

# **Imperial County Employees' Retirement System**



## **Board Policy Manual**

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**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
LEADERSHIP POLICY**

**I. BOARD OF RETIREMENT**

**Introduction**

- A. All authority granted by the California State Constitution, the County Employees Retirement Law of 1937 (CERL) and the California Public Employees' Pension Reform Act of 2013 to the Board is retained, except as delegated by the Board. Consistent with its fiduciary role, the Board's principal role is to ensure that ICERS is appropriately governed and managed. The overriding goal of the Board is to serve the best interests of members and beneficiaries and to protect the assets of the System.
- B. To ensure that accountability and authority for governance and management of ICERS are clearly stated, the Board has established bylaws and policies describing the roles and responsibilities of the key decision makers within ICERS.

**Duties and Responsibilities**

**A. Governance**

- 1. The Board will:
  - a. Approve the Mission and Values Statements of ICERS;
  - b. Make regulations or bylaws consistent with the law;
  - c. Approve and amend, as necessary, a three- to five-year Strategic Plan;
  - d. Approve and amend, as necessary, policies to ensure appropriate governance practices that support the mission and goals of ICERS;
  - e. Approve policies describing the roles and responsibilities of the Board, the officers of the Board, each committee of the Board, and the Retirement Administrator ("RA"), and amend said policies as appropriate;
  - f. Annually elect a Chair, Vice Chair, and Secretary of the Board;
  - g. Provide for the election or appointment of employee and retired Trustees to the Board as provided in CERL;

## **B. Investments**

1. The Board has exclusive control of the investments of the Fund. The assets of ICERS are trust funds and, as such, the Board will manage the Fund (§ 31595):
  - a. Solely in the interest of, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering ICERS;
  - b. With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and
  - c. By diversifying the investments of ICERS so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.
2. The Board will conduct a study of the relationship between the assets and liabilities of ICERS not less than every three years.
3. The Board will approve a written statement of Investment Policy and will review and confirm or amend the Investment Policy at least every two years.
4. The Board will approve a written statement of the investment philosophy describing the principles, beliefs, and assumptions underlying the Investment Policy and program.
5. The Board will approve a Securities Litigation Policy.
6. The Board will approve investment objectives and strategies for achieving the investment objectives.

## **C. Benefits Administration**

1. The Board will:
  - a. Approve policies necessary to ensure effective administration of member benefits;
  - b. Approve all members who apply and qualify for service retirement (§ 31670);

- c. Determine the merits of applications for disability benefits, making determinations with respect to permanency of injury and, if necessary, service and causation (§ 31720);
- d. Provide for, and act on, member appeals of decisions made by ICERS staff; and
- e. Annually review potential cost-of-living adjustments, as provided for in the CERL.

**D. Operations**

- 1. The Board will:
  - a. Approve a Business Plan and annual updates thereto, as deemed appropriate;
  - b. Approve the annual Administrative Budget, including any budget amendments thereto, pursuant to the Budget Approval Policy;
  - c. Ensure that all required contributions to the Fund are collected in a timely manner;
  - d. Ensure that all required distributions from the Fund are made in a timely manner;
  - e. Approve the location of ICERS' head office and any satellite offices, and the associated leases or purchase agreements;
  - f. Ensure that appropriate operational control policies are in place to provide secure, efficient, and accurate delivery of member services; and
  - g. Ensure that appropriate and sufficient insurance coverage is in place.

**E. Financial, Actuarial and Accounting**

- 1. The Board will:
  - a. Ensure that appropriate accounting, actuarial and internal financial control policies and reporting systems are established;
  - b. Approve the actuarial valuation and the actuarial assumptions contained therein, upon the advice of the actuary and other

experts as required, and establish the rates of interest and establish and recommend to the Board of Supervisors such changes in the rates of contributions of members and employers, and in county and district appropriations, as necessary;

- c. Approve the annual financial statements;
- d. Ensure that a financial audit is conducted at least annually (§ 31593), and oversee all external and internal audits;
- e. Ensure that an actuarial experience study is conducted at least every three years; and
- f. Ensure that an actuarial audit or equivalent analysis is conducted at least every five to seven years unless there has been a recent change or a change is contemplated in the Actuary.

**F. Human Resources**

- 1. The Board will:
  - a. Appoint and terminate the Administrator (§ 31522.2);
  - b. Establish the compensation of the Administrator;
  - c. Review the Administrator's job performance; and
  - d. In consultation with the Administrator, appoint and terminate the Outside General Counsel (§ 31529.9), establish the compensation and review job performance; and
  - e. Ensure the appropriate succession provisions are in place to provide continuity among ICERS management and staff.

**G. Legal Affairs**

- 1. The Board will establish Board policies and guidelines regarding proposed state and federal legislation and will initiate, support or oppose legislative proposals affecting ICERS as it deems appropriate;
- 2. The Board will approve actions concerning lawsuits that may affect the investments, benefits or funding of ICERS.

## **H. Communications**

1. The Board will:
  - a. Approve an ICERS Communications Policy designed to ensure effective communications with plan members and all significant interest groups;
  - b. Ensure that an annual financial report is published on the ICERS website to members and interested parties; and
  - c. Ensure effective distribution of Member estimates and information to all members, and periodically review the format of said estimates and information.

## **I. Appointment of Service Providers**

1. The Board will either appoint or ratify the appointment of each of the following vendors as specified in the Service Provider Selection Policy:
  - a. Actuarial firms;
  - b. The financial auditor;
  - c. Outside legal counsel;
  - d. Investment consultants;
  - e. The custodian;
  - f. Investment managers (including transition managers);
  - g. Securities lending managers;
  - h. Directed commission brokers;
  - i. Proxy voting advisors; and
  - j. Other service providers, as may be determined by the Board.

## **J. Monitoring and Reporting**

1. The Board will ensure that appropriate monitoring and reporting practices are established within ICERS.

2. The Board will regularly:
  - a. Monitor compliance with Board policies;
  - b. Review the funded status of ICERS;
  - c. Review progress toward the implementation of the ICERS Strategic Plan and Business Plan;
  - d. Review the implementation of ICERS' internal financial and operating controls;
  - e. Review the investment performance of the Fund and the performance of the investment managers of the Fund;
  - f. Review the appropriateness of the actuarial assumptions, methods and related matters;
  - g. Review the accuracy of the actuarial valuation process through an actuarial audit;
  - h. Review, on a regular basis, the performance of the Board's advisors and vendors, including at a minimum the Actuary, the Financial Auditor, the Investment Consultant, and the Custodian;
  - i. Monitor compliance with the Administrative Budget; and
  - j. Monitor the cost effectiveness of the administration and investment programs.
3. The Board will review Board policies at a frequency to be set out in each policy.
4. The Board will provide for appropriate monitoring of compliance with applicable laws and regulations.
5. The Board will maintain appropriate minutes of its meetings.

**K. Voting by Alternate Safety and Retiree Board Members**

1. The Alternate Seventh (Safety) Member shall vote as a member of the Board only in the absence of the second, third, or seventh member, or where both the eighth member and alternate eighth member are both absent.



2. The Alternate Eighth (Retiree) Member shall vote as a member of the Board only in the absence of the eighth member, or if both the second and third, or both the second and seventh, or if both the third and seventh members are absent.

## **II. CHAIR OF THE RETIREMENT BOARD**

### **Duties and Responsibilities**

- A. The Chair will exercise the powers and will perform the duties and functions as specified herein:
  1. Review with senior management the agenda for each board meeting;
  2. Preside at all board meetings, ensuring that such meetings are conducted in an efficient manner and in accordance with the by-laws, the Board Operations Policy and public meeting laws set out in the Ralph M. Brown Act (California Government Code Section 54950 et seq.). The Chair may consult Robert's Rules of Order, Revised, to resolve any disagreements that cannot be resolved by the instruments listed herein;
  3. Act as the spokesperson for the Board, communicating only approved positions of the Board;
  4. Call special meetings of the Board as necessary in accordance with the provision of Government Code section 54956; and
  5. Be available to support committee chairs in the exercise of their duties.

## **III. VICE-CHAIR OF THE RETIREMENT BOARD**

### **Duties and Responsibilities**

- A. The Vice-Chair will exercise the powers and will perform the duties and functions as specified herein:
  1. Temporarily assume the duties of the Chair or Secretary when the Chair or Secretary is absent; and
  2. When serving as Chair, the Vice Chair shall have all of the powers of the Chair and shall assume all of the duties of the Chair.

## **IV. SECRETARY OF THE RETIREMENT BOARD**

### **Duties and Responsibilities**

- A. The Secretary will exercise the powers and will perform the duties and functions as specified herein:
  - 1. Temporarily assume the duties of the Chair when the Chair and Vice-Chair are both absent; and
  - 2. When serving as Chair, the Secretary shall have all of the powers of the Chair and shall assume all of the duties of the Chair.

## **V. RETIREMENT ADMINISTRATOR**

### **Introduction**

- A. The Board has delegated to the Retirement Administrator (“RA”) responsibility for the administration and management of ICERS consistent with the policies of the Board. The RA’s executive responsibilities extend to all aspects of ICERS, including but not limited to:
  - 1. Administrative and governance support to the Board;
  - 2. Strategic planning;
  - 3. Investment administration;
  - 4. Funding and actuarial activities;
  - 5. Human Resource management;
  - 6. Operations and member services;
  - 7. Financial, budget and audit functions;
  - 8. Governmental affairs/media relations;
  - 9. Legal affairs; and
  - 10. Service provider selection.
- B. The RA will provide leadership for ICERS staff in implementing the programs necessary to achieve the mission, goals, values and objectives established by the Board. The RA will manage the day-to-day affairs of ICERS in accordance

with regulations, resolutions, bylaws, charters and policies established by the Board, and may delegate duties to senior management as necessary.

- C. The RA will provide support to the Board and its committees in establishing all policies of the Board. Such support will include identifying and analyzing issues requiring Board policy, ensuring policies support the mission and goals of ICERS and providing policy recommendations for consideration by the Board or its committees. The RA will be responsible for ensuring that all policies are implemented.

## **Duties And Responsibilities**

### **A. Administrative Support to the Board**

- 1. The RA will:
  - a. Recommend to the Board, as necessary, policies to ensure appropriate Governance Policies;
  - b. Assist the Board in developing and implementing its Strategic Plan, Governance Policies and Bylaws;
  - c. Provide all support in arranging and coordinating Board meetings, and related presentations and materials; and
  - d. Coordinate Board member education and travel.

### **B. Investments**

- 1. The RA, in coordination with the Investment Consultant, will be responsible for the following:
  - a. Recommending to the Board a written statement of Investment Policy and a Securities Litigation Policy;
  - b. Recommending to the Board a written statement of investment philosophy;
  - c. Recommending investment objectives to the Board, as well as strategies for achieving them;
  - d. Implementing Board-approved strategies by developing investment management structures with respect to:

1. The number of investment manager mandates; and
  2. The size of each mandate.
- e. Coordinating studies of the relationship between the assets and liabilities of ICERS;
  - f. Executing portfolio rebalancing and portfolio transitions;
  - g. Ensuring all necessary research is performed into investment trends, issues, and opportunities that may have implications for the investment program; and
  - h. Ensuring that all necessary investment manager due diligence is being performed in accordance with the Service Provider Selection Policy and related policies of the Board.
2. Recommend to the Board, for ratification, the appointment of the following core service providers:
    - a. The custodian;
    - b. Investment managers, including transition managers;
    - c. Securities lending managers;
    - d. Proxy-voting advisors;
    - e. Directed commission brokers; and
    - f. Other service providers determined by the Board.

**C. Benefits Administration**

1. The RA will:
  - a. Recommend to the Board policies to ensure effective administration of member benefits;
  - b. Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
  - c. Present to the Board any benefit applications or provisions that require a Board interpretation or decision, along with supporting analysis and recommendations;

- d. Recommend annual cost-of-living adjustments to the Board as appropriate;
- e. Maintain accurate records of member accounts;
- f. Provide the Board or its committees analysis and recommendations concerning discretionary determinations allowed by law; and
- g. Ensure delivery of high standards of service to members including calculations and counseling.

**D. Operations**

- 1. The RA will:
  - a. Recommend to the Board policies to ensure effective and secure operations;
  - b. Develop and recommend an annual Strategic Plan to the Board;
  - c. Recommend an annual Operating Budget to the Board pursuant to the Budget Approval Policy;
  - d. Authorize payments related to the administration of ICERS consistent with delegated authority, the Operating Budget, and internal controls of ICERS;
  - e. Account for and ensure appropriate collection, deposit, and distribution of funds as required;
  - f. Implement internal operational control policies;
  - g. Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer ICERS;
  - h. Maintain the records of ICERS in a permanent, secure, and readily accessible format; and
  - i. Coordinate staff and Board travel in accordance with applicable policy.

**E. Finance, Actuarial and Accounting**

1. The RA will:
  - a. Recommend to the Board, as appropriate, financial, accounting, and actuarial policies;
  - b. Implement appropriate internal financial controls to safeguard the assets of ICERS;
  - c. Assist the Board (Audit Committee) in coordinating the annual financial audit;
  - d. Coordinate the actuarial valuation, periodic actuarial experience studies and audits; and
  - e. Before June 30th of each year, file in the office of the County Auditor and with the Board of Supervisors a sworn statement which will exhibit the financial condition of ICERS at the close of the preceding June 30, and its financial transactions for the fiscal year ending on that day.

**F. Human Resources**

1. The RA will:
  - a. Regularly assess the human resource needs of ICERS and establish appropriate human resource programs and procedures, consistent with the human resources and compensation policies of the Board or, when appropriate, of the County of Imperial;
  - b. Oversee senior management in the hiring, management, and termination of staff; and
  - c. Ensure appropriate staff succession provisions are in place to ensure continuity in all ICERS operations.

**G. Legislation and Litigation**

1. The RA will:
  - a. In consultation with legal counsel, recommend for Board approval, legislative proposals to be initiated, supported, or opposed by the Board;

- b. Coordinate with legal counsel on all legal proceedings involving ICERS;
- c. In consultation with legal counsel, provide recommendations to the Board concerning settlement or other legal action involving ICERS; and
- d. Develop and implement plans to comply with court rulings.

## **H. Communications**

- 1. The RA will:
  - a. Develop and recommend to the Board an ICERS Communications policy;
  - b. Ensure effective and timely communications and working relationships with members and stakeholders on benefits and other appropriate matters relating to the administration of ICERS; and
  - c. Act as official spokesperson on behalf of ICERS.

## **I. Appointment of Service Providers**

The RA will perform the necessary due diligence for service providers, and will appoint or recommend the appointment of service providers to contract with the Board as provided for in the Service Provider Selection Policy.

## **J. Monitoring and Reporting**

- 1. The RA will provide the Board with relevant, appropriate, and timely information to enable it to properly carry out its oversight responsibilities. Furthermore, the RA will apprise the Board in a timely manner of all significant issues, problems, or developments pertaining to ICERS, and provide recommended courses of action as appropriate.
- 2. The RA will develop and recommend to the Board the routine reporting to be provided to the Board, and will regularly recommend additions or deletions to the routine reporting, as appropriate.
- 3. At a minimum, the RA will regularly monitor and report to the Board on the following issues:
  - a. Implementation and continued appropriateness of all ICERS policies;

- b. The funded status of ICERS and all issues that may reasonably be expected to have a meaningful impact on the funded status;
- c. The investment performance of the Fund, the component asset classes, and the investment managers retained to manage the assets of the Fund;
- d. The findings of the annual financial audit, and of any internal audits that may be performed;
- e. Compliance by employees and service providers with the policies or ICERS;
- f. The activities and performance of Core Service Providers including the actuary, financial auditor, investment consultant, legal counsel, and custodian;
- g. The performance of senior management;
- h. The accuracy and timeliness of all payments due to and payable by ICERS;
- i. Compliance with applicable laws and regulations;
- j. General ICERS operations; and
- k. In conjunction with counsel, the status of all legal proceedings involving ICERS.

#### **IV. REVIEW**

This Policy shall be reviewed by the Board at least every three years.



**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
BOARD MEMBER RESPONSIBILITIES, CORE COMPETENCIES  
AND EDUCATION POLICY**

**A. Introduction**

Members of the Imperial County Employees' Retirement System ("ICERS") Board of Retirement are charged with the administration of the System (Article 16, section 17 of the California Constitution; The County Employees Retirement Law (CERL) (California Government code Sections 31450 et seq.; and County Code Chapter 3.36). The Retirement System Board believes that there are identifiable responsibilities and core competencies for Board members that must be exercised and/or acquired in order to ensure the successful governance of the Retirement System in a manner that fulfills the Board members' fiduciary duties. To help Board members gain and enhance these necessary skills, a structured program of trustee education has been developed.

The Board further recognizes that service as a Board member involves significant responsibility and requires a major commitment of time and effort in order to be successful. For that reason, a summary of Board Member duties and responsibilities, which identifies the obligations that a Board Member will confront upon assuming office, has been developed and approved by the Board. (Attachment A). This summary will be provided to any individual seeking election or appointment as a Board member. The Board further directs that this summary be refreshed, with Board member input, no less than once every two years.

**B. Board Member Responsibilities and Core Competencies**

1. **Attendance.** All Board members are expected to attend all Board and applicable committee meetings. While attendance is not always possible, Board members should, once the calendar for a year is set, immediately flag any scheduling conflicts and thereafter manage their schedules to avoid creating additional conflicts. Absences for medical or other substantial reasons shall be deemed excused absences in the discretion of the Board Chair and shall be reflected as such in the Board minutes.
2. **Preparation.** Board members should come to Board meetings having read the materials prepared and circulated by staff and/or consultants, and having asked any questions of staff necessary to aid their understanding of the materials.
3. **Inquisitiveness.** Board members should be inquisitive, and should question staff, advisors and fellow board members as circumstances require in a constructive manner that encourages critical thinking and analysis. There is no such thing as a "dumb question."
4. **Integrity.** Board members shall conduct themselves with integrity and dignity, maintaining the highest ethical conduct at all times. They should understand

system objectives and exercise care, prudence and diligence in handling confidential information.

**5. Knowledge.** Board members should develop and maintain their knowledge and understanding of the issues involved in the management of the system. The specific areas in which Board members should develop and maintain a high level of knowledge should include:

- Fiduciary responsibilities;
- Ethics, Conflicts of Interest, and Disclosure;
- Pension fund investments, asset allocation and investment program management;
- Actuarial matters;
- Pension funding;
- Benefits administration;
- Disability evaluation;
- Fair hearings;
- Pension fund governance;
- New board member orientation;
- Vendor selection process;
- Open Meeting and Public Records laws;
- Risk Management and Oversight;
- Financial Reporting, Controls and Audits; and
- Human Resources

**6. Education.** Board members should identify areas where they might benefit from additional education and work with staff to find educational opportunities. Board members should fulfill the training expectations outlined in the Education Policy (subsection C, below) and are encouraged to attend additional relevant educational opportunities as outlined in Section 5 of that policy.

**7. Collegiality.** Members shall make every effort to engage in collegial deliberations, and to maintain an atmosphere where Board or committee members can speak freely, explore ideas before becoming committed to positions, and seek information from staff and other members. Board members should come to meetings without having fixed or committed their positions in advance.

**8. Independence.** Board members and their delegates shall, upon the adoption of this policy and thereafter upon taking office, sign a pledge confirming their independence and their understanding of their fiduciary duties. The pledge shall read as follows:

“I understand that as a Board member, I must discharge my duties as a fiduciary with respect to the system solely in the interest of its members, retirees and beneficiaries. I pledge not to allow political

meddling or other forms of intimidation to affect my independence of judgment in the exercise of my fiduciary responsibilities.”

## **C. Board Member Education**

### **1. Purpose**

In order to permit Board members to develop core competencies, discharge their fiduciary duties to act with care, skill, prudence, and diligence and to ensure that all Board members have a full understanding of the issues facing the system, the Board has adopted orientation and mentoring programs; mandatory fiduciary education and ethics training sessions; encourages education; and makes available appropriate periodicals to foster Board member awareness of relevant developments.

### **2. Principles**

The Education Policy rests on the following important principles:

- There is a unique body of knowledge that can be imparted to Board members to facilitate the carrying out of their distinct roles and responsibilities.
- Board members are responsible for making policy decisions affecting all major aspects of pension plan administration. They also must maintain prudent oversight of the operations of the Retirement System, including the functioning of the consultants and investment managers retained by the Retirement System and of the assets, including the real property assets, owned by the Retirement System. They, therefore, must acquire an appropriate level of knowledge of all significant facets of the plan, rather than only specializing in particular areas.
- No single method of educating board members is optimal. Instead, a variety of methods is necessary and appropriate.
- This policy is not intended to dictate that Board members attend only specific conferences, programs, etc. Instead, board members should work with the Retirement Administrator to determine their own educational needs and which educational opportunities best address those needs.

### **3. Orientation of New Board Members**

- Attendance. Each new Board member shall attend an orientation session.
- Timing for Orientation. The new Board member is urged to attend the orientation session before sitting at the first Board meeting as a voting member.
- Development and Content. The orientation sessions will be developed by the Retirement Administrator and will, at a minimum, include the following topics:
  - Role and expectations of Board members
  - A brief history and overview of the system, including the mission and purpose of the System

- A review of Board committees and their purposes
  - An overview of the organizational structure and the roles of staff and key service providers, including the actuary, investment consultant, investment managers, custodian, attorneys and auditors.
  - A summary of the actuarial basis of the system, its assets and liabilities, and actuarial assumptions and methodologies
  - A summary of the asset allocation and investment and funding policies of the system
  - A summary of the laws and rules governing the system and the Board, including applicable open meeting and public records laws.
  - A summary of the benefit structure and administration
  - An explanation of fiduciary responsibility, conflicts of interest, and ethics
  - A review of Board member immunity, indemnity and fiduciary insurance
  - An explanation of the strategic planning process
  - A high level review of existing Board policies
  - A briefing on current and emerging issues before the Board
  - Biographical information on the other Board members
  - A review of best practices for pension governance
  - An introduction to the Executive Management team
  - A tour of system offices, if practicable
- Materials. At or before the orientation session, the following documents will be made available to new members:
    - A listing of names, addresses, and contact information for the Board members
    - A listing of names, addresses, and contact information for Executive Management
    - The Board By-Laws, Policy Manual and Appendix,  
A listing of key information available on the ICERS website, such as board agendas, minutes, and financial reports
    - A copy of the Open Meeting Act
    - A list of upcoming recommended educational conferences
    - Any other relevant information or documents deemed appropriate by the Administrator

#### **4. Mentoring**

Consistent with the Board's collegial and collaborative values, experienced Board members are available and willing to provide assistance to new Board members on an informal basis. In addition, any new Board member may request a mentor to assist him or her in becoming familiar with his or her responsibilities on the Board. If a request is made, the Board Chair will designate one experienced Board member to be a mentor to the new Board member for a period of one year. The mentor will be available to the new Board member for consultation or

discussion on a basis that best serves the mutual interests of the new Board member and mentor.

## **5. Ongoing Board Member Education**

Each board member shall receive a minimum of twenty-four hours of board member education within the first two years of assuming office and for every subsequent two-year period the board member continues to hold membership on the board.

The Imperial County Employees' Retirement System (ICERS) shall maintain a record of board member compliance with this policy. The policy and an annual report on board member compliance shall be placed on the Internet website of ICERS.

The Board, in its discretion and based upon a finding of good cause, may excuse a board member from fulfilling the above required hours of education within the specified timeframes upon the board member's request and submission by the board member of a proposed training schedule that ensures that the board member will be "caught up" with the required training within 12 months after the Board's grant of the board member's request.

### **APPROPRIATE TOPICS FOR BOARD MEMBER EDUCATION**

The topics identified in section B (6) above are deemed to be appropriate topics for board member education. Board member education is not limited to these topics and additional topics may be approved by the Board.

Programs, trainings, conferences, and education sessions listed in Appendix "A" qualify as board member education and do not require prior approval from the Board. All other programs, trainings, conferences, and educational sessions shall be brought to the Board for determination that such program, training, conference, or education session qualifies as board member education and for approval to attend. In determining whether a program, training, conference, or educational session qualifies as board member education, the Board shall take into consideration the sponsor of the event and the event program.

Educational seminars sponsored by the state or national public pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member education requirements.

## **6. Policy on Educational Requirements for ICERS Staff**

The employees and staff of the Retirement System have an obligation, concurrent with that of the Board of Retirement, to maintain and increase their professional knowledge, and to stay informed and exercise prudent oversight of the advisors and managers retained by the Retirement

System, as well as the assets of the Retirement System, including the real property assets held by the system. In order to clearly memorialize these responsibilities and to set forth the administrative procedures necessary or convenient to accomplish them, the Board of Retirement establishes the following minimum attendance guidelines regarding the Education Requirements for the Administrator and staff designated by the Administrator for attendance at training or continuing education:

1. During the Retirement Administrator's term of employment, the Retirement Administrator shall attend one or more educational programs presented by an approved sponsor annually.
2. For all staff designated by the Retirement Administrator, attendance at one or more educational program presented by an approved sponsor each year during designated staff member's term of employment. SACRS Spring and Fall Conferences, CALAPRS General Assemblies and appropriate CALAPRS Roundtables shall be recognized as applicable toward meeting those requirements.

#### **TRAVEL AUTHORIZATION**

- A. **Board Members.** Travel by a Board member shall be reflected as part of the administrative budget and approved by the Board as a whole. All travel arrangements will be made by staff unless the member prefers to make their own arrangements.
- B. **Staff Members.** The Retirement Administrator shall give prior approval of travel by staff members and this shall be reflected as part of the administrative budget and approved by the Board as a whole.
- C. **Preapproved Seminars, Conferences and Meetings.** The Board has determined certain regularly scheduled conferences, seminars, and meetings provide valuable educational opportunities and service to ICERS. Attendance at those conferences and meetings does not require prior approval. They are listed in Exhibit "A" of the policy.

#### **Airline Travel:**

Board Members and staff will travel in coach/economy class and may use only regularly- scheduled airline services operated by an air carrier certified by the Federal Aviation Administration. Persons traveling on business via private aircraft will be deemed to be acting outside the scope of their responsibilities and employment. They will not be covered by liability insurance.



**Lodging:**

Actual expenses for lodging will be reimbursed upon submittal of receipts. Reimbursement is limited to a standard class single room rate. Reimbursement for lodging for attendance at a conference or meeting is limited to the standard room rate charged by the conference/meeting hotel. When lodging at the conference or meeting hotel is unavailable, reimbursement is limited to the best available rate for a standard room at a nearby hotel of comparable quality.

**Meals/Receptions:**

During travel, daily meal per diem rates shall be the rate for Meals and Incidental Expenses (“M&IE”) as described by the Internal Revenue Service for Los Angeles. An updated link to this information can be found on ICERS’ website: [www.icers.info](http://www.icers.info).

Board Members and staff are not required to attend vendor sponsored meals, and may be compensated at the M&IE rate. When a meal is included in the registration of the event, there shall be no per diem meal reimbursement to the Board member or staff. The per diem rate shall be paid for all travel time to and from the event. No claim is allowed for alcoholic beverages.

**Other Expenses:**

Other expenses reasonably incurred in connection with pension fund-related travel and education, such as telephone, fax, internet access, and similar business expenses shall be reimbursed upon submittal of receipts.

**Mileage, Parking and Other Transportation:**

The cost of travel by vehicle shall be reimbursed at the mileage rate set by the Internal Revenue Service. The driver must possess automobile insurance in compliance with the law. Parking, shuttles, car rental, excess baggage charges, taxi and bus fares will be reimbursed at actual expense, receipt required.

When a private vehicle is used, instead of more economical travel by air, the amount of reimbursement shall not exceed the cost of usual airfare plus related ground transportation.

**Accounting:**

Staff and board member travel and education expenses are a charge against the administrative budget. Board member and Retirement

Administrator travel and training is limited to \$10,000 per fiscal year per person. Staff travel and training is limited to \$5,000 per fiscal year per person. Expenditures that may exceed these limits shall require prior Board approval. All claims for reimbursement from board members or staff that exceed these limits shall require board approval.

**Expenses for Traveling Companions and Personal Expenses:**

Expenses of family members and/or traveling companions are not reimbursable by ICERS. Personal expenses are not reimbursable by ICERS.

**Cancellation of Travel and Lodging Arrangements:**

Board members are required to notify the retirement staff at least 48 hours ahead of time when canceling or changing their travel or lodging reservations. Board members and staff should return unused airline tickets to staff for proper handling.

**Responsibility for Travel and Lodging Costs:**

Costs incurred as a result of non-cancellation of conference registration, travel and lodging arrangements in a timely manner will be the responsibility of the traveler, unless the failure to cancel was due to facts or circumstances beyond the traveler's control.

**Claims for Reimbursement:**

Travel expense reimbursement shall be claimed by completing the travel expense form and submitting it to the Retirement Administrator, or the Assistant Retirement Administrator, for approval. Claims should be submitted within 30 days of travel.

**Report Following Attendance at Conference and Seminars:**

Board members and staff who travel to conferences and seminars may report at a Board meeting the knowledge gained, an evaluation of the conference, and a recommendation concerning future participation.

**Gifts:**

In general, receipt of gifts by members of the Board may be perceived as creating a potential conflict of interest or attempt to influence or reward official Board actions or decisions. ICERS as an entity, staff and Board members may only accept gifts of travel or other expenses, such as food, entertainment, or payment of registration fees, subject to applicable gift value limits, and where receipt of



such gift is documented and disclosed in compliance with the Political Reform Act, Cal. Gov. Code § 81000 et seq. and Fair Political Practices Commission (FPPC) rules and regulations, which are hereby incorporated by reference in this policy. Board members and staff who are designated employees on ICERS Conflict of Interest Code, report gifts on FPPC Form 700. Gifts to ICERS as an entity are reported on FPPC Forms 801 and 802.

#### **7. Fiduciary Education Session**

Each year the General Counsel will arrange for a fiduciary education session that will update the Board members on issues affecting their service on the Board. Board members are expected to attend.

#### **8. Ethics Training and Sexual Harassment Training**

Board members and their designated representatives shall complete the trainings required by Assembly Bill 1234 and SB 1343, either through the online or in-person courses. The General Counsel will periodically provide additional training on ethics laws designed to supplement the AB 1234 training. In the event that the training requirements are changed in future legislation, the new training requirement shall be substituted for the existing training and shall be supplemented if necessary by training provided by the General Counsel.

#### **9. Retirement Industry Periodicals**

Board members are encouraged to subscribe to periodicals selected from a list of pension and investment-related periodicals maintained by the Retirement Administrator. The expense for the periodicals will be paid by the Retirement System. The Retirement Administrator will annually review and update this list with input from the Board members.

#### **10. Compliance**

The willful failure of a Board member to comply substantially with this education policy will be reviewed by the Board.

