

RESOLUTION NO. ICERS-2020-1

RESOLUTION TO RECOGNIZE THAT THE DECISION OF THE CALIFORNIA SUPREME COURT IN ALAMEDA DEPUTY SHERIFFS' ASSOCIATION, ET. AL., V ALAMEDA COUNTY EMPLOYEES RETIREMENT ASSOCIATION, ET AL, IS BINDING ON DECISIONS MADE BY THE ICERS BOARD WITH RESPECT TO ITS INTERPRETATION OF THE STATUTORY DEFINITION OF "COMPENSATION EARNABLE" IN GOVERNMENT CODE SECTION 31461

WHEREAS, on July 30, 2020 the California Supreme Court issued its unanimous opinion in the case of *Alameda Deputy Sheriffs' Association, et. al, v. Alameda County Employees Retirement Association, et. al.*, Case No. S247095, which interpreted the definition of "compensation earnable" set forth in Government Code section 31461; and

WHEREAS, the ICERS Board had determined previously, on February 21, 2018 to defer discontinuing the inclusion of terminal pay in final average compensation upon which a Member's pension is calculated until the California Supreme Court issues a decision; and

WHEREAS, the Court's July 30, 2020 opinion constitutes a conclusive interpretation of Section 31461 that is binding on ICERS as well as all other County Retirement Systems governed by the County Employees' Retirement Law ("CERL");

THEREFORE, BE IT RESOLVED BY THE ICERS BOARD AS FOLLOWS:


1. Effective July 30, 2020, items of terminal pay (vacation, comp/holiday, and administrative leave cash-outs) shall no longer be included by ICERS in compensation earnable in the calculation of retirement allowances;
2. ICERS' staff, together with its Outside General Counsel and Fiduciary Counsel, shall evaluate existing memoranda of understanding and other County personnel rules and guidelines providing call-back/standby pay and make recommendations to the ICERS Board regarding their continued inclusion or exclusion from compensation earnable in the calculation of retirement allowances.
3. ICERS' staff, together with its Outside General Counsel, Fiduciary Counsel and such other attorneys and consultants as may be required, shall evaluate and make recommendations to the ICERS Board regarding the necessary corrective actions to be

taken by ICERS in order to implement the actions taken under paragraphs 1 and 2, above. Such recommendations must be designed to ensure that the Board's fiduciary duties to its Members, Beneficiaries and Retirees are fulfilled, including the duty to administer ICERS in accordance with CERL, its principal governing document.

4. Such recommendations shall be provided to the Board for its consideration and action at the earliest possible time that allows for a comprehensive, prudent analysis of the relevant legal and factual issues.
5. This Resolution shall be effective on the date of its adoption.

ADOPTED AND APPROVED by the Board of Retirement of the Imperial County Employees System on August 19, 2020/


Secretary


Chairman of the Board