are some of the reasons courts show some deference to administrative agencies' reasonable longstanding interpretations of their governing laws (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1), even if there may be other reasonable readings.

There is no precedent that answers the question at hand. Staff believes ACERA's longstanding practices are reasonable and the best course of action is to not fundamentally change those practices. Thus, Staff recommends that the Board deny Dr. Wadhvani's claim on the Main Issue.

Secondary Issue

Dr. Wadhvani became an ACERA member and started making regular member contributions effective October 16, 2022. When she later purchased service credit for her service prior to membership in 2022, ACERA applied the 2022 member contribution rate to her “pensionable compensation” up to 2022 cap. Adding together her purchase for 2022 service and her regular 2022 contributions, she paid contributions on more “pensionable compensation” than the 2022 cap.

ACERA strictly complied with Section 31641.5, when it calculated the cost of Dr. Wadhvani's service credit purchase, but she questions whether, in the aggregate, she should have to pay contributions on more "pensionable compensation" than the cap for 2022. If she had been a member during her part-time service, she would have reached the cap before October 16, 2022, so she would not have had to pay contributions between October 16, 2022 and December 31, 2022. She ultimately paid more contributions for about ten months of service credit than she would have had to pay for 12 months of service credit if she had been a full-time employee for all of 2022.

The question is whether ACERA should, when calculating the cost of service credit, apply the "pensionable compensation" cap to the all contributions for service credit in a calendar year rather than just applying the cap to the service credit purchase. ACERA charged her what she "would have paid" if she had been a member from January 1, 2022 to October 15, 2022, but ACERA did not account for the fact that she would not have had to pay member contributions between October 16, 2022 and December 31, 2022, if she had been a member from January 1, 2022 to October 15, 2022. On this Secondary Issue, two of the seven responding CERL systems would have charged less than ACERA and the other five would have charged the same as ACERA or more.³

If the Board resolved the "Secondary Issue" in Dr. Wadhvani's favor, she would receive a refund of the \$3,855.80 in regular member contributions she made in 2022, plus interest.

ACERA's practice strictly follows the plain language Section 31641.5, but an alternative reading that looks at all service in the calendar year when applying the "pensionable compensation" cap arguably is more consistent with the spirit of the cap, because it eliminates the possibility of a member paying more contributions in a calendar year than the cap would ordinarily allow.⁴ Also, ACERA historically has not charged members for

³ One CERL system would charge Dr. Wadhvani more than ACERA charged her, because that system does not apply the "pensionable compensation" cap to purchase under Section 31641.5 at all. In some years of her part-time service she made more than the "pensionable compensation" cap and that other system would apply the member contribution rate to all amounts she received, whereas ACERA applied the member contribution rate only up to the cap.

⁴ I became a General Tier 4 member in 2020. The pay I received in 2020 after becoming a member exceeded the "pensionable compensation" cap. I had two weeks of service prior to membership. Currently, the cost of that service credit would be \$1,192.34. If the Board decides in Dr. Wadhvani's favor on the Secondary Issue and applies that decision for all Tier 4 members, I would be entitled to that two weeks of service credit at no cost. If the Board were to decide in her favor on the Main Issue and revisit member contributions going back as far as 2020, that may call into question both the cost of my prior service and some of my 2020 regular member contributions. I have determined that my financial interest does not preclude me from advising the Board, per 2 CCR 18702.5(b)(1) and (4) with respect to the Political Reform Act and per Gov't Code § 1091.5(a)(3) with respect to Gov't Code § 1090. This is similar to some decisions Trustees who are ACERA members make that impact their financial interests in the same manner as other similarly situated members. See *Lexin v. Superior Court* (2010) 47 Cal.4th 1050 ("If the financial interest arises in the context of the affected official's or employee's role as a constituent of his or her public agency and recipient of its services, there is no conflict so long as the services are broadly available to all others similarly situated, rather than narrowly tailored to specially favor any official or group of officials, and are provided on substantially the same terms as for any other constituent.")

service credit they purchase for time on medical leave under Gov't Code § 31646, if they exceeded a compensation cap that calendar year. A change on this Secondary Issue would align ACERA's practices for these two different types of service credit purchases.⁵

If the Board were to change its practices on this Secondary Issue Staff would expect to review past cases and make corrections in some members' favor, but the project would be substantially less labor-intensive, with substantially less corrections, than it would be for the Main Issue, because the Secondary Issue pertains only to service credit purchases and not the "pensionable compensation" cap on all Tier 4 member contributions. If reprogramming of the pension administration system would be necessary, that project would be limited to purchases of service credit.