## ATTACHMENT 1

### “FIDUCIARY RESPONSIBILITY” YOUR ROLE AS AN IMPERIAL COUNTY EMPLOYEES’ RETIREMENT SYSTEM BOARD MEMBER

#### INTRODUCTION

Board members of a public pension system provide an important service to the community. They are responsible for administering the system and overseeing the investments of the Retirement System to ensure that public employees receive a secure retirement after long years of public service. This promise to public employees allows governmental entities to attract and retain qualified employees. As a Retirement System Board member, you can expect to commit at least 10 hours of your time each month discharging your duties to the system, not including additional time required for training and education.

The following is intended to serve as a general overview of fiduciary responsibilities and duties relating to administration of public employee retirement system.

#### WHO IS A FIDUCIARY?

A fiduciary is anyone who has discretionary authority or control over plan assets and/or the administration of the employee benefit plan, whether they are administrators, staff, board members or consultants. Board members are fiduciaries charged with fiduciary responsibilities in administration of the retirement system.

#### YOUR FIDUCIARY DUTIES

It is important to note that your fiduciary duties are measured on an objective standard. It is not enough that you “mean well.” You must approach your duties on the Board exercising the following fiduciary duties:

- 1. Duty of Loyalty:** A Board member must discharge his or her duties with respect to the system solely in the interests of and for the exclusive purpose of providing benefits to participants and their beneficiaries, minimizing employer contributions and defraying reasonable expenses of administering the system. The duty to participants and their beneficiaries is the Board member’s primary duty that takes precedence over all other duties. A Board member has an undivided duty of loyalty to the participants and beneficiaries and does not serve as an “agent” or representative of the employer, union or other constituency responsible for his or her appointment to the Board. The Board member must act in the best interests of all of the participants and beneficiaries even where doing so is not in the best

interests of the electorate or appointing authority responsible for the Board member's appointment.

2. **Duty of Impartiality:** The duty of impartiality is really a corollary of the Duty of Loyalty and applies where the Board is required to make a decision that will impact groups of participants differently. Where there are conflicting interests among different groups of participants, the Board member must act in a way that serves the overall best interests of the members of the system.
3. **Duty of Care:** Fiduciaries must discharge their duties with respect to the system with the same *care, skill, prudence and diligence* under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character with like aims. Encompassed within the duty of care are:
  - a. The duty to assure that the assets of the system are sufficient to pay the benefits promised
  - b. The duty to monitor and take corrective action when reasonably appropriate
  - c. The duty to exercise reasonable effort and diligence in making and monitoring investments for the trust and to diversify investments to maximize returns and minimize risk
  - d. The duty to consult with experts and secure and consider the advice of others to the extent necessary or appropriate to the making of informed decisions
  - e. The duty to exercise prudence in decision-making which requires asking questions, analyzing advice and recommendations from experts and understanding the rationale for actions before taking them
  - f. The duty follow the plan document and other applicable laws governing the retirement system and ensure that trust assets are used for the exclusive benefit of delivering benefits and related services to participants and beneficiaries

### **CONFLICT OF INTEREST**

A fiduciary must act in the best interest of the plan and its participants. Fiduciaries should exercise extraordinary precaution to assure that decisions and transactions are fair to the participants and free of any conflict of interests. Board members must not participate in any decisions that will impact, either negatively or positively, their own financial interests. The Political Reform Act requires that board members file an initial disclosure of their financial interests, an annual disclosure thereafter, and a final disclosure when they leave office. Every Board member should become familiar with the California conflict of interest and disclosure laws applicable to their duties as a public pension plan board member. Conflict of interest laws are complex. Board members should seek assistance from the General Counsel to determine

what financial disclosures are required and to seek advice in any situation giving rise to a potential conflict of interest.

## **DELEGATION OF RESPONSIBILITY**

Many aspects of plan administration such as day-to-day operations, investment decisions and other services necessary to conduct the affairs of the system are delegated to persons other than the Board members. Fiduciaries must exercise reasonable care in delegating responsibilities over administration of the plan. Board members must ensure that the persons selected are qualified and capable of adequately performing the duties delegated. Once delegated, Board members must actively monitor the activities of the person selected to ensure that he or she is adequately performing and that policies and procedures are being timely and accurately implemented.

## **PLAN ADMINISTRATION**

A Board member's duties relating to plan administration will include:

- 1. Legal Compliance:** Board members must ensure that the plan maintains compliance with the plan documents and all applicable laws governing the system. Board members comply with this duty by conducting a periodic review of plan documents and monitoring changing legal requirements.
- 2. Education:** Board members are expected to educate themselves on the issues that are likely to appear in front of them and ensure that staff members also obtain sufficient education to keep current with issues that impact administration of the system. Board members should establish an ongoing education program for board members and staff.
- 3. Board and Committee Meetings:** Board members are expected to prepare for, attend and participate in regularly scheduled meetings necessary to conduct the

business of the system. Board members should ensure that accurate and detailed minutes are kept of all meetings.

4. **Payment of Benefits and Claims:** Board members are responsible for ensuring that plan benefits are paid to participants and beneficiaries in a timely and accurate manner.
5. **Competency of Assets:** Board members are responsible for formulating written investment policies and guidelines and overseeing investments to ensure adequate funding of the system to pay all promised benefits.
6. **Contributions:** Board members must ensure that contributions from plan sponsors and plan participants are set accurately and collected in a timely manner to ensure adequate funding of the system.
7. **Actuarial Advice:** Board members are responsible for retaining and working with a system actuary to analyze potential long-term funding deficiencies and provide advice on contribution rates to ensure adequate funding of the system.
8. **Retention of Vendors, Consultants and Experts:** Board members are responsible for retaining vendors, consultants and experts with sufficient skills and expertise to provide the services necessary to conduct the affairs of the system and pay reasonable compensation for those services.

## ATTACHMENT 2

### **BOARD MEMBER KNOWLEDGE SELF-ASSESSMENT**

#### *Introduction*

Board policy provides that Board members should develop and maintain their knowledge and understanding of the issues involved in the management of the system across the broad spectrum of pension-related areas. The specific areas in which Board members should develop and maintain useful levels of knowledge shall include:

- Governance
- Asset Allocation and Investments
- Actuarial Process
- Benefits Administration
- Disability
- Fiduciary Responsibility
- Ethics, Conflicts and Disclosures
- Open Meeting and Public Records
- Financial Controls and Audits
- Vendor Selection Process

The policy goes on to state that Board members should identify areas where they might benefit from additional education and work with staff to find educational opportunities. The purpose of this self-assessment is to help Board members fulfill their responsibility to identify such areas so that they can engage in meaningful discussion with the Retirement Administrator and/or General Counsel regarding educational needs and opportunities and make informed choices about the educational opportunities that they pursue.

#### *Instructions*

Keeping in mind that this is not a “test” and that no one besides you will see the specific results, you should answer the questions using your best judgment as to your knowledge level in the given area. As indicated, use a simple numeric scale to identify your knowledge and understanding of the subject matters, with a “1” indicating no knowledge or understanding and a “5” indicating comprehensive and detailed knowledge and understanding. When you complete the self-assessment, identify those subject areas, by either general category or specific question as applicable, where you scored the lowest. Make a note of these areas for future discussion with the Retirement Administrator and General Counsel about your educational needs and upcoming educational opportunities to address those needs.

## GOVERNANCE

I am confident that I understand the governance of the system.

This includes:

	1	2	3	4	5
Understanding board function, processes, committee structure, exercise of discretion, delegation of responsibilities and oversight role.					
Understanding the organizational structure and roles of staff and key service providers, including the actuary, investment consultant, attorneys and auditors.					
Understanding the laws and rules governing the system.					
Understanding the system's independence under applicable laws.					
Understanding best practices for public pension board governance.					

## ASSET ALLOCATION AND INVESTMENTS

I am confident that I understand the asset allocation and investment and funding policies of the system.

This includes:

	1	2	3	4	5
Understanding the major asset classes and their characteristics.					
Understanding specialized asset classes and techniques, such as private equity, market neutral, and securities lending.					
Understanding the concept of risk versus reward and the "efficient frontier" principle of asset allocation.					
Understanding the reports provided by staff and the investment consultant on the performance of the investment portfolio.					
Understanding the role of active management versus passive management in the investment portfolio.					

**ACTUARIAL PROCESS**

I am confident that I understand the information provided to me by our outside actuary concerning the actuarial soundness of the system.

This includes:

	1	2	3	4	5
Understanding of how assets and liabilities of the system are calculated on an actuarial basis.					
Understanding the difference and relationship between the actuarial value of assets and the market value of assets and the asset smoothing process.					
Understanding how changes in actuarial assumptions have an impact on system assets and liabilities.					
Understanding the nature of the plan sponsors' funding obligations and the responsibility of the Board to determine the annual required contribution.					
Feeling comfortable with asking our actuary questions when I need further information, explanation or clarification on a subject.					

**BENEFITS ADMINISTRATION**

I am confident that I understand the benefit structure and benefits administration process at the system.

This includes:

	1	2	3	4	5
Understanding the different plans available to employees of all plan sponsors.					
Understanding how the system communicates with its members.					
Understanding the difference between the responsibility for plan design (plan sponsor) and the responsibility for plan administration (the system).					



## DISABILITY

I am confident that I understand the disability benefit structure, program administration, and hearing/appeals process at the system.

This includes:

	1	2	3	4	5
Understanding the qualifications for a disability retirement and the benefits that are provided.					
Understanding the process that is followed in disability applications, from intake through determination of eligibility.					
Understanding the medical and legal issues that are discussed during consideration of disability matters.					
Understanding the reexamination process.					
Understanding the hearing and appeal process that is followed when a member is dissatisfied.					

## FIDUCIARY RESPONSIBILITY

I am confident that I understand the responsibilities that I have as a system fiduciary.

This includes:

	1	2	3	4	5
Understanding the duty to be prudent.					
Understanding the duty of loyalty and to whom that duty is owed.					
Understanding what constitutes a prohibited transaction.					
Understanding the duty to administer the plan in accordance with governing plan documents.					
Understanding how to delegate authority while retaining appropriate oversight.					

## ETHICS, CONFLICTS AND DISCLOSURE

I am confident that I understand the laws, rules and policies that address ethics, conflicts and disclosure at the system.

This includes:

	1	2	3	4	5
Understanding applicable state and/or local conflict of interest laws and the duty to avoid participating in a decision that affects my economic interests.					
Understanding system policies concerning conflicts of interest.					
Understanding system policies regarding disclosure by board members and/or investment managers of third party communications.					

### **OPEN MEETING AND PUBLIC RECORDS**

I am confident that I understand the applicable laws and procedures concerning open meetings and public records.

This includes:

	1	2	3	4	5
Understanding the notice requirements for meetings, including teleconference meetings.					
Understanding the limitations on discussing matters that have not been noticed on the agenda.					
Understanding the circumstances under which communications outside of noticed meetings can be deemed under the law to be a “meeting.”					
Understanding what may and may not be discussed during a closed session.					
Understanding what constitutes a “public record” under the law and the circumstances under which system records must either be disclosed or withheld.					

### **FINANCIAL CONTROLS AND AUDITS**

I am confident that I understand the system of financial reporting, controls and audits.

This includes:

	1	2	3	4	5
Understanding the respective roles of the Chief Financial Officer, Chief Compliance Officer, the Internal Auditor, and the outside auditor.					
Understanding the Annual Financial Statements.					
Understanding the concepts of “risk assessment” and developing internal controls to address those risks.					
Understanding the responsibility for maintaining the security of confidential information kept by the system.					
Understanding the present relationship between the system and the plan sponsor(s) with respect to the system’s financial controls and reporting.					

**VENDOR SELECTION PROCESS**

I am confident that I understand the vendor selection process.

This includes:

	1	2	3	4	5
Understanding when an RFP must be conducted and whether the Board must first approve the RFP.					
Understanding the “no contact” provisions of Board policy as they relate to RFP’s.					

## APPENDIX A

### CONFERENCES AND MEETINGS FOR WHICH PRIOR APPROVAL IS NOT REQUIRED

Conferences sponsored by the State Association of County Retirement Systems (SACRS)

Meetings attended by Board members or staff while serving as a committee member or elected officer of SACRS

SACRS Public Pension Investment Management Program at UC Berkeley Haas School of Business

Annual General Assembly Meeting of the California Association of Public Employee Retirement Systems (CALAPRS)

Periodic CALAPRS Roundtable Meetings

Semi-annual conferences of the California Retired County Employees Association (CRCEA)

Portfolio Concepts and Management Course at the Wharton School or Pension Fund and Investment Management course sponsored by the Wharton School

CALAPRS Principles of Pension Management Course

CALAPRS Advanced Principle of Pension Management for Trustees Course at UCLA Anderson School of Management

Annual Conference and Annual Legislative Workshop of the National Conference on Public Employees Retirement System (NCPERS)

NCPERS Program for Advanced Trustee Studies at Harvard Law School

Nossaman's "Fiduciary Forums" and "Public Pension and Investment Briefings"

## IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM ETHICAL AND FIDUCIARY CONDUCT POLICY

As ethical leaders, the Board and executive team of the Imperial County Employees' Retirement System ("Retirement System") share values about what is important and work together with mutual respect in a constructive partnership. Together, the Board and executives set the tone at the top that permeates the organization. The purpose of these policies is to provide the foundation for an ethical culture at the Retirement System.

### A. **Fiduciary Duties**

#### ***Duty of Loyalty***

Board members and staff of the Retirement System shall discharge their duties with respect to the system and the plan solely in the interest of the members, retirees and beneficiaries for the exclusive purpose of:

- Providing benefits to members and beneficiaries;
- Minimizing employer contributions; and
- Defraying reasonable expenses of administering the plan.

The Duty of Loyalty is the most fundamental of fiduciary duties. The duty of Board members and staff to Retirement System participants and their beneficiaries must take precedence over any other duty. A Board member does not serve as an "agent" or representative of the employer, union or other constituency responsible for his or her appointment to the Board, and must act in the best interests of all of the participants and beneficiaries even where doing so is not in the interest of the electoral or appointing authority responsible for the Board member's appointment. While a Board member may wear "two hats," one as a Board member and one reflecting another position, such as employer or union official, the Board member may only wear one hat at a time and must wear their Board member/fiduciary hat when conducting system business.

Under the ***Duty of Impartiality***, a corollary of the Duty of Loyalty, where there are conflicting interests among different groups of participants, retirees and/or beneficiaries the Retirement System must strive to act in a way that serves the overall best interests of the system's members as a whole and, where possible, avoid favoring one group over the other.

Under the ***Duty to Administer***, another corollary of the Duty of Loyalty, the Board has the sole and exclusive fiduciary duty to administer the Retirement System in a manner that will assure prompt delivery of benefits and services to the participants and their beneficiaries.

#### ***Duty of Care***

Board members and staff must discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and

familiar with those matters would use in the conduct of an enterprise of a like character and with like aims. This requires:

- Diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
- Undertaking an appropriate analysis of a proposed course of action, including determination of the relevant facts, considering alternative courses of action and obtaining expert advice as needed (i.e., follow a “prudent process.”
- Acting in accordance with the documents and instruments governing the system.

### ***Duty to Provide for Actuarial Services***

The Board, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the Retirement System.

### ***Exclusive Purpose of System’s Assets***

The assets of the plan shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and beneficiaries and defraying reasonable expenses of administering the system.

### ***Prohibited Transactions***

Except as otherwise provided by law, the board and the officers and employees of the Retirement System shall not cause the system to engage in a transaction if they know or should know that the transaction constitutes a direct or indirect:

- Sale or exchange, or leasing, of any property from the system to a member or beneficiary for less than adequate consideration, or from a member or beneficiary to the system for more than adequate consideration.
- Lending of money or other extension of credit from the system to a member or beneficiary without the receipt of adequate security and a reasonable rate of interest, or from a member or beneficiary with the provision of excessive security or an unreasonably high rate of interest.
- Furnishing of goods, services, or facilities from the system to a member or beneficiary for less than adequate consideration, or from a member, retiree, or beneficiary to the system for more than adequate consideration.
- Transfer to, or use by or for the benefit of, a member or beneficiary of any assets of the plan for less than adequate consideration.
- Acquisition, on behalf of the system, of any employer security, real property, or loan.

### ***Prohibitions Against Self-Dealing***

Board members and officers and employees of the system shall not do any of the following:

- Deal with the assets of the system in their own interest or for their own account.
- In their individual capacity, act in any transaction involving the Retirement System on behalf of a party, or represent a party, whose interests are adverse to the interests of the plan or the interests of the members and beneficiaries.
- Receive any consideration for their personal account from any party conducting business with the system in connection with a transaction involving the assets of the plan.

## **B. Statement of Ethical Conduct**

The Board has established the following Statement of Ethical Conduct and has determined that engaging in any of the following activities or conduct is inconsistent, incompatible, in conflict with or inimical to the duties of a Board member and/or staff.

No employment, activity, or enterprise shall be engaged in by any Board Member or staff, which might result in, or create the appearance of resulting in, any of the following:

1. Using the prestige or influence of the Board or staff position for private gain or the advantage of another.
2. Using Retirement System, facilities, employees, equipment or supplies for private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of Retirement System activities for private gain or the advantage of another, including, but not limited to, so-called “insider trading” as described in subsection “C”, *infra*.
4. Providing confidential information to persons to whom issuance of this information has not been authorized.
5. Receiving or accepting money or any other consideration from anyone other than the Retirement System for the performance of an act which the Board Member or staff would be required or expected to render in the regular course or hours of his/her duties for the Retirement System.
6. Performance of an act in his/her private capacity other than that as a member of the Retirement System knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such person or by the system.<sup>1</sup>

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<sup>1</sup> For example, while a Board member who is also a County officer may, so long as consistent with the “two hats” rule, perform duties as a County officer even if they could be subject to Retirement System review and a Board member who is also a Retirement System Board member may apply for retirement, etc. even though such application is subject to Board review. However, a board member who operates a private payroll service could not contract with the Retirement System to issue retirement checks because those checks would be subject to audit by the Retirement System.

7. Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value, from anyone who is doing or is seeking to do business of any kind with the Retirement System or whose activities are regulated or controlled in any way by the system, under circumstances from which it reasonably could be inferred that the gift was intended to influence him/her in his/her official duties or was intended as a reward for any official action on his/her part.
8. As a Board member, having an ex parte communication on the merits of an administrative appeal with any party or their attorney until after the Board's decision is final.
9. Publishing any writing or making any statement to the media, a plan sponsor or members of the public which purports to represent the Retirement System's position or policy on any matter or subject, before the Board has formally adopted a policy or position on the matter or subject. This section shall not be interpreted to preclude Board Members or staff, as private citizens, from expressing their personal views.

Nothing in this Statement shall exempt any Board Member or staff from applicable provisions of any other laws. The standards of conduct set forth in this Statement are in addition to those prescribed elsewhere in this policy and in applicable laws and rules, including the provisions of Title 9 of the Government Code and regulations promulgated by the Fair Political Practices Commission.

### **C. Policy Prohibiting Insider Trading**

#### ***Background***

The Board is committed to the highest ethical standards and strictest adherence to federal, state and foreign securities laws and regulations regarding "insider trading." To ensure that the Retirement System operates in a manner commensurate with its goal of promoting integrity in the investment, administration and management of securities, the Board has adopted this Policy Prohibiting Insider Trading. The policy applies to Board members and staff, which includes investment consultants and contractors affiliated with the system. The prohibition on insider trading continues to apply even after resignation from the Board or termination of employment until such time, if ever, the information becomes generally available to the public other than through disclosure by or through the Board member or staff.

"Insider trading" has been defined as buying or selling securities on the basis of material, nonpublic information relating to those securities. Any person who possesses material, nonpublic information is considered an "insider" as to that information. The prohibition against insider trading may reach anyone, not just a corporate insider, who has access to the material, nonpublic information. The scope of insider trading liability has been extended to "controlling persons," which includes any entity or person with power of influence or control over the management, policies or activities of another person. It has also been extended to "tippees" who receive material, nonpublic information from an insider when the "tipper" (the "insider") breaches a



fiduciary duty for his or her personal benefit and the “tippee” knows or has reason to know of the breach. Liability has also been extended to fiduciaries who trade based upon misappropriated material nonpublic information obtained from their principal. The law provides civil and criminal penalties for insider trading violations.

Information is deemed material if it would be considered important by a reasonable investor in deciding whether to buy, sell or refrain from any activity regarding that company’s securities. Material information may be either positive or negative and can relate to any aspect of a company’s business. Common examples of material information include, but are not limited to: unpublished financial results and projections, news of a merger or acquisition, stock splits, public or private securities/debt offerings, changes in dividend policies or amounts, gain or loss of a major customer or supplier, major product announcements, significant changes in senior management, a change in accounting policies, major problems or successes of the business, and information relating to a company against whom the system is considering securities litigation. Material nonpublic information may not be used by Board members or staff for personal gain or to benefit relatives or friends.

Information is considered “nonpublic” if it is not available to the general public. Once it is released to the general public, it loses its status as “inside” information. However, for nonpublic information to become public, it must have been made generally available to the securities marketplace, and sufficient time must pass for the information to become available in the market. To show that material information is public, it is generally necessary to show some fact verifying that the information has become generally available, such as disclosure in company filings with the SEC or company press releases to a national business and financial wire service, a national news service, or a national newspaper.

### ***Policy on Insider Trading***

Board members and staff may be provided or have access to confidential information, including material, nonpublic information. Any information not publicly available must be treated as confidential even if it is not designated as confidential. It is the duty of Board members and staff to maintain the confidentiality of information and to not misuse confidential information, including material nonpublic information, belonging to or relating to the system. Board members and staff who come into possession of material, nonpublic information must not intentionally or inadvertently communicate it to any third party, including but not limited to relatives and friends, unless the person has a need to know for legitimate reasons in keeping with their responsibilities to the Retirement System. Special care should be taken so that confidential information is not disclosed inadvertently.

If Board members or staff are uncertain whether a piece of information is material, nonpublic information, they shall consult with the Retirement Administrator or the General Counsel before taking action based upon that information. Special care should be taken so that confidential information is not disclosed inadvertently. Examples of inadvertent disclosure include, but are not limited to, discussing confidential information in non-private locations, and leaving confidential documents exposed on one’s desk or in a public area.

Board members and staff in possession of material, nonpublic information may not purchase or sell securities of the concerned company or other publicly traded securities to which the information pertains. Board members and staff also may not disclose material, nonpublic information to another person who could subsequently use that information for profit. Recommending purchases or sales of securities to which the material nonpublic information relates, even without disclosing the basis for the recommendation, is prohibited.

Like insider trading, “front running” may subject Board members or Retirement System staff to criminal and/or civil proceedings. Front running occurs when a person enters into a trade of securities with advance knowledge of pending orders from other investors. It could occur, for example, when any Board member or Retirement System staff covered by this policy trades with the knowledge that a trade is pending on behalf of the Retirement System. Furthermore, front running may constitute a misappropriation of Retirement System proprietary information for private or personal gain. It is therefore the policy of the Retirement System that front running is prohibited.

Board members and Retirement System staff may not place an order for a personal securities transaction when they know that a Retirement System securities transaction is pending in a security of the company that is the subject of the personal securities transaction, and must wait until 15 days after such Retirement System securities transaction is executed before placing an order for a personal securities transaction involving the securities of the company. Likewise, Board members and Retirement System staff may not knowingly delay, hinder, modify, or cancel any internal Retirement System buy or sell recommendation, decision, or trading order intending to facilitate a personal securities transaction that, but for the action of the Board member or Retirement System staff person would otherwise constitute front running or violations of state and federal laws.

Board members and staff in possession of material, nonpublic information relating to a tender offer, acquired directly or indirectly from the bidder or target company, may not trade in target company securities. Board members and staff also may not disclose such material, nonpublic information to another person where it is reasonably foreseeable that the recipient of the information could purchase or sell such company securities.

Board members and staff in possession of material, nonpublic information may not purchase, directly or indirectly, any security in the initial public offering of such security. Board members and staff also may not encourage, facilitate, or arrange such a purchase by or on behalf of any other person.

### ***Compliance***

This policy is to be delivered to all new Board members and staff, including consultants, upon commencement of a relationship or employment with the system. Each Board member and all staff must read and complete the certification in Attachment I within 30 days of receipt of the policy and annually by April 1 of each year thereafter. The certifications shall be delivered to the Retirement Administrator.

The Retirement Administrator shall obtain written confirmation from each external manager that handles securities for the Retirement System that it has a policy against insider trading and that it enforces the policy. The written confirmation must be received by the system within 30 days of commencement of the manager's relationship with the system.

Statements of Economic Interests (Form 700s) filed by Board members or staff pursuant to state or local law and as set forth in Section D, *infra*, may be reviewed by the system to insure compliance with this policy. Board members and staff should report any suspected violation of this policy to the Retirement Administrator or General Counsel. The Retirement Administrator or General Counsel is responsible for causing an investigation of any reported violation. Following such investigation, if the Retirement Administrator or General Counsel concludes that the policy may have been violated, they shall take appropriate action.

Violation of this policy may result in disciplinary action, including dismissal or other sanction. Any disciplinary action for violation of the policy may be in addition to any civil or criminal liability under federal and state securities laws and regulations and is not subject to appeal on the grounds that the violation did not ultimately result in any actual civil or criminal investigation or other legal proceeding.

#### **D. State Conflict of Interest Rules**

1. All Retirement System Board members and designated staff and consultants shall abide by the provisions of the Political Reform Act (PRA), Government Code sections 81000, et seq, including section 87100 that prohibits Board members and designated staff and consultants from making, participating in making, or using their positions to influence Retirement System decisions in which they have a financial interest. All Board members and designated staff and consultants are subject to the public disclosure and reporting of economic interests under either section 87200 or the Retirement System's Conflict of Interest (COI) Code. Absent full compliance with these laws and rules, receipt by a Board member, staff or consultant from a third party of any gift, honoraria, or payment of actual transportation and related lodging and subsistence or any payment or reimbursement of the same may subject them to disqualification from participation in making decisions related to the third party. It is the recipient's responsibility to ensure that he or she does not engage in any action that places him or her in a conflict of interest and to properly disclose and report the receipt of any gift, honoraria or travel expenses under the PRA and/or Retirement System's COI Code. Board members, staff and consultants are encouraged to confer with the General Counsel if they have questions concerning possible conflicts of interest.
2. Under section 87105 of the PRA and section 18792.5 of the regulations of the Fair Political Practices Commission ("FPPC"), a Board member or staff member who has a financial interest in a decision of the Retirement System must, following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences, do the following:
  - Publicly identify the financial interest that gives rise to the conflict;

- Recuse themselves from discussing, voting, or attempting to use their influence to affect the outcome of a decision of the public body; and
  - Leave the room until after the discussion and vote on the item in question.
  - A Board Member or staff member that has a financial interest in a matter placed on the consent agenda must observe the above requirements with the exception that he or she is not required to leave the room during the consent agenda.
  - In the event that the discussion or vote is to occur in closed session, the public identification may be made orally during the open session before the Board goes into closed session and may be limited to a declaration that his or her recusal is because of a conflict of interest under Government Code section 87100.
3. All Retirement System Board members and staff shall abide by the provisions of Government Code sections 1090, et seq, which prohibit public officers and employees from, in their official capacity, making or participating in the making of any contract made by the Retirement System in which they are financially interested.
  4. Any Board Member or staff who receives an offer from any third party, other than the Retirement System, of travel expenses (paid or reimbursed) or actual transportation and related lodging and subsistence, has the responsibility to obtain prior approval to ensure compliance with applicable laws and rules. For Board members, prior approval must be given by the full Board. For the Retirement Administrator, prior approval must be given by the Board President or designee. For other staff, approval must be given by the Retirement Administrator.
  5. Consistent with CERL § 31528, neither the Board members nor the employees of the Board:
    1. Shall become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the Board, or in the gains or profits accruing from those investments or directly or indirectly borrow or use any ICERS funds, except to make current and necessary payments authorized by the Board.
    2. Shall directly or indirectly sell or provide any investment product that would be considered an asset of the fund, to any County Employees Retirement Law retirement system.
  6. For two years after serving on or for the Board, former Board members and former Retirement Administrator shall not receive compensation from a third party, except the county, for appearing before or communicating with a current Board member or ICERS staff for the purpose of influencing the Board to take any action involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

## **E. Avoidance of Appearance of Nepotism**

Even if otherwise permissible under applicable conflict of interest laws and/or Board policy, Board members should avoid participating in Retirement System matters in which a close relation of the Board member has a personal, managerial or substantial financial interest. A “close relation” is defined as a spouse, mutual financial dependent, significant other or person in an intimate relationship; a child, parent, sibling (including in-laws and step-relations), grandparent or grandchild, niece or nephew, aunt, uncle or cousin. A “substantial financial interest” exists if the personal financial effect of the system matter on the close relation would be \$250 or more in a 12-month period and that effect is particular to the close relation as opposed to affecting a much larger group. For example, under this policy, a Board member would not be precluded from participating in a decision to recommend legislation that would increase the percentage amount of a cost-of-living adjustment paid to all retirees even if the Board members’ mother would receive this increase along with all other retirees. However, if the Board members’ mother files an appeal that contends that her specific cost-of-living adjustment had been calculated incorrectly by the system, under this policy the Board member would be precluded from participating in the decision regarding this appeal.

## **F. Limitation on Receipt of Gifts**

Public pension plan governance is characterized by a host of competing interests, both public and private, that may challenge board members and staff in the exercise of their fiduciary roles with respect to the exclusive interest of system members. Board members and staff require independence and objectivity when interacting with existing or potential service providers to the system. The receipt of gifts and/or the solicitation of charitable contributions can create at a minimum the appearance of a conflict of interest and may violate state or local law.

### **1. Applicable State/Local Law**

Each Board member and designated staff shall comply with the gift limitation provisions and the prohibition on the acceptance of honoraria under California Government Code sections 89500 et seq. and applicable regulations thereunder.

### **2. Additional Limitations**

- a. No Board member or staff may receive, accept, seek or solicit, directly or indirectly, anything of economic value as a gift, gratuity or favor from a person if it could reasonably be expected that the gift, gratuity or favor would influence the vote, action or judgment of the Board or staff member; or be considered as part of a reward for action or inaction.
- b. If the Board member or staff is allowed to accept a gift under applicable law and this policy, he or she is still obligated to evaluate the propriety of accepting the gift. Board members and staff should be sensitive to the source and value of the gift, the frequency of gifts from one source, the possible motives of the giver, and the perception of others regarding the gift. Close cases should always be decided by rejecting gifts, gratuities or



favors that may raise questions regarding the board or staff member's integrity, independence and impartiality. If a board or staff member is uncertain as to whether to accept the gift, he or she should consult the General Counsel.

### **3. Application of Policy**

Nothing in this policy supersedes any applicable provision of state or local law. Those entities engaged in business with the Retirement System may also have reporting requirements under state or local law.

#### **G. No Contact Policy**

Upon the release of any Request for Proposal (RFP), Invitation for Bid (IFB), or comparable procurement vehicle for any Retirement System investment or non-investment service or product, there may be no communication or contact between the applicant or bidder and Board members or staff concerning the subject of the procurement process until the process is completed.

