



Alameda County Employees' Retirement Association
BOARD OF RETIREMENT

GOVERNANCE COMMITTEE MEETING
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.

April 18, 2019
11:30 a.m.

LOCATION	COMMITTEE MEMBERS	
ACERA C.G. "BUD" QUIST BOARD ROOM 475 14TH STREET, 10TH FLOOR OAKLAND, CALIFORNIA 94612-1900 MAIN LINE: (510) 628-3000 FAX: (510) 268-9574	ELIZABETH ROGERS, CHAIR	ELECTED GENERAL
	HENRY LEVY, VICE CHAIR	TREASURER
	OPHELIA BASGAL	APPOINTED
	LIZ KOPPENHAVER	ELECTED RETIRED
	TARRELL GAMBLE	APPOINTED

Should a quorum of the Board attend this meeting, this meeting shall be deemed a joint meeting of the Board and Committee.

The order of agenda items is subject to change without notice. Board and Committee agendas and minutes are available online at www.acera.org.

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

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

Note regarding Public Records: All writings that are distributed to a majority of members of the ACERA Board of Retirement in connection with a matter subject to discussion at an open meeting of the Board or one of its Committees are public records within the meaning of the California Public Records Act and are available for inspection upon request, unless the writings are privileged or otherwise exempt from disclosure under the provisions of the California Public Records Act. Please contact ACERA at (510) 628-3000 to request to inspect documents. Documents will be made available at ACERA, 475 14th Street, Oakland, California 94612.

GOVERNANCE COMMITTEE MEETING

NOTICE and AGENDA, Page 2 of 3 – April 18, 2019

Call to Order: 11:30 a.m.

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

- 1. Review, discussion and possible motion to update the Electronic Tablet Policy with or without revisions.**

Recommendation

Staff recommends that the Governance Committee recommend to the Board of Retirement that the *Electronic Tablet Policy* continues to be relevant until such time that other technology and processes make it obsolete, and that the Policy contains the required policy elements and that there are no suggested revisions at this time.

– Kathy Mount

- 2. Review, discussion and possible motion to update the Board Communication Policy with or without revisions.**

Recommendation

Staff recommends that the Governance Committee recommend to the Board of Retirement Staff that the Policy is still relevant, and contains the necessary policy elements. Staff recommends incorporating language from the Media Communications Policy into this Policy and adding provisions related to privacy and confidentiality issues.

– Kathy Mount

- 3. Review, discussion and possible motion to update the Media Communication Policy with or without revisions.**

Recommendation

Staff recommends that the Governance Committee recommend to the Board of Retirement to repeal the *Policy* as it is no longer relevant given that the *Board Communications Policy* addresses media communications with trustees and an administrative policy will address media communications with staff.

– Kathy Mount

GOVERNANCE COMMITTEE MEETING

NOTICE and AGENDA, Page 3 of 3 – April 18, 2019

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

- None

Trustee/Public Input

- None

Future Discussion Items

- Conflict of Interest Policy
- Conflict of Interest Code
- Board Travel Policy
- Board Education Policy

Establishment of Next Meeting Date


TBD



MEMORANDUM TO THE GOVERNANCE COMMITTEE

DATE: April 18, 2019

TO: Members of the Governance Committee

FROM: Kathy E. Mount, Chief Counsel 

SUBJECT: Triennial Review of the *Electronic Tablet Policy*

Introduction

As part of the new Policy review process that Staff¹ presented in December 2018, the Governance Committee will be reviewing policies on a three-year cycle, in specific groupings. (See Exhibit A.) The first group includes three policies that govern the Board:

- *Electronic Tablet Policy*,
- *Board Communications Policy*
- *Media Policy*.

The review, as required by the *Board Policy Development Process*, is to ensure that a policy is still relevant, contains the necessary policy elements and to provide suggested revisions. This memo addresses the *Electronic Tablet Policy* ("Policy") which was last reviewed on December 18, 2014. (See *Policy* attached as Exhibit B.)