There is no precedent that answers the question at hand. Staff believes ACERA's historical practice is reasonable, but acknowledges that Dr. Wadhvani's claim also is reasonable, especially given that "uncertainty in the meaning of pension legislation must be resolved in favor of the pensioner, [so long as] such interpretation [is] consistent with the statute's language and purpose." *Block v. Orange County Employees' Retirement System* (2008) 161 Cal.App.4th 1297, 1307.

RECOMMENDATION

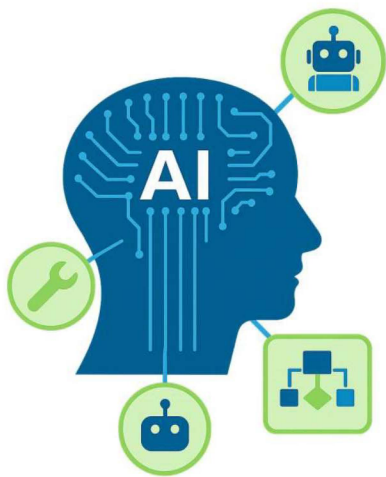
ACERA has been following a reasonable reading of Sections 31641.5 and 7522.10, but Dr. Wadhvani's claims illuminate some cost differences for different members that some may view as inequitable. Staff has brought this matter to the Board so that the Board can exercise its best judgment on the claims and make any necessary system-wide changes for consistency if the Board were to grant either of her claims. Staff recommends denial of her claim on the Main Issue and takes a neutral position on the Secondary Issue.

⁵ Sections 31646 and 31641.5 describe how to price a purchase in somewhat different terms. Also, a person who purchases service credit for medical leave was a member during the period of leave, whereas a person's prior service is before membership. These are possible bases for ACERA's different historical treatment of the two situations.

NEW BUSINESS

See Memo re Rita Wadhwani Claim for:

Discussion and Possible Motion re a Possible Change to
How ACERA Calculates the Cost to Purchase Service
Credit for Service Prior to Membership Under GC
§ 31641.5 for Tier 4 Members Agenda Item



THE THREE A'S OF AI IN PENSION ADMINISTRATION

PRESENTED BY:
SHAWN FARRIS
VICE PRESIDENT, LRS RETIREMENT SOLUTIONS

INTRODUCTION

What are the three A's of AI?

Assisted	Automates repetitive tasks and helps pension funds effectively scale operational efficiency.
Augmented	Enhances human decision-making by providing AI-driven insights and analytics.
Automated	Enables fully autonomous systems that make decisions without human intervention.

ASSISTED INTELLIGENCE

Assisted Intelligence

Automates repetitive tasks and helps pension funds effectively scale operational efficiency.

Applications in Pension Administration

- Summarization tools quickly condense complex inbound messages for staff.
- AI can assist call center representatives by providing suggested responses during member interactions.

Benefits of Assisted Intelligence

- Reduces errors and speeds up processing of repetitive tasks.
- Improves response quality and efficiency for member inquiries.
- Frees staff to focus on complex, value-added work while AI handles routine summarization and guidance.

AUGMENTED INTELLIGENCE

Augmented Intelligence

Enhances human decision-making by providing AI-driven insights and analytics.

Applications in Pension Administration

- AI-driven alerts identify anomalies in transactions and self-service portal activity (e.g., multiple changes such as password, direct deposit, and withholding, within seconds).
- Provides real-time results for staff to make informed decisions quickly.

Benefits of Augmented Intelligence

- Improves accuracy and reduces operational and security risks.
- Enhances member satisfaction through faster, smarter responses.
- Supports fraud prevention and compliance by flagging unusual patterns early.

AUTOMATED INTELLIGENCE

Automated Intelligence

Enables fully autonomous systems that make decisions without human intervention.

Applications in Pension Administration

- Current state is having AI assist with automation while humans **validate**.
- Future potential includes end-to-end retirement application processing.
- AI could eventually perform actions traditionally handled by humans such as approving applications, but we are not there yet.

Benefits of Automated Intelligence

- Human oversight remains essential to ensure correctness and compliance.
- Similar to industry warnings (“AI-generated content may be incorrect”), organizations should maintain checks and balances during adoption.

FUTURE OUTLOOK

Future Outlook

Short-term and long-term predictions.

Short-Term AI Adoption

Today, Assisted and Augmented Intelligence enhance pension administration task summarization and predictive analytics.

Long-Term AI Automation

Within the next ten years, Automated Intelligence will handle routine approvals and fraud detection. There will always be a need to have a *“Human in the Loop”*.

Strategic Planning and Reskilling

Successful AI integration requires careful planning, technology investment, and workforce reskilling to maximize benefits and adoption.

QUESTIONS?