Requests for technical clarification regarding the procurement process itself are permissible and must be directed to the person in charge of administering the contract process.

Incidental contact between a prospective bidder or its representative and Board members and staff which is exclusively social, or which clearly pertains to a matter not related to the subject procurement process, is permissible.

Any applicant or bidder who willfully violates this policy will be disqualified from any further consideration to provide the applicable service or product.

Board members and staff should report any suspected violation of this policy to the Retirement Administrator, who will determine the appropriate course of action.

#### **H. Disclosure of Communications**

##### **1. Disclosure of Communications between Board Members and Staff Regarding Investment Transactions or Non-Investment Matters**

As a general matter, the Board recognizes that the free flow of communication between individual Board members and staff or consultants is beneficial to the conduct of system business and that requiring disclosure of all or a large part of such regular communication would create a burdensome reporting requirement that would likely serve no useful purpose. However, in those instances where conduct by an individual Board member can be reasonably interpreted as an attempt to influence the outcome of a Board or staff decision or consultant recommendation in either an investment transaction or non-investment matter, the Board recognizes that such communications could create the potential for misunderstanding, misinformation or conflicting instructions and could be reasonably interpreted as inappropriately affecting the Board, staff or

consultant. Such communications do not always rise to the level of “undue influence,” as defined and discussed in below, but nevertheless should be subject to disclosure.

Any communication regarding either a potential investment transaction or non-investment matter initiated by a Board member with either a Retirement System employee or consultant in which the Board member is advocating for a specified outcome must be documented by the employee or consultant and reported to the General Counsel. Such communications will be disclosed to the Board if and when, in the judgment of the General Counsel, they may be material to the Board’s deliberation with respect to any system matter.

## **2. Avoidance of Undue Influence**

The Board recognizes that if a Board member or a third party attempts to direct Retirement System staff, a consultant or a Board member to a specified action, decision or course of conduct through the use of undue influence, sound decision-making could be compromised to the ultimate detriment of the Board as a whole and/or system members, retirees and beneficiaries.

Any staff member, consultant or Board member who believes that he or she has been subject to the attempted exercise of undue influence, as described above, should report the occurrence immediately and simultaneously to the Retirement Administrator and to the General Counsel. The General Counsel will investigate the situation immediately and with the approval of either the Board President or Vice-President is authorized to use the services of an outside law firm to conduct the investigation if he or she deems it appropriate. Following such investigation, if the General Counsel concludes that an exercise of undue influence was attempted, he or she will take whatever action deemed to be appropriate, which will include notification to the Board and thereafter a public disclosure during an open session meeting of the Board. If the Retirement Administrator or General Counsel believes that he or she personally has been subjected to an attempted exercise of undue influence, he or she must immediately advise the Board President unless the circumstances dictate that another Board member should instead be notified. The Board President or other Board member will investigate the situation, with the assistance of an outside law firm if appropriate, and take whatever action he or she deems to be appropriate.

All senior executives shall annually certify, in writing, that they have been free from undue influence by any individual Board member, executive or third party.

### **Definitions:**

“Undue Influence” is defined as the employment of any improper or wrongful pressure, scheme or threat by which one’s will is overcome and he or she is induced to do or not to do an act which he or she would not do, or would do, if left to act freely.

“Third Party” means and includes a person or entity that is seeking action, opportunity, or a specific outcome from the Retirement System regarding a system matter. The Third Party may be seeking the action, opportunity, or outcome for his or her or its own behalf or the Third Party may be seeking it on behalf of another person or entity in the capacity of a representative, agent or intermediary, or as an advocate for a cause or group of individuals or entities. This definition includes public officials.

## **I. Disclosure and Recusal Requirement for Campaign Contributions**

1. No officer, employee or current Board member, including any ex officio Board members may make, participate in making or in any way attempt to use his or her official position to influence a decision involving a Business Relationship with the system if the officer, employee or member has received, solicited or directed a campaign contribution of \$150 or more, individually or in the aggregate, in the twelve month period prior to the making of the decision from the person or entity seeking the Business Relationship.
2. For purposes of this policy, “Business Relationship” means a relationship between a non- governmental party and the Retirement System for the purpose of providing investment or non- investment services or goods that is expected to generate at least \$100,000 annually in income, fees or other revenue to the party.
3. If the disqualification provision of subdivision (a) results in the lack of a quorum for the purposes of taking action on any item before the Board or any of its committees, a sufficient number of Board members to constitute a quorum will be drawn by lot from the otherwise disqualified Board members for the purpose of establishing a quorum and taking action on items before the Board or any of its committees. Board members who have been drawn by lot to constitute a quorum will have their participation deemed as necessary and shall be exempt from the restrictions of subdivision (a) for the purpose of establishing a quorum and participating in the deliberations and voting on an item for which a quorum could not be established absent this waiver of the restrictions of subdivision (a).
4. The Retirement Administrator or General Counsel will cause an independent investigation to be performed for any reported violation of this Section and report any documented violation to the Board for action. Retirement System staff will maintain a current list of parties engaged in an Investment Relationship subject to Section 1, subdivision (d). The disclosure and recusal requirements of Section 2, subdivision (a) do not apply to any officer, employee or Board member, including ex officio board members, if the Investment Relationship has not been published on the list maintained by system staff.

## **J. Biennial Ethics Training**

Under Government Code section 63234 et seq., all local agency officials, including ICERS Board members, must receive at least two hours of training in general ethics principles and ethics law relevant to their public service every two years. New Board members shall attend ethics training no later than one year from the first day of service with ICERS. Board members shall also complete the ethics training required by Assembly Bill 1234, either through the online or in-person courses. The General Counsel will periodically provide additional training on ethics laws designed to supplement the AB 1234 training. In the event that the AB 1234 training requirement is changed in future legislation, the new training requirement shall be substituted for



the existing training and shall be supplemented if necessary by training provided by the General Counsel.

ICELERS

**ATTACHMENT I**

**Acknowledgement of Compliance**

I hereby acknowledge that I have been provided a copy of the Ethical and Fiduciary Conduct Policy adopted by the Imperial County Employees Retirement System, including its Policy Prohibiting Insider Trading. I further certify that I have read such policy and procedures, have had the opportunity to ask any necessary clarifying questions, and that I understand the policies and procedures contained therein and agree to be bound by and adhere to these policies and procedures

Dated:

Name:

Role:

ICERS

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM INVESTMENT POLICY STATEMENT

## I. STATEMENT OF PURPOSE

The Imperial County Employees' Retirement System ("the Fund") is a defined benefit pension system providing retirement benefits for its participants and their beneficiaries. This Investment Policy Statement has been developed by the Board of Trustees, pursuant to applicable County, State and Federal laws and regulations, and in keeping with its fiduciary responsibilities, to govern the investment and reinvestment of assets of the Pension Trust.

The purpose of this Investment Policy Statement ("Statement") is to set forth in writing: (1) the appropriate objectives and goals regarding the investment of the Fund's assets; (2) the position of the Trustees with respect to the Fund's risk/return posture, including allocation of assets, and establishment of investment guidelines; and (3) an overall system of investment policies and practices designed to satisfy the continued financial obligations of the Fund.

In formulating this Investment Policy Statement, the Board of Trustees has followed the provisions of Article XVI, Section 17 of the California State Constitution which are set forth in pertinent part below:

- Notwithstanding any other provision of law or the California Constitution to the contrary, the Board of Trustees shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the Fund.
- The Board of Trustees shall have the sole and exclusive fiduciary responsibility over the assets of the Fund.
- The Board of Trustees shall have the sole and exclusive responsibility to administer the Fund in a manner that will assure the prompt delivery of benefits and related services to the participants and their beneficiaries.
- The assets of the Fund are trust funds and shall be held for the exclusive purpose of providing benefits to participants in the Fund and their beneficiaries and defraying the reasonable expenses of administering the Fund.
- That each member of the Board of trustees shall discharge his or her duty with respect to the Fund solely in the interest of, and for the exclusive purpose of:
  - Providing benefits to participants and their beneficiaries;
  - Minimizing employer contributions to the Fund; and
  - Defraying the reasonable expenses of administering the Fund.
- The Board of Trustees' duty to its participants and beneficiaries shall take precedence over any other duty.

- Each member of the Board of Trustees shall discharge his or her duty with respect to the Fund with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

## **II. STATEMENT OF RESPONSIBILITIES**

The following parties associated with the Fund have been given this statement and shall discharge their respective responsibilities in accordance with all applicable fiduciary standards, including: (1) acting in the sole interest of Fund participants and beneficiaries; (2) acting with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person, acting in like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and of like aims; (3) acting in such a manner as to comply with Sections 31594 and 31595 of County Employees Retirement Law of 1937, as applicable; and (4) providing for the diversification of investments so as to minimize the risk of large losses.

### **A. Board of Trustees**

The Board of Trustees are Fund fiduciaries and have been delegated the responsibility to supervise the investments of the Fund. This includes: (1) establishing the basic investment policy that will guide the investment program; (2) providing for the liquidity needs of the Fund; (3) engaging Investment Managers and other professionals to carry out the execution of the Investment Policy Statement; and (4) periodically reviewing the performance of the Investment Managers and the investment program.

The Board of Trustees will monitor the Fund's case flow on a regular basis, and sufficient liquidity shall be maintained to fund benefit payment outflows. When withdrawals become necessary, the Trustees will notify the Investment Managers as far in advance as possible to allow them sufficient time to acquire necessary liquid reserves.

The Board of Trustees will review the asset allocation set forth in Section IV of this Investment Policy Statement and will periodically determine the necessity of rebalancing the Fund's investments in accordance with the guidelines set forth in Section VII. The Board of Trustees will also retain the authority to set the target asset allocation.

### **B. Investment Managers**

The Trustees delegate to the Investment Managers the responsibility of investment management of the Fund's assets in accordance with this Investment Policy Statement. County Employees Retirement Law of 1937, and any laws that supersede it. The Investment Managers must either be (1) registered under the Investment Company Act of 1940, (2) registered under the Investment Advisors Act of 1940, (3) a bank, as defined in that Act, (4) an insurance company qualified under the laws of more than one state to perform the services of managing, acquiring or disposing of plan assets, or, (5) such other person or organization authorized by applicable law or regulation to function as an Investment Manager.

### **C. Custodian**

The Custodian Bank is charged with the responsibility of safekeeping the securities, collection and disbursement of plan assets, and providing periodic accounting statements, while complying with applicable laws, rulings and regulations. The custodian will report all financial transactions to the Board and prepare periodic summaries of transactions, asset valuations and other related information as deemed appropriate by the Board, and in accordance with the Master Custody Agreement.

### **D. Investment Consultant**

The Investment Consultant is charged with the responsibility of advising the Board of Trustees on investment policy, asset allocation, selection of Investment Managers, and portfolio rebalancing, as well as providing portfolio performance analysis and monitoring services on a quarterly basis.

## **III. STATEMENT OF FUND INVESTMENT PHILOSOPHY AND OBJECTIVES**

The Fund shall be managed in a prudent manner recognizing the risk and return trade-offs inherent in investments. While concerned with avoiding undue risk, the Board of Trustees is desirous of maximizing investment gains. Accordingly, consistent with the preservation of Fund assets over the long term, investments shall be chosen to maximize the return on invested assets. Sufficient liquidity shall also be maintained to provide for the timely payment of fund expenses and benefit payments.

The Fund's primary investment objectives are to increase the asset value of the Fund over the long-run, exclusive of contributions or withdrawals, and to earn, through a combination of investment income and capital appreciation, a time-weighted total rate of return in excess of the relevant benchmarks over the long-term. Specifically, the Fund shall seek to achieve the following investment objectives:

- Achieve a long-term rate of return, net of expenses, that meets or exceeds the assumed actuarial rate set forth in the Fund's actuarial report.
- Maintain sufficient income and liquidity to fund benefit payments and expenses.
- Preserve the principal value of the Fund.
- Exceed a passive "policy index" that is based on the weighted average of applicable benchmark returns for designated asset classes, weighted in accordance with the target asset allocation of the Fund during the respective historical periods.
- Over the long term (which shall be a period of at least five years), exceed the median portfolio performance in a "peer group" universe of compliance funds.

These objectives are intended to serve as guidance for the Trustees in making asset allocation decisions and evaluating the performance of the Fund as a whole, and shall not be deemed to be guidelines applicable to individual Investment Managers.

#### **IV. ASSET ALLOCATION**

The Board of Trustees believes that the Plan's risk and liquidity postures are, in large part, a function of asset class mix. The Board has reviewed long-term performance characteristics of various asset classes, focusing on balancing the risks and rewards of market behavior. Based on the Fund's time horizon, risk tolerances, performance expectations, and asset class preferences, an efficient or optimal portfolio was identified. The allocation of Fund assets in Exhibit B shall serve as the general guideline for Fund investments. Because long-term asset allocation is a critical element of Plan stability and performance, the Board will periodically conduct asset allocation studies to assess the Fund's risk exposures and the probability of achieving its long-run return goals.

Opportunistic investments may be considered on a case-by-case basis, as presented by the investment consultant. Such investments are intended to take advantage of specific market conditions and may include expansion of investments in the current asset allocation or entry into strategies outside of the asset allocation following education regarding the potential investment. Opportunistic investments will be limited to no greater than 10% of the total portfolio at the time of purchase. Investments in individual strategies identified as opportunistic may not exceed 3% of the total portfolio at the time of purchase.

#### **V. SELECTION OF INVESTMENT MANAGERS**

Specific Investment Managers chosen by the Board of Trustees must have an investment process and style that is compatible with the investment objectives of the Fund and demonstrate their exercise of fiduciary responsibility and their investment expertise. The following should be considered in the selection of Investment Managers:

- An adequate and appropriate asset base relative to their respective investment strategy;
- Adequate diversification within the portfolio;
- A minimum of three to five years of verifiable investment performance experience (depending on the investment strategy), or a portfolio manager with three to five years of verifiable experience managing a comparable portfolio;
- An asset base large enough that the Fund share will not be in excess of 10% of the total assets under management in the specified strategy;
- Investment performance should be competitive against relevant benchmarks and peer group universes, given the level of risk inherent to the strategy; and

- A competitive and preferably negotiable fee schedule.

## VI. INVESTMENT POLICY GUIDELINES FOR INVESTMENT MANAGERS

The Fund's investments are expected to maintain certain minimum characteristics which shall be viewed as guidelines in formulating investment strategies for all separately managed portfolios.

### A. General

1. **Manager Discretion** – Subject to these guidelines and policies, Investment Managers have full discretion to sell, substantiate, redeem or convert securities, as they deem advisable. However, any manager who is engaged in or has a direct pecuniary interest in a business other than investment counseling, such as a securities broker-dealer, shall not be permitted to use such business with regard to Plan assets without prior written approval by the Board of Trustees.
2. **Commingled Funds** – The Board of Trustees acknowledges that when it is in the best interest of the Fund to invest in a commingled vehicle (i.e., collective fund or institutional mutual fund), it is not possible to dictate specific investment guidelines and prohibitions. The Board of Trustees shall review all commingled fund investment opportunities to determine if the investment strategy and risk characteristics of said investment are consistent with the spirit and intent of the investment guidelines otherwise set forth in this Investment Policy. It shall be the duty of the Investment Manager of such commingled fund to report to the Board and investment consultant any subsequent changes to the investment strategy or guidelines.
3. **Investment Transactions** – All transactions are to be governed by negotiation by the manager to achieve “best execution” (best price, net of trading costs and terms). It is recognized that the lowest commission rate does not necessarily mean “best execution.”
4. **Commission Recapture** – The Board of Trustees may choose to enhance the value of the Fund by participating in commission recapture programs. Investment Managers are encouraged to utilize such programs to the benefit of the Fund, subject to achieving best execution in such trading. The Commission Recapture Broker(s) shall report to the Board quarterly on the volume of total commissions and the amount recaptured by the Fund. The Commission Recapture Program should be evaluated periodically by the Board of Trustees to determine that it remains appropriate and effective.

5. **Securities Lending** – The Board of Trustees may choose to enhance the value of the Fund by allowing for the lending of securities in manager’s portfolios. The securities lending program shall be administered by either the Fund’s custodian or a third party securities lending agent. The securities lending program managers shall report to the Board at least quarterly, as to the amount of securities on loan and the income received from investing the borrowers’ collateral. The securities lending program should be evaluated periodically by the Board of Trustees to determine that it remains appropriate and effective including the securities lending program’s approved borrower and lending limits and the permitted collateral provisions of the program.
6. **Un-Invested Assets** – Assets of the Fund held by Investment Managers for liquidity or for investment reserves shall, at all times, be invested in interest bearing accounts. However, due to the timing of the posting of sales of securities and/or interest and dividend payments, the sweep of cash may inadvertently miss un-invested cash for short periods of time.

#### **B. Cash Equivalents**

The Board of Trustees has arranged for automatic sweeps of cash held in the Fund’s accounts into the Custodian’s Short-Term Investment Funds (STIFs). The Investment Managers will not be held responsible for investments made pursuant to such sweeps.

To the extent that Investment Managers invest a portion of the portfolio in liquid securities or cash equivalent investments outside the custodial STIF account, such investments are limited to those meeting all of the following criteria:

1. Maximum maturity of three years. Maximum Average Life of one year, and a “neutral” average life of 180 days;
2. Minimum short-term rating of A1/P1 by both services;
3. Minimum rating on bank liabilities is Keefe B/C and it must be ranked in the top 100 banks by assets;
4. Minimum long-term rating provided by most rating agencies should be single A or better, and if security matures within nine months, the short-term rating takes precedence;
5. Maximum 5% or \$1 million, whichever is greater, in any one issuer;
6. Minimum of 25% invested in the U.S. Government or U.S. Agencies with no restrictions on issues within this sector;



7. Maximum of 50% invested in any of the following sectors: Commercial Paper, medium-term notes, asset-backed securities, bankers acceptances, certificates of deposit, mortgage-backed securities, and foreign securities;
8. Average life will be used as the proxy of maturity on asset-backed and mortgage-related securities;
9. Investments in the following securities are prohibited – common stocks, preferred stocks, convertible securities and non-dollar denominated securities;
10. Exchange traded futures and options, as well as over-the-counter futures and options are permitted for hedging purposes only.

### **C. Fixed Income Separate Accounts**

The Board of Trustees requires that the majority of the fixed income portfolio be invested in high quality (investment grade) marketable bonds. Other investments may be permitted with prior Board approval. Fixed income investments are limited to those meeting the following criteria:

1. On average, 90% of the manager's portfolio shall be invested in investment quality fixed income obligations, denominated in U.S. dollars.
2. Over a full market cycle, the portfolio's average risk level, as measured by quality ratings of recognized rating services, is expected to approximate AA or its equivalent.
3. The portfolio's volatility, as measured by standard deviation of annual returns over trailing four- and five-year periods, is expected to be no greater than 110% of the Bloomberg Aggregate Bond Index.
4. While there are no specific limitations on portfolio maturity or duration, over a full market cycle, such measures are expected to average no more than 120% of the relevant benchmark.
5. At cost, obligations of a single issuer, other than the U.S. Government and its Agencies, shall not exceed 8% of total portfolio assets.
6. Subject to the prior approval of the Board of Trustees, an Investment Manager may invest up to 15% of the portfolio in investment grade, non-dollar denominated instruments (or collective funds that invest in such securities).
7. Derivatives policy:

- a. Financial derivatives may be used within prudent limits to manage risk, lower transaction costs, or augment returns.
  - b. Under no circumstances should leverage be implemented to purchase securities.
  - c. A manager may invest in covered call options if:
    - i. Collateral is made up of sufficient securities with the combined characteristics to closely match the obligations of all options written.
    - ii. The covered call strategy will be implemented at the discretion of the manager during times the manager believes it will add value to the portfolio.
  - d. Managers are prohibited from taking positions that exceed the following:
    - i. Collateralized Mortgage Obligations (CMOs) 10%
    - ii. Complex Instruments/Structured Notes – 5%  
(i.e., interest only or principle only bonds, Z Bonds, and inverse floaters)
  - e. Under no circumstance should a portfolio manager take positions in derivatives that materially increase the portfolio's stated or implied risk as characterized by its investment style.
8. Options on Treasury futures contracts may be used if, in the manager's opinion, they will result in a more cost-effective strategy.
9. The Fixed Income Portfolio authorizes the use of non-dollar securities as follows:
- a. Maximum of 15% in non-dollar, investment grade sovereign and corporate securities.
  - b. Currency hedging authority at the discretion of the manager.

#### **D. Domestic Equity Separate Accounts**

The primary emphasis of the domestic common stock portfolio will be on high quality, readily marketable securities offering potential for above average return as protection against inflation. Appropriate investments consist of domestic common stocks and cash equivalents. Other investments may be permitted with prior Board approval. Domestic common stock investments are limited to those meeting all of the following criteria.

- 1. Investment in any corporation shall not exceed 5% of the outstanding shares of the corporation.
- 2. Not more than 5% of the total assets in the portfolio, at market, may be invested in preferred stocks.
- 3. Equity holdings in one industry sector should not exceed 30% of the portfolio, measured at market value.

4. The cash equivalent portion should not exceed 6% of the portfolio.
5. The manager will invest the assets at such times, in such amounts and in such investments as the manager shall determine in its discretion.

## **E. International Equity Separate Accounts**

### **1. Developed Markets**

- a. The portfolio will be invested primarily in non-U.S. common stocks. Investment in American Depositary Receipts (ADRs) is permitted and will not be considered U.S. equities. U.S. equities are not permitted. A maximum of 15% of a manager's portfolio may be invested in any one country not included in the index the portfolio is benchmarked against.
- b. Currency hedging will be permitted as part of a defensive strategy to protect the portfolio's underlying assets, provided that notice of such action is communicated in writing to the Board of Trustees and the Investment Consultant.
- c. Holding cash or cash equivalents, either U.S. or non-U.S., for the purpose of protecting the portfolio against perceived adverse equity market conditions abroad, will not be permitted. However, while the manager is expected to remain fully invested over time, cash and cash equivalent holdings will be permitted up to a maximum of 6% of the manager's portfolio for the purpose of making country and security adjustments to the portfolio.
- d. To ensure proper diversification, the fund portfolio will be invested in a wide variety of economic sectors and countries:
  - i. No single equity position will represent more than a total of 5% of the portfolio, at market value.
  - ii. Equity holdings in one industry sector, as defined by MSCI, should not exceed 30% of the portfolio, at market value.
  - iii. Equity holdings in one country should not exceed 50% of the portfolio, at market value.

### **2. Emerging Markets**

- a. The portfolio will be invested primarily in non-U.S. common stocks. Investment in American Depositary Receipts (ADRs) is permitted and will not be considered U.S. equities. U.S. equities are not permitted.
- b. Currency hedging will be permitted as part of a defensive strategy to protect the portfolio's underlying assets, provided that notice of such action is communicated in writing to the Board of Trustees through the Investment Consultant.
- c. Holding cash or cash equivalents, either U.S. or non-U.S., for the purpose of protecting the portfolio against perceived adverse

equity market conditions abroad, will not be permitted. However, while the manager is expected to remain fully invested over time, cash and cash equivalent holdings will be permitted up to a maximum of 6% of the manager's portfolio for the purpose of making country and security adjustments to the portfolio.

- d. To ensure proper diversification, the portfolio will be invested in a wide variety of economic sectors and countries. No single equity position will represent more than a total of 5% of the portfolio, at market value, except when the security has a weighting greater than 5% in the benchmark index and the manager has received prior written approval.

#### **F. Real Estate**

The Fund may invest in real estate indirectly utilizing commingled funds specifically designed for tax-exempt institutional investors. No direct investments in real estate shall be permitted unless authorized in writing by the Board of Trustees.

#### **G. Commodities**

The Fund may invest in commodities indirectly utilizing commingled funds that use futures specifically designed to meet or exceed the return of the Bloomberg Commodities Index. No direct investments in commodities shall be permitted.

#### **H. Private Equity**

The Fund may invest in private equity indirectly utilizing a fund-of-funds approach specifically designed for tax-exempt institutional investors. No direct investments in private equity shall be permitted unless authorized in writing by the Board of Trustees, except as part of the opportunistic investments, as defined in Section IV of this Investment Policy Statement.

#### **I. Private Credit**

The Fund may invest in private credit indirectly utilizing a fund-of-funds approach or directly in private credit funds as part of the Fund's dedicated private credit allocation or as part of the opportunistic investments, as defined in Section IV of this Investment Policy Statement.

### **VII. INVESTMENT PORTFOLIO REBALANCING**

Portfolio rebalancing shall be conducted in order to meet two distinct objectives:

- The first is to maintain the long-term strategic asset allocation targets as set forth in Section IV of this Investment Policy Statement. In meeting this first objective, Staff, in conjunction with the advice of the Investment Consultant, as needed, shall periodically rebalance the portfolio to generally maintain the strategic allocation target weights  $\pm$  five percentage points. This type of rebalancing

activity will be communicated to the Board of Trustees at its next regularly scheduled meeting.

- The second objective is to utilize portfolio rebalancing to add value to the overall portfolio through the implementation of strategic biases, the aim of which is to take advantage of uncommon market pricing opportunities caused by significant market dislocations. In meeting this objective, the Board of Trustees, in conjunction with the advice of the Investment Consultant, may adjust the asset allocation within allowable ranges as set forth in Exhibit B of this Investment Policy Statement.

Rebalancing may occur through the buying and selling of physical securities or through the use of fully collateralized derivatives.

## **VIII. INVESTMENT PERFORMANCE REVIEW AND EVALUATION**

Investment results of the Fund should be prepared by the Investment Consultant and reviewed by the Board of Trustees quarterly. Performance comparisons will be made against the performance objectives set forth in Exhibit A of this policy statement, including the Total Fund performance and that of the underlying investment managers.

In addition to these quarterly reports of investment results, an analysis of fees charged by Investment Managers of funds held by ICERS should be prepared by the Investment Consultant at least every two years that includes a benchmark comparison for each fund in a similar asset class and vehicle type.

The Board of Trustees is desirous of holding each investment manager accountable for the performance of the assets over which they exercise discretion. If an Investment Manager fails to accomplish the investment objectives as set forth in this Investment Policy Statement over a market cycle (typically three to five years), the Board of Trustees will notify the Investment Manager in writing that they have failed to accomplish the performance objectives and that the Board of Trustees has placed them on probation. The Board of Trustees will continue to monitor the investment results until they determine that removal or probation or termination of the Investment Manager is warranted. The Board of Trustees still reserves the right to terminate Investment Managers for any reason whatsoever, including, but not limited to violation of this Investment Policy Statement, personnel or organizational changes, or if the Board of Trustees determines that a change of Investment Managers is in the best interests of the participants.

## **IX. ADMINISTRATIVE PRACTICES**

### **A. Communications and Reporting of Investment Managers**

The Investment Managers are responsible for frequent and open communication in writing with the Board of Trustees on all significant matters pertaining to investment policies and the management of the Fund's assets, including, but not limited to the reporting of:

1. Changes, which in the Investment Manager's view, are significant and material in the Investment Manager's investment outlook, investment strategy, portfolio structure and risk level.
2. Any significant changes in the Investment Manager's ownership, investment process, organizational structure, financial condition, senior personnel staffing, employees having significant responsibilities for the Fund's portfolio, or Form ADV filed with the Securities and Exchange Commission.
3. Quarterly transactions, valuation, and performance reports to coincide with the Fund's fiscal quarters.
4. Any security that declines below the minimum quality standards of the Fund and any action the Investment Manager plans to take with such security. If the Investment Manager's recommendation is to hold the security, the Investment Manager must keep the Trustees fully informed of the improvement/deterioration of the valuation as well as any change in their recommendation.
5. Any action taken by the Investment Manager on the voting of proxies for shares for which the Fund is a beneficial owner, which will include the company name, date, number of shares voted, description of the question, denote whether voted for or against management and the reason the shares were voted in a certain manner. This report will be rendered not less than annually.
6. Any change the Investment Manager believes is necessary in the Fund's Investment Policy Statement to prudently invest the assets of the Fund under its management.
7. Each Investment Manager must include a copy of their individual portfolio guidelines along with the quarterly report. Investment Managers are required to advise the Board of Trustees in writing of any violation or any need for changes to the portfolio guidelines.

## **B. Compensation of Investment Managers**

Each Investment Manager retained by the Fund shall be compensated quarterly by a formula contained in the Investment Management Agreement. No Investment Manager retained by the Fund shall receive a payment of commission or other fees on a particular investment transaction. Further, each Investment Manager must disclose to the Board of Trustees any indirect compensation received in addition to its fees as a result of servicing this Fund.

### **C. Brokerage Disclosure**

Each Investment Manager retained by the Fund shall provide a written quarterly report detailing the name of each brokerage institution, which received commissions from the Fund as the result of the discretionary trading authority bestowed upon the Investment Manager by the Board of Trustees. Investment Managers shall provide the Investment Policy Statement, their addendum, and a commission report quarterly to the Board of Trustees detailing the name of the brokerage firm, the number of shares, average cost per share traded, and the commissions paid.

### **D. Acknowledgment of Fiduciary Responsibility**

The Investment Managers are expected to acknowledge in writing their recognition and acceptance of full responsibility as a fiduciary under ERISA and appropriate federal and state legislation and be covered by appropriate and adequate insurance and bonding.

### **E. Introduction and pursuit of New Investment Ideas**

A new investment concept must be vetted with the full Board of Trustees before any additional action is taken to evaluate its merits. The Board of Trustees is responsible for making the determination as to whether or not additional analysis is warranted.

The general process for the consideration of new investment ideas shall be as follows:

1. Idea generation – all Trustees have the authority to raise new investment ideas for consideration;
2. Introduction – Trustees shall submit their idea(s) to the Plan Administrator for placement on the next Board Agenda for consideration;
3. Education and Recommendation – The Plan Administrator will notify the Investment Consultant so that the consultant may prepare to contribute to the discussion, educate the Board of Trustees on the concept under consideration, and provide a recommendation as appropriate;
4. Consideration – The new idea will be introduced by the originating Trustee at the Board meeting, and general discussion will ensue; and
5. Decision – Based on the discussion, the Board will determine how best to proceed (e.g., include in portfolio, do not include in portfolio, conduct further evaluation).

## **X. POLICY CHANGES**

The Investment Consultant shall advise the Board of Trustees of any restrictions within this Investment Policy Statement which may prevent the Investment Manager(s) from obtaining the objectives and goals set forth herein. Any violation of the investment guidelines or other



sections of this Investment Policy Statement discovered by the Investment Consultant in the preparation of its regular performance review shall be reported immediately to the Board of Trustees and discussed at their next regularly scheduled meeting.

## **XI. REVIEW AND REVISIONS**

The Board of Trustees reserves the right to amend the Investment Policy Statement at any time they deem such amendment to be necessary, or to comply with changes in federal law as these changes affect the investment of Fund assets.