Background and Findings

The *Policy* was first created in 2012 when the Board began using electronic devices and web-based systems as electronic solutions for access to Board and Committee materials. The goals of the *Policy* were to:

- Ensure that the Board had efficient and effective access to electronic information;
- Reduce the production and mailing of voluminous paper distributions;
- Address risks such as improper use of ACERA issued electronic devices and improper disclosure of confidential information;
- Provide guidance and support during the transition to the electronic tablet.
- Provide an acknowledgement form for Trustees to sign certifying their compliance with the *Policy*.

The *Policy* was affirmed without revision in December 2014.

¹ For the purposes of this memorandum, the term "Staff" refers to the collective contributions of Chief Executive Officer David H. Nelsen, Chief Counsel Kathy E. Mount, relevant Senior Managers, and Associate Counsel Lori K. Schnall.

ACERA plans to implement the Granicus software system to manage Board and Committee agendas. One feature of the software is access through the internet from any device. This may change ACERA's policies and procedures regarding use and ownership of electronic devices, although that remains to be developed as the Granicus software is implemented. ACERA Prism staff are also considering policies and procedures regarding use of personal devices by ACERA employees, which may also help inform Board decisions regarding use of appropriate electronic devices by Trustees.

Recommendations

Staff recommends that the Committee advise the Board of Retirement that the *Electronic Tablet Policy* continues to be relevant until such time that other technology and processes make it obsolete, and that the Policy contains the required policy elements and that there are no suggested revisions at this time.

Once Granicus software is implemented and the administrative policies are complete, Staff will bring back the *Policy* back to the Governance Committee to consider revising or repealing it.

Enclosure: 1) Exhibit A - Established Review Schedule (From the December 20, 2018 Memo to the Governance Committee.)
 2) Exhibit B - *Electronic Tablet Policy and the Electronic Tablet Acknowledgement Form*, with no revisions.

Exhibit A

Exhibit C

Establishing Review Schedule

Governance Policies – In general, these policies govern the Board's actions.

Group 1 – This Group will be reviewed in 2019 and every three years thereafter

Board Travel Policy
Board Education Policy
Board Communications Policy
Media Communications Policy
Electronic Tablet Policy
Board and Committee Operations Policy
Board Policy Development Process
Board Elections Policy
Conflict of Interest Code
Conflict of Interest Policy

Administrative Policies – These policies direct ACERA's operations.

Group 2 – This Group will be reviewed in 2020 and every three years thereafter

Administrative Hearing Policy
Error Correction Policy
Felony Forfeiture Policy
Membership Policy
Retiree Payroll Deduction Policy
SRBR Policy
Service Provider Policy
Record Retention Policy

Group 3 – This Group will be reviewed in 2021 and every three years thereafter

Declining Employer Policy
Withdrawing Employer Policy
Employer Audit Policy
Interest Crediting Policy
Actuarial Funding Policy
Discharge of Overpayments Policy
Employer Reimbursement Policy
Securities Litigation Policy
Outside Counsel Policy
Emergency CEO Succession Policy
CEO Evaluation Policy
CEO Job Duties and Delegation of Authority Policy

Exhibit B



Electronic Tablet Policy

I. Purpose

The purpose of the Electronic Tablet Policy (Policy) is to govern the use of Electronic Tablets and a web-based system as an electronic solution by which Committee and Board meeting materials will be distributed, accessed, stored, and secured. ACERA will facilitate the offsite access of Committee and Board packet materials through the use of a web based electronic platform thus allowing Trustees to use ACERA-issued and/or personal Electronic Tablets to retrieve, store, edit and read the Committee and Board packet materials.

II. Assumptions

A. The Electronic Tablet Policy rests on the following important assumptions:

1. The electronic delivery of meeting packets has a positive environmental impact.
2. The electronic delivery of meeting packets has a positive fiscal impact.
3. Electronic Tablets used for retrieval of meeting packets may be provided by ACERA (ACERA-issued) or personally owned.
4. ACERA Trustees will treat all confidential ACERA electronic records appropriately.
5. ACERA Trustees will ensure that all electronic documents accessed by Electronic Tablet devices and distributed through the department's cloud-based storage service, are stored, maintained, and disposed of in a manner that prevents the disclosure of confidential information.

III. Policy Guidelines

The Electronic Tablets used by ACERA Trustees to access ACERA related materials may be ACERA-issued or purchased by Trustees with personal funds.