Office of the Chief Executive Officer

DATE: December 18, 2025
TO: Members of the Board of Retirement
FROM: Dave Nelsen, Chief Executive Officer
SUBJECT: **Chief Executive Officer's Report**

DN

Senior Manager Recruitment

None

Committee/Board Action Items

Follow-Up Board Item	Assigned Senior Leader	Estimated Completion Date	Completion Date	Notes
Have a presentation on AI.	Dave Nelsen	December 2025		The Board would like to have a presentation on AI, its application and impact to the pension field, and what ACERA is doing to respond/utilize this new technology.

Conference/Event Schedule

None

Other Items

Business Planning Update

Attached are the final 2025 Business Plan updates.

Legislative Update

There is no legislative update this month.

Other Items

Stand-by Pay Issue: We are continuing to gather information from the employers to determine whether stand-by pay has been appropriately reported to ACERA. For one employer, we have determined that some pay codes being reported were incorrect and have informed the employer to discontinue reporting them to ACERA. Once we have all the information, we will bring it to the Board to discuss next steps, corrections, etc.

Budget: Through October, ACERA is \$112K or .53% over budget. The primary reason is how we are showing depreciation for our PAS project costs. Currently, depreciation is \$661K over budget. In terms of what we have actually spent, we are under budget by \$549K.

The depreciation is the driver of our current overage and will likely continue that way for the rest of the budget year.

We will continue to monitor the budget situation and will approach the Board if an adjustment appears warranted.

Key Performance Indicators

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

Scorecard KPI	2025 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</i> As of October of 2025: 10 year net return 8.73%, policy index 8.94%.
EFFECTIVE PLAN ADMINISTRATION	
Actual Spent vs. Approved Budget	<i>On budget or 10% below 2025 approved budget</i> As of October of 2025: .53% over budget.
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?"</i> As of the latest survey (October of 2025): 84%.
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?"</i> For 3rd Quarter of 2025: 99%.

ACERA BUSINESS PLANNING PROJECTS UPDATE

1. WFE Phase III (Adoption Into OnBase Platform)

Goal 2 (Completed in November 2025)

Migration of job performance and job development plans into the OnBase Workforce Excellence module for use by both team members and leaders. After this is completed, the entire Workforce Excellence process will have been migrated into OnBase. The OnBase Software Upgrade Project completion status was a predecessor to resuming this project. Migration is ongoing.

2. PAS 2.0 Post-Implementation Initiatives

Goal 3 (Completed in December 2025)

These initiatives are various improvements captured after go-live together with contractual items identified as pour-over for Pension Gold V3. All remaining critical work items for the 2025 pipeline have resources committed and a target finish date identified. Lessons Learned was completed this month and the scope document was retired. A summary of changes to PGV3 referencing the design documents will be available at year end to mark the closing of the project.

3. General Ledger System - New Product Selection

Goal 3 (Completed September 18, 2025)

The Great Plains Upgrade Project Team was to select the final software vendor from the list that was narrowed down in 2024. The 2025 new product selection initiative is now complete. The Cross-Departmental Team selected Microsoft Business Central. New product selection is complete. The goal is to target the next phase of the General Ledger System Project – implementation, for 2026

4. Customer Service – Member Engagement Enhancement

Goal 4 (Completed November 1, 2025)

To strengthen member engagement, this project focuses on creating a series of short video tutorials addressing the most frequently asked questions. Using member email transcripts and AI tools, we identified the issues members most often need help with so we can provide clear self-service guidance. Scripts for the first seven videos have been completed and are ready to move into production. The Customer Service Member Engagement Enhancement project successfully delivered a library of video tutorials aimed at improving member education and reducing repetitive inquiries. By leveraging internal collaboration and digital tools, the project established a scalable model for future content development and laid the groundwork for expanding member engagement through accessible, self-service resources.

5. **CEM – Benchmarking (Administration)**

Goal 3 (This will now be undertaken during the first half of 2026)

This project would review administrative benchmarking process and tools available to help measure, compare and guide assessment of our pension administration costs, resource levels and the value of service we provide to our members.

Due to delayed contract negotiations and key staff turnover at CEM, the initiation of this project was delayed. Since the annual survey is typically provided in the first quarter of the calendar year, the timing of completing the survey this year, which would likely be in the fourth quarter, and then completing next year's survey in the first quarter of 2026 doesn't add value or provide any real difference in the data provided. Consequently, we will participate in the survey for the first time in 2026.

6. **Internal Administrative Dashboard Tool Review and Selection**

Goal 3 (Completed by November 30, 2025)

Review and selection of an internal tool for allowing input of data and for displaying data in a dynamic, graphical, and interactive format. Requirements have been collected from end-users, and the team is sifting through the items now.