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ICEERS



**EXHIBIT A**  
**PERFORMANCE BENCHMARKS (NET OF FEES)**  
**Revised: April 15, 2020**

**Total Fund**

The Total Fund will be measured against a Policy Index made up of passive benchmarks weighted in accordance with the Asset Allocation targets defined in Exhibit B of the Investment Policy Statement.

**Investment Managers**

**Asset Class / Strategy / Manager**

**Relevant Benchmarks**

**Domestic Equity Managers**

**Core Large Cap**

BlackRock Russell 3000 Index Fund

Russell 3000 Index

**International Equity Managers**

**Large Cap Developed**

BlackRock EAFE Index Fund

MSCI EAFE Index

Median International Developed Manager

**Emerging Markets**

Dimensional Fund Advisors

Harding Loevner

MSCI Emerging Markets Index

Median Emerging Markets Manager

**Fixed Income**

**Core Plus**

Tortoise Capital

MacKay Shields

Bloomberg Barclays Aggregate Bond Index

Median Core Bond Manager

**TIPS**

BlackRock TIPS Index Fund

Bloomberg Barclays US TIPS Index

**Alternatives**

**Real Estate**

ING Clarion

ASB Real Estate

NCREIF-ODCE

NCREIF Property Index

**Value-Add Real Estate**

American Realty Advisors

NCREIF-ODCE + 200 bps

NCREIF Property Index + 200 bps

**Private Equity**

HarbourVest Partners, LLC

Actual time-weighted return

**Private Credit**

Portfolio Advisors

Actual time-weighted return

**Opportunistic**

**Various Strategies**

Actuarial Assumption Rate + 100 bps

**EXHIBIT B**  
**ASSET ALLOCATION AND ALLOWABLE RANGES**  
**Revised: September 16, 2020**

<u>Asset Class</u>	<u>Minimum</u>	<u>Target</u>	<u>Maximum</u>
Domestic Equity	19%	33%	39%
International Equity	14%	20%	34%
Fixed Income	17%	27%	40%
Real Estate	5%	10%	15%
Alternatives	5%	10%	15%
Private Equity*	0%	5%	10%
Private Credit*	0%	5%	10%
Opportunistic Investments	0%	0%	10%

**\* The Policy Benchmark uses actual private market asset class weights, each rounded to the nearest 1%. The difference in actual weight versus target is allocated to the private market's public market "equivalent" (i.e., private equity to equity and private credit to core fixed income).**

# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM STATEMENT OF ACTUARIAL FUNDING POLICY**

## **INTRODUCTION**

The purpose of this Statement of Actuarial Funding Policy is to record the funding objectives and policies set by the Board of Retirement (Board) for the Imperial County Employees' Retirement System (ICERS). The Board establishes this Statement of Funding Policy to help ensure future benefit payments for Members of ICERS. In addition, this document records certain policy guidelines established by the Board to assist in administering ICERS in a consistent and efficient manner. It is a working document and may be modified as the Board deems necessary.

## **GOALS OF ACTUARIAL FUNDING POLICY**

1. To achieve long-term full funding of the cost of benefits provided by ICERS;
2. To seek reasonable and equitable allocation of the cost of benefits over time; and
3. To minimize volatility of the plan sponsor's contribution to the extent reasonably possible, consistent with other policy goals.

## **FUNDING REQUIREMENT AND POLICY COMPONENTS**

ICERS' annual funding requirement is comprised of a payment of the Normal Cost and a payment on the Unfunded Actuarial Accrued Liability (UAAL). The Normal Cost and the amount of payment on UAAL are determined by the following three components of this funding policy:

- I. Actuarial Cost Method: the techniques to allocate the cost/liability of retirement benefit to a given period;
- II. Asset Smoothing Method: the techniques that spread the recognition of investment gains or losses over a period of time for the purposes of determining the Actuarial Value of Assets used in the actuarial valuation process; and
- III. Amortization Policy: the decisions on how, in terms of duration and pattern, to reduce the difference between the Actuarial Accrued Liability and the Valuation Value of Assets in a systematic manner.

### **I. ACTUARIAL COST METHOD**

The Entry Age method shall be applied to the projected retirement benefits in determining the Normal Cost and the Actuarial Accrued Liability.

## II. ASSET SMOOTHING METHOD

The investment gains or losses of each valuation period, determined by comparing the actual market return and the expected market return, shall be recognized in level amount over five (5) years in calculating the Actuarial Value of Assets. Deferred investment gains or losses cannot exceed 30% of the Market Value of Assets.

This policy anticipates that future circumstances may warrant adjustments to change the pattern of the recognition of the net deferred investment gains or losses after a period of significant market change followed by a period of market correction. Such adjustments would be considered by the Board upon receiving an appropriate analysis from ICERS' actuary. Such adjustments would be appropriate for consideration when the net deferred investment gains or losses are relatively small (i.e., the actuarial and market values are very close together), but the recognition of that net deferred amount is markedly non-level. Any such adjustment would be made subject to the following conditions:

- The net deferred investment gains or losses are unchanged as of the date of the adjustment; and,
- The period over which the net deferred investment gains and losses are fully recognized is unchanged as of the date of the adjustment.

## III. AMORITIZATION POLICY

- The UAAL, (i.e., the difference between the Actuarial Accrued Liability and the Valuation Value of Assets), as of June 30, 2012 shall be amortized over a closed period of nineteen (19) years. For example, the remaining outstanding balance of that UAAL will be amortized over eighteen (18) years in the June 30, 2013 valuation.
- Any new UAAL as a result of actuarial gains or losses identified in the annual valuations as of June 30, 2013 and each June 30 thereafter will be amortized over a period of fifteen (15) years.
- Any new UAAL as a result of a change in actuarial assumptions or methods identified in the annual valuations as of June 30, 2013 and each June 30 thereafter will be amortized over a period of twenty (20) years.
- Unless an alternative amortization period is recommended by the Actuary and accepted by the Board based on the results of an actuarial analysis:
  - a. with the exception noted in b, below, the change in UAAL as a result of any plan amendments will be amortized over a period of fifteen (15) years;
  - b. the increase in UAAL resulting from a temporary retirement incentive, including the impact of benefits resulting from additional service

permitted in Section 31641.04 of the 1937 CERL, will be amortized over a period of five (5) years;

- UAAL shall be amortized over fixed, “closed” amortization periods so that the amortization period for each layer decreases by one (1) year with each actuarial valuation;
- UAAL shall be amortized as a level percentage of payroll so that the amortization amount in each year during the amortization period shall be expected to be a level percentage of covered payroll, taking into consideration the current assumption for general payroll increase; and
- If an overfunding or “surplus” exists, i.e., the Valuation Value of Assets exceeds the Actuarial Accrued Liability (AAL), so that the total of all UAAL amortization layers becomes negative, any prior UAAL amortization layers will be considered fully amortized. Any subsequent UAAL will be amortized over fifteen (15) years as the first of a new series of amortization layers.

If the surplus exceeds 20% of the AAL per Section 7522.52 of the Government code, then the amount of surplus in excess of 20% of the AAL ( and any subsequent surpluses in excess of that amount) will be amortized over an “open” amortization period of thirty (30) years, but only if the other conditions of Section 7522.52 have also been met. If these conditions are not met, then the surplus will not be amortized and the full Normal Cost will be contributed.

## **OTHER POLICY CONSIDERATIONS**

### **1. Lag Between Date of Actuarial valuation and Date of Contribution Rate Implementation**

In order to allow the employers to more accurately budget for pension contributions and other practical considerations, the contribution rates determined in each valuation (as of June 30) will apply to the fiscal year beginning twelve (12) months after the valuation date. Any shortfall or excess contributions as a result of the implementation lag will be amortized as part of ICERS’ UAAL in the following valuation.

Any change in contribution rate requirement that results from plan amendment is generally implemented as of the effective date of the plan amendment or as soon as administratively feasible.

### **2. Employee Contributions for Safety Members in the Legacy Tier With Over 30 Years of Service**

Safety Legacy Members are exempt from making employee contributions to fund the regular and the supplemental benefits after they have attained thirty (30) years of service. Such contributions will instead be made by the employer. (There is a similar provision found in the

1937 Act for the General Legacy Members but those Members would have to be hired on or before March 7, 1973 in addition to having thirty (30) years of service. There are no such members as of June 30, 2017.)

### **3. Actuarial Audit**

In furtherance of ICERS' mission statement and commitment to transparency, there will be an actuarial audit performed of ICERS' actuarial valuation every five (5) to seven (7) years or subject to Board discretion.

### **4. Glossary of Terms**

**Actuarial Accrued Liability** – The portion of the present value of projected benefits that is attributed to past service by the actuarial funding method.

**Actuarial Funding Method** – A technique to allocate present value of projected benefits among past and future periods of service.

**Actuarial Value of Assets** – The market value of assets less the deferred investment gains or losses not yet recognized by the asset smoothing method.

**Entry Age Actuarial Cost Method** – A funding method that calculates ICERS' Normal Cost as a level percentage of pay over the working lifetime of the plan's members.

**Normal Cost** – The portion of the present value of projected benefits that is attributed to current service by the actuarial funding method.

**Unfunded Actuarial Accrued Liability** – The portion of the Actuarial Accrued Liability that is not currently covered by plan assets. It is calculated by subtracting the Actuarial Accrued Liability from the Valuation Value of Assets.

**Valuation Date** – June 30 of every year.

**Valuation Value of Assets** – The value of assets used in the actuarial valuation to determine contribution rate requirements. It is equal to the Actuarial Value of Assets reduced by the value of any non-valuation reserves.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
BOARD COMMUNICATIONS POLICY**

**I. PURPOSE**

This Communications Policy is intended to facilitate effective communications between Imperial County Employees' Retirement System (ICERS) Board Members and Plan Members, ICERS senior management, and other parties.

**II. OBJECTIVES**

- A. The objectives of the ICERS Board Communications Policy are to ensure that:
  - 1. Board Members receive pertinent information in a consistent and uniform manner.
  - 2. Board Members have equal access to information available to the Board;
  - 3. Communications are efficient and timely; and
  - 4. Communications with management and other parties are accurate, consistent, and reflect the provisions of the Retirement System, pension law and the views or positions of the Board as a whole.

**III. ASSUMPTIONS**

- A. Board Member communications potentially represent a significant risk to ICERS in areas such as governance, service quality, public relations, plan interpretation and adverse reliance by Plan Members or their beneficiaries.
- B. In their communications, Board Members recognize their fiduciary duty to represent the interest of all Plan Members.
- C. A Communications Policy must balance the need to mitigate communications risk with the need for open and free discourse.
- D. The Board must speak to its various constituency groups with a single voice to successfully carry out its communications function for the benefit of Plan Members.
- E. Communications shall be defined broadly to include oral, written and electronic communications, including but not limited to:
  - 1. Issuing press releases;
  - 2. Delivering speeches or presentations;



3. Discussions with Plan Members, Board Members or ICERS management;
4. Interviews with the media; and
5. Writing articles or letters.

#### **IV. GUIDELINES**

##### **A. Communications Among Board Members.**

1. Board Members shall communicate in an open straightforward and constructive manner during meetings of the Board and Committees.
2. The Board shall carry out its activities in the spirit of open governance and the provisions of the Ralph M. Brown Act, California Government Code Section 54950, et seq., as qualified by Executive Order of the Governor, which include but are not limited to:
  - a. Property noticing and posting an agenda for Board and Committee meetings (Section 54954.2 of the Brown Act);
  - b. Allowing proper public comment on agenda items before or during consideration by the Board (Section 54954.3 of the Brown Act);
  - c. Properly describing all items to be considered in a closed session in the notice or agenda for the meeting (Section 54954.3 of the Brown Act);
  - 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 concurring on an action to be taken (i.e., "Serial Meeting," Section 54953 of the Brown Act); and
  - e. Ensuring materials are properly made available to members of the public, upon request, without delay (Section 54957.5 of the Brown Act).
3. Board Members shall disclose all information pertinent to the affairs of the Board to the rest of the Board in a timely manner.
4. As a courtesy, Board Members shall not introduce controversial information during a meeting of the Board or Board Committee without prior discussion with the Board Chair, or Committee Chair and the Retirement Administrator.

##### **B. Board Member Communications with Plan Members**

1. Board Members shall be aware of the risk of communicating inaccurate information to Plan Members, and the potential exposure to liability and

possible harm to a member that may result from such miscommunications. This risk may be mitigated by refraining from providing specific advice, counsel or education with respect to the rights or benefits a member may be entitled to under the Plan.

2. In addition, Board Members shall not communicate to any Plan Members, or any third parties, information relating to any of the following matters deemed confidential (“Confidential Information”):
  - a. Ongoing disability cases;
  - b. Retiree and Active members’ confidential information such as: Social Security numbers, home addresses, etc.;
  - c. Ongoing litigation involving the Retirement System; and
  - d. Matters discussed in a Closed Session of a Retirement Board meeting that is not reported in an Open Session meeting.
3. In cases where a Board member receives a general query from a plan member and the Board Member is certain of the answer, the Board Member may provide such an answer to the member. If, however, the Board Member is uncertain of the answer to a general query, the Board Member shall refer the member to the ICERS main office, or to the ICERS website.
4. In cases where a member query pertains to personal situations or technical matters, Board Members shall refer the member directly to the Retirement Administrator, or in his/her absence, the Assistant Retirement Administrator.
5. The Retirement Administrator will advise the referring Board Member when a member’s referred questions or issues have been resolved and of any actions taken in response to such questions or issues.

C. Board Member Communications with ICERS Management.

1. Board Members shall direct concerns or questions regarding any aspect of Plan operations to the Retirement Administrator, as appropriate, with the exception of issues or questions pertaining to member queries, which are to be addressed in accordance with items 3 and 4 above.
2. Requests for information that require a significant expenditure of staff time or the use of external resources shall:
  - a. Be consistent with the roles and responsibilities of the Board;
  - b. Be directed to the Retirement Administrator; and
  - c. Be formally requested at a Board or Committee meeting.
3. In the spirit of open communication, individual Board Members shall share any information pertinent to the Retirement Administrator with the

Retirement Administrator in a timely manner. The Retirement Administrator shall similarly share with the Board any information pertinent to the Board in a timely manner.

4. The Retirement Administrator shall ensure that all Board Members have access to information that has been requested by the Board or by individual Board Members.
5. Management shall periodically review all reports regularly provided to the Board, and where it is determined that certain information items are no longer needed, shall bring forward a recommendation to the Board to cease providing said items.

D. Board Member Communications with External Parties

1. The purpose of any communications by Board Members shall be consistent with their fiduciary duty to represent the interests of all Plan Members.
2. Board Members shall be respectful of the Board and its decisions in all external communications, even if they disagree with such decisions.
3. Board Members shall not communicate as spokesperson on behalf of the Board unless authorized by the Board to do so.
4. Board Members shall indicate if they are speaking in a capacity other than as a member of the Board in their external communications.
5. In situations that call for a spokesperson to communicate on behalf of the Board:
  - a. The Chair and the Retirement Administrator shall jointly determine who shall act as spokesperson on an issue-by-issue basis and Board Members shall refer any inquiries they receive concerning such issues to the spokesperson.
  - b. If time permits, the spokesperson shall discuss sensitive, high profile issues with the Board prior to engaging in external communications.
  - c. In situations where Board policy concerning an issue has not been established, the Board or an appropriate Committee shall meet to discuss the issue prior to the spokesperson undertaking any external communications.
6. Written press releases concerning the business of ICERS shall be the responsibility of the Retirement Administrator and shall clearly and accurately express the provisions of the Plan and positions of the Board.

The Retirement Administrator will provide copies of all press releases to the Board in a timely manner.

7. To ensure the accuracy of materials prepared by Board Members for publication or general distribution, and to ensure that the Plan is not inadvertently placed at risk, Board Members agree to provide such material to the Retirement Administrator for review prior to distribution or publication.
8. In any communications, Board Members shall not disclose any material deemed confidential (“Confidential Information”) as defined in Section B.2., supra.

E. Black-Out Periods

1. The Board will initiate a “black-out” period when:
  - a. The Board or any Board Committee is presented with a list of potential candidate firms for consideration in a search process; or
  - b. A current service provider is placed on an official “watch status” signifying that the service provider’s performance has fallen below expectations or other issues have arisen that warrant closer scrutiny; or
  - c. The Board deems it is in the best interest of ICERS to require that, for a limited period of time, communications between Board Members and specified service providers be restricted to Board and Committee meetings only.
2. Black-out periods will be instituted at a Board meeting, and written notification will be issued to all Board Members not present at said meeting. A black-out period may also be instituted between Board meetings at the discretion of a Committee of the Board or the Retirement Administrator, subject to ratification by the Board at its next meeting, unless the Committee is a committee as a whole. The Retirement Administrator will provide written notification to all Board Members of all black-out periods instituted between Board meetings as soon as possible, and Board Members will comply with the black-out period restrictions upon receipt of the Retirement Administrator’s notification.
3. The initiation of a black-out period, and the service providers to which it applies, will be specified in the minutes of the Board meeting at which it was approved by the Board or Committee of the whole or ratified by the Board.
4. During black-out periods, Board Members and specified service providers shall not communicate on matters pertaining to ICERS, except during Board or Committee meetings. Furthermore, during black-out periods, staff, individual Board Members or groups of Board Members will not

meet with specified service providers for entertainment or social purposes. Exceptions may be made in the case of industry conferences such as SACRS, where staff and ICERS Board Members may socialize with specified service providers during open social events that are also attended by Board Members or staff of other systems, provided staff and ICERS Board Members do not discuss matters pertaining to ICERS business.

5. Staff or Board Members who need to communicate with such service providers for reasons unrelated to ICERS business agree to disclose such need in writing to the Retirement Administrator and the Board prior to undertaking such communications. Disclosure to the Board shall be made in writing at a meeting of the Board. If time does not permit timely disclosure to the Board, the staff or Board Member shall then also provide disclosure of the intended communication to the Chair, or to the Vice Chair if the Board member in question is the Chair.
6. For the purpose of black-out provisions, communications include telephone conversations, letters and email.
7. Black-out periods will case when:
  - a. The Board authorizes staff or the investment consultant to negotiate a contractual arrangement with a successful bidder, or the search process is otherwise ended by the Board; or
  - b. When the service provider is removed from watch status; or
  - c. When the black-out period is otherwise ended by the Board.
8. Nothing in this section is intended to prevent necessary staff members from engaging in needed communications with service providers or potential service providers.
9. All ICERS service providers shall be provided with a copy of the Black-Out Policy provisions and shall be asked to agree in writing to comply with its provisions.
10. All RFPs shall include the Black-Out Policy provisions and require that prospective service providers comply with its provisions during the selection process.

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# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM ACCESSIBILITY OF RECORDS POLICY**

## **I. PURPOSE**

The Board of Retirement (Board) of the Imperial County Employees' Retirement System (ICERS) adopts this policy to establish guidelines and procedures for making determinations concerning the disclosure of information in ICERS' files, records or other information when responding to requests made under the Public Records Act ("PRA").

The Board is committed to the principle of transparency and recognizes that it has an obligation to balance its members' right to privacy with the public's right to information regarding public business. This Policy is not intended to cover all of the complex legal and factual issues that may arise in responding to a PRA request. Nevertheless, the Board has determined that it would be useful to establish guidelines for ICERS to follow when a request is made under the PRA, and to publish those guidelines for the benefit of its members and their beneficiaries, and the public at large.

All staff should be familiar with these guidelines so that the process of responding to requests is efficient, consistent and compliant with the applicable laws. In many circumstances, these guidelines will enable staff to respond to requests without the need for substantial analysis or the assistance of legal counsel. However, given the complexities of the law, situations will likely arise where a simple application of the general guidelines will not provide a definitive answer. When such a situation arises, the Administrator should refer any question to legal counsel and, if necessary, present a recommendation to the Board.

## **II. GENERAL PRINCIPLES**

A request to inspect ICERS records may be made by a telephone call, an in-person oral request, a written request, a subpoena or a court order. The person making a request for records may be a member, a beneficiary, an employee organization, a government agency or member of the press or general public. Staff should always be aware that a request, no matter how informal it may appear, must be analyzed under the principles outlined in this Policy (or analyzed by legal counsel in more complicated situations). The general principles of the policy may be summarized as follows:

1. Confidentiality of an individual member's records must be protected unless those records relate to the conduct of the public's business, or unless the member has authorized the disclosure in writing.
2. An individual (member or beneficiary) generally must be permitted access to his or her own records.
3. The public has a right to impact records that relate to ICERS' operation and that are neither confidential nor protected from disclosure by the applicable laws.

4. Generally, ICERS must respond to any request for information within 10 calendar days of receipt of the request. The response need not contain the actual requested information or production of the sought records, but must (at a minimum) provide a response as to whether ICERS will produce the requested records or provide a basis for rejecting the request. If ICERS is unable to formulate a response within 10 calendar days, it may extend the time for a response by as much as 14 calendar days, but may only do so with good cause.
5. Subpoenas or court orders requiring the production of records and/or information should be referred to legal counsel immediately upon receipt.
6. Even if a request seeks disclosable records, under California case law, a request may be objectionable if it is unreasonably burdensome. Additionally, the PRA only requires ICERS to disclose its existing records; it does not require ICERS to conduct studies, recognize information or summarize data for the requesting party. Thus, when confronted with a request that will substantially disrupt ICERS operations, the Administrator should consult legal counsel.
7. When a request is made for information regarding an individual member that appears to be of a personal nature, ICERS should seek the advice of legal counsel.

### **III. APPLICABLE LAW**

#### **A. Public Records Act**

The PRA generally requires ICERS to disclose “public records” unless the particular information is exempt from disclosure. Under the PRA and interpreting case law, public records include information in virtually any format “relating to the conduct of the public’s business prepared, owned, used or retained by any state or local agency.” Although certain exemptions allow ICERS to withhold some records, case law is clear that policy in California generally favors disclosure.

The PRA sets forth an extensive list of records that are exempt from required disclosure. Many of the statutory exemptions are inapplicable to ICERS and other may be applicably only in rare instances. The following exemptions are the most important exemptions for ICERS:

1. Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure. (Gov. Code, § 6254(a).)
2. Records pertaining to pending litigation to which the public agency is a party until the pending legislation or claim has been finally adjudicated or otherwise settled. (Gov. Code, § 6254(b), (k).)



3. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code, § 6254(c).)
4. Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. (Gov. Code, § 6254(k).)
5. Records relating to investments in alternative investment funds defined as exempt from disclosure pursuant to Government Code Section 6254.26.
6. Additionally, Government Code Section 6255 provides a “catch all” provision whereby ICERS can justify withholding any record by demonstrating that “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Gov. Code, § 6255.)

## **B. Member Records**

Government Code Section 31532 provides as follows: “Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter [the ’37 Act] or upon order of a court of competent jurisdiction, or upon written authorization by the member.”

In 2007, the California Supreme Court issued two rulings that support the conclusion that, notwithstanding Section 31532, the gross amount of any benefit or of any refund of an ICERS contribution due to a member or beneficiary is not confidential and may be released upon request made under the Public Records Act. (See *International Federation of Professional and Technical Engineers v. Superior Court*, 42 Cal. 4th 319 (2007) and *Commission on Peace Officer Standards and Training v. Superior Court*, 42 Cal. 4th 278 (2007); see also Gov Code, § 20230.)

In 2011, three California Appellate Court cases further clarified information that could be disclosed pursuant to the PRA and the definition of “individual records” pursuant to Government Code Section 31532. (See *San Diego Employees Retirement Association v. Superior Court* (2011) 196 Cal.App.4th 1228; *Sacramento County Employees’ Retirement System v. Superior Court* (2011) 195 Cal.App.4th 440; *Sonoma County Employees’ Retirement Association v. Superior Court* (2011) 198 Cal.App.4th 986.) These decisions determined that the names of retirees and their benefit amounts were not “individual records” within the meaning of Government Code Section 31532 and were disclosable pursuant to the PRA. Requests for additional, discrete items of information will be considered on a case-by-case basis and disclosed in accordance with the governing statute and interpreting authorities.



## **IV. PROCEDURE FOR RESPONDING TO PUBLIC RECORD REQUESTS**

### **A. Initial Review**

Upon receiving a request for records, ICERS must first determine whether the request seeks disclosable “public records.” To make this determination, ICERS should proceed as follows:

1. Determine if the records are prepared, owned, used, or retained by ICERS.
2. If the records are prepared, owned, used, or retained by ICERS, then determine if the requested records relate to the conduct of the public’s business.
3. Determine if the requested records fit under one of the exemptions discussed above (e.g., preliminary drafts, records related to litigation or personnel files).
4. Always consider whether there is a good public policy reason to withhold the records. If so, the request should be referred to legal counsel for a case-by-case determination.
5. Determine whether the requested records will reveal information regarding a member that is of a personal or private nature. Generally, records or information that relate to a member’s official responsibilities, his or her actions as a public employee, information that is within the public domain (e.g., formula used to calculate pension member’s salary, bonuses) or information provided by other similarly situated retirement systems (e.g., the gross amount of any benefit or any refund of member contribution) is non-confidential, public information and should be disclosed. However, requests for more personal information (e.g., addresses, telephone numbers, social security numbers, disability and medical records and investigations, marital status, designated beneficiary, etc.) ordinarily should not be disclosed, unless the member has consented to disclosure, and the request should be referred to legal counsel for further handling.
6. Determine whether otherwise disclosable records need to be reorganized or redacted such that confidential information is not included in the disclosed material.
7. If, for any reason, ICERS believes that certain records should not be disclosed, or questions whether certain records should be disclosed, legal counsel should be consulted.

### **B. Preparing the Response Letter**

Under normal circumstances, within 10 calendar days after receipt of the request, ICERS most notify – in writing – the person making the request whether some or all of the records will be disclosed. The response letter should also contain the following:

1. If any records will not be disclosed, ICERS must explain why those records are being withheld. If some of the requested records will be disclosed while others will not, it is important that ICERS clearly delineate which records will be disclosed (and which will not) and explain the reasons for the distinctions.
2. If some or all of the requested records will be disclosed, ICERS must state the estimated date and time when the records will be made available. In general, ICERS should provide the relevant information or make the records available at the earliest practicable date.
3. If some or all of the requested records will not be disclosed, because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record, (pursuant to Government Code Section 6255) ICERS must set forth the name and title or position of each person responsible for the denial.

### **C. Producing the Records**

The logistics of providing the requested records should be worked out on a case-by-case basis in cooperation with the person making the request. If practicable, the information should be communicated by letter.

Under the PRA, ICERS is entitled to charge a fee for the direct costs of duplicating any record. If the production will require substantial copying, ICERS will not commence copying until the requesting party pays ICERS the estimated cost. Because ICERS operates a trust fund for the exclusive benefit of its members and their beneficiaries, ICERS will seek to recover any costs associated with responding to the production requests that are permitted by law. For example, if a request is made that requires ICERS to construct a new record in electronic form, and the request would require data compilation, extraction, or programming, ICERS will ordinarily charge for the actual cost of constructing the new record, including any necessary costs for programming and computer services. (Gov. Code, § 6253.9(b).) For records that require detailed manual file review of processing, ICERS may propose an alternative of accelerating the process through the use of extra help staff at the requester's expense, if that alternative is reasonably available.

ICERS is only required to provide public records in its possession or reasonably available to it which it prepared, owned, used or retained. (Gov. Code, § 6252(e).) ICERS is not required to create a record that does not already exist at the time of the request. *The People's Business: A Guide to the Public Records Act*, League of California Cities (2017), pages 11-13.

### **V. PRIOR POLICY REVOKED**

Any prior policy adopted by the Board relating to PRA requests is hereby revoked and replaced by this policy.

(00453677)

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
DISABILITY RETIREMENT POLICIES AND PROCEDURES**

ICERS

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**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
DISABILITY RETIREMENT POLICIES AND PROCEDURES**

**ARTICLE I**

**GENERAL PROVISIONS; DEFINITIONS**

Section 1      Scope and Citation.

These Disability Retirement Policies and Procedures of the Imperial County Employees' Retirement System (ICERS) govern the filing, proceedings, decisions and the review of decisions relating to an application for disability retirement for a member under the County Employees Retirement Law of 1937 (commencing at Government Code Section 31450), operative with respect to the officers and employees of the County of Imperial July 1, 1951, and this policy and procedure.

Section 2      Definitions.

Unless the context of subject matter requires otherwise, the following definitions shall apply:

- (a) 1937 Act: The County Employees Retirement Law of 1937 as provided by Title 3, Division 4, Part 3, Chapter 3 (commencing at Section 31450 of the Government Code) which apply to Imperial County, the Imperial County Court System, the Imperial County Board of Supervisors, the Imperial County Retirement System, the Imperial County Board of Retirement, the Local Agency Formation Commission (LAFCO), the Imperial County Transit Commission (ICTC) and their respective agents, and Members of the Imperial County Retirement System.
- (b) Applicant: The person or entity filing an application for disability retirement benefits and who is authorized by statute or a valid court order having jurisdiction over the matter to apply for such benefits on the Applicant's own behalf or on behalf of a Member of the retirement system.
- (c) Board of Retirement: The Imperial County Board of Retirement.
- (d) County: Imperial County.
- (e) ICTC: The Imperial County Transportation Commission.
- (f) LAFCO: The Local Agency Formation Commission.
- (g) Superior Court: the Imperial County Superior Court System.
- (h) Day: Calendar day.
- (i) Department Head: The head of the County office or department in which a Member is or was last employed. The term "Department Head" includes a designated representative of a Department Head.



(j) Hearing Officer: A member of the State Bar of California or administrative law judge assigned by the Office of Administrative Hearings who is appointed by the Board of Retirement, or the state Office of Administrative Hearings at the Board's request, to preside at a de novo hearing on a disability retirement application.

(k) Holiday: All holidays specified in Government Code Sections 6700 and 6701 including Saturdays and Sundays, and any day in which County offices are closed. (Gov. Code, § 31525.)

(l) Member: A member of the Imperial County Retirement System as provided by the 1937 Act or applicable law.

(m) Retirement Administrator: The Retirement Administrator of the Imperial County Employees' Retirement System.

### Section 3      Effective Date.

The provisions of this policy and procedure shall become effective the date they are approved by the Board of Retirement, and shall be applicable to all applications for disability retirement filed after the date of effectiveness, and, except as provided herein or by resolution or order of the Board of Retirement, and shall be applicable to all applications for disability retirement pending on the date this policy and procedure becomes effective.

### Section 4      Resolution of Conflicting Provisions.

These sections are intended to conform to provisions and judicial rulings relating to the 1937 Act applying to County, Court System, ICERS, Members, LAFCO and ICTC. Such provisions and judicial rulings shall prevail in resolving any conflict between these policies and procedures and the 1937 Act.