A. ACERA-Issued Electronic Tablets – Usage Guidelines.

ACERA Trustees must agree to the following guidelines when using Electronic Tablets to access materials owned by ACERA or when otherwise using Electronic Tablets to conduct ACERA-related business:

1. An Electronic Tablet distributed by ACERA is the sole property of ACERA. Therefore, documents, files, and media on the Electronic Tablet are also the sole property of ACERA. Users shall have no expectation of privacy, with regard to any applications, data, email, photos, or any other records stored on the Electronic Tablet.
2. ACERA reserves the right to use tracking software to locate the Electronic Tablet as necessary.
3. In the event the Electronic Tablet is lost or stolen, ACERA reserves the right to delete all data on the Electronic Tablet remotely and reset the Electronic Tablet to its original factory standard in order to preserve the integrity of ACERA electronic records.
4. ACERA is not responsible for Electronic Tablet compatibility with other non-ACERA products (computers, printers, Bluetooth devices, software, etc).

B. In addition, Trustees using ACERA issued Electronic Tablets must agree to the following guidelines:

1. Take all appropriate and reasonable measures to physically and electronically secure the Electronic Tablet and third-party applications with password protection.
2. Treat all confidential ACERA electronic records appropriately.
3. Handle the Electronic Tablet with consideration and care.
4. Report lost, stolen or damaged Electronic Tablets to ACERA within 24 hours of the occurrence to the Assistant to the Chief Executive Officer. Replacement of the Electronic Tablet will be at ACERA's discretion.
5. Maintain all configuration settings established by ACERA upon deployment.

6. Relinquish the Electronic Tablet within seven (7) business days of leaving the ACERA Board at 475 14th Street, Suite 1000, Oakland, CA 94612 during normal business hours of Monday through Friday (8:30 a.m. – 5:00 p.m.), excluding holidays.
7. Use of ACERA-issued Electronic Tablets is primarily for the use of ACERA-related business.
8. Personal use of ACERA-issued Electronic Tablets should be limited. Trustees will not permit anyone else including, but not limited to, the Trustees' family and/or associates, to use this ACERA property.
9. ACERA Trustees may not download or install any software onto any ACERA-issued Electronic Tablet without prior authorization by the ACERA's Project Information Services Manager.
10. ACERA Trustees will sign an acknowledgement of receipt form upon taking possession of an ACERA-issued Electronic Tablet, which is attached to this Policy.

C. Personal Electronic Tablet – Usage Guidelines

1. ACERA Trustees must agree to the following guidelines when using personally owned Electronic Tablets to access materials owned by ACERA or when otherwise using Electronic Tablets to conduct ACERA-related business.
2. Electronic Tablets personally owned by the Trustee are the sole responsibility of the Trustee. However, the Trustee may request instructions to download the required third-party applications to access ACERA materials.
3. ACERA is not responsible and will not support the malfunction of the Electronic Tablet. ACERA is only responsible for the applications or software that is required to access the materials produced by ACERA.

D. In addition, Trustees using personally owned Electronic Tablets must agree to the following guidelines when using Electronic Tablets to access records owned by ACERA:

1. Take all appropriate and reasonable measures to physically and electronically secure the Electronic Tablet and third-party applications with password protection.

2. Treat all confidential ACERA electronic records appropriately.
3. Install all third-party applications that are required to access ACERA materials.
4. Maintain all configuration settings established by ACERA upon deployment.
5. Delete all documents, files, and media owned by ACERA entirely from the Electronic Tablet within seven (7) business days of leaving the ACERA Board.

IV. Policy Review

The Operations Committee shall review this policy at least every three (3) years.

V. Policy History

- A. The Board adopted the Electronic Tablet Usage Policy on October 18, 2012.
- B. The Board reviewed and affirmed the Electronic Tablet Usage Policy on [April 18, 2019](#) ~~December 18, 2014~~¹.

¹ *The Board adopted the Policy on October 18, 2012. The Board reviewed and affirmed this policy, without revisions, on December 18, 2014, and April 18, 2019.*



Electronic Tablet Acknowledgement Form

Tablet Serial Number: _____

Issued To: _____

Issued By: Alameda County Employees' Retirement Association (ACERA)

I received one (1) ACERA-issued electronic tablet (Tablet) to retrieve and view electronic materials provided by ACERA and to otherwise use primarily for business purposes in the interests of ACERA.