7. **2025 Business Initiative for Investments - Clearwater Onboarding**

Goal 1 (Complete by December 31, 2025)

Onboard ACERA into the Clearwater Analytics (CW) service provider platform. CW's benefits for ACERA will provide increased efficiencies and timely accessibility of investment data, automation of many processes, improved record keeping and retention, and an extra resource for data reconciliation. This project requires involvement from multiple ACERA departments (Investments, Fiscal Services, Legal), and once onboarding is complete it will also benefit the same three departments. The onboarding process will build and transition historical and current ACERA information and data into CW's systems. The project scope will cover setting up the required user IDs, conducting user training and ongoing client service check-ins. The project is expected to be complete by the end of December 2025. User training is progressing, as data onboarding has been completed and reconciliation is scheduled to complete by end of December; the project remains on track. We anticipate reporting the completion of this Business Initiative in January 2026. During one of the training sessions, Staff provided feedback requesting complete historical documents availability in the Clearwater Document Manager platform. Clearwater is exploring options to fulfill ACERA's needs on this matter, and this does not impact the project going live as scheduled.

8. Letter Printing Initiative Assessment

Goal 4 (Completed September 30, 2025)

Automate some members' printing output for process efficiency and business resilience. The 2025 phase of the project will be dedicated to requirements assessment and limited testing of potential tools and technology. Quadient's Impress Distribute subscription and service has been selected to test the sample population of letters. Testing materials were selected and provided to the vendor for pilot testing purposes and user training is forthcoming. Users were trained and tested the product. End users did some simulated testing.

NEW BUSINESS

Discussion and Possible Motion
regarding Chief Executive Officer
Compensation.
(ORAL REPORT)

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

ALBERTO MENDOZA,

Plaintiff and Appellant,

v.

BOARD OF RETIREMENT OF
THE VENTURA COUNTY
EMPLOYEES' RETIREMENT
ASSOCIATION,

Defendant and Respondent.

COUNTY OF VENTURA/RISK
MANAGEMENT,

Intervener and Respondent.

2d Civ. No. B327347
(Super. Ct. No. 56-2021-
00550840-CU-WM-VTA)
(Ventura County)

COURT OF APPEAL – SECOND DIST.

FILED

Dec 03, 2025

EVA McCLINTOCK, Clerk

Y. Esparza Deputy Clerk

Alberto Mendoza appeals the trial court's denial of his petition for a writ of administrative mandate challenging the decision of respondent Board of Retirement of the Ventura

County Employees Association (the Board) to deny his application for a service-connected disability retirement based on two work-related back injuries. (Code Civ. Proc., § 1094.5; Gov. Code, §§ 31720-31752.) In denying the petition, the court agreed with the Board's finding that appellant's disability was a result of his unreasonable refusal to undergo recommended medical treatment for his injuries, as contemplated in *Reynolds v. City of San Carlos* (1981) 126 Cal.App.3d 208 (*Reynolds*) and Labor Code¹ section 4056. Appellant contends the court misapplied the law and that the evidence does not support the finding he unreasonably refused recommended medical treatment. We affirm.

Facts And Procedural History

In 2012, appellant began employment as a Ventura County Deputy Sheriff and was assigned to the Todd Road Jail Facility. On December 30, 2014, appellant was working at the facility when he slipped while going up stairs, "which caused discomfort in [his] lower back." On May 27, 2015, he suffered another injury to his back when an inmate he was attempting to subdue, kicked him in the right waist area.

On May 20, 2015, appellant underwent a magnetic resonance imaging (MRI) of his lumbar spine. The MRI film showed degenerative disc disease at the L5-S1 level and a disc herniation abutting the right S1 nerve root. Some of the soft jelly material (the nucleus pulposus) also extruded from the disc at the L5-S1 level and was abutting the right S1 nerve root.

¹ Undesignated statutory references are to the Labor Code unless otherwise stated.

On June 19, 2015, appellant was examined by Dr. Robert H. Fields, M.D., the State Panel Qualified Medical Evaluator (QME) in appellant's workers' compensation case. (See § 4062.2.) Dr. Fields recommended that appellant be referred to a spine specialist and stated there was a "[h]igh likelihood [appellant] will require surgical intervention at this level and if deemed necessary, should be provided with care without delay."

Appellant was subsequently evaluated by Dr. Brian Grossman, an orthopedic surgeon. Dr. Grossman initially recommended physical therapy and an epidural injection. In a November 2015 report, Dr. Grossman stated: "I had a long discussion with [appellant] regarding treatment options. . . . He has failed to improve with rest, physical therapy, anti-inflammatory and analgesic medications, physical therapy, and an epidural injection. . . . His prognosis for resolution of symptoms with continued nonsurgical care is guarded. At this point, I believe that he is reaching Maximal Medical Improvement. The patient was advised that surgery for his condition would entail a microscopic discectomy. He does not wish to pursue surgery as he knows at least two people in his department who have had surgery on their back and never returned to their usual job."