### Section 5      ICERS Location, Mailing Address and Telephone Number for Disability Retirement Matters.

The location, mailing address and telephone number of the administrative office of ICERS for disability retirement matters is:

Imperial County Employees' Retirement System (ICERS)  
Disability Retirement Section  
1221 W. State Street  
El Centro, California 92243  
Telephone: (442) 265-7550

### Section 6      Captions and Citations.

Captions are inserted for convenience of reference only and do not define, describe or limit the scope of the intent of the provisions of these policies and procedures; statutory and judicial case

citations within parenthesis at or near the end of a section or subdivision are inserted for convenience of reference.

Section 7      Words Used in Present Tense.

Words used in these policies and procedures in the present tense include the future tense except where the context requires otherwise.

Section 8      Number and Gender.

As used herein and whenever required by the context, each number, both singular and plural, shall include all numbers, and each gender shall include all genders.

Section 9      May and Shall.

Whenever used herein, “may” is permissive and “shall” is mandatory.

Section 10      Penalties For Failure to Comply with Disability Retirement Policies and Procedures.

Failure of the Applicant to comply with these procedures may be treated as non-cooperation and may result in dismissal of the application with or without prejudice. Failure to comply includes, but is not limited to, failure to submit to medical examinations, failure to submit documents requested by ICERS, failure to cooperate in the formal hearing process, failure to follow any order of the Board or Hearing Officer, and failure to comply with the requirements set forth in these policies and procedures.

## ARTICLE 2

### CONFIDENTIAL RECORDS, CLOSED SESSIONS, COMMUNICATION WITH BOARD MEMBERS

#### Section 11    Confidential Records and Closed Sessions.

Unless the Member consents otherwise in writing, all documents, reports, including medical reports, and records, including applications, notices, orders, findings and decision relating to an application for disability retirement shall remain confidential and shall not be subject to public inspection. Unless the Member consents otherwise in writing, any hearing, presentation or consideration relating to an application for disability retirement shall be held in closed session. (Gov. Code §§ 31532 and 54956.9.)

#### Section 12    Communication with Board Members.

The Board of Retirement is the decision-maker for all disability retirement applications. As such, any ex parte communications between any Board Member or their representatives and any interested parties or their representatives concerning the merits or substance of a disability retirement application are prohibited until all proceedings with respect to the application have been concluded. Violations of this rule shall be disclosed in advance of any Board discussion of the affected disability retirement application and may result in the Board Member being found ineligible to either participate in any discussion regarding the application or to vote on the application.

For purposes of this section, the term “interested party” shall include the following: the Applicant, the Member, the Department Head, ICERS’ Disability Attorney, the Hearing Officer, and any of their representatives or counsel.

Nothing in this section precludes a Board Member or their representative from responding to questions and inquiries from members or their counsel regarding procedural matters or the status of an application.

Notwithstanding the foregoing, the Retirement Administrator may designate any person, including ICERS’ Disability Attorney, to present a summary of the application and a written recommendation to the Board of Retirement pursuant to Article 3, Section 13(a) and Article 8, Section 25(a)(4), provided that the written recommendation is provided to the Applicant following the Board meeting in which such recommendation is considered.

## ARTICLE 3

### RIGHT TO REPRESENTATION

Section 13     Applicant's Right to Representation; Substitution or Dismissal; Effect of Service of Notices.

- (a) Representation of Parties. A party shall be entitled to be represented by an attorney or other representative of choice ("representative") at the party's expense at any stage of the proceedings before the Board of Retirement. Neither the Applicant, the Member, nor their representative may be present during Board of Retirement deliberations or during closed session consideration of the disability retirement application unless the Applicant or Member has filed a request for hearing de novo or other motion and such matter is before the Board of Retirement. Notwithstanding anything in this section, representation of a party by a non-attorney during a hearing de novo is prohibited.
- (b) Recognition of Representative. The representative shall be recognized by ICERS as the representative of a party only after:
- (1) a written notice, dated and executed by the party, providing the name, address and telephone number of the representative is filed with the ICERS; or
  - (2) a representative is substituted or dismissed pursuant to the provisions of subdivision (c) of this section.
- (c) Substitution or Dismissal of Representative. A representative may be changed at any time only as follows:
- (1) upon the written consent, dated and executed, providing the name, address and telephone number of any new representative filed with ICERS, or
  - (2) upon the consent of both a party and the representative entered upon the minutes of the Board of Retirement, or
  - (3) upon order of the Board of Retirement, upon written application of either the party or the representative, after 15 days' notice from one to the other.
- (d) Service of Notices on Applicant's Representative. Notwithstanding any other provisions of these policies and procedures, all notices shall be served on the party's representative and shall thereby constitute service on the party.

Section 14     Role of Legal Counsel.

In all disability matters, the Board of Retirement and ICERS shall be represented and advised by separate legal counsel. The General Counsel shall advise the Board and the Disability Attorney shall advise ICERS. The General Counsel and the Disability Attorney shall not engage in any

ex parte communications regarding the merits or substance of any disability retirement application prior to the Board of Retirement's final decision on the application.

ICERS

## ARTICLE 4

### TIME

#### Section 15 Computation, Commencement and Extension of Time.

- (a) **Holidays Not Included.** The time in which any act is to be done is computed by excluding the first day and including the last, unless the last day is a Holiday, and then it is also excluded.
- (b) **Determination of Time.** If the last day for the performance of any act to be performed within a specified period of time is a Holiday, then such period is hereby extended to and including the next day which is not a Holiday.
- (c) **Commencement of Time; Extension of Time for Mailing.** Any prescribed period of a notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of such notice (“the period”) commences on the date the notice is served; but when such notice is served by mail or by certified mail – return receipt requested, the period shall be extended five (5) days if the place of address for service is within the State of California, ten (10) days if the place of address for service is outside the State of California but within the United States, and twenty (20) days if the place of address for service is outside of the United States.

## ARTICLE 5

### NOTICE AND SERVICE

#### Section 16 Service of Notices and Papers; Change of Address; Proof of Service.

- (a) Service of Notice and Papers. Notices and papers shall be served personally or by mail on each party or their representative.
- (b) Change of Address. Until a written notice of change of address is filed with ICERS, all notices and papers served by ICERS by mail or by certified mail, return receipt requested, as allowed shall be served at the mailing address of the party or the party's representative as last filed in writing with ICERS.
- (c) Method of Service by Mail; Completion of Service; Proof of Service.
- (1) Method of Service by Mail. In case of service by mail or by certified mail, return receipt requested, the notice or other paper must be sent through the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served at the person's mailing address.
- (2) Completion of Service. The service by mail or by certified mail, return receipt requested, is complete at the time of deposit.
- (d) Required Service of Proof of Service. Whenever a notice or paper is served on a party or parties, ICERS shall also serve a proof of service on the same date of service of the notice or paper.

## ARTICLE 6

### APPLICATIONS; REPORT; FEES; SERVICE RETIREMENT ALLOWANCE PENDING DECISION

#### Section 17    Documents Available Upon Request.

An application and copy of this policy and procedure are available upon request to ICERS.

#### Section 18    Complete Application Requirement; Filing Date; File Mark; Dismissal of Application Without Prejudice to Refile.

(a) Complete Application Requirement. Only complete applications will be accepted by ICERS. A complete application means all of the following:

- (1) all pages are intact and in order;
- (2) all questions are answered and all responses to such questions are legible;
- (3) the claim(s) for disability retirement is/are set forth in detail;
- (4) all medical reports and documents are attached and legible;
- (5) at least one medical report for each claimed disability, prepared within one year of the application filing date, stating the Member's condition is permanently incapacitating;
- (6) a copy of the Member's most recent job description (which is obtainable from the Employer's Human Resources Department);
- (7) Applicant has dated and signed the application under penalty of perjury in the presence of an ICERS disability staff representative or notary public licensed by the state of residence;
- (8) a completed and signed form Claim Against Third Parties is included;
- (9) the Notice of Representative portion is fully completed, dated and signed by the Applicant; and
- (10) the Release of Medical Information portion is fully completed, dated and signed by the Applicant.

(b) All complete applications shall be deemed filed as of the date a complete application is received by ICERS.

(c) Dismissal of Application Without Prejudice to Refile. Failure to file a complete application shall be grounds for non-acceptance of the application or dismissal of the application;



however, a new application may be filed in accordance with the 1937 Act and this policy and procedure.

Section 19 Filing of Application; Complete, Incomplete, and Amended Applications.

(a) Filing of Complete Application; Ten (10) Day service of Notice of Filing Complete Application. Within ten (10) days of the date of filing of an original complete application or as soon as is administratively feasible, ICERS shall serve the Member, Applicant, Department Head, and the Employer's Director of Human Resources with a copy of a notice of filing or complete application.

(b) Incomplete Application.

(1) Service of Notice of Receipt of Incomplete Application. Within ten (10) days of receipt by ICERS of an incomplete application or as soon as is administratively feasible, ICERS shall serve the Member, the Applicant, the Department Head and the Director of Human Resources a notice of receipt of incomplete application.

(2) Thirty (30) Days to File Complete Application. Within thirty (30) days of the last date of service of the notice of receipt of incomplete application on the Member, Applicant, Department Head and the Director of Human Resources the Applicant shall submit to ICERS a complete application.

(A) Extension of Time to File. Notwithstanding the provisions of subdivision (b)(2) of this section, upon the filing of a written request for extension of time within the thirty (30)-day period, said request must state facts showing that a complete application cannot with the exercise of reasonable diligence be timely filed. The request must state the amount of additional time that is necessary for the filing of a complete application. The time for filing of a complete application may be extended by the Board of Retirement or the Retirement Administrator.

(3) Filing date of Complete Application. Upon receipt by ICERS of a complete application within a thirty (30)-day period or within such other period as allowed by the Board of Retirement or Retirement Administrator, the complete application shall be considered filed as of the date of receipt by ICERS.

(4) Service of Notice of Filing Complete Application. Within 10 days of receipt by ICERS of a complete application or as soon as is administratively feasible, a notice of filing of complete application shall be served as provided herein. The notice of complete application shall inform the recipient that a copy of ICERS' Disability Policies and Procedures is available for review on ICERS' website.

(c) Amended Application.

(1) Any complete application may be amended as a matter of right within ninety (90) days of filing the original application or as set forth in Section 32 below. The amended application must be in writing and signed by the Applicant.

(2) The Board of Retirement or the Retirement Administrator may grant leave to file an amended application after expiration of the ninety (90)-day period when all of the following apply:

(A) The Applicant has filed a written request for leave to file an amended application; and

(B) The request states facts showing that an amended application could not be timely filed with the exercise of reasonable diligence.

(3) Notice of Filing a Complete Application. Within ten (10) days of the filing of an amended application complying with this subdivision, or as soon as is administratively feasible, a notice of filing of complete application and a copy of these policies and procedures shall be served on the Member, the Applicant, the Department Head and the Director of Human Resources.

Section 20 Reports and Documents.

(a) Reports and Documents Prepared After Notice of Filing of Complete Application. Applicant shall submit to ICERS not later than ninety (90) days after service of the notice of filing of complete application on the Member, the Applicant, the Department Head, and the Employer's Director of Human Resources, one copy of all reports, documents, and pre-existing reports or documents not included with the original application.

(b) Treatment of Late Filed Reports or Documents. Any report, document, pre-existing report or pre-existing document not filed in conformity with subdivision (b) of this section:

(1) may not be accepted by the Retirement Administrator for filing or be considered and admitted into evidence in support of the application, or

(2) if accepted for filing, may be considered in a way unfavorable to the Applicant and/or Member for whom the application is filed.

(c) Leave to File Late Reports or Documents. Notwithstanding the provisions of this section, a request for leave to file additional reports or documents may be filed which states facts showing that a report or document could not have been timely with the exercise of reasonable diligence. The request may be granted by the Board of Retirement or the Retirement Administrator.

Section 21    Costs of Report and Documents Filed by Applicant.

Applicant Reasonable for Costs of Reports and Documents. Unless otherwise provided for in these policies and procedures, all costs incurred in preparation of the application and all costs incurred for any report or document shall be borne solely by the Applicant.

ICERS

## ARTICLE 7

### ICERS REQUESTED MEDICAL EXAMINATIONS; ADMINISTRATIVE EVALUATION; SUBPOENAS

#### Section 22    Medical Examination Paid by ICERS.

- (a) Twenty (20) Day' Notice of Medical Examination. Unless a Member agrees to a shorter notice period, a twenty (20)-day written notice is required of any scheduled physical or psychiatric medical examination at a date, time and place designated by the Retirement Administrator.
- (b) Costs for Medical Examination. ICERS shall pay all costs of the medical examination provided by subdivision (a) of this section and shall reimburse the Member for mileage at the County's rate of mileage reimbursement.
- (c) No-Show Fee. The Member will pay any costs incurred as a result of the failure to attend the scheduled medical evaluation. Any fees incurred due to an untimely cancellation of an appointment shall be the responsibility of Applicant. Any waiver of fees will be determined by the Retirement Administrator.
- (d) Unexpected Expenses. It shall be within the discretion of the Board of Retirement to consider and grant any written request of a Member who incurs unexpected expenses under the provisions of this section.
- (e) Furnishing Member Copy of Report. Upon the Member's request, ICERS shall furnish the Member with a copy of any non-psychiatric medical report prepared by the medical examiner pursuant to subdivision (a) of this action, but only after service of the notice of Board decision without hearing pursuant to Section 26 of these policies and procedures.
- (f) Due to the sensitive nature of psychiatric and/or psychological records, such records shall only be given to the Applicant's attorney or treating physician designated in writing by the Applicant, unless otherwise ordered by the Board of Retirement or the Hearing Officer or unless the authoring physician or mental health provider provides express written authorization to release the record directly to the Applicant.
- (g) Denial of Application for Failure to Submit to Examination. Failure of a Member to submit to a medical examination properly noticed under subdivision (a) of this section, without good cause, shall constitute grounds for denial of the application with or without prejudice or for considering such failure in a way unfavorable to the Applicant.

Section 23     Administrative Evaluation.

- (a)     Evaluation. A member shall cooperatively meet with the Retirement Administrator, or his or her designee, to discuss the nature, extent and circumstances of matters relating to the application.
  
- (b)     Denial of Application for Failure to Cooperate. If a Member who has filed an application or for whom an application has been filed fails to comply with the provisions of subdivision (a) of this section without good cause, such failure shall constitute grounds for denial of the application with or without prejudice or for considering such failure in a way unfavorable to Applicant.

Section 24     Subpoenas.

- (a)     Issuance of Subpoenas. The Board of Retirement shall issue subpoenas and subpoenas duces tecum signed but otherwise in blank. The Retirement Administrator shall make such subpoenas and subpoenas duces tecum available upon request by any party to a proceeding pending before the Board of Retirement. The party requesting issuance of a subpoena shall complete the subpoena before service and shall be responsible for the cost of service of the subpoena and for any witness fees, including medical expert witness hourly fees and costs.
  
- (b)     Enforcement of Subpoena Power. Subpoena power shall be exercised and enforced in the same manner as the similar power granted the Board of Supervisors in Title 3, Division 2, Part 2, Chapter 1. Article 9 (commencing with Section 25170) of the Government Code; except that such power shall extend only to the matters within the jurisdiction of the Board of Retirement, and committees of the Board of Retirement shall not have the subpoena power.
  
- (c)     Signing of Subpoenas. The Chairman or Secretary of the Board of Retirement, the Retirement Administrator or their designee, a Hearing Officer or hearing officer shall sign subpoenas. (Gov. Code, § 31535.)
  
- (d)     Oaths. Any Member of the Board of Retirement, the Hearing Officer, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the Board of Retirement or referee. (Gov. Code, § 31535.)
  
- (e)     Witness. A witness served with a subpoena or subpoena duces tecum shall attend at the date, time and place designated, with any papers under the control of the witness required by the subpoena, and answer all relevant and legal questions. The witness shall remain until discharged or until the testimony is closed. (Code Civ. Proc., § 2064.)
  
- (f)     Failure to Comply with Subpoena or Subpoena Duces Tecum. In addition to any other provision provided by law or these policies and procedures, failure of any witness, including a physician or other expert witness, to comply with the provisions of subdivision (e) of this section shall be grounds for not admitting into evidence any statement, document, including medical report, or other evidence attributable to the witness or construing any statement, document or other evidence in a way unfavorable to such witnesses. (Gov. Code, § 31535.)

(g) Deposition. Subpoenas and subpoenas duces tecum may be used for taking depositions from parties and witnesses at such times and locations designed by a party, which shall constitute taking such depositions before the Board of Retirement. (Gov. Code, § 31535.)

ICEERS

## ARTICLE 8

### ADMINISTRATOR REVIEW AND RECOMMENDATIONS; BOARD DECISION WITHOUT HEARING; NOTICE

#### Section 25     Review and Recommendations of Retirement Administrator.

As soon as is administratively feasible following the more recent date of service of either the last date of service of the notice of filing of complete application or the notice of incomplete application, the Retirement Administrator or their designee shall do the following:

- (a) Upon receipt of the filing of a complete application, the Retirement Administrator shall:
- (1) investigate claims made in the application as the Retirement Administrator deems necessary and appropriate and pay any costs associated with the investigation;
  - (2) schedule and notice a physical and/or psychiatric evaluation as deemed necessary;
  - (3) upon written request of the Member, the Applicant, the Department Head or the Director of Human Resources, present the application and related documents and materials to the County Health Officer for review and written recommendation; and
  - (4) present to the Board of Retirement a summary of the application with a recommendation consisting of one or more of the following actions:
    - (A) approval of the application;
    - (B) denial of the application;
    - (C) approval of the disability application and denial of the job causation allegation;
    - (D) approval of any type of disability retirement for the Member;
    - (E) approval of a negotiated settlement of an application;
    - (F) further review and investigation of the application;
    - (G) setting the application for hearing before the Board of Retirement or Hearing Officer; or
    - (H) extension of the time allowed to file a complete application, report or document.
- (b) The summary of the application and recommendation prepared by the Retirement Administrator for the Board of Retirement shall take place in closed session and shall not be

disclosed to the Applicant or Member until after the Board of Retirement takes action on the proposed recommendation.

Section 26    Board of Retirement Decision Without Hearing.

(a)    Decisions Without Hearing. After receipt and consideration of the summary of evidence and written recommendations of the Retirement Administrator, the Board of Retirement shall take action on the recommendation which may include the following:

- (1)    Approve and adopt the Retirement Administrator's recommendation;
- (2)    Remand the matter to staff with instructions for further investigation;
- (3)    Remand the matter to the General Counsel with instructions to prepare written findings, or any other instructions deemed appropriate; or
- (4)    Any other action the Board deems necessary based on the summary of evidence and Retirement Administrator's recommendation.

(b)    Request for Hearing.

(1)    Ten (10)-Day Service of the Decision Without Hearing to Deny Application. Written ten (10) days of the date of decision, the Retirement Administrator shall serve the Member, Applicant, Department Head, and the Director of Human Resources the notice of decision, a blank request for hearing form.

(2)    Final Decision Without Hearing; Forty-Five (45)-Day Period; Request for Hearing. The decision without hearing shall become final forty-five (45) days after the last date of service of the notice of decision served on the Member, Applicant, Department Head, and the Employer's Director of Human Resources unless with such forty-five (45)-day period a party files with ICERS a request for hearing, or if the Board of Retirement on its own motion orders such action. A party who objects to a decision without hearing and who wishes to exhaust administrative remedies must request a hearing de novo as provided above.

(3)    Effect of Timely Filed Request for Hearing. The Timely filing of a request for hearing shall constitute an appeal of the decision without hearing and a request for an evidentiary hearing on the application before the Board of Retirement, de novo.





The declaration shall be filed not more than ten (10) days after the service of the notification of assignment of the Hearing Officer and shall be directed to the Retirement Administrator.

Section 30    Prehearing Statements.

(a)    Applicant's Prehearing Statement. No later than sixty (60) days after service of Notice of Receipt of Request for Hearing, the Applicant shall serve upon the Retirement Administrator and counsel for ICERS a prehearing statement containing the following:

- (1)    A statement of the issues and the contentions of the Applicant;
- (2)    A list and copies of all medical reports and depositions of medical witnesses on which the Applicant will rely at hearing;
- (3)    A list and copies of all other documents or transcripts the Applicant intends to offer into evidence at the hearing;
- (4)    The names, business addresses, and telephone numbers of any lay witnesses whose testimony the Applicant intends to present at the hearing, and a synopsis of each witnesses' expected testimony;
- (5)    The names, business addresses, and telephone numbers of any medical witnesses the Applicant intends to call for oral testimony at hearing and a synopsis of each witnesses' expected testimony; and
- (6)    A list and copies of any affidavits the party proposes to introduce into evidence.

(b)    Respondent's Prehearing Statement. No later than sixty (60) days from the date of service of the Applicant's prehearing statement, counsel for ICERS shall serve upon the Applicant and the Retirement Administrator a prehearing statement. The prehearing statement shall contain the following:

- (1)    A statement of the issues and the contentions of ICERS;
- (2)    A list and copies of all medical reports and depositions of medical witnesses on which ICERS will rely at hearing;
- (3)    A list and copies of all other documents or transcripts ICERS intends to offer into evidence at the hearing;
- (4)    The names, business addresses, and telephone numbers of any lay witnesses whose testimony ICERS intends to present at the hearing, and a synopsis of each witnesses' expected testimony;

- (5) The names, business addresses, and telephone numbers of any medical witnesses ICERS intends to call for oral testimony at hearing and a synopsis of each witnesses' expected testimony; and
- (6) A list and copies of any affidavits the party proposes to introduce into evidence.

Section 31     Extension of Time for Filing Prehearing Statement.

Any party may request an extension of time to submit a prehearing statement upon showing good cause. A party requesting the extension of time to submit a prehearing statement shall direct the request in writing to the Hearing Officer or the Office of Administrative Hearings and all other parties to the hearing. The request shall state the reason the prehearing statement cannot be submitting within the prescribed time limit. An adverse party shall have ten (10) days in which to file a written opposition to the request. The Hearing Officer shall have the power to rule on such a request.

Section 32     Amended Applications.

If at any time during the hearing de novo process, the Applicant alleges and offers medical proof that the claimed incapacity is the result of injury, illness or disease not listed in the application submitted to the Board, or, if listed, on which the Applicant submitted no medical evidence for the Board of Retirement's review when it considered the application, the hearing de novo shall be suspended, the allegation shall be treated as a preliminary amendment to the Application and the matter shall be referred back to the Board of Retirement for determination, subject to the filing of an amended Application as set forth in this section.

Within forty-five (45) days of the notice of suspension of the hearing de novo process, the Applicant shall file an amendment to the initial application, including at least one medical report for the newly-claimed disability, prepared within one (1) year of the amendment filing date, stating the Applicant's condition is permanently incapacitating. If no amendment, including supporting medical evidence is filed within the time prescribed herein, ICERS will notify the Applicant within ten (10) days after expiration of the sixty (60)-day period that the original application shall be referred back to the Hearing Officer to resume the hearing de novo process.

An amended application under this section shall be processed in accordance with these policies and procedures, as if it were an amended application pursuant to Section 19(c) herein.

Upon service of notification of Board action of the amended Application, the original hearing de novo shall resume. The Applicant shall have sixty (60) days from service of the notice of Board action in which to serve an amended prehearing statement.

Section 33     Scheduling of Hearing Date; Notice of Hearing.

Within twenty (20) days of the filing of ICERS's prehearing statement, Respondent shall submit the matter to the Hearing Officer or the Office of Administrative Hearings for the purpose of assigning a Hearing Officer and selecting the hearing date. The hearing date shall be within one

hundred and twenty (120) days of the filing of Respondent's prehearing statement or at the earliest administratively feasible date. In selecting the hearing date, the Hearing Officer shall, if possible, select a date that is acceptable to the Applicant.

Upon selection of the hearing date by the Hearing Officer, Respondent shall notify all parties of the date, time and location of the hearing and the name and address of the person or entity assigned to the Hearing Officer.

If the Applicant fails to respond to the Hearing Officer's reasonable requests to set a hearing date, Respondent may either set a hearing date or notify the Applicant that continued failure to respond to requests to set a hearing date may result in dismissal of the application.

#### Section 34    Prehearing Conferences.

At the request of any party or on his or her motion, the Hearing Officer may order a prehearing conference for the purpose of resolving or clarifying disputed procedural issues, the admissibility of disputed evidence or any other hearing-related issues.

A mandatory prehearing conference shall be scheduled in cases where the Applicant is not represented by counsel. The mandatory prehearing conference shall be scheduled as soon as practicable after service of Respondent's prehearing statement.

#### Section 35    Subpoenas; Expert Witness Fees.

Each party is responsible for obtaining and serving any subpoenas it deems necessary for the presentation of its evidence in accordance with Section 24 of these policies and procedures. Each party is responsible for any and all expert witness fees, including medical experts, for testimony obtained by subpoena issued under these policies and procedures.

#### Section 36    Continuances.

(a)    **Good Cause Requirement.** Notwithstanding any other provision of this article, upon written request and for good cause shown, the Hearing Officer may continue any hearing. Any request for continuance shall be made at least ten (10) days in advance of the scheduled hearing date except when the basis for the continuance is not known ten (10) days in advance of the hearing.

(b)    **Costs Resulting from Continuance.** An Applicant who requests and is granted a continuance shall be responsible for all costs incurred by ICERS as a result of such continuance, including, but not limited to, the costs of scheduling and canceling the services of a certified Court Reporter and/or expert witnesses.

#### Section 37    Reported and Recorded Hearing.

All hearings on an application shall be recorded by a certified Court Reporter paid by ICERS.

Section 38     Written Medical Reports as Evidence.

It is the policy of ICERS that production of medical evidence shall be in the form of written medical reports attached to the parties' prehearing statements. A written medical report bearing the signature of a medical witness may be admissible in evidence as the author's direct testimony and may support findings made by the Board or the Hearing Officer. Such medical reports shall not be inadmissible on the basis that they constitute hearsay, but each party shall have the right to cross-examine the authors of medical reports.

Section 39     Medical Witness Defined.

A medical witness is a person who by profession is a physician, surgeon, holding an M.D. or D.O. degree, psychologist, optometrist, dentist, podiatrist, or chiropractic practitioner, licensed by the State of California or by such other jurisdiction in which such person maintains his or her regular practice.

Section 40     Cross-Examination or Deposition of Medical Experts.

If a party wishes to cross-examine a medical expert who has prepared a written medical report to be offered by an opposing party at the time of hearing, or if a party wishes to depose such a physician prior to the hearing date, then the party wishing to cross-examine or depose such physician must serve a written request to do so upon all parties within twenty (20) days of the date on which the party is served with the pre-hearing statement identifying the medical report and the physician to be cross-examined or deposed. A copy of the request to depose or cross-examine the physician must be served on all parties. The right to cross-examine or depose a medical witness on their written report is deemed waived if a party fails to make a timely request in accordance with this provision.

The party requesting to cross-examine or depose the expert shall pay the reasonable and customary hourly fee for the actual time consumed in the examination of that witness by any party attending the action or proceeding. The expert's fee shall be tendered by the requesting party along with the written request for cross-examination. If the requesting party fails to tender the medical expert's fee as required in this section, the expert shall not be required to appear at that time unless the parties stipulate otherwise.

Section 41     Late Submission of Medical Reports.

Submission of a medical report not previously attached to the party's prehearing statement may be allowed by the Hearing Officer upon a showing of good cause. The party requesting submission of such a medical report shall make the request to the Hearing Officer and send a copy of the request to counsel for ICERS and all other parties. The request shall state the reason the medical report was not timely produced.

Section 42     Witness Testimony in Lieu of Personal Appearance at Hearing.

Parties may depose a witness in lieu of personal appearance at the hearing. The deposition of a witness on direct or cross-examination, in lieu of personal appearance at a hearing, shall take place at a reasonable time and place as requested by the witness and based on twenty (20) days' notice to all parties. All depositions must be completed at least fifteen (15) days prior to the hearing. The Hearing Officer shall consider the transcript of the witness' testimony as part of the record in reaching the recommended decision. The party requesting the testimony in lieu of personal appearance shall bear the costs associated with the testimony.

Section 43     Conduct of Hearing Before the Hearing Officer.

Hearings before the Hearing Officer, shall be conducted according to the following procedures:

- (a) Each party may make an oral opening statement.
- (b) The Applicant will present their evidence first, followed by ICERS. Each party may then present its rebuttal evidence. The Applicant shall have the burden of proof on the application, except as otherwise expressly provided in applicable law.
- (c) Each party shall have these rights subject to compliance with all other applicable law and rules contained herein: to call and examine witnesses listed in that party's pre-hearing statement, telephonically or in person; to introduce exhibits listed in that party's pre-hearing statement, including reports and depositions of medical witnesses; to cross-examine opposing witnesses, telephonically or in person, on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness, telephonically or in person, regardless of which party first called the witness to testify; and to rebut adverse evidence. If the Member does not testify, the Member may be called and examined by ICERS as if under cross-examination. The Member may testify telephonically or in person.
- (d) Oral evidence, telephonically or in person, shall be taken only on oath or affirmation.
- (e) Refusal of the Applicant or any other witness to submit to examination or to answer relevant questions shall be grounds for considering such questions, for the purposes of the hearing, to be answered unfavorably to that witness.
- (f) The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted, consistent with the requirements of these rules, if it is 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. Irrelevant and unduly repetitious evidence shall be excluded.



(g) Failure to Appear and Testify. Failure without good cause of a Member or Applicant to appear at the hearing to submit to examination or to answer any relevant question shall constitute grounds for the Board of Retirement dismissing the application with prejudice or considering such failure in a way unfavorable to such Member or Applicant.

(h) Privilege. The rules of privilege shall be effective to the extent that they otherwise are required by statute to be recognized at the hearing.

(i) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This section shall not be applicable to written medical reports received into evidence pursuant to Article 9, Section 37.

(j) Notwithstanding the provisions of this article, in reaching a decision official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by courts of the State of California.

(k) All hearings shall be conducted in the English language, except that of a party or witness who does not proficiently speak or understand the English language. A person who requests language assistance shall be provided an interpreter approved by the Board of Retirement or anyone conducting the proceedings. Unless otherwise expressly authorized by the Board of Retirement, the cost of providing the interpreter shall be paid by the party requesting the interpreter.

(l) Admissibility of Certified Copies of Government Records. Certified copies of the records or documents of any governmental agency, division or bureau shall be accepted as evidence in lieu of the original thereof.

(m) The disability retirement application and the administrative recommendation shall be admitted into evidence at the beginning of the hearing.

(n) At the conclusion of all evidence, each party may make an oral closing argument.

(o) Written closing arguments are not allowed. The Hearing Officer, in their discretion, may allow written closing arguments for the purpose of addressing a specific issue necessary to the resolution of the disability application. Written closing arguments shall not exceed ten (10) pages and shall be submitted to the Hearing Officer and the parties within ten (10) days of the close of the hearing.

(p) The record of the proceedings shall be closed and the matter submitted at the conclusion of the formal hearing, unless further documentary evidence or written closing argument is to be received. If such further evidence or argument is to be received, the Hearing Officer shall allow such time as deemed necessary for filing and serving copies on all parties. The record shall be closed and the matter deemed submitted upon such final filing or upon rulings on any objections to the evidence thus filed.