By signing below, I acknowledge that I am solely responsible to physically and electronically secure and care for the Tablet. Further, I am aware that the Tablet is an expensive device. Therefore, I will take all appropriate measures to prevent and minimize the loss and damage of the Tablet. In the event of such loss or damage, I will report the incident to ACERA Administration Department at (510) 628-3001 within 24 hours of the occurrence.

This acknowledgement form is intended to support ACERA's *Electronic Tablet Policy* (Policy). To the extent that this form or the Policy fails to address every possible scenario regarding the use of ACERA-assigned electronic tablets (Tablets), common sense should be exercised at all times regarding appropriate use of the Tablets by Board Trustees. If you are unsure regarding the appropriateness of what you should do, ask ACERA Administration Department for further guidance.

In addition to those identified in the Policy, the following activities prohibited by the Policy include, but are not limited to:

- Transmittal or use of any material in violation of any federal, state, or local law, ordinance, or regulation;
- Transmittal or use of any material or communication that is threatening, defamatory, obscene, discriminatory, or offensive;
- Accessing inappropriate websites;
- Misrepresentation under any circumstances of a user's true identity;

- Unauthorized or improper downloading, accessing, or transmittal of copyrighted information, documents, software or applications;
- Disclosure of any confidential information that could breach the security of any ACERA system;
- Transmittal of unauthorized broadcast communications or solicitations (such as mass email transmissions); and
- Use of a security code or password other than as authorized.

All Tablets shall remain the property of ACERA and may be examined at any time. Users must not install, upgrade, repair, or remove software without prior approval from ACERA's PRISM management.

I also agree to follow the guidelines that are stated in the Policy.

Print Name

Signature

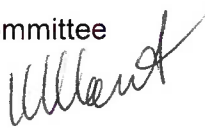
Date Received



MEMORANDUM TO THE GOVERNANCE COMMITTEE

DATE: April 18, 2019

TO: Members of the Governance Committee

FROM: Kathy E. Mount, Chief Counsel 

SUBJECT: Triennial Review of the Board Communications Policy

Introduction

As part of the new review process that Staff¹ presented in December 2018, Staff is reviewing policies on a three-year cycle on specific review schedule.² The review is to ensure that each policy is still relevant, contains the necessary policy elements and to provide suggested revisions. This memo addresses the *Board Communications Policy* ("Policy"). (See the *Policy* attached as Exhibit A.)

Background and Findings

The purpose of the *Policy* is to facilitate and encourage open, effective and accurate communication among Board Trustees, and between the Board, management, staff and external parties. The *Policy* also addresses compliance with the Brown Act. The Board adopted a number of non-substantive revisions in June 2018.

Recommendations

Staff recommends that the Committee advise the Board of Retirement that the *Policy* is still relevant, and contains the necessary policy elements. Staff recommends incorporating language from the Media Communications Policy into this *Policy* and adding provisions related to privacy and confidentiality issues.

Enclosure: 1) Exhibit A, Board Communications Policy, redline and clean version

¹ For the purposes of this memorandum, the term "Staff" refers to the collective contributions of Chief Executive Officer David H. Nelsen, Chief Counsel Kathy E. Mount, relevant Senior Managers, and Associate Counsel Lori K. Schnall.

² While the *Policy* was last reviewed on June 21, 2018, to adhere to the new review schedule, certain policies such as this one will initially be reviewed in fewer than three years.

Exhibit A



Board Communications Policy

I. Purpose

The purpose of the Board Communications Policy (Policy) is to encourage and facilitate open and effective communications among Board Trustees and between the Board and management, staff, and external parties.

II. Objectives

A. The objectives of the Board Communications Policy are to ensure that:

1. Trustees receive pertinent information in a consistent and uniform manner;
2. Trustees have equal access to appropriate information;
3. Communications are efficient and timely; and
4. Communications with management and other parties are accurate, consistent, and reflect the views or positions of the Board as a whole.