On November 17, 2015, appellant's treating physician, Dr. Sam Bakshian, M.D., issued an evaluation report with a request for authorization of treatment. Dr. Bakshian stated: "Clearly, the patient has had marked aggravation of his back and leg symptoms following [an] epidural injection. . . . At this point, I am concerned that the disc extrusion may have displaced. There is no question in my mind that the patient will require surgical intervention and I am formally requesting authorization for a

hemilaminectomy microdiscectomy right side L5-S1. . . . The patient does understand.”

The requested surgery was authorized by the County of Ventura (the County), but appellant declined to undergo the procedure. On May 25, 2016, appellant filed an application with the Ventura County Employees’ Retirement Association (VCERA) for a service-connected disability retirement. After the County notified VCERA of its intent to challenge the application, VCERA informed appellant it was assigning the application to its hearing officer for an administrative hearing. A second MRI of appellant’s spine was conducted on December 9, 2015.

In a July 2016 reevaluation report, Dr. Fields indicated that “[t]he patient states he is worse” and “was indicated for surgery, but deferred. I had a long discussion with him about this, and he is just simply scared and this is based on what I believe to be bad information. He asked his friends, and looked on the internet for results. [¶] Looking at his exam and his gait, this patient is in need of surgery.” Dr. Fields added: “This patient should go ahead with surgery. I told him I am not his doctor and I generally don’t like to make recommendations to my QME patients, but I have seen him before and I advised that I don’t see him getting better without surgery. [¶] He has failed epidural blocks and oral steroids in the past, and he is a young man. I think he should reconsider. [¶] In my opinion, he has seen two qualified doctors, both of which are more than capable of making him better, and with the information I have to date, I would expect his results would be good to excellent in the 90% range.”

In a supplemental report, Dr. Fields stated: “I am now asked if the patient is in need of surgery, should the patient

reconsider his refusal? My answer is ‘yes,’ as I stated in my report. I indicated that I would expect his results to be good and excellent in the 90% range. [¶] For an isolated disc for a one-sided discectomy and laminectomy, the average good and excellent results are 90%. So, one would consider that he would fit this profile as he is a healthy young man without significant risk factors. [¶] I was asked whether I would agree that the risk of this surgery is inconsiderable in view of the seriousness of the injury. All lumbar surgeries have risks [¶] However, I think the risk-benefit ratio is highly in the patient’s favor. [¶] Also, I think the patient would have good to excellent results, meaning he could go back to work probably without restriction or with limited restrictions after surgery.”

Appellant continued to decline to undergo the authorized surgery. On June 9, 2017, appellant underwent a third MRI. In a June 28, 2017 report, Dr. Bakshian stated: “I have compared his 2015 MRI with the current MRI which clearly demonstrates progression of the discopathy at L5-S1. As I previously suspected, his pain syndrome is not only related to the disc herniation (and notable extrusion) at the L5-S1 level, but also secondary to the disfunction [*sic*] of the disc itself. . . . [¶] At this point, in order to address both back pain and leg pain in this individual, he will require a spinal fusion at L5-S1 with a decompression exploration of the nerve root and neurolysis as necessary. Alternatively, if the patient is prepared to consider, a laminectomy discectomy and neurolysis at L5-S1 can be performed which will invariably help with his radiculopathic pain, however, unlikely to help with his mechanical pain. In either case, I don’t believe that it would be safe for the patient to return back to perform his duties as a Deputy Sheriff[.]”

In a July 2017 progress report and request for authorization, Dr. Bakshian opined that appellant's continuing pain was due to "a combination of annular tearing, disc protrusion and scar formation around the right L5 and S1 nerve root." Based on the progression of appellant's condition, Dr. Bakshian sought authorization for a laminoforaminotomy discectomy, rather than the hemilaminectomy microdiscectomy that had previously been approved. Dr. Bakshian also noted that "[t]he patient expresses [that] he wishe[s] to proceed with surgery."

Dr. Bakshian's request for a laminoforaminotomy and discectomy at the County's expense was denied following utilization review. (See §§ 4610, subd. (a), 5307.27.) The request was denied due to "insufficient current objective medical evidence in the record to support the necessity of surgical intervention." In a November 2017 report, Dr. Bakshian stated: "At this point, the patient does have a deposition pending. Hopefully, this will resolve the issues as he does need surgical intervention. I have discussed with him options for surgical intervention; however, the patient does understand that with surgery, there's no guarantee of full recovery which in all likelihood he will not be able to return back to his current employment. The patient does understand. He needs some time to think about his options. He will contact me in the next four to six weeks to check in on status."