Section 44    Time and Place of Hearings.

Unless the parties and the Hearing Officer agree otherwise, a hearing shall be deemed set for one full day. Hearings which are not concluded by the end of the day, or whatever other time period to which there has been a stipulation shall be continued to the next agreeable hearing date which shall be no more than thirty (30) days from the initial hearing date. When the hearing date and time have been selected, ICERS shall arrange for use of a hearing room and shall in writing notify the parties and the Hearing Officer of the date, time and place of the hearing.

ICERS



## ARTICLE 10

### REFEREE'S FINDINGS AND RECOMMENDED DECISION

Section 45     Scope of Article.

This Article governs the proposed findings of fact and recommended decision of the Hearing Officer following a hearing de novo.

Section 46     Hearing Officer's Proposed Findings of Fact and Recommended Decision.

Within forty-five (45) days after the hearing is closed and the matter submitted, the Hearing Officer will serve a written Proposed Findings of Fact and Recommended Decision on the parties and the Retirement Administrator. The Proposed Findings and Recommended Decision shall include a summary of the evidence, proposed findings of fact, conclusions of law, and recommended decision.

Section 47     Objections to hearing Officer's Proposed Findings of Fact and Recommended Decision; Response to Objections.

Any party objecting to the Hearing Officer's Proposed Findings of Fact and Recommended Decision must file written objections with ICERS no later than ten (10) days after service of the Proposed Findings of Fact and Recommended Decision. The objecting party shall serve the written objections on all parties.

ICERS and any other parties may respond to the objections by filing and serving a written response on all other parties no later than ten (10) days after service of written objections. Any objections and the responses thereto received by ICERS shall be incorporated into the record to be considered by the Board.

Section 48     Board Consideration and Action on Hearing Officer's Proposed Findings of Fact and Recommended Decision.

The Board of Retirement will consider the Hearing Officer's Proposed Findings of Fact and Recommended Decision on a date, time and location noticed to all parties. Any party or their counsel may request the opportunity to make an oral presentation to the Board of Retirement in closed session and, if a party or their counsel so requests, the Board shall invite the opposing party to attend the session to present an opposing presentation. No new evidence or witness testimony may be heard or received by the Board of Retirement. At the close of the parties' presentations in closed session, the parties shall leave the session so the Board may deliberate confidentially with the assistance of its General Counsel. The Board may:

- (a) Approve and adopt the proposed findings of fact and the recommendations, or

(b) Require a transcript or summary of all the testimony, plus all other evidence received by the Hearing Officer. Upon the receipt thereof the Board of Retirement shall take such action as is indicated by such evidence, or

(c) Refer the matter back with or without instructions to the referee for further proceedings, or

(d) Set the matter for hearing before itself. At such hearing the Board of Retirement shall hear and decide the matter as if it had not been referred to the referee. (Gov. Code, § 31534.)

Section 49     Notice of Decision.

The Board's decision on the Hearing Officer's Proposed Findings of Fact and Recommended Decision shall become final thirty (30) days after the last date of service of the notice of decision served on the Member, the Applicant, the Department Hearing, and the Employer's Director of Human Resources.

Section 50     No Disability Retirement Benefits Paid Until Effective Date of Board Action.

No disability retirement benefit shall be paid by ICERS until the action, order or decision of the Board of Retirement becomes final unless ordered otherwise by the Board of Retirement.

## ARTICLE 11

### JUDICIAL REVIEW OF FINAL DECISIONS AND ORDERS; STATUTE OF LIMITATIONS

#### Section 51     Statement of Decision.

As used in this article, “decision” means a decision subject to judicial review governed by Section 1094.5 of the Code of Civil Procedure, suspending, demoting, or dismissing an officer or employee, revoking, or denying an application for any retirement benefit or allowance. (Code Civ. Proc., § 1094.6(e).)

#### Section 52     Record and Payment.

The complete record of the proceedings in which the decision is made shall be prepared by the Retirement Administrator upon written request, and shall be delivered to the party requesting such record within ninety (90) days after the party has filed such request. The Retirement Administrator shall, within fifteen (15) days of such request, notify the party of the estimated cost of the preparation of the requested record. The party requesting such record shall, within ten (10) days of such notification, deposit with the Retirement Administrator an amount sufficient to cover the estimated cost. If during the preparation of the record it appears that additional costs will be incurred, the party requesting such record will be notified and shall deposit such additional amounts before the record will be completed. If the amount deposited exceeds the cost, the difference shall be returned to the party requesting such record. Upon receiving the required deposit, the Retirement Administrator shall prepare such record. Such record shall include the transcript of the proceedings, all pleadings, notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local agency which made the decision, all written evidence, and any other papers in the case. (Code Civ. Proc., § 1094.6(c).)

#### Section 53     Required Notice.

In making a decision, the Board of Retirement shall provide notice to the party that the time within which judicial review must be sought is governed by this section. Upon giving notice of any decision, the Retirement Administrator shall include in the decision a statement substantially as follows:

The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure Section 1094.6, which has been made applicable to the Imperial County Board of Retirement by the resolution adopting its bylaws and regulations and policies and procedures. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the ninetieth (90th) day following the date on which this decision becomes final; however, if within ten (10) days after the decision becomes final, a request for the record of proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the thirtieth (30th) day following the date on which

the record is either personally delivered or mailed to the party, or the party's representative or attorney of record, if the party has one. A written request for the preparation of the record of the proceedings shall be filed with:

Imperial County Employees' Retirement System (ICERS)  
Retirement Administrator  
Disability Retirement Division  
1221 W. State Street  
El Centro, California 92243

(Code Civ. Proc., § 1094.6.)

ICERS

## ARTICLE 12

### **MEDICAL EXAMINATION OF DISABILITY RETIREE; CANCELLATION OF DISABILITY BENEFITS AFTER EXAMINATION; REENTRY INTO SERVICE**

#### Section 54    Definition of Disability Retiree.

Disability retiree means a person awarded a disability retirement under these policies and procedures.

#### Section 55    Medical Examination of Disability Retiree.

The Board of Retirement may require any disability retiree under age 55 to undergo medical examination. The examination shall be made by a physician or surgeon appointed by the Board of Retirement at the place of residence of the retiree or other place mutually agreed upon. Upon the basis of the examination, the Board of Retirement shall determine whether the disability retiree is still physically and/or mentally incapacitated for service in the position within the department of the Employer where the retiree was employed when retired for disability. Gov. Code, § 31729.)

#### Section 56    Cancellation of Benefits after Medical Examination; Reinstatement of Employment.

If the Board of Retirement determines that the retiree is not incapacitated and the Employer offers to reinstate the retiree, the retiree's allowance shall be canceled forthwith, and the retiree shall be reinstated in service pursuant to the regulations of the Employer for reemployment of personnel. (Gov. Code, § 31730.)

#### Section 57    Refusal to Submit to Examination; Effect.

If any disability retiree under age 55 refuses to submit to a medical examination, the retiree's pension shall be discontinued under the withdrawal of such refusal, and if the refusal continues for one year, the retiree's allowance shall be canceled. (Gov. Code, § 31731.)

(00453695)

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
CORRECTION OF BENEFIT PAYMENT ERRORS POLICY**

**I. PURPOSE**

To establish criteria and procedures for resolving benefit overpayment or underpayment errors to Members and beneficiaries in compliance with Internal Revenue Code Section 401(a) and IRS correction guidance as set forth in Revenue Procedure ("Rev. Proc.") 2016-51 and amendments thereto. It is the intent of the Board of Retirement ("Board") to fulfill its fiduciary duties to properly pay benefits pursuant to plan terms and to safeguard retirement fund assets by making every reasonable effort to correct errors in a timely manner.

This policy is designed to address substantial errors and does not apply to minor adjustments that occur during the routine administration of the retirement association and are corrected within a reasonable time. For the purposes of this policy, unless otherwise noted, the term "Member" includes Members of ICERS and their beneficiaries and estates.

**II. POLICY**

- A. Discovery, Investigation, and Correction:** Upon discovery of an error, ICERS staff shall conduct an investigation of the error to determine the cause of the error. ICERS staff shall immediately make necessary changes to the Member account in order to correct the error prospectively.
- B. Notice to Member:** As soon as administratively practical, ICERS staff shall alert the Member of the error and of the corrective action to be taken. The notice should provide an explanation of the error and corrective action to be taken. The notice will also provide information regarding the Member's right to appeal and the process for the appeal. Notice via First Class U.S. Mail is sufficient for service of the notice.
- C. Extensive Errors:** The Board retains the right under this policy to determine appropriate correction of errors that affect a significant number of Members. Correction of these errors shall be consistent with IRS guidelines.
- D. Time Limitations:** ICERS will use its best efforts to correct fully all benefit payment errors in a timely and expeditious manner. Full correction includes recovery of all overpaid benefits and payment of all underpaid benefits (including interest in accordance with Section II.G. of this policy) regardless of when the error was made. ICERS recognizes that various limitations periods apply to the commencement of court actions for recovery of overpaid benefits. Government Code Section 31539 allows for a ten (10)-year statute of limitations for commencing an action when the error was due to the fraud of the Member or the Member causing his or her compensation to be improperly increased or overstated

at the time of retirement. An action not based on the fraud or misrepresentation of the Member should be commenced within three (3) years of the improper payment or the discovery of the error, whichever is later.

Notwithstanding the above, recovery of an overpayment of benefits through an offset of future benefits is not an action in court and is not subject to the above-referenced limitations periods.

- E. Offsets:** The IRS has determined that an offset to future benefits is an appropriate means of recovering an overpayment of benefits. (Rev. Proc. 2016-51, § 6.06(3); Rev. Proc. 2016-51, Appendix B, § 2.04.) Recovery of overpaid benefits through an offset to future benefits is not an assignment under Government Code Section 31452 because the IRS has determined that an overpayment is an error, which can be recouped, including through a reduction in future benefits. Further, Government Code Section 31539 specifically permits adjustment of future benefits to recover overpayments in cases of fraud or Member wrongdoing. As such, ICERS may offset future benefits as a means to recover overpayments, regardless of the cause.
- F. Correction Period:** ICERS shall correct all underpayments of benefits as soon as administratively practicable after discovery of the error by making a lump sum payment to the affected Member with interest on the accrued amount, if appropriate.

Generally, ICERS will attempt to recover overpaid benefits as quickly as possible. ICERS and the Board recognize, however, that immediate recovery of overpaid benefits may cause undue hardship on the affected Member. Therefore, the ICERS Retirement Administrator (“RA”) is authorized to approve installment payments over a reasonable repayment period. Examples of reasonable repayment periods include, but are not limited to, the plan fiscal year or the period over which the error occurred, but in no event shall the repayment period exceed the Member’s actuarially expected life span.

- G. Interest:** Interest on underpaid benefits will be paid by ICERS at the same rate as interest is credited to Member contribution accounts. Interest on underpaid benefits will only accrue twice per year at the same time interest is credited to Member contribution accounts.

Interest on overpaid benefits will be assessed by ICERS at the actuarial assumed rate of return at the time of the discovery of the error. Interest may be waived if the Member completes full repayment of the overpayment within ICERS’ plan fiscal year. Subject to Section H below, the Retirement Administrator may reduce the rate of interest assessed against the Member when the overpayment of benefits was due to the mistake or inadvertence of the Member, ICERS, or the Member’s employer. The interest rate assessed on the recovery of overpaid benefits should not be reduced if the overpayment is due to fraud of the Member or by the



Member purposefully causing an improper increase of overstatement of compensation at the time of retirement.

- H. Staff Authority:** For underpaid benefits in the amount of \$10 or less, ICERS has discretion to determine whether the location of the payee and making of the payment is administratively practical.

The Retirement Administrator may waive recovery of any overpaid benefits in amounts less than \$100 on the Retirement Administrator's own authority after reasonable collection efforts have been exhausted.

On the Retirement Administrator's own authority, the Retirement administrator may compromise the amount of the principal, reduce or eliminate interest, and/or extend the repayment period for overpaid benefits in the amount of \$10,000 or less. The Retirement Administrator will take into consideration whether the recovery causes a severe hardship on the Member and the cost and likelihood of success of collection actions. The Retirement Administrator may also direct staff to refer the matter to a collection agency for recovery of the overpaid benefits.

For amounts over \$10,000, the Retirement Administrator will report the error to the Board at the board's next public meeting. The report will provide the Board with a synopsis of the cause of the error and suggestions for recovery. The Board may then compromise the principal amount, reduce or eliminate interest, and/or extend the repayment period. The Board will take into consideration whether the recovery causes a severe hardship on the Member and the cost and likelihood of success of collection actions, including potential legal defenses thereto. The Board may direct staff to refer the matter to a collection agency for recovery of the overpaid benefits (plus interest).

- I. Collection Limits:** ICERS recognizes that a correction of benefits and repayment of overpaid benefits may be a hardship for ICERS Members. The IRS requires that ICERS make full correction of errors through reasonable means. The monthly amount offset applied to a Member benefit for recovery of overpaid benefits shall be limited to 20% of the Member's gross benefit amount but in no event shall the offset be reduced such that the repayment period exceeds the Member's actuarially expected life span.
- J. Reporting:** At least annually, the Retirement Administrator will report to the Board at a regularly scheduled public meeting the amount, cause, and recovery status of any overpaid benefits exceeding \$100. The report may be provided as part of the consent agenda.
- K. Employer Notice:** At least, annually, ICERS will send a report to the administrative office of each plan sponsor whose retired employees have received a benefit overpayment providing the amount, cause, and recovery status of any overpaid benefit. The notice will also contain information regarding the



employer's responsibility for any amounts that ICERS is unable to recover from the Member.

- L. Due Process and Appeals:** Members shall have the right to appeal any benefit corrections and overpayment recovery determinations made by ICERS staff. Appeals will be governed by the ICERS Benefit Appeals Policy and Process and by the ICERS Administrative Hearing Rules and Procedures.

### **III. REVIEW**

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

ICERS

## IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM CORRECTION OF CONTRIBUTION COLLECTION ERRORS POLICY

### I. PURPOSE

The intent of this policy is to establish criteria and procedures for resolving Member and employer contribution collection errors in compliance with Internal Revenue Code Section 401(a) and IRS correction guidance consistent with Revenue Procedure ("Rev. Proc.") 2016-51 and amendments thereto. It is the intent of the Board of Retirement ("Board") to fulfill its fiduciary duties to properly pay benefits pursuant to plan terms and to safeguard retirement fund assets by making every reasonable effort to correct errors in a timely manner.

This policy is designed to address substantial errors and does not apply to minor adjustments that occur during the routine administration of the retirement association and are corrected within a reasonable time. For the purposes of this policy, unless otherwise noted, the term "Member" includes Members of ICERS and their beneficiaries and estates. The term "employer" means the County of Imperial and its affiliated districts, and the Superior Court of California for the County of Imperial, as appropriate.

### II. POLICY

- A. Discovery, Investigation, and Correction:** Upon discovery of an error, ICERS staff shall conduct an investigation to determine the cause of the error. ICERS staff shall make necessary changes to the Member account immediately in order to correct the error prospectively.
- B. Notice to Member and Employer:** ICERS staff shall alert the Member and employer of the error and of the corrective action to be taken as soon as administratively practicable. The notice should provide an explanation of the error and corrective action to be taken. The notice also will provide information regarding the Member's right to appeal and the process for an appeal. Notice via First Class U.S. Mail is sufficient for service of the notice to the Member.
- C. Extensive Errors:** The Board retains the right under this policy to determine, consistent with IRS guidelines, appropriate correction of errors that affect a significant number of Members.
- D. Time Limitations:** ICERS will use its best efforts to correct fully all contribution collection errors in a timely and expeditious manner. Full correction includes recovery of all under-collected Member contributions and refund of all over-collected/excess Member contributions plus appropriate interest (in accordance with Section II.G. of this policy) regardless of when the error was made.
- E. Refund of Over-Collected Contributions:** To the extent possible, any refund of over-collected Member contributions for Members who are active employees will

be made through the Member's employer, if the refund is occurring in the same calendar year in which the excess contribution was made to ICERS, in order for the Member's W-2 reporting to be correct. If it is identified that a Member who is an active employee made excess Member contributions in a calendar year other than the calendar year in which the correction will occur, then ICERS will issue to the Member a corrective distribution via check or ACH (Automated Clearing House) transfer.

Refunds of excess employer contributions will be made by entering a credit on the employer's contribution account for the amount of the excess contributions and the credit will be applied against the employer's current contribution obligation.

Refunds for employees who are no longer active employees will be made directly to the employee as a corrective distribution via check or ACH transfer.

**F. Recovery of Under-Collected Contributions:**

1. For active employees, ICERS will provide notice of the total amount of the under-collected contributions and accrued interest and the current rate of future interest. Future employee contributions will be adjusted so that payment of the under-collected contributions is completed within a reasonable time not to exceed the length of time the under-collection occurred. A Member will not be permitted to receive any retirement benefits until the under-collected contributions have been paid in full.
2. For Members who are no longer active but have not retired, the Member will be required to pay the contributions to ICERS prior to receiving any retirement benefits. The Member is solely responsible for any tax ramifications of the payment. If the Member withdraws his or her contributions and terminates membership in ICERS, only the actual employee contributions paid by the Member while in active service plus applicable interest will be refunded. In the event the Member wishes to buy back the time by redepositing contributions, the full amount of withdrawn contributions, applicable interest, and any under-collected contributions plus applicable interest shall be paid to ICERS before the Member can receive any retirement benefits.
3. For retirees who are receiving a retirement benefit, the retiree's retirement allowance may be reduced by an appropriate amount as an offset. ICERS and the Board recognize that recovery of underpaid contributions may cause undue hardship on the affected Member. Therefore, the ICERS Retirement Administrator is authorized to approve installment payments over a reasonable repayment period. Examples of reasonable repayment periods include, but are not limited to, the plan fiscal year or the period over which the error occurred, but in no event shall the repayment period

exceed the Member's actuarially expected life span. Generally, the offset to the retiree's benefit should not exceed 20% of the gross benefit.

- G. Interest:** Interest on over-collected employee contributions will be paid by ICERS at the same rate as interest is credited to the Member contribution reserve. Interest on over-collected Member contributions will only accrue twice per year at the same time interest is credited to the Member contribution reserve.

Interest on under-collected contributions will be assessed by ICERS at the actuarially assumed investment rate of return and credited to the Member's contribution account. Interest may be waived if the Member completes full repayment of the under collection within the ICERS plan fiscal year in which the error was discovered. The Retirement Administrator may reduce the rate of interest assessed against the Member when the under collection of employee contributions was due to the mistake or inadvertence of the Member, ICERS, or the Member's employer. The interest rate assessed on the recovery of under-collected employee contributions should not be reduced if the under collection is due to fraud or intentional misconduct of the Member.

- H. Tax Compliance:** ICERS will comply with relevant tax regulation regarding withholding and reporting.
- I. Reporting:** At least annually, the Retirement Administrator will report to the Board at a regularly scheduled public meeting the amount, cause, and recovery status of any under-collected contributions exceeding \$1,000. The report may be provided as part of the consent agenda.
- J. Employer Notice:** At least annually, ICERS will send a contribution error report to the administrative office of each plan sponsor with affected employees detailing the amount, cause, and recovery status of each error. The notice will also contain information regarding the employer's responsibility for any amounts that ICERS is unable to recover from the Member, if any.
- K. Employer Responsibility for Shortfalls:** In the event that ICERS cannot collect underpaid contributions from the Member, ICERS will notify the Member's employer or former employer if the Member is a deferred Member. ICERS will provide the amount of the underpaid contributions and appropriate interest. ICERS will request immediate payment from the employer of the entire balance.
- L. Due Process and Appeals:** Members shall have the right to appeal any benefit corrections and under-collection recovery determinations made by ICERS staff. Appeals will be governed by the ICERS Benefit Appeals Policy and Process and by the ICERS Administrative Hearing Rules and Procedures.

### **III. REVIEW**

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

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
INTEREST CREDITING AND UNALLOCATED EARNINGS POLICY**

**I. PURPOSE OF POLICY AND INTENT**

The purposes of this policy are to define the reserves maintained by ICERS and document the methodology for:

1. crediting interest to valuation and non-valuation reserves of the retirement system; and
2. administering the “unallocated earnings” of the retirement system.

**II. GOVERNING LAW**

ICERS is governed by provisions of the County Employees Retirement Law of 1937 (“CERL”), as well as other federal and State laws relating to public retirement systems. This policy is intended to comply with CERL Sections 31472, 31591, 31592, 31592.2, and 31599 and other applicable State and federal law.

CERL generally governs interest crediting and excess earnings. Under CERL, interest is credited every six (6) months. Various reserves and designations are established and maintained by the Board under procedures adopted by the Board pursuant to CERL.

Reserves allow ICERS to track funds in the Plan. Reserves do not represent the present value of assets needed to satisfy retirement and other benefits as they become due. All assets are commingled for investment purposes regardless of source.

**III. OBJECTIVES**

1. To comply with appropriate legal and regulatory requirements.
2. Maintain consistency between the reserving structure of accounts and the actuarial funding policies of ICERS.
3. To limit, to the extent possible, the volatility of interest crediting from period to period.
4. Assure that the reserve values track the market value of assets over the long term.
5. To the extent possible, maintain reasonable stability in both the interest crediting and contribution rates by avoiding charging short-term losses to reserves.

#### IV. GENERAL POLICIES

1. Base “Available Earnings” on actual current period earnings of the fund calculated on the Actuarial Value of Assets as determined under the Board’s funding policy, plus the positive balance in the Unallocated Earnings Reserve, Contingency Reserve and Non-Valuation Benefit Reserves.
2. Credit interest on Member accounts at a rate equal to one-half (1/2) of the assumed inflation rate. This is intended to approximate the return on a short term savings account, and determines the amount of contribution refund available to the Member.
3. Credit interest at the assumed valuation interest rate on the valuation and non-valuation reserves (except for the Contingency, Unallocated Earnings and Capital Asset Reserves).
4. Maintain a “Contra Tracking Account” to track any shortfalls of Available Earnings relative to earnings required to credit full interest to the valuation and non-valuation benefit reserves, and in subsequent years use Available Earnings remaining after crediting such interest to restore any prior shortfalls as tracked in the Contra Tracking Account.
5. Maintain a 1% Statutory Contingency Reserve.
6. Any Available Earnings remaining after crediting full interest to valuation and non-valuation reserves, restoring the Contra Tracking Account and restoring the Contingency Reserves to their target levels constitute Unallocated Earnings. The balance in the Unallocated Earnings Reserve may be allocated for discretionary uses such as:
  - A. Transfer to a reserve or designation to pay additional ancillary benefit such as a retiree purchasing power COLA as permitted by law.
  - B. Transfer to a valuation reserve for reduction of UAAL for regular (statutory) benefits.
  - C. Transfer to reserve or designation for other uses such as the buying down of Member contribution rates for supplemental benefits as permitted by law.
  - D. Retain in the Unallocated Earnings Reserve, thereby leaving such earnings available for a subsequent interest crediting cycle.

Prior to implementing any of items A, B or C above, the Board must obtain:  
(a) from ICERS’ actuary, an analysis of the impact on such actions on future

annual costs, on ICERS' contribution rates, Unfunded Actuarial Accrued Liability and Funding Ratio; and (b) the advice of legal counsel.

## V. INTEREST CREDITING POLICY

### **Step 1 – Determine “Available Earnings” for accounting period as the sum of:**

- A. Earnings of the retirement fund for the period based on Actuarial Value of Assets methodology, expressed in dollars. This could be a negative amount.
- B. Balance in the Contingency Reserves.
- C. Balance in the Unallocated Earnings Reserve.
- D. Balance in the Non-Valuation Benefit Reserves (if needed to credit interest in Steps 2 A, B and C below).

### **Step 2 – Credit interest to the valuation reserves:**

- A. For the purpose of determining the Member contribution balance at termination, credit the Member account balance (maintained by the pension administration system) at the “Member Crediting Rate.” The employee account balance credited at this rate will be used to determine funds available at termination.
- B. For the purpose of determining the Member contribution balance at retirement, credit the alternative Member account balance (also maintained by the pension administration system) at the “Valuation Rate.” This alternative account balance will be used to determine a Member’s contribution account available upon retirement.<sup>1</sup>
- C. Credit for other valuation reserves at the Valuation Rate.
- D. Deduct the interest credited above from Available Earnings. If the amount of interest credited is more than the Available Earnings, charge the shortfall to the Contra Tracking Account.

### **Step 3 – Reduce the balance in the Contra Tracking Account:**

Transfer from any remaining Available Earnings an amount up to the balance in the Contra Tracking Account.

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<sup>1</sup> Note that the above description is only with respect to the procedure after the transition to the JEA pension administration system. Prior to the transition, there are two reserves that have been maintained by the Retirement System. Contributions plus interest credited to the member account balance at the “Member Crediting Rate” have been maintained in the Member Deposit Reserve. The difference between interest on the “Member Crediting Rate” and the “Valuation Rate” has been maintained in the Member Interest Reserve. With the transition to the JEA system, contributions plus all interest will be maintained in the Member Deposit Reserve.



**Step 4 – Restore the Statutory Contingency Reserve to 1%:**

Transfer from any remaining Available Earnings into Statutory Contingency Reserve the amount required to maintain the Statutory Contingency Reserve balance at 1% of market value.

**Step 5 – Credit interest to the Non-Valuation Benefit Reserves:**

Credit the Non-Valuation Benefit Reserves with any remaining Available Earnings, up to the Valuation Rate.

**VI. UNALLOCATED EARNINGS POLICY**

**Step 1 – Determine any remaining Available Earnings after application of Interest Crediting Policy in Section V:**

If there are any Available Earnings remaining after application of the Interest Crediting Policy in Section V, such Available earnings will be transferred to the Unallocated Earnings Reserve.

**Step 2 – Consider discretionary uses:**

The Board may, in its discretion, consider any or all of the following uses of any amount available in the Unallocated Earnings Reserve.

- A. Transfer to a reserve or designation to pay additional ancillary benefit such as retiree purchasing power COLA as permitted by law.
- B. Transfer to a valuation reserve for reduction of UAAL for regular (statutory) benefits.
- C. Transfer to a reserve or designation for other uses such as the buying down of Member contribution rates for supplemental benefits as permitted by law.
- D. Retain in the Unallocated Earnings Reserve, thereby leaving such earnings available for a subsequent interest crediting cycle.

Prior to implementing any of A, B or C above, the Board must obtain: (a) from ICERS' actuary, an analysis of the impact on such actions on future annual costs, on ICERS' contribution rates, Unfunded Actuarial Accrued Liability and Funding Ratio; and (b) the advice of legal counsel.

**VII. EFFECTIVE DATE AND PERIODIC REVIEW:**

This policy is effective with the beginning of the interest crediting period on July 1, 2010. This policy will be reviewed and refined at least once every three (3) years.

## GLOSSARY

### Actuarial Terms and Definitions

The following list defines certain technical terms relevant to the Interest Crediting and Unallocated Earnings Policy for the convenience of the reader:

#### **Investment Return:**

The rate of earnings of the Plan from its investments, including interest, dividends and capital gain, and loss adjustments, computed as a percentage of the average value of the fund. For actuarial purposes, the investment return reflects a smoothing of market gains and losses to manage the impact of significant swings in the value of assets from one year to the next.

#### **Actuarial Value of Assets:**

Market value of assets less recognized market value gains and losses from each of the last five (5) years. Market value gains and losses are equal to the difference between the actual market return and the expected return on the market value, and are recognized over a five (5)-year period. The actuarial value of assets is limited to no greater than 130% of less than 70% of the market value of assets.

#### **Valuation Value of Assets:**

The Actuarial value of assets reduced by the value of the Non-Valuation Reserves (Member and Retiree Non-Valuation Reserves, Contribution Subsidy Reserves, Contingency Reserve, Unallocated Earnings Reserve and Capital Assets Reserve).

#### **Member Crediting Rate:**

The Member Deposit reserve is credited semi-annually at the Board-approved Member Crediting Rate which is one-half (1/2) of the assumed inflation rate.

#### **Valuation Rate:**

This is one-half (1/2) of the interest rate adopted by the Board from the actuarial valuation that established the employer and employee contribution rates for that fiscal year.

## **GLOSSARY (continued)**

### **Valuation Reserves (Regular and Supplemental Benefits)**

#### **Member Deposit Reserve:**

This reserve represents the total accumulated contributions of Members available at retirement. Active Member contributions are used to fund the annuity portion of the retirement benefit and may also be paid to a Member upon termination from ICERS covered employment and withdrawal. When a Member retires and begins receiving a retirement allowance, funds in this reserve associated with the retiring Member are moved to the Pension Reserve.

#### **Employer Advance Reserve:**

This reserve includes the total accumulated contributions of the employer held for the benefit of non-retired General and Safety Members on account of service rendered as a Member of the retirement system. Employer contributions are used to fund the pension portion of the retirement benefit. When a Member retires and begins receiving a retirement allowance, funds in this reserve associated with the retiring Member are moved to the Pension Reserve.

#### **Pension Reserve:**

This reserve represents total accumulated contributions of the employee and employer held for the benefit of retired Members on account of service rendered as a Member of the retirement system, less the pension payments made to retired Members. The Pension Reserve is funded by transfers from the Member Deposit Reserve and Employer Advance Reserve and Earnings Allocations less amounts paid out as annuitant benefits.

#### **Death Benefit Reserve:**

The reserve represents the accumulated contributions of the employer to be used to pay death benefits of Members.

#### **Cost of Living Reserve:**

The reserve represents the accumulated contributions of the employee and the employer to be used to pay cost of living payments.

#### **Contra Tracking Account:**

This account is an offset to the valuation reserves that tracks the cumulate amount, if any, of interest crediting shortfalls from the current and prior periods.

## **GLOSSARY (continued)**

### **Non-Valuation Reserves**

#### *Non-Valuation Benefit Reserves*

##### **Member Non-Valuation Reserve:**

This reserve represents the excess earnings allocated by the Board, pursuant to the Unallocated Earnings Policy, to pay down Member supplemental contribution rates.

##### **Retiree Non-Valuation Reserve:**

This reserve represents excess earnings allocated by the Board, pursuant to the Unallocated Earnings Policy, to provide supplemental COLA benefits to eligible retirees.

#### *Other Non-Valuation Reserves*

##### **Capital Asset Reserve:**

This reserve represents the depreciated asset value of the Pension Administration System.

##### **Contingency Reserves:**

Represents a 1% Statutory Reserve of the total market value of assets to provide funds to offset future deficiencies in interest earnings, losses on investment, or other contingencies, used as a reserve against deficiencies in Available Earnings in other years.

##### **Unallocated Earnings Reserve:**

Represents earnings in excess of the total interest credited to all other reserves that has not been allocated by the Board to other reserves.