III. Assumptions & Principles

A. As a public agency ACERA generates public interest and therefore periodically receives inquiries from the media and other interested parties.

A.B. When communicating, Trustees recognize their sole and exclusive fiduciary duty to represent the interests of all plan members.

C. Trustees further must protect the integrity of the system which includes the dissemination of accurate, appropriate, non-confidential and non-proprietary information to the public and media.

B.D. Inappropriate or erroneous communications from Board members may represent a significant risk to the Plan, the Board, and individual Board members.

C.E. Board Communications Policy must balance the need to mitigate communications risk with the need for open and efficient communication.

IV. Policy Guidelines

A. Communications Among Trustees

1. The Board shall carry out its activities in the spirit of open governance, including the provisions of the Brown Act which include, but are not limited to:
 - a. Ensuring that communications by and between Board members comply with the Brown Act;
 - b. Properly noticing and posting an agenda for Board and Committee meetings;
 - c. Properly describing all items to be considered in closed session in the notice or agenda for the meeting;
 - d. Not conducting or participating in a series of communications one at a time or in a group that in total constitutes a quorum of the Board or Committee either directly or through intermediaries or electronic devices, for the purpose of developing a concurrence as to action to be taken;
 - e. Not taking any action, whether preliminary or final, by secret ballot;
 - f. Allowing proper public comment on agenda items before or during consideration by the Board; and
 - g. Ensuring Board and Committee meeting agenda materials are properly made available to members of the public, upon request, without delay.
2. Trustees shall ensure that all information that is relevant to the business of the Board shall be disclosed in a timely manner to the Board Chair or appropriate Committee Chair.
3. During meetings of the Board and Committees, Trustees shall communicate in an open, frank, and constructive manner.

B. Trustee Communications with Plan Members

1. Trustees shall mitigate the risk of miscommunication with plan members and third parties by avoiding giving explicit advice, counsel, or education with respect to the technicalities of ACERA laws, policies, or processes. When receiving questions from a plan member, Trustees shall:
 - a. Refer the member to the main telephone number of ACERA or the ACERA website; or
 - b. Refer the member question directly to the appropriate ACERA senior manager for handling and a response.

C. Trustee Communications with ACERA Management

1. Trustees will direct concerns or questions concerning any aspect of ACERA operations to the attention of the Chief Executive Officer or other appropriate member of senior management. Trustees will notify the CEO of any concerns or questions sent directly to senior management.
2. Any request for information that require significant expenditure of staff time or external resources shall be directed to the CEO who will determine whether to take the request to the full Board for consideration.
3. The CEO and senior management shall ensure that all information requested by one or more Board members is made available to the entire Board.
4. Board members shall share any information in their possession pertinent to the affairs of ACERA with the CEO in a timely manner. Similarly, the CEO shall ensure that all relevant and pertinent information is disclosed to all of the Board members in a timely manner.

D. Trustee Communications with External Parties

In general, in communicating with external parties, the following guidelines shall apply:

1. The purpose of any communications by Trustees shall be consistent with their sole and exclusive fiduciary duty to represent the interests of all plan members.

2. Trustees and senior management are expected to support the decisions and policies of ACERA in external communications even if they may have opposed them or disagreed with them during Board deliberations.
3. In external communications, Trustees are expected to disclose when they are not representing an approved ACERA position.
4. Board members shall not disclose confidential communications received orally or in writing during closed session meeting of the Board or Committees or from internal or external legal counsel and identified as confidential.

E. When communicating Trustee Communications with the Media

In addition to the guidelines for communications with external parties, when Trustees communicate with the media, the following additional guidelines shall apply:

- 5.1. When interviewed, or otherwise approached by the media for information concerning the affairs of ACERA, Trustees shall refrain from making any unilateral commitments on behalf of the ACERA Board.
- 6.2. In situations that call for a spokesperson from the Board, the Chair or his or her designate, shall act as spokesperson for the Board. The spokesperson generally should request that the reporter put questions in writing, and attempt to review for accuracy any resulting materials before their publication.
- 7.3. Written press releases concerning the business of the ACERA Board shall be prepared by staff and shall be approved by the Chief Executive Officer in consultation with the Board Chair.
- 8.4. Trustees are free to write articles for publication that pertain to official ACERA business. To help ensure the accuracy of such articles and ensure that ACERA is not inadvertently placed at risk by such articles, all such articles shall be reviewed by the Chief Executive Officer and legal counsel before being submitted for publication or presentation.
5. Requests from the news media will be given high priority and responded to quickly and efficiently.