On March 15, 2018, appellant was examined by Dr. Richard Rosenberg, M.D., an orthopedic surgeon. In his report, Dr. Rosenberg stated that "[b]ased on my review of [appellant's] records, at one point he was a candidate for surgery, although, with the passage of time, his condition has improved to the point

where I would no longer consider him a candidate for surgery.” Dr. Rosenberg opined that “[b]ased on the Job Analysis for a Deputy Sheriff, [appellant] would be precluded from rare or infrequent lifting of 50 to 100 pounds. He would certainly be precluded from lifting over 100 pounds. In my opinion, [appellant] is currently able to carry out the remainder of the job duties that are described in the Job Analysis.” The doctor also noted that “a home exercise program would be advisable for him and, with this program, additional improvement in his lower back condition can be expected.”

In a November 2018 progress report, Dr. Bakshian stated that appellant still reported “constant” pain but was “not interested in surgery currently” and “would like to postpone that to a future date.” Dr. Bakshian added that appellant “was advised to continue with his home exercise program to increase functionality and mobility. Once he changes his mind regarding surgery for lumbar spine he will notify us.”

After reevaluating appellant in January 2019, Dr. Rosenberg reported that appellant was “not doing a home exercise program because the pain in his back increased around August of 2018.” Dr. Rosenberg concluded that appellant “has lost . . . less than 5% of his preinjury lifting capacity” and “would benefit for a work hardening program [i.e., a physical therapy and conditioning program designed to return an employee to work] for his low back to increase his ability for lifting and potentially returning back to work as a deputy sheriff.”

The administrative hearing on appellant’s application for a service-connected disability retirement was held on December 12, 2019. Appellant testified on his own behalf and did not call any other witnesses. Appellant testified among other things that he

had declined to undergo the authorized surgery because his initial symptom of urinary incontinence had resolved and he “believe[d] that [his] body was getting better.” Appellant also had “[m]ultiple concerns” because “[y]ou don’t know the outcome of the surgery.” He disagreed with Dr. Rosenberg’s conclusion that he had only lost 5 percent of his lifting capacity. On cross-examination, he reiterated that he elected not to undergo the surgery recommended by Drs. Bakshian, Grossman, and Fields “because the urinary incontinence [had] stopped.” He denied that Dr. Fields told him he would likely be able to return to work if he underwent the surgery. He declined to undergo the work hardening program recommended by Dr. Rosenberg because he “didn’t see any medical benefit to it” and “when [he tries] to do the exercises that Dr. Bakshian recommends, it hurts, the pain increases.”

The County called radiologist Stephen Rothman, M.D., and Tracey Pirie, the Sheriff’s Bureau Manager. Dr. Rothman essentially testified that there was no indication of spinal nerve compression in appellant’s June 9, 2017 MRI results. Pirie testified that the Sheriff’s Department could “probably” accommodate the restrictions imposed by Dr. Rosenberg if appellant returned to work.

At the conclusion of the hearing, the record was left open to allow appellant to present an additional report from Dr. Bakshian. In a May 2020 supplemental report, Dr. Bakshian stated that he agreed with Dr. Rothman’s conclusion that the disc extrusion at L5-S1 had been resolved. Dr. Bakshian disagreed, however, that this meant “there is essentially nothing wrong with the patient’s back.” Dr. Bakshian “noted that the patient does have fairly significant disc height loss at L5-S1 and a large area

of high intensity signal within the annulus at L5-S1,” which “signifies that the internal structure of the disc is no longer properly functioning and that represents discopathy at the L5-S1 level.” The doctor added that “[b]y virtue of there being a disc extrusion at the L5-S1 level signifies that a portion of the disc annulus tore and that the central disc material (nucleus pulposus) extruded through the annulus[.]” Dr. Bakshian opined that “[i]nitially, a decompression and discectomy would have been a viable option. At this point, it is my opinion that not only a decompressive procedure is required but also a neurolysis and likely a spinal fusion at the L5-S1 level.”

On October 22, 2020, the hearing officer issued his proposed findings of fact and recommended decision denying appellant’s application for service-connected disability retirement benefits. The hearing officer found that “Applicant refused to undergo reasonable and appropriate medical treatment that had a high probability of success (90 percent according to Dr. Fields), and which could have permitted Applicant to go back to work. He refused surgery despite the recommendations of three physicians By refusing to undergo surgery when it was initially authorized, Applicant might very well have made his condition worse because according to Dr. Bakshian, ‘at this point Applicant [*sic*] not only requires decompressive procedure, he also requires a neurolysis and possibly a fusion.’” [Citation.] In addition, Applicant made a unilateral decision [to] stop the home exercise program that was recommended and encouraged by Dr. Bakshian. Finally, Applicant refused to participate in the Work Hardening Program that was recommended by Dr. Rosenberg and offered to Applicant by the County of Ventura.” The hearing officer also found that “Applicant’s testimony that he declined to

go forward with the surgery because his incontinence had abated is not credible because Applicant continued to complain of constant pain . . . even after he no longer had incontinence.” The hearing officer concluded that appellant was thus not entitled to service-related disability retirement benefits, as contemplated in *Reynolds, supra*, 126 Cal.App.3d 208. The Board subsequently adopted the hearing officer’s proposed decision and accordingly denied appellant’s application for service-connected disability retirement benefits.