## **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM CONFLICT OF INTEREST CODE**

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the incorporated Appendix 1 (Designated Employees, Board Members, and Consultants) and Appendix 2 (Financial Disclosure Categories), in which the officers, employees, and specified contractors are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Imperial County Employees' Retirement System.

Pursuant to the Standard Code, designated employees shall file statements of economic interest with the ICERS Retirement Administrator. Any ICERS Board Members, employees or consultants required to disclose pursuant to this Code will file original disclosure statements with the ICERS Retirement Administrator, who shall make and retain a copy, and forward the original to the appropriate agency designated by the Fair Political Practices Commission.

This Conflict of Interest Code shall be reviewed every two (2) years as required by the Government Code Section 87306.5 and any amendments thereto shall be submitted to the Imperial County Board of Supervisors as the Code reviewing body.

### **A. Designated Employees**

The persons holding positions listed below are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests. Designated employees shall file statements of economic interests with the Retirement Administrator who will make the statement available for public inspections and reproduction. (Government Code Section 81001.) Statements for all designated employees will be retained by the Retirement Administrator.

### **B. Disclosure Categories**

All designated employees shall file pursuant to the disclosure categories set forth in the Appendix, which specify the kinds of economic interests that are reportable. Such a designated employee shall disclose in his or her statement of economic interest those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Appendix 1. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office. This code does not establish any

additional disclosure obligation for those officers, designated employees, and others who are also specified in Government Code Section 87200.

**Appendix 1. Designated Employees, Board Members, and Consultants**

	<b>Position</b>	<b>Disclosure Category</b>
I.	Board Member	3
II.	Retirement Administrator	3
III.	Legal Counsel	1
IV.	Assistant Retirement Administrator	1
V.	Investment Consultant	3

**Appendix 2. Financial Disclosure Categories**

**Category 1**

Designated employees in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities. Designated employees in this category shall complete all schedules of Form 700, if applicable.

**Category 2**

Designated employees in this category shall disclose sources of income, investments, and business positions in business entities, which provide services, supplies, materials, machinery or equipment of the type purchased or utilized by the department in which the designated employee is employed. Designated employees in this category shall complete all schedules of Form 700 except schedule C, if applicable.

**Category 3**

Persons in this category are required to make disclosure pursuant to Government Code Sections 87200 and 87202. No additional disclosure obligations are imposed under this code. Designated persons in this category shall complete all schedules of Form 700, if applicable.<sup>1</sup>

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<sup>1</sup> Note that the positions of Retirement Administrator, Board Member, and Investment Consultant are required to file Form 700s as “public officials who manage public investments” under Government Code Section 87200. The Assistant Retirement Administrator is included in Category 1 to ensure that the Assistant has fully disclosed all categories of Form 700 forms prior to circumstances requiring that they serve as Retirement Administrator.

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM INFORMATION SECURITY POLICY

## 1.0 PURPOSE

This policy provides guidance on the protection and security of ICERS' information technology (IT) network and the information of their Members and retirees. This policy is in alignment with National Institute of Standards and Technology (NIST) requirements and applicable Federal and State laws.

## 2.0 SCOPE

This policy applies to the protection of all information: any documentation, device, tool, or process that contains, stores, processes, or communicates information. This policy applies to all ICERS employees, vendors, contractors, and consultants, who can create, distribute access, or manage information and are entrusted with ICERS' information.

This policy is subordinate to applicable laws and government regulations. The interpretation and application of this policy remains, at the discretion of the Retirement Administrator at all times.

## 3.0 POLICY DEVELOPMENT

The Retirement Administrator submits the Information Security policy proposal for review and endorsement by the Board of Directors. After the policy is endorsed, a draft policy is created under the direction of the Retirement Administrator who consults with various stakeholders regarding the policy's likely impact on Members and retirees, including legal. The Retirement Administrator submits the draft Information Security policy to the Board who ratifies the policy.

The Retirement Administrator maintains copies of signed policies and policy revisions and places an electronic copy of each policy on ICERS' website. The Retirement Administrator also notifies responsible parties when policies are scheduled for review or revision and is available to work with the responsible parties during any phase of the policy development process, including, if applicable, implementation of a training schedule.

## 4.0 POLICY

ICERS' computer systems, including computer software, computer hardware, telecommunications equipment, voice/data networks, and the information communicated, transferred, accessed, and/or stored via such systems will be secured and protected against unauthorized access and other forms of misuse. The use of ICERS' information resources will be subject to monitoring and disclosure by ICERS at any time with or without notice. ICERS specifically reserves the right to access and disclose electronic communications and computer files when necessary for government investigations into allegations of misconduct, fraud, or other wrongdoing. In addition, computer files and electronic communications may be accessed for technical maintenance purposes to assure system security, compliance with agency policy



and applicable legal requirements, and for any other legitimate agency purpose. The policies referenced in this document are designed to comply with applicable laws and regulations, which will take precedence if there is any conflict between this policy and those applicable laws and regulations. These policies are the minimum requirements for providing a secure IT operational environment for ICERS.

#### **4.1 ACCESS CONTROL**

This policy provides guidelines for managing, reviewing, and approving access to ICERS' information systems. The objective is to ensure access controls are issued in a manner consistent with least privilege and/or functionality. The purpose of this policy is to protect the confidentiality, integrity, and availability of ICERS' information systems and data. Areas of this policy include the following:

- Identifying who is responsible for account management and maintenance of access privileges across the ICERS application portfolio.
- The process governing processing account requests, including identifying who is responsible for approving requests.

#### **4.2 CONFIGURATION MANAGEMENT**

The purpose of the Configuration Management Policy is to allow for a consistent approach in managing changes to ICERS' information systems (i.e., applications, hardware, systems software, etc.). The process itself will cover planning, monitoring, controlling, and executing changes warranted by a change in technological direction, change in business rules or direction, system/application changes, maintenance, and/or problem or incident resolution. This policy identifies:

- The change types that ICERS will leverage such as standard, normal, and emergency/urgent.
- How change requests will be tracked.
- Who may approve changes.

#### **4.3 CONTINGENCY PLANNING**

This policy defines the requirement for a baseline disaster recovery plan to be developed and implemented by ICERS that will describe the process to recover ICERS' Systems, Applications, and Data from any type of disaster that causes a major outage. The policy identifies:

- The scope of the contingency plan to be adopted by ICERS, including, identifying emergency contacts and the flow responsibility when normal staff is unavailable to perform their duties.
- Recovery Time and Point Objectives.
- The practices that ICERS will use to recover in the event of a ransomware attack.



#### **4.4 IDENTIFICATION AND AUTHENTICATION**

This policy ensures that information system users, processes acting on behalf of users, or devices are compliant with security policies, standards, and procedures and how authentication is managed as a prerequisite to allowing access to organizational information systems. Key areas of this policy include:

- The way that ICERS implements unique identification and authentication of organizational users.
- Management of information system identifiers.
- Obscuring feedback of authentication.
- What precipitates reauthentication to information systems.

#### **4.5 PERSONNEL SECURITY**

This policy establishes the Personnel Security Policy for managing risks related to personnel screening, termination, transfer, management, and third-parties.

#### **4.6 PHYSICAL AND ENVIRONMENTAL**

This policy addresses threats to critical ICERS' information assets that result from unauthorized access to facilities owned, controlled, or leased by ICERS, including offices, data centers, and any other physical facilities that are used to house ICERS' information assets. This policy addresses the following areas:

- Physical Access Controls to Protect General Facilities.
- Physical Access Controls to Protect File Storage Locations, Server Rooms and Telecommunication Closets.
- Systems Installation and Configuration Password Policies.
- Clean Desk Policy.

#### **4.7 SECURITY ASSESSMENT**

Authorization to operate ICERS' information systems will be controlled and managed to ensure that only authorized ICERS' systems are implemented to meet ICERS' business needs. This policy documents the security assessment and authorization process for ICERS' information systems. Some processes include:

- Adopting a continuous security management program that requires full detailed security assessments annually.
- Penetration testing and vulnerability management.

#### **4.8 INCIDENT RESPONSE**

This policy establishes the framework for ICERS to effectively identify, contain, investigate, remediate, report, and respond to cybersecurity incidents.

## **5.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

## **6.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

## **7.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

## **8.0 POLICY REFERENCE**

Authorization to operate ICERS' information systems will be controlled and managed to ensure that only authorized ICERS systems are implemented to meet ICERS' business needs. This policy documents the security assessment and authorization process for ICERS' information systems. Areas covered within this policy include:

- National Institute of Standards and Technology Special Publication 800-53 Revision 5
- National Institute of Standards Cybersecurity Framework Policy Template Guide
- ICERS Access Control Policy
- ICERS Configuration Management Policy
- ICERS Contingency Management Policy
- ICERS Identification and Authentication Policy
- ICERS Personnel Security Policy
- ICERS Physical and Environmental Policy
- ICERS Security Assessment Policy
- ICERS Incident Response Policy



**Imperial County Employees' Retirement System**

**Policy Manual Appendix**

July 2022

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# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM ACCESS CONTROL POLICY

## 1.0 PURPOSE

This policy provides guidelines for managing, reviewing, and approving access to ICERS information systems. The intent is to ensure access controls are issued in a manner consistent with least privilege and/or functionality. The aim of this policy is to protect the confidentiality, integrity, and availability of ICERS information systems and data. Without proper oversight, unauthorized access could result in the breach of systems, exposure of sensitive data (PII and PHI), financial loss, reputation damage, or impact to fiduciary roles.

Computerized user accounts are the means used to grant access to systems and data required to support ICERS operational functions. These accounts provide a means of providing standards, security, and accountability across the enterprise and system environment for organizational roles. Creating, controlling, and monitoring computer accounts are actions that are critically important to overall security policy and strategy. The purpose of this policy is to provide mechanisms that define and manage accounts for users accessing ICERS resources.

## 2.0 SCOPE

This policy applies to all information systems owned, controlled, managed, or subscribed to by ICERS. Additionally, this policy applies to all ICERS users and management responsible for application identity and role definition within their departments.

## 3.0 POLICY

### 3.1 GENERAL APPLICATION OF ACCESS CONTROL POLICIES

Applications and systems in the scope of this policy include but are not limited to operating systems, applications software, tablets, telecommunications equipment, and/or devices or network software that access ICERS resources.

### 3.2 ROLES AND RESPONSIBILITIES

**ICERS Retirement Administrator** – The Retirement Administrator will ensure that ICERS systems and applications are protected from unauthorized access by establishing requirements for the authorization and management of user accounts, providing user authentication, and implementing access controls on behalf of ICERS. Additionally, the Retirement Administrator or designee is responsible for account management and maintenance of access privileges across the ICERS application portfolio, as well as notifying the appropriate System Owners of any access concerns or issues.

**System Owners** – The system owner for each information system will be responsible for ensuring that user access requests, authorization, and account management are followed for their specific application, user roles are defined, and that appropriate people are assigned the

responsibility of overseeing application usage. The design and development of the authorization and account management processes will be defined by the ICERS Retirement Administrator.

### 3.3 ACCESS CREDENTIAL MANAGEMENT

Account requests will be processed using the ICERS Access Control Form. This process will require the appropriate signature prior to access credentials being provided. The ICERS Retirement Administrator will govern this process and review all access requests to ensure alignment with the policy developed herein. The following requirements will be enforced:

- Access requests will be limited to the systems and applications described on the Access Control Form. If an additional system or application is needed, the Retirement Administrator or designee will create an amended form to update the access control form.
- Software applications will only be used for their identified purpose.
- A new request is required for new employees, if there are changes in role or access privilege to the stated application, or when an employee separates from the agency. In addition, in the event of separation, it is acceptable for an employee's supervisor or a representative from HR to email cancellation requests. This shall be contingent on the supervisor or HR representative providing a follow up form. Both the form and email should be retained.
- The authorization request must be approved by the employee's supervisor and reviewed by the Retirement Administrator or designee prior to creation/update to the account.
- Standard roles will be available on the access control request form; however, prior to approval each request will be reviewed to ensure a conflict of system access does not exist.
- All forms are to be maintained electronically to document each employee's current systems access.
- Electronic access control forms will be accepted until an automated ticketing system is available for use.
- Access to systems and applications are generally established or reviewed under the following conditions:
  - A new user requires access for the purpose of fulfilling job responsibilities.
  - A new user has a change in job function requiring a change in role and privileges.
  - An existing user has a change in job function requiring a change in role and privileges. In such a case, the transferring user can retain access to prior role privileges on a temporary basis to support appropriate job function transition requirements in cases where the temporary role does not create a conflict of interest in user role assignments. This access will be approved on an exception basis by the department supervisor for both

prior and existing roles, the Retirement Administrator, and the Chief Financial Officer, where applicable.

- Requests for a change in access rights (e.g., to grant or disallow access) will be accomplished by submitting an approved Access Control form following account management procedures and processes defined by this policy.

### **3.4 TRANSFERS, TERMINATIONS, MAINTENANCE, AND DATA RETENTION/TRANSFER**

The following processes and procedures will be followed when a user transfers, retires, terminates, or is otherwise removed from ICERS:

- When a user is transferred or terminated, access to systems and applications will be immediately terminated (within no more than 24 hours) unless justified and approved in writing by Legal, Human Resources, or the employee's section Chief.
- User account records and data are stored locally or on ICERS servers will be preserved.
- The process for system and account revocation is managed through the Retirement Administrator in concert with the employee's supervisor, system owners, and ICERS management.
  - E-mail accounts: ICERS email accounts can remain active post-termination if the password is changed and account ownership is transferred to an existing ICERS staff member with an approved request from the employee's section Chief.
  - Any accounts that are requested to remain active after separation will require password changes and will be extended in 14-day increments, unless otherwise specified and approved by the section Chief.
  - Legal holds will remain active as long as required, per request.
  - Except for legal holds, regardless of the number of days requested for the separated user's account to remain active, if the account is not accessed during any given 30-day period, the account will be deactivated.
- It is the responsibility of the direct supervisor or manager to notify all appropriate personnel when a user is hired, transferred, or terminated. An Access Control Form update is required for each hire, transfer, or termination.
- The System Owner for each information system will ensure that all user accounts are reviewed, and access rights evaluated annually. This process will be governed by the Retirement Administrator.

### **3.5 ACCESS MANAGEMENT**

User identification and authentication is defined as an access control methodology. ICERS uses strong passwords, group policy, and secure two-factor authentication wherever possible to determine a user's identity, ensure it is correct, and establish accountability. User



login IDs and passwords will be unique and not be shared through the use of generic accounts. Passwords are required to meet strong authentication requirements and all application access will be based on the role of the user in the system, granting access to the minimum amount of information necessary for the user to accomplish job functions. Full password policy requirements can be found in the ICERS Identification and Authentication Policy.

### **3.6 ADMINISTRATION AND MANAGEMENT**

The Retirement Administrator or their designee will ensure that:

- All system account passwords meet the ICERS Identification and Authentication Policy.
- Default user accounts provided with purchased software must be disabled or the account names changed upon installation.
- Default accounts must be used only for designated maintenance tasks and must not be employed for daily use.
- Security mechanisms will restrict access to credentials for the least privilege necessary to perform job responsibilities and such access is based on job classification role and function, except for where otherwise approved on an exception basis to support temporary staffing coverage.
- Approvals are secured by authorized parties specifying necessary access control lists.
- Access control lists for systems components will be set to deny all unless privilege to a particular function is explicitly allowed.
- Procedures exist for handling of terminated employee's data and they are well known by ICERS staff.
- Procedures exist that assign responsibility for removing IT and/or physical access to facilities and collection of premise keys, cards, and other mechanisms for secure facility access.
- Regular reviews of users with access to sensitive information will be performed to ensure they are appropriate, necessary, and valid.
- Shared or guest accounts will not exist for system administration or generic roles/usage or other functions except identified service account credentials managed, defined, and documented by requirements to administer system.
- Vendor supplied default credentials are modified, removed, or disabled in accordance to the policy herein.
- Unnecessary default or generic accounts are changed before implementing system on the production network, including firewalls, routers, servers, storage devices, wireless devices, etc. that are connected to sensitive data or used to transmit sensitive data.
- Account creation and control will be governed by this policy and the ICERS Identification and Authentication Policy.

- Accounts of individuals on extended leave (more than 30 days) will be disabled, unless otherwise approved by the employee's section Chief and the Retirement Administrator.
- All new user accounts not accessed within 30 days of creation will be disabled.
- Existing accounts not accessed for a period of 90 days will be disabled.

**Network Administration and Support** – System administrators or other designated staff will ensure:

- Unless the system does not have the ability to configure a setting, System Session Locks are set to no more than 15 minutes.
- Unless the system does not have the ability to configure a setting, System Session Terminations are set to 30 minutes.
  - VPN Connection termination – VPN connections will be automatically disconnected in the event of 10 hours of continuous access with any 24-hour period and/or continuous access crosses into the next day i.e., the VPN is still connected at midnight.
- A documented process exists to modify accounts that accommodate situations such as name changes, account changes, and/or permission changes.
- Periodic reviews of existing accounts for validity are on a schedule set forth by the Retirement Administrator.
- Account listings and other controls are reported as requested by authorized management.
- Staff cooperate with authorized ICERS staff during security incident investigations.
- Server roles and functions are organized and partitioned to appropriate functions and services that limit access risk (for example, web servers, database servers, and Domain Name Servers (“DNS”) should be implemented on separate systems).
- Only necessary services, protocols, daemons, etc., required for the function of the system are enabled and all unnecessary features or unsecure features are disabled (NetBIOS, Telnet, FTP, etc.).
- Any additional security features required for services, protocols, or daemons that are considered to be insecure are implemented (for example, use of secured technologies such as SSH, SFTP, SSL, etc. to protect unsecure services).
- System security parameters and group policies are appropriately configured to prevent misuse and limit access to local consoles.
- All administrative access must be protected by using strong cryptography
- Inventory of Infrastructure assets and related functions are maintained
- Identity of an account holder is to be verified before modifying authentication credentials or security access.

## **OTHER CONSIDERATIONS**

**Staff Terminations** – Termination of staff may be classified as either friendly or unfriendly.

- ***Friendly Terminations*** – These events will be accomplished by implementing a standard set of procedures and protocols for individuals. All termination work will be coordinated through the employee’s supervisor and/or Human Resources. This normally includes:
  - Removal of access privileges, computer accounts, authentication tokens.
  - The control of keys and badges to the office and/or office furniture and equipment.
  - The briefing on the continuing responsibilities for confidentiality and privacy.
  - Return of any ICERS property.
  - Interim or replacement staff’s ability to access data.
- ***Unfriendly Terminations*** – These events have the potential for adverse consequences. All termination work will be coordinated through ICERS Management. As such the following protocols will be observed:
  - System access will be immediately terminated to all systems.
  - If staff are immediately terminated, system access will be removed at the same time (or just before) the individual is notified and dismissed. Coordination of the event will occur through ICERS Management.
  - Staff will return all items or assets that belong to ICERS.
  - Assets will be held as instructed in the case of legal review, chain of custody, or other investigative events. Legal holds will be communicated by ICERS General Counsel.

#### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

#### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

#### **6.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

#### **7.0 POLICY REFERENCES**

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM CONFIGURATION MANAGEMENT POLICY

## 1.0 PURPOSE

The purpose of the Change Management Policy is to allow for a consistent approach in managing changes to ICERS' information systems (i.e., applications, hardware, systems software, etc.). The process itself will cover planning, monitoring, controlling, and executing changes warranted by a change in technological direction, change in business rules or direction, system/application changes, maintenance, and/or problem or incident resolution.

## 2.0 SCOPE

This policy applies to all information systems owned, controlled, managed, or subscribed to by ICERS.

## 3.0 POLICY

### 3.1 CHANGE MANAGEMENT

Change is defined as any deliberate action that alters any configuration impacting ICERS' information systems, *not considered routine maintenance or administration*, and includes changes to add or otherwise modify:

- Applications and/or programs
- Hardware
- System Software
- Databases or Data Updates done through scripts or configuration changes
- Critical Patches, Updates, Service Packs, or Major Hot Fixes

The following, include but are not limited to, items considered routine maintenance or administration and are *not considered changes*:

- Password resets
- Adding/removing users
- Modifying permissions
- Changes to lower environments that are not planned to be moved to production
- Data changes completed through the application's user interface

### 3.2 ROLES AND RESPONSIBILITIES

**ICERS Retirement Administrator** – The Retirement Administrator or their designee will ensure that ICERS' systems and applications adhere to change management processes.

**System Owners** – The system owner for each information system will be responsible for ensuring that changes are properly requested.

**Change Owner** – The individual responsible for approving the implementation of changes into production.

### 3.3 CHANGE TYPES

ICERS will leverage the following change types:

- **Standard Changes** – These changes do not impact system functionality and are preapproved. This would include changes for items such as maintenance patches. Standard patching windows are leveraged weekly, on Sundays, from 6:00 a.m.- 11:00 a.m. PST.
- **Normal Changes** – These changes could materially impact system functionality and require approval of the Retirement Administrator, System Owner, and Change Owner (where applicable). This would include changes for items such as a new functionality or enhancement to existing functionality. Normal Changes will be evaluated to determine level of effort (LOE) for implementation in order to drive release planning. The typical minimum time for a Normal Change is 30 days.
- **Emergency/Urgent** – These changes could materially impact system functionality and are needed to restore functionality to the information system or provide protection from an identified cybersecurity threat. These changes can be authorized by ICERS management. Emergency fixes can be implemented as soon as possible based on the scope of the change.
  - The Emergency Change process may require changes to be introduced in a manner that is required to immediately resolve a problem in production. When the Emergency Change process is invoked, the approval process can be ad-hoc and performed through simple email communication.
  - The Emergency Change process does not apply to otherwise Normal Changes that require an urgent implementation due to operationally driven deployment timelines. The process is reserved to restore pre-existing functionality as a result of an unplanned event.

### 3.4 REQUESTS FOR CHANGE

All change requests will be documented to track the request. Changes may be submitted by ICERS management, System Owners, Subject Matter Experts, or the Retirement Administrator. Changes to IT infrastructure as a result of “Standard Change,” as described above, will be performed on a preapproved basis. If it is determined that a Standard Change should be elevated to a normal change, the request must be routed for approval.

The following will be considered as part of the change approval process:

- Evaluating overall impact to the production environment.
- Identifying other stakeholders that need to be consulted.
- Assessing the allocation of resources and effort to fulfill the change.
- Assessing any ongoing costs, as applicable.
- Validating the prioritization and category of the change request.

- Tracking, participating, and reviewing post implementation review as appropriate.
- Identifying risk and security impact of new initiatives.

### **3.5 CHANGE APPROVAL**

ICERS management may approve a change that satisfies the following conditions. Any RFC not meeting any of these conditions must be approved by the Retirement Administrator.

- All stakeholders have been identified and approved the Change Request.
- Information Systems impact is deemed “low risk” by the Retirement Administrator.
- Initiative meets ICERS policy standard(s).

### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

### **6.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

### **7.0 POLICY REFERENCE**

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.
- Information Technology Infrastructure Library (ITIL) Version 4

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM CONTINGENCY PLANNING POLICY

## 1.0 PURPOSE

This policy defines the requirement for a baseline disaster recovery plan to be developed and implemented by ICERS that will describe the process to recover ICERS' systems, applications, and data from any type of disaster that causes a major outage.

## 2.0 SCOPE

This policy applies to all information systems owned, controlled, managed, or subscribed by ICERS.

## 3.0 POLICY

### 3.1 CONTINGENCY PLANS

Development of a contingency plan to include the following:

- **Emergency Response Contacts:** This will include who is to be contacted, when, and how. Additionally, ICERS will identify immediate actions that must be taken in the event of prolonged system outages based on alternative processing approaches.
- **Succession Plan:** Describe the flow of responsibility when normal staff is unavailable to perform their duties.
- **Critical Event Templates:** List of all the services provided and their order of importance. It also explains the order of recovery in both short-term and long-term timeframes.
- **Data Backup and Restoration Plan:** For moderate or highly classified information systems, ICERS will detail which data is backed up, the media to which it is saved, where that media is stored, and how often the backup is done. It should also describe how that data could be recovered.
- After creating the plans, it is important to practice them to the extent possible. ICERS will set aside time to test implementation of the disaster recovery plan annually. During these tests, issues that may cause the plan to fail can be discovered and corrected in an environment that has few consequences.



### 3.2 RECOVERY TIME AND POINT OBJECTIVES

**Recovery Point Objectives** – ICERS will establish a maximum of 4 hours as the Recovery Point Objective (RPO). This is the amount of time between backups and indicates the potential amount of data loss in the event of a system restore.

Additional backups will occur on a nightly, weekly, and monthly basis.

**Recovery Time Objectives** – ICERS will establish a maximum of 24 hours as the Recovery Time Objective (RTO). This is the time required to return the information system to operations.

### 3.3 RANSOMWARE PROTECTION AND RECOVERY MEASURES

In the event of a ransomware attack, ICERS will utilize the following practices to recover:

- **Patch Management** – ICERS will follow best practices in deploying patches to align with ICERS Configuration Management Policy.
- **Confirmation of Backups** – ICERS will develop a schedule to test capabilities to recover using backups of key system resources.
- **Storage of Backups** – To prevent threat actors from encrypting backups, ICERS will seek to store backups on a separate network.
- **Immediate Isolation of Infected System(s)** – ICERS will immediately remove any infected devices from the network to minimize impact.

### 4.0 POLICY ENFORCEMENT

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

### 5.0 POLICY OWNER

The ICERS Board approves this policy, and the Retirement Administrator implements it.

### 6.0 POLICY REVIEW

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:



## 7.0 POLICY REFERENCES

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules.*
- ICERS Configuration Management Policy

ICERS

# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM INCIDENT RESPONSE POLICY**

## **1.0 PURPOSE**

This policy defines the parameters necessary to ensure that ICERS properly identifies, contains, investigates, remediates, reports, and responds to computer security incidents.

## **2.0 SCOPE**

This policy applies to all information systems owned, controlled, managed, or subscribed by ICERS.

## **3.0 POLICY**

### **3.1 INCIDENT RESPONSE TRAINING**

ICERS shall:

- Provide incident response training to information system users consistent with assigned roles and responsibilities.
  - Within 30 days of assuming incident response role or responsibility.
  - When required by information system changes, and within 30 days thereafter.
- Incorporate simulated events into incident response training to facilitate effective response by personnel in crisis situations.
- Employ automated mechanisms to provide a more thorough and realistic incident response training environment.

### **3.2 INCIDENT RESPONSE TESTING**

ICERS shall:

- Test the incident response capability for the information system at least annually using defined test cases to determine the incident response effectiveness and documents the results.
- Coordinate incident response testing with elements of ICERS' Contingency Planning Policy and PenFax System Security Plan.

### **3.3 INCIDENT HANDLING**

ICERS shall:

- Implement an incident handling capability for security incidents that includes preparation, detection and analysis, containment, eradication, and recovery.
- Coordinate incident-handling activities with contingency planning activities.
- Incorporate lessons learned from ongoing incident handling activities into incident response procedures, training, and testing/exercises, and implement the changes accordingly.

### **3.4 INCIDENT MONITORING**

Incident monitoring is outsourced to third parties including, Imperial County Information Technology Services, JEA Smart Solutions for Pension Administration, and external cloud providers. Third parties are responsible for developing and implementing processes to track security anomalies or suspicious activities to aid in the collection and analysis of incident information. Third parties are required to report security incidents as they unfold to ICERS' Retirement Administrator.

### **3.5 INCIDENT REPORTING**

ICERS shall require employees to report suspected security incidents to the Retirement Administrator as soon as possible, but no later than within 4 hours. The Retirement Administrator shall inform the Board within 24 hours of the occurrence of a cybersecurity incident.

### **3.6 INCIDENT RESPONSE ASSISTANCE**

ICERS shall provide an incident response support resource, integral to ICERS' incident response capability that offers advice and assistance to users of the information system for the handling and reporting of security incidents.

### **3.7 INCIDENT RESPONSE PLAN**

ICERS shall:

- Develop a cyber incident response plan that:
  - Provides ICERS with a roadmap for implementing its incident response capability.
  - Describes the structure of ICERS' incident response capability.
  - Meets the unique requirement of ICERS, which relates to mission, size, structure, and function.
  - Defines reportable incidents.
  - Provides metrics for measuring the incident response capability within ICERS.

- Defines the resources and management support needed to effectively maintain and mature an incident response capability.
- Review the incident response plan at least yearly.
- Update the incident response plan to address system changes or problems encountered during plan implementation, execution, or testing.
- Protect the incident response plan from unauthorized disclosure and modification.

#### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

#### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

#### **6.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

#### **7.0 POLICY REFERENCES**

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.
- ICERS Contingency Planning Policy
- ICERS PenFax System Security Plan
- ICERS Cyber Incident Response Plan

# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM IDENTIFICATION AND AUTHENTICATION POLICY**

## **1.0 PURPOSE**

To establish the requirements for identification and authentication of users, processes and devices accessing ICERS Information Technology (IT) resources so as to ensure that the security and integrity of ICERS' data and information systems are protected.

## **2.0 SCOPE**

This policy applies to all users of ICERS IT resources and assets, including third-party entities with access to ICERS' information, networks, and applications. Adherence to this policy helps safeguard the confidentiality, integrity and availability of ICERS' information assets, and protects the interest of ICERS' Members and annuitants.

## **3.0 POLICY**

### **3.1 IDENTIFICATION AND AUTHENTICATION**

The Retirement Administrator is responsible for managing the information system and shall:

- Ensure that information systems uniquely identify and authenticate users or processes acting on behalf of ICERS users.
- Ensure that information systems implement multifactor authentication for network access to privileged accounts.
- Ensure that information systems implement multifactor authentication for network access to non-privileged accounts.
- Ensure that information systems implement multifactor authentication for local access to privileged accounts.
- Ensure that information systems implement multifactor authentication for remote access to privileged and non-privileged accounts such that one of the factors is provided by a device separate from the system gaining access and the device utilizes a cryptographic strength mechanism that protects the primary authentication token (secret key, private key or one-time password) against compromise by protocol threats including: eavesdropper, replay, online guessing, verifier impersonation and man-in-the-middle attacks.

## 3.2 IDENTIFIER MANAGEMENT

ICERS shall manage information system identifiers by:

- Ensuring that approval by at least one supervisor is received prior to an account being issued. The supervisor must formally issue an account request to the Retirement Administrator who must sign off on the request before the account is created and issued.
- Deploying naming schemes in accordance with account types and functions:
  - Non-administrative user accounts – These accounts use the employee’s name as the identifier and are generally used for day-to-day needs, with no administrative rights assigned to them.
  - Administrative user accounts – These accounts are named to uniquely identify the employee and the role they serve.
  - Device accounts – These include media access control (MAC) or Internet protocol (IP) addresses, or device-unique token identifiers. Network enabled devices, including desktop and laptop computers are also assigned unique identifiers.
  - Default accounts – Default accounts such as Guest and Administrator should not be used on ICERS resources and must be renamed.
- Conducting background checks on employees and contractors prior to issuing user accounts to access ICERS resources.
- Adhering to specific time period whereby an account is disabled as defined in the Access Control Policy.