6. Trustees will not provide false, confidential, privileged, inappropriate or other non-disclosable information.
7. Personnel and member records or similar records contain private confidential information that is protected by Article 1, Section 1 of the California Constitution or other laws. Such records are exempt from disclosure under the Public Records Act (Gov. Code §6254(c)). Personnel records generally include time records, performance evaluations, disciplinary actions, marital status, phone numbers, and other private information. Member records are confidential to the extent permitted by the law.

V. Policy Review

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

VI. Policy History

- A. The Board adopted this policy on March 16, 2000.
- B. The Board reviewed and affirmed this policy, with revisions, on ~~June 21, 2018~~ April 18, 2019¹.

¹ The Board adopted the Policy on March 16, 2000. The Board reviewed and adopted this policy, with revisions, on October 19, 2006; September 16, 2010; ~~and June 21, 2018; and April 18, 2019.~~ The Board reviewed and adopted this policy, without revisions, on July 17, 2008; December 20, 2012; and December 18, 2014.



Board Communications Policy

I. Purpose

The purpose of the Board Communications Policy (Policy) is to encourage and facilitate open and effective communications among Board Trustees and between the Board and management, staff, and external parties.

II. Objectives

A. The objectives of the Board Communications Policy are to ensure that:

1. Trustees receive pertinent information in a consistent and uniform manner;
2. Trustees have equal access to appropriate information;
3. Communications are efficient and timely; and
4. Communications with management and other parties are accurate, consistent, and reflect the views or positions of the Board as a whole.

III. Assumptions & Principles

- A. As a public agency ACERA generates public interest and therefore periodically receives inquiries from the media and other interested parties.
- B. When communicating, Trustees recognize their sole and exclusive fiduciary duty to represent the interests of all plan members.
- C. Trustees further must protect the integrity of the system which includes the dissemination of accurate, appropriate, non-confidential and non-proprietary information to the public and media.
- D. Inappropriate or erroneous communications from Board members may represent a significant risk to the Plan, the Board, and individual Board members.

- E. Board Communications Policy must balance the need to mitigate communications risk with the need for open and efficient communication.

IV. Policy Guidelines

A. Communications Among Trustees

- 1. The Board shall carry out its activities in the spirit of open governance, including the provisions of the Brown Act which include, but are not limited to:
 - a. Ensuring that communications by and between Board members comply with the Brown Act;
 - b. Properly noticing and posting an agenda for Board and Committee meetings;
 - c. Properly describing all items to be considered in closed session in the notice or agenda for the meeting;
 - d. Not conducting or participating in a series of communications one at a time or in a group that in total constitutes a quorum of the Board or Committee either directly or through intermediaries or electronic devices, for the purpose of developing a concurrence as to action to be taken;
 - e. Not taking any action, whether preliminary or final, by secret ballot;
 - f. Allowing proper public comment on agenda items before or during consideration by the Board; and
 - g. Ensuring Board and Committee meeting agenda materials are properly made available to members of the public, upon request, without delay.
- 2. Trustees shall ensure that all information that is relevant to the business of the Board shall be disclosed in a timely manner to the Board Chair or appropriate Committee Chair.
- 3. During meetings of the Board and Committees, Trustees shall communicate in an open, frank, and constructive manner.

B. Trustee Communications with Plan Members

1. Trustees shall mitigate the risk of miscommunication with plan members and third parties by avoiding giving explicit advice, counsel, or education with respect to the technicalities of ACERA laws, policies, or processes. When receiving questions from a plan member, Trustees shall:
 - a. Refer the member to the main telephone number of ACERA or the ACERA website; or
 - b. Refer the member question directly to the appropriate ACERA senior manager for handling and a response.