Appellant petitioned for a writ of administrative mandate. In its ruling denying the petition, the court reasoned: “The determinative factor in all of this from the Court’s perspective is [appellant’s] refusal to consent to surgery in 2016, and the consequences of that decision as discussed in *Reynolds* In 2015 and 2016, [appellant] was evaluated by Drs. Bakshian and Fields[,] both of whom concluded that [appellant] needed surgery for his back problem. Dr. Fields was particularly emphatic about the need for surgery and its probable good-excellent result. To be sure, no surgery is without risk, but both Dr. Bakshian (a treating physician) and Dr. Fields (an evaluating physician) are very firm in stating that this was the needed treatment. . . . What probably could have been fixed in 2015 or 2016 by surgery had worsened by 2017. The surgery recommended in 2017 was of a different type, and one which likely would not have resolved [appellant’s] injury such that he could return to work. His decision in 2015 and 2016 to refuse the treatment which probably would have allowed him to return to work is a sufficient basis to deny this Petition.”

Discussion

Appellant contends the trial court's decision to deny his administrative writ petition based on the finding that he unreasonably refused medical treatment misapplies the law and is in any event not supported by substantial evidence. We conclude otherwise.

Under the County Employees Retirement Law of 1937, an employee is entitled to disability retirement benefits if he or she is "permanently incapacitated" physically or mentally from the performance of his or her duties. (Gov. Code, § 31720.) In order to qualify for a service-connected disability retirement, the applicant's permanent incapacity must be "a result of injury or disease arising out of and in the course of the member's employment, and such employment contributes substantially to such incapacity. . . ." (*Id.*, subd. (a).)

Because "employees have a fundamental vested right in their retirement benefits" (*County of Alameda v. Board of Retirement* (1988) 46 Cal.3d 902, 915), in adjudicating appellant's writ petition the trial court was required to exercise its independent judgment to decide whether benefits were properly denied. (*Valero v. Board of Retirement of Tulare County Employees' Assn.* (2012) 205 Cal.App.4th 960, 965 (*Valero*).) In exercising its independent judgment in this regard, "a trial court must afford a strong presumption of correctness concerning the administrative findings, and the party challenging the administrative decision bears the burden of convincing the court that the administrative findings are contrary to the weight of the evidence." (*Fukuda v. City of Angels* (1999) 20 Cal.4th 809, 817 (*Fukuda*).)

“After the trial court has exercised its independent judgment in weighing the evidence, our task is to review the record to determine whether the trial court’s findings are supported by substantial evidence. [Citation.] The trial court’s decision should be sustained if it is supported by credible and competent evidence. [Citation.]” (*Valero, supra*, 205 Cal.App.4th at p. 965.) Under these circumstances, “the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. [Citations.] Specifically, the question becomes whether the appellant’s evidence was (1) “uncontradicted and unimpeached” and (2) “of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.” [Citation.]. [Citation.]” (*Id.*, at p. 966)

The trial court denied appellant’s writ petition based on the common law doctrine of avoidable consequences/mitigation of damages, as set forth in *Reynolds* and section 4056. Pursuant to that doctrine, an application for service-connected disability retirement benefits is properly denied if the applicant’s disability is caused, continued, or aggravated by their unreasonable refusal to undergo medical treatment for their injuries. (*Reynolds, supra*, 126 Cal.App.3d at p. 216, citing § 4056²; see also *State*

² Section 4056 states: “No compensation is payable in the case of the death or disability of an employee when [the] death is caused, or when and so far as his disability is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment, if the risk of the treatment is, in the opinion of the appeals board, based upon expert medical or surgical advice, inconsiderable in view of the seriousness of the injury.” Although section 4056 is a workers’ compensation provision, the statute “merely codifies the common

Dept. of Health Services v. Superior Court (2003) 31 Cal.4th 1026, 1047, discussing § 4056 (*State Dept. of Health Services*.) The purpose of applying the doctrine in this context “is to prevent employees with treatable injuries from resorting to unfounded beliefs, ungrounded fears or personal idiosyncrasies or convictions to reject proffered treatment. [Citation.]” (*Flores v. Workmen’s Comp. Appeals Bd.* (1973) 36 Cal.App.3d 388, 392-393.)