C. Trustee Communications with ACERA Management

1. Trustees will direct concerns or questions concerning any aspect of ACERA operations to the attention of the Chief Executive Officer or other appropriate member of senior management. Trustees will notify the CEO of any concerns or questions sent directly to senior management.
2. Any request for information that require significant expenditure of staff time or external resources shall by directed to the CEO who will determine whether to take the request to the full Board for consideration.
3. The CEO and senior management shall ensure that all information requested by one or more Board members is made available to the entire Board.
4. Board members shall share any information in their possession pertinent to the affairs of ACERA with the CEO in a timely manner. Similarly, the CEO shall ensure that all relevant and pertinent information is disclosed to all of the Board members in a timely manner.

D. Trustee Communications with External Parties

In general, in communicating with external parties, the following guidelines shall apply:

1. The purpose of any communications by Trustees shall be consistent with their sole and exclusive fiduciary duty to represent the interests of all plan members.

2. Trustees and senior management are expected to support the decisions and policies of ACERA in external communications even if they may have opposed them or disagreed with them during Board deliberations.
3. In external communications, Trustees are expected to disclose when they are not representing an approved ACERA position.
4. Board members shall not disclose confidential communications received orally or in writing during closed session meeting of the Board or Committees or from internal or external legal counsel and identified as confidential.

E. Trustee Communications with the Media

In addition to the guidelines for communications with external parties, when Trustees communicate with the media the following guidelines shall apply:

1. When interviewed, or otherwise approached by the media for information concerning the affairs of ACERA, Trustees shall refrain from making any unilateral commitments on behalf of the ACERA Board.
2. In situations that call for a spokesperson from the Board, the Chair or his or her designate, shall act as spokesperson for the Board. The spokesperson generally should request that the reporter put questions in writing, and attempt to review for accuracy any resulting materials before their publication.
3. Written press releases concerning the business of the ACERA Board shall be prepared by staff and shall be approved by the Chief Executive Officer in consultation with the Board Chair.
4. Trustees are free to write articles for publication that pertain to official ACERA business. To help ensure the accuracy of such articles and ensure that ACERA is not inadvertently placed at risk by such articles, all such articles shall be reviewed by the Chief Executive Officer and legal counsel before being submitted for publication or presentation.
5. Requests from the news media will be given high priority and responded to quickly and efficiently.

6. Trustees will not provide false, confidential, privileged, inappropriate or other non-disclosable information.
7. Personnel and member records or similar records contain private confidential information that is protected by Article 1, Section 1 of the California Constitution or other laws. Such records are exempt from disclosure under the Public Records Act (Gov. Code §6254(c)). Personnel records generally include time records, performance evaluations, disciplinary actions, marital status, phone numbers, and other private information. Member records are confidential to the extent permitted by the law.

V. Policy Review

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

VI. Policy History

- A. The Board adopted this policy on March 16, 2000.
- B. The Board reviewed and affirmed this policy, with revisions, on April 18, 2019¹.

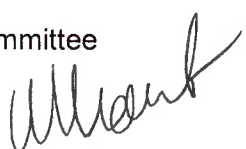
¹ The Board adopted the Policy on March 16, 2000. The Board reviewed and adopted this policy, with revisions, on October 19, 2006; September 16, 2010; June 21, 2018; and April 18, 2019. The Board reviewed and adopted this policy, without revisions, on July 17, 2008; December 20, 2012; and December 18, 2014.



MEMORANDUM TO THE GOVERNANCE COMMITTEE

DATE: April 18, 2019

TO: Members of the Operations Committee

FROM: Kathy E. Mount, Chief Counsel 

SUBJECT: Triennial Review of the *Media Communications Policy*

Introduction

As part of the new review process that Staff¹ presented in December 2018, Staff is reviewing policies on a three-year cycle on a specific review schedule.² The review is to ensure that each policy is still relevant, contains the necessary policy elements and to provide suggested revisions. This memo addresses the *Media Policy* ("Policy"). (See the *Policy* attached as Exhibit A.)

Background and Findings

This *Policy* was designed to ensure that communications to the media by staff, temporary employees and independent contractors reflect the Board's positions and policies, are timely and accurate, and do not disclose privileged and confidential information. Because, this *Policy* applies only to staff, temporary employees and independent contractors it is not required to be in a Board policy, but is more appropriate for an administrative policy for staff issued by the Chief Executive Officer.