Appellant contends the court erred in relying on the doctrine of avoidable consequences/mitigation of damages as set forth in *Reynolds* and section 4056 because in *Reynolds* it was deemed likely that the employee could still return to work if he underwent the surgery he had unreasonably refused. (*Reynolds, supra*, 126 Cal.App.3d at p. 218.) He asserts that the doctrine cannot be applied to him because it is essentially undisputed that the initial surgery he refused to undergo would no longer be effective and that the surgeries Dr. Bakshian subsequently recommended would not enable him to perform all of the duties of his job as a Deputy Sheriff.

We are not persuaded. The doctrine of avoidable consequences/mitigation of damages logically applies not only when it is likely that the employee could still return to work by undergoing recommended medical treatment, but also when it is likely the employee could have returned to work but for their unreasonable refusal to timely submit to treatment that may no longer be effective due to the passage of time. Under the latter

law rule requiring mitigation of damages [citation], which is properly applied in determining eligibility for disability retirement.” (*Reynolds, supra*, 126 Cal.App.3d at p. 216.)

scenario, a retirement board can reasonably find that the employee's inability to return to work is not a result of their work-related injury, but rather a result of their unreasonable refusal to submit to medical treatment for that injury. (Gov. Code, § 31720, subd. (a); § 4056.)

Moreover, appellant cannot be heard to complain the evidence does not support the court's findings that he unreasonably refused to undergo the hemilaminectomy microdiscectomy that was approved in November 2015, and that he probably would have been able to return to work had he undergone that surgery. His opening brief does not set forth any of the evidence favorable to those findings. Most notably, he fails to mention that Drs. Bakshian, Fields, and Grossman all recommended that he undergo the surgery, or that Dr. Fields had also opined that appellant would probably be able to return to work if he did so. We agree with the Board that appellant thus forfeited his claim of insufficient evidence. (*Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th 400, 409-410.)

In any event, the evidence on this issue does not compel a finding in appellant's favor as a matter of law. (*Valero, supra*, 205 Cal.App.4th at p. 966.) Although appellant refers us to Dr. Bakshian's deposition testimony that his refusal of the recommended surgery was not unreasonable, that testimony plainly conflicts with the doctor's statement in his November 2015 evaluation report that "[t]here is no question in my mind that the patient will require surgical intervention[.]" Dr. Bakshian's deposition testimony on this issue is also contradicted by the opinions of Dr. Fields that appellant was likely to be able to return to work if he underwent the approved

surgery and that the risks of that surgery were outweighed by the benefits.

Moreover, in issuing its ruling the trial court was required to presume the correctness of the findings underlying the Board's decision. (*Fukuda, supra*, 20 Cal.4th at p. 817.) Although the court focused on appellant's refusal to undergo the approved surgery, the Board also found appellant (1) had unreasonably refused to participate in the work hardening program; (2) had unreasonably stopped performing the home exercise program recommended by Dr. Bakshian; and (3) "requires further medical care and treatment." Because substantial evidence supports these findings, appellant fails to establish that his writ petition was erroneously denied.

Disposition

The trial court's order denying appellant's petition for a writ of administrative mandate is affirmed. Respondents shall recover costs on appeal.

NOT TO BE PUBLISHED.

YEGAN, Acting P. J.

We concur:

BALTODANO, J.

CODY, J.

Henry J. Walsh, Judge
Superior Court County of Ventura

Law Office of Steven R. Rosales and Steven R. Rosales, for
Plaintiff and Appellant.

Board of Retirement of Ventura County Employees'
Retirement Association and Lori A. Nemiroff; Law Office of
Vivian Shultz and Vivian W. Shults, for Defendant and
Respondent.

Law Office of Stephen D. Roberson and Stephen D.
Roberson, for Intervener and Respondent.

CLOSED SESSION

12. Closed Session:

- A.** Existing litigation pursuant to paragraph (1) of subdivision (d) of Section 54956.9:
Alberto Mendoza v. Board of Retirement of the Ventura County Employees' Retirement Association, Cal. Court of Appeal Second Appellate District Case No. B327347 (consider whether to request publication of unpublished decision)—unpublished opinion included in public agenda backup.
- B.** Conference with Designated Representative (Kellie Simon) regarding Compensation Negotiations with the Chief Executive Officer (Cal. Gov't Code § 54957.6).

IF THERE ARE ANY MATERIALS TO BE DISTRIBUTED FOR AGENDA ITEMS 12A and/or 12B. ABOVE, THEY WILL BE DISTRIBUTED UNDER SEPARATE COVER.