Staff is reviewing and updating the existing administrative policy directing the staff response to media requests. To the extent it does not already reflect the requirements in this *Policy* the administrative policy will be revised accordingly. The policy on media requests directed to trustees is already contained in the *Board Communications Policy*.

Recommendations

Staff recommends that the Governance Committee advise the Board to repeal the *Policy* as it is no longer relevant given that the *Board Communications Policy* addresses media requests to trustees and an administrative policy will address media requests to staff.

Enclosure: Exhibit A, *Media Communications Policy*, with no suggested revisions.

¹ For the purposes of this memorandum, the term "Staff" refers to the collective contributions of Chief Executive Officer David H. Nelsen, Chief Counsel Kathy E. Mount, relevant Senior Managers, and Associate Counsel Lori K. Schnall.

² This *Policy* was last reviewed on July 20, 2017. However, to adhere to the new review schedule, certain policies such as this one will initially be reviewed in fewer than three years.

Exhibit A



Media Communications Policy

I. Purpose

The purpose of the Media Communications Policy (Policy) is to ensure that ACERA's responses to media inquiries are communicated through an authorized, informed representative to legitimate media representatives; reflects the organizational and Board of Retirement positions and policies; are timely, accurate and consistent; and do not disclose privileged, confidential, inaccurate, or inappropriate information.

II. Assumptions

- A. ACERA, as a public retirement system, that generates public interest and therefore periodically receives inquiries from the media.
- B. The Board as fiduciary must protect the integrity of the system which includes the dissemination of accurate, appropriate, non-confidential information and non-proprietary information to the public.
- C. Requests from the news media will be given high priority and responded to quickly and efficiently.
- D. Inaccurate and/or unreliable information could harm ACERA's reputation and expose ACERA to liability for privacy, tort or defamation claims, breach of fiduciary duty, contract or other claims.
- E. This policy applies to ACERA employees, all staff hired on temporary basis or as independent contractors. The Trustee Communication Policy provides guidance for Trustee communications with the media.

III. Assumptions & Principles

- A. The CEO or his/her Designee is the official spokesperson for ACERA and conveys the official ACERA position on issues.
- B. One informed and accurate message will be presented to the media.
- C. Media requests will be handled in a prompt and professional manner.
- D. Any media requests will be directed to the CEO or his/her Designee immediately.
- E. Staff is not authorized to speak on behalf of ACERA. Upon receiving a media inquiry, Staff will inform the media contact that the inquiry will be referred to the CEO or his/her Designee for response. Staff will immediately report the media inquiry to the CEO or his/her Designee identifying the name of the media contact, the name of the media source and the inquiry made. Staff will not disclose false, confidential, privileged, inappropriate or other non-disclosable information as detailed throughout this policy.
- F. When interviewed, or otherwise approached by the media for information concerning the affairs of ACERA, the CEO or his/her Designee shall attempt to review for accuracy any resulting materials that may be published, prior to their publication.
- G. Written press releases concerning the business of the ACERA Board shall be prepared by staff and shall be approved by the CEO or his/her Designee in consultation with the Board Chair.
- H. Personnel records or similar records contain private confidential information that is protected by Article 1, Section 1 of the California Constitution or other laws. Such records are exempt from disclosure under the Public Records Act (Gov. Code §6254(c).) Personnel records generally include time records, performance evaluations, disciplinary actions, marital status, phone numbers and other private information. Member records are confidential to the extent permitted by the law.
- I. Medical status, condition, and records, including psychiatric records and applications for disability, are also private and shall not be disclosed.

- J. The CEO or Designee shall refer to the Public Records Act upon any media request and shall protect records exempt from disclosure.

IV. Policy Review

The Governance Committee shall review this policy at least every three (3) years to ensure that it remains relevant and appropriate. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

V. Policy History

- A. The Board adopted this policy on April 21, 2011.
- B. The Board reviewed and adopted this policy, with revisions, on July 20, 2017¹.

¹ Adoption date: April 21, 2011. Previous amendment dates, all with revisions: March 21, 2013; June 18, 2015; July 20, 2017.