## 3.3 GENERAL PASSWORD POLICIES

The following are general mandatory password policies for all ICERS users (end users, network administrators, and developers):

- Do not share your personal ICERS network or system passwords with anyone, including administrative assistants or system administrators. All passwords are to be treated as sensitive, confidential ICERS information
- At least fifteen (15) characters should be used to create a password/passphrase.
- The fifteen (15) characters must include at least one character from each of the following four (4) character classes:
  - Uppercase characters
  - Lowercase characters
  - Numbers, and

- Non-alphanumeric characters ~!@#%&\*\_-+='\|(){}[];":'<>.,?/;

***For systems governed by a Multi-Factor Authentication (MFA), the fifteen (15) character requirement is replaced by an eight (8) character limit. Complexity rules as follows.***

Minimum password complexity must not contain:

- “Imperial County Employees’ Retirement System,” “ICERS”, or any derivation
- Computer terms and names, commands, sites, companies, hardware, or software
- Birthdays and other personal information such as addresses, Social Security Numbers, and phone numbers.
- Word or number patterns like “aaabbb,” “qwerty,” “zyxwvuts,” “123321,” etc. Ensuring that passwords must contain characters from three of the following four categories:
  - Uppercase characters
  - Lowercase characters
  - Numbers, and
  - Non-alphanumeric characters ~!@#%&\*\_-+='\|(){}[];":'<>.,?/;
- User passwords for ICERS accounts should not be the same as non-Imperial County and personal online accounts passwords to minimize the risk of breach.
- Do not reveal a password through email, electronic chat, or other electronic communication.
- Passwords must not be inserted into email messages or other forms of electronic communication in plain text. They must be encrypted.
- Any temporary passwords shared must be immediately changed to a user-defined password.
- Do not speak about a password in front of others.
- Do not reveal a password on questionnaires or security forms.
- If someone demands a password, refer them to this policy and direct them to the Retirement Administrator.
- Be aware of “shoulder surfing” threats and observe surroundings before and during password entry.
- Be aware of “social engineering” techniques to obtain passwords: for example, a cyber-attacker could pretend to be an Imperial County Service Desk staff

member, call an employee, and ask the employee to provide a password to assist the agent in troubleshooting a problem.

- If an account or password compromise is suspected, immediately report the incident to the Retirement Administrator.
- Where possible, ICERS recommends the use of passphrases to enhance the security of access:
  - Passphrases are not the same as passwords. A passphrase is a longer version of a password and is therefore, more secure. A passphrase is typically composed of multiple words. Hence, a passphrase is more secure against “dictionary attacks.”
  - A good passphrase is relatively long and contains a combination of upper and lowercase letters and numeric and punctuation characters.
  - All rules above that apply to passwords, apply to passphrases.

### **3.4 AUTHENTICATOR FEEDBACK**

ICERS shall ensure that the information system obscures feedback of authentication during the authentication process by:

- Masking passwords upon keyed entry.
- Ensuring that failed login boxes do not indicate which part of the username, password, or passphrase is incorrect.

### **3.5 RE-AUTHENTICATION**

ICERS users will be required to re-authenticate to logically access ICERS systems in any of the following circumstances:

- System lock
- Role change
- After system upgrade/update
- To execute privileged function

### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.



## 6.0 POLICY REVIEW

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

## 7.0 POLICY REFERENCE

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.
- ICERS Access Control Policy

ICERS

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM PERSONNEL SECURITY POLICY

## 1.0 PURPOSE

This policy establishes the Personnel Security Policy for managing risks related to personnel screening, termination, transfer, management, and third parties.

## 2.0 SCOPE

This policy is applicable to all ICERS employees, contractors, and consultants.

## 3.0 POLICY

### 3.1 ROLES AND RESPONSIBILITIES

**ICERS Retirement Administrator** – The Retirement Administrator will ensure the implementation of personnel security measures.

**System Owner** – The System Owner is responsible for ensuring personnel changes are properly reflected in applicable systems.

### 3.2 PERSONNEL SECURITY

The ICERS Personnel Security Policy aims to be consistent with best practices associated with organizational Information Security management. It is the intention of this policy to implement security best practices regarding personnel screening, termination, transfer, management, and third parties.

ICERS leverages the following practices around personnel security:

- Background checks will be required prior to enabling access to any ICERS information system. This includes access to employees, contractors, and consultants.
- ICERS reserves the right to conduct additional background checks on 3-year cycles after the initial employment screening.
- Security and Awareness training will be required prior to, and annually thereafter, for ICERS to issue access credentials to any ICERS' information system. This includes access to employees, contractors, and consultants.
- Upon termination, ICERS will immediately revoke access to ICERS information system in accordance with the ICERS Access Control Policy.

- Exit interviews will be conducted to ensure ICERS can recover all ICERS assets provided to the employee, contractor, or consultant to aid in performance of the job function.
- ICERS will retain control of access to any organizational information formally controlled by terminated employees, consultants, or contractors.
- ICERS staff (employees) will be required to act in compliance with the applicable Imperial County Employees' Retirement System policies and MOUs.
- ICERS will require staff members to sign access agreements in accordance with access provided to information systems or assets.
- ICERS will require all third party vendors to comply with personnel security policies contained herein.

### **3.3 EMPLOYEE ONBOARDING**

ICERS IT will participate in the established employee onboarding process to support the personnel security policy contained herein.

As part of the onboarding process, ICERS IT will be responsible for meeting with new employees to:

- Document and issue ICERS' equipment required in support of the applicable job function.
- Provide system access credentials and aid in the reset of temporary passwords.
- Review the incident response guidelines staff should follow in the event of a breach.
- Provide an overview of key ICERS' Security Policies
  - Access Controls
  - Identification and Authentication

### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

## 6.0 POLICY REVIEW

This policy will be reviewed and updated annually and as needed by ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

## 7.0 POLICY REFERENCES

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.

ICERS

# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM PHYSICAL AND ENVIRONMENTAL PROTECTION POLICY

## 1.0 PURPOSE

This policy addresses threats to critical ICERS' information assets that result from unauthorized access to facilities owned, controlled, or leased by ICERS, including offices, data centers, and any other physical facilities that are used to house ICERS' information assets. For cloud-based services, ICERS will absorb the controls identified as part of the relevant cloud services agreement.

## 2.0 SCOPE

This policy defines the guidelines for the physical controls used in the facilities owned, controlled, or leased by ICERS to protect ICERS' information assets such as computers, servers, and other types of information technology resources that must be safeguarded against unlawful and unauthorized physical intrusion.

Facilities hosting cloud-based services on behalf of ICERS will be governed by the applicable cloud services agreement.

## 3.0 POLICY

ICERS will physically protect all information resource facilities in proportion to the criticality or importance of their function. Access to such facilities are controlled through such physical controls as secure external and internal doors, access cards, keys and fobs, locked and/or barred windows, utilization of security cameras as a visual deterrent, registration of visitors at entrances, and security guards.

Access lists will be reviewed at least annually or more frequently depending on the nature of the systems that are being protected. ICERS will manage the following physical access control issues. Unlawful access gained with the intent of theft, damage, or other disruption of operations.

- Unauthorized and illegal access (internal or external source) to steal, damage, or otherwise disrupt operations.
- Loss of power that results in limited or complete loss of physical access controls.

## 3.1 ROLES AND RESPONSIBILITIES

**ICERS Retirement Administrator** – The Retirement Administrator or their designee(s) shall ensure that physical and environment protection of ICERS' systems and applications adhere to this policy.

### 3.2 PHYSICAL ACCESS CONTROLS TO PROTECT GENERAL FACILITIES

ICERS will use physical methods to control access to facilities. The following will be used to control physical access to ICERS facilities:

- ICERS will leverage an alarm system to notify key individuals in the event of a physical breach during off-hours. Access to the alarm codes will be strictly limited and require approval from the department Supervisor and Retirement Administrator.
- Access to ICERS facilities that house critical ICERS' assets will follow the principle of least privilege. Employees, contractors, and vendors will be granted access only to facilities that are necessary for the fulfillment of their job responsibilities. This access will be controlled through configuration on the individual's access card.
- The process for granting physical access to ICERS' facilities will include approval by the ICERS management team. Access reviews will be conducted at least annually or more frequently depending on the nature of the systems that are being protected. Removal of access for individuals who no longer require physical access to ICERS facilities will be completed immediately.
- Employees, contractors, and vendors who require off-hours access will need to request exempt access. Exempt access must be approved by the department Chief and the Retirement Administrator.
- Security cameras will be deployed to provide continuous monitoring of ICERS-controlled suites and areas, as well as all building common hallways and external entrances.
- Access cards will be appropriately protected (not shared or transferred) and will be returned when no longer needed. Lost or stolen cards will be reported immediately to the Retirement Administrator.
- All staff and authorized individuals entering the general ICERS areas of the facility must use their access cards. Authorized personnel should not permit visitors, guests, other building tenants, etc. from following behind them.
- Security controls for employees, contractors, and vendors working in ICERS facilities will include, but will not be limited to, background checks, ID badges, and access cards.
- Security controls for visitors will include, but will not be limited to, signing a visitor registration log, ID checks, wearable disposable badges, and employee escorts at all times when located within secure areas.

### **3.3 PHYSICAL ACCESS CONTROLS TO PROTECT FILE STORAGE LOCATIONS, SERVER ROOMS AND TELECOMMUNICATION CLOSETS**

ICERS will use physical methods to control access to key ICERS' file storage locations, server rooms and telecommunication closets. These methods will include, but will not be limited to:

- Automatically locking doors,
- Key card-controlled access,
- Backup access to server rooms through the utilization of physical keys,
- Secured filing cabinets for storage of sensitive data,
- Utilization of fire suppression capabilities,
- Temperature monitoring systems, and
- Notification of detection of water activity.

### **3.4 CLEAN DESK POLICY**

ICERS information must not be located, used, or viewed in areas where an unauthorized person could view confidential, sensitive or privacy-regulated information. At the end of each day, all sensitive information must be locked. Locked offices are in compliance with this policy and do not require additional locked storage devices. Departments are responsible for the removal of sensitive information from printers and faxes. All ICERS staff must exercise caution to prevent unauthorized persons from viewing sensitive data.

Clean desk procedures follow the sensitive documents and extends this control to areas including, but not limited to:

- Home-based remote office environments
- Lodging accommodations when traveling
- Remote office sites, and
- Any other location where sensitive ICERS information may be kept.

### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

## **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

## **6.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

## **7.0 POLICY REFERENCES**

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*
- ICERS Cloud Services Agreements (as applicable)



# IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM SECURITY ASSESSMENT POLICY

## 1.0 PURPOSE

Security assessments are an essential component of any information security program and require an effective vulnerability management program. Assessments provide visibility into the vulnerabilities of ICERS assets. Assessments include security reviews performed by internal and external assessors. This policy details ICERS' approach to managing security of information systems and how security assessments will be approached.

## 2.0 SCOPE

This policy applies to all information systems owned, controlled, managed, or subscribed to by ICERS.

## 3.0 POLICY

### 3.1 GENERAL

Authorization to operate ICERS' information systems will be controlled and managed to ensure that only authorized ICERS' systems are implemented to meet ICERS' business needs. It is the purpose of this policy to document the security assessment and authorization process for ICERS' information systems. The implementation of any information system will be in accordance with ICERS' Configuration Management Policy.

### 3.2 ROLES AND RESPONSIBILITIES

**ICERS Retirement Administrator** – The Retirement Administrator or their designee shall ensure that ICERS' systems and application are regularly assessed to ensure conformance with ICERS' security policies.

**System Owners** – The system owner for each information system shall be responsible for ensuring that adequate access is provided to complete security assessments in conformance with ICERS' security policies.

**Authorizing Official** – The authorizing official shall be responsible for certifying ICERS' systems are in compliance with security policies to authorize system deployment. Authorizing official signatures are required for initial implementations as well as for system changes that significantly change system features.

### 3.3 SECURITY ASSESSMENTS

The Retirement Administrator or their designee shall ensure that:

- All ICERS' systems are part of a continuous security management program that requires a full detailed security assessment annually.

- The completion of annual assessments to identify system vulnerabilities and remediation plans. These assessments should include, but are not limited to:
  - Annual Internal penetration testing
  - Annual External penetration testing
  - Quarterly and Annual Vulnerability scanning
  - Security awareness and training effectiveness
- The performance of security assessments when significant changes are performed on ICERS information system.
- The utilization of an independent assessor for Moderate- or High-classified systems to conduct *annual* security assessments and focused key control audits. Additionally, the effectiveness of the continuous security management program should be evaluated *triennially*. The independent assessor shall be impartial and not a member of the ICERS staff.

### 3.4 ANNUAL SECURITY ASSESSMENT MANAGEMENT

#### Penetration Testing and Vulnerability Management

- Annual and periodic or continuous vulnerability assessment scans will be performed on all network assets deployed within ICERS' IP address space, to include all internal and external facing IP addresses. An independent assessor shall use industry recognized solutions to perform these scans such as Tenable Nessus or PortSwigger Burp Suite on an annual basis.
- The Retirement Administrator is responsible for contracting with a third-party security company to run external vulnerability scans against ICERS' assets products, or services annually.
- The Retirement Administrator is responsible for ensuring compliance – for Moderate- or Highly-classified systems – by the system developer to conduct quarterly security scans. These scans will be used to enhance visibility of vulnerabilities, remediation progress and threat elevation as vulnerabilities change.
- ICERS personnel (employees, contractors, or consultants) are expected to cooperate fully with any vulnerability assessment being conducted on systems for which they are held accountable.
- ICERS personnel (employees, contractors, or consultants) are further expected to cooperate with the Retirement Administrator in the development of a remediation plan.

### 3.5 ANNUAL SECURITY ASSESSMENT AUTHORIZATION

The Authorizing Official shall:

- Approve all Moderate or Highly classified systems initial implementations.
- Approve the production release of significant changes to the Moderate- or Highly-classified systems functions.
- Reapprove Moderate- or Highly-classified systems triennially in the absence of any significant system changes.

#### **4.0 POLICY ENFORCEMENT**

Failure to follow this policy may result in disciplinary action in accordance with Federal and State statutes, and Imperial County ordinances.

#### **5.0 POLICY OWNER**

The ICERS Board approves this policy, and the Retirement Administrator implements it.

#### **6.0 POLICY REVIEW**

This policy will be reviewed and updated annually and as needed by the ICERS Board. All ICERS system users will be responsible for reviewing this policy and related updates and will acknowledge in writing that they have read this policy.

Issue Date of Policy:

Next Management Review Date:

#### **7.0 POLICY REFERENCES**

- NIST 800.53 Rev5
- FIPS 140-3, *Security Requirements for Cryptographic Modules*.
- ICERS Configuration Management Policy

**RESOLUTION OF THE IMPERIAL COUNTY BOARD OF SUPERVISORS  
ADOPTING GOVERNMENT CODE SECTION 31597.1**

WHEREAS, Government Code Section 31597 provides:

Before April 30th of each year the County Treasurer shall file in the office of the County Auditor and with the Board of Supervisors a sworn statement, which shall exhibit the financial condition of the retirement system at the close of the preceding December 31st and its financial transactions for the year ending on that day.

WHEREAS, Government Code Section 31597.1 provides:

Before October 31st of each year, the County Treasurer shall file in the office of the County Auditor and with the Board of Supervisors a sworn statement, which shall exhibit the financial condition of the retirement system at the close of the preceding June 30th and its financial transactions for the fiscal year ending that day.

This section shall not be operative in any county until such time as the Board of Supervisors shall by Resolution adopted by a majority vote, make the provisions of this section applicable in such county. After the filing of the first fiscal year accounting under this section, the provisions of Section 31597 shall not apply in such county.

WHEREAS, the IMPERIAL COUNTY BOARD OF SUPERVISORS desire to adopt by Resolution and make the provisions of Government Code Section 31597.1 applicable in Imperial County.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The Imperial County Board of Supervisors adopt by this Resolution and make the provisions of Government Code Section 31597.1 applicable in Imperial County.

The above Resolution was offered by Supervisor VOGEL, Seconded by Supervisor SEABOLT and passed by the affirmative roll call vote of the Members of the Imperial County Board of Supervisors as follows:

LEGASPI, SEABOLT, VOGEL, (BLUME & BUCHER – ABSENT).

The above RESOLUTION OF THE IMPERIAL COUNTY BOARD OF SUPERVISORS ADOPTING GOVERNMENT CODE SECTION 31597.1 was adopted at a regular meeting of the Imperial County Board of Retirement on June 28, 1988.

IMPERIAL COUNTY BOARD OF SUPERVISORS

By \_\_\_\_\_

LUIS LEGASPI, Chairman  
Imperial County Board of Supervisors

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LINDA WEAVER, Clerk of the Imperial  
County Board of Supervisors

IMPERIAL

**RESOLUTION OF THE BOARD OF RETIREMENT  
OF THE IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
CONCERNING IMPERIAL COUNTY'S EMPLOYMENT POLICIES,  
PRACTICES, AND PROCEDURES**

WHEREAS, the Imperial County Employees' Retirement System ("ICERS") operates under the California County Employees Retirement Law of 1937, commonly referred to as "the '37 act;" and

WHEREAS, the amendments to the California Constitution, Article XVI, Section 17, granted all public pension plans in the State of California, including ICERS, "plenary power" over administration of the retirement system and investment of retirement funds; and

WHEREAS, the plenary, or absolute, power over administration of ICERS includes adopting and implementing employment policies, practices and procedures of ICERS employees; and

WHEREAS, the Board of Retirement, directed at its regular meeting of March 15, 2006 to consider adopting a resolution wherein the Imperial County Human Resources Department's employment policies, practices and procedures would be made applicable to ICERS' employees, with the exception of a Retirement Administrator retained as an at-will employee pursuant to Government Code Section 31522.2;

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board of Retirement here adopts and implements the Imperial County Human Resources Department's employment policies, practices and procedures, making such policies, practices and procedures applicable to ICERS employees, with the exception of a Retirement Administrator retained as an at-will employee pursuant to Government Code Section 31522.2.

PASSED AND ADOPTED, by the Board of Retirement of the Imperial County Employees' Retirement System, County of Imperial, State of California, this 19th day of April, 2006, by the following vote of the Members present:

AYES: Vogel, Flammang, Heuberger, Villeneuve, Padilla, Grogan, Huskey, Rhodes

NAYES: None

ABSENT: Robert W. Williams

ABSTENTIONS: None

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Becky Flammang,  
Chairman of the Board of Retirement

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Julie Villeneuve, Secretary of the Board of Retirement

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
CREDIT CARD AND WIRE TRANSFERS POLICY**

**CREDIT CARD:**

**A. PURPOSE**

The purpose of this policy is to provide information as to credit card use for the Imperial County Employees' Retirement System (ICERS). While the use of credit cards is an accepted practice and, in some cases, the only permitted practice, their use is allowed only for specific purposes and situations to transact business.

**B. SCOPE**

It is the policy of ICERS to allow the use of a credit card by trustees and staff for certain expenses as outlined below. Personal use is prohibited. Unauthorized charges are the personal responsibility of the person incurring the charge. ICERS shall not be responsible for such charges.

**C. CONTROLS**

1. ICERS management staff will approve or deny each credit card charge.
2. Any required receipts must be obtained by the person using the card and submitted to ICERS.
3. Any lost cards must be canceled immediately and ICERS staff notified of the cancellation.
4. ICERS management staff may revoke a card of a cardholder who violates this credit card policy.

**D. ELIGIBLE USES OF THE CREDIT CARD**

The credit card may be used to:

1. Guarantee rooms for conferences and/or meeting attendance.
2. Purchase lodging, meals, travel fare, such as air fare or taxi, parking fees at hotels and airports, and baggage fees and other travel-related costs to attend meetings, conferences, or training sessions.
3. Purchase supplies or materials including overnight courier fees and printing costs or any other charges that are authorized by ICERS management staff.
4. Purchase gasoline when traveling on ICERS business.

5. Registration fees and membership dues to attend conferences and training sessions.

**E. INELIGIBLE USES OF THE CREDIT CARD**

The credit card may not be used for:

1. Personal purchases.
2. Gasoline for personal use in a vehicle.
3. Expenses not authorized by ICERS management staff.

Any unallowable expenses charged on a card will be the responsibility of the person making the purchase.

**F. TERMINATED CARDHOLDERS**

A credit card held by a terminating employee must be turned in to ICERS office prior to termination. If the card is not retrievable, it shall be cancelled by ICERS staff.

**WIRE TRANSFERS:**

As a policy to ensure the security of funds, the wiring of funds shall be controlled and monitored as follows:

1. The wiring of funds into, out of, or among ICERS accounts is limited to the Retirement Administrator and the Assistant Retirement Administrator.
2. A wire transfer/Capital Call request shall be completed and/or signed by an authorized individual.
3. Either the Accounting Technician or Accountant/Auditor shall input the signed wire request into ICERS' custodial bank's wire transfer system.
4. Once entered into the custodian's system, the "pending" wire transfer is both approved and submitted by either the Retirement Administrator or the Assistant Retirement Administrator.
5. A copy of each wire transfer form/transmittal shall be kept by staff for audit purposes.
6. Any transfers executed pursuant to this policy shall be accounted upon the books of the retirement board pursuant to California Government Code section 31589.



Passed and adopted by the Board of the Imperial County Employees' Retirement System this August 11, 2014.

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David Prince, Retirement Administrator

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
MOBILE DEVICE POLICY**

This policy is adopted by the Imperial County Board of Retirement at their regular meeting on February 20, 2013.

**I. PURPOSE**

To define acceptable standards for management and use of Imperial County Employees' Retirement System (ICERS) mobile devices.

**II. DEFINITION**

Mobile devices are defined to include cellular phones, personal digital assistants, laptops, tablets (e.g., iPad), netbooks, notebooks or any other portable electronic device capable of displaying data or images.

**III. SCOPE**

This policy applies to all ICERS Trustees and Executive Staff.

**IV. MOBILE DEVICE USE**

It is the goal of ICERS to distribute Board of Retirement and committee agenda packets as well as other ICERS documentation to all Trustees and Executive Staff in electronic format in lieu of paper versions of the documents. A mobile device with approved accessories will be issued to each Trustee and Executive Staff Member who elects to receive electronic materials to retrieve, store, and read the electronic materials. Additional accessories may be purchased for use with the device at the user's expense as long as the accessory does not compromise the security or functionality of the device or data. Upon issuance of a mobile device, ICERS will no longer provide a paper copy of ICERS materials to the Trustee/Executive Staff Member.

ICERS will not provide mobile devices to third party vendors (e.g., outside counsel, investment consultant, actuary, etc.). Vendors will be expected to provide their own equipment to retrieve, store, and read ICERS electronic materials. ICERS will not provide paper copies of materials to third party vendors.

ICERS will not provide mobile devices to ICERS Members or members of the public. ICERS' materials will be posted on the ICERS website in electronic format and will be available for public review at the ICERS office.

The mobile device is on loan to the Trustee/Executive Staff Member and remains the property of ICERS. ICERS will require devices to be returned to ICERS for regular maintenance and upon termination of Board membership or employment.

A Trustee or Executive Staff Member may opt to use a non-ICERS issued mobile device and waive the issuance of an ICERS device.

A Trustee may use an ICERS mobile device for personal use and may integrate personal calendar and email on the device at their own risk and as long as the personal use does not compromise the security of the mobile device or the data stored on the device.

***There is no expectation of privacy with regard to the use of a mobile device for ICERS business. This is true whether the device is issued and maintained by ICERS, issued by another government agency, or if it is a personal device owned by the Trustee or Executive Staff Member.***

**V. DEVICE SECURITY**

Password protection is required for all mobile devices used for ICERS business, including non-ICERS issued mobile devices. The password security must meet the standards established by the Imperial County Information Technology Department.

Trustees and Executive Staff Members are responsible for the security of the device and all associated equipment issued to them for use. The loss or theft of a mobile device used for ICERS business must immediately be reported to the ICERS Retirement Administrator or designee. This includes devices not issued by ICERS so that a risk assessment may be conducted regarding the ICERS data stored on the device at the time of the loss or theft.

A “remote wipe” may be processed on confidential items issued to mobile devices. Individuals using non-ICERS issued devices must agree to the installation and use of remote wipe software.

Requests for repair and/or replacement of an ICERS-issued mobile device will be reviewed by the Retirement Administrator or designee and submitted to the Board of Retirement for approval.

**VI. DATA SECURITY**

Trustees and Executive Staff Members are responsible for the security of electronic data stored on any mobile device they elect to use for ICERS business. All sensitive and confidential data will be encrypted and password protected prior to distribution of any ICERS authorized mobile device. Such data may not be copied or transferred to any unauthorized electronic device for any purpose. Any incident involving unauthorized data access must be reported immediately to the Retirement Administrator or designee.

**VII. APPLICATIONS**

Mobile device applications require authorization from the Retirement Administrator or designee prior to download to prevent any detrimental effect on the device or ICERS

data. The cost of the purchase of applications required for ICERS business activity will be borne by ICERS. The cost of any other applications, once approved for download, will be the individual's responsibility. Applications for ICERS issued devices will be purchased and distributed by authorized ICERS administrative staff. The presence of applications deemed to be a security risk may trigger blocked access to ICERS data and resources.

#### **VIII. INTERNET ACCESS**

ICERS will provide wireless internet access at its office located at 1221 W. State Street in El Centro, California. Users may also use other available wireless internet access to download ICERS electronic materials and application updates. Upon request by the Trustee or Executive Staff Member, ICERS will provide a subscription to a data plan to be used in the absence of wireless access. Users acknowledge that any charges for internet usage over the data plan limit are the sole responsibility of the user.

#### **IX. TRAINING**

Trustees and Executive Staff are required to participate in training in the use of mobile devices used for ICERS business. Training will include the proper use of ICERS-issued devices as well as policies, security issues, data access and download procedures and application functions. ICERS will arrange for training for newly-issued devices. In addition, training updates will be provided as needed for revised application and procedures.

Users will sign an acknowledgement documenting their understanding of ICERS' policies and procedures regarding mobile devices prior to the use of any such device for ICERS business.

#### **X. POLICY REVIEW**

This policy may be amended at any time.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
COMMISSION RECAPTURE PROGRAM**

The Board of Retirement requires investment managers to use one of the Board-approved Commission Recapture brokers whenever possible without adversely affecting the manager's best execution process.

ICERS

## IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM PROXY VOTING POLICY

The Imperial County Employees' Retirement System Board's primary objective is to have their proxy ballots voted according to the best economic interest of the system's members.

Proxy voting is considered a ministerial function and is considered part of the duties of the investment manager. Retained investment managers will vote, or cause to be voted, all proxy proposals on an individual basis. The manager's process in dealing with proxy issues should be both thorough and reasonable, and oriented toward achieving maximum long-term shareholder value. The manager is expected to discharge expected fiduciary duty by use of proxy voting policies and procedures solely in the interest of the participants and beneficiaries. To act prudently in the voting of proxies, the manager should consider those factors that would affect the value of the plan's investment and act solely in the interest of, and for the exclusive purpose of providing benefits to participants and beneficiaries. The manager will not subordinate the interest of participants and beneficiaries in their retirement income to unrelated objectives. Managers will review and vote all proxies that are received. Each investment manager shall notify the custodial bank of their responsibility to forward to the manager all proxy material. *An ongoing review should be done to see that all expected proxies have been received, and if not, the bank should be directed to vote any proxy it receives in conformance with the manager's instruction. The manager may outsource this service in order to discharge its proxy voting responsibilities in conformance with these guidelines.*

On an annual basis, investment managers should send ICERS a report of its proxy voting activities. A brief explanation of the following key elements must be included in this report from investment managers:

- Stock name, number of shares owned by the fund and meeting date;
- Number of management and shareholder proposals that came to a vote;
- Number of votes with management;
- Number of votes against management and the rationale behind the vote; and
- Whether any proxies were not voted, why they were not voted and whether steps have been taken to ensure all proxies will be voted in the future.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
BUDGETARY TRANSFER POLICY**

Consistent with existing County rules and practice, ICERS staff is allowed to transfer funds within similar designated budget categories without prior approval by the Board, subject to approval by the Retirement Administrator and as documented in a form substantially similar to that provided by the County of Imperial, Request for Transfer of Appropriations, available at: <https://auditor.imperialcounty.org/wp-content/uploads/2020/02/Transfer-of-Appropriation.pdf> (last accessed July 7, 2022).

Adopted: May 17, 2006

Revised: June 15, 2022

ICERS

## IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM REAL ESTATE POLICY

It is the intent of the Imperial County Employees' Retirement System ("ICERS") Board of Trustees to acquire a building for its own use as part of its real estate investment portfolio.

Pursuant to the County Employees' Retirement Law, commonly referred to as the '37 Act, the state statutes that govern ICERS, the Board may "invest in any form or type of investment deemed prudent by the Board pursuant to the requirements of Section 31595." (Gov. Code, § 31594.) Government Code Section 31595 uses a "prudent person" standard to evaluate all investments. It requires that the members act "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use . . . ." and also requires investment diversification so as to minimize losses and maximize returns. The Retirement Board will also adhere to the conflict of interest laws, rules and regulations as outlined in Government Code Sections 87100-87350, pertinent sections of the '37 Act, and ICERS' Bylaws.

The Board voted at its regular meeting of December 20, 2006 to limit direct real estate investing to either purchasing an existing building or constructing a building in Imperial County.

The Board also directed that ICERS:

1. Staff or a consultant locates a building to purchase, or available vacant land to purchase that is suitable to construct a building upon. Staff or the consultant will then provide a good faith estimate of the total cost of the project to the Board Members.
2. ICERS shall occupy the building, but a portion of the finished structure could be leased or rented to an appropriate tenant upon Board approval, space permitting.
3. Upon voting to either purchase or construct a building, the Board shall direct legal counsel to retain outside counsel familiar with setting up a title holding corporation for the real property wherein the pension fund is the sole shareholder and Board Members or staff are officers and directors.



**BEFORE THE BOARD OF RETIREMENT  
OF THE IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM**

**RESOLUTION OF THE IMPERIAL COUNTY BOARD OF RETIREMENT  
ADOPTING GOVERNMENT CODE SECTION 31580.3  
RELATING TO ACCOUNTING AND COMPUTER TECHNOLOGY**

WHEREAS, the Imperial County Employees' Retirement System ("Retirement System") operates under the County employees Retirement Law of 1937, commonly referred to as "the '37 Act," and

WHEREAS, all the sections referred to herein are provisions of the '37 Act; and

WHEREAS, the Imperial County Board of Retirement adopted Government Code Section 31522.1 on October 19, 1988 permitting the Retirement System to appoint its own staff; and

WHEREAS, pursuant to Government Code Section 31580.2, if a Retirement System appoints its own staff under Government Code Section 31580.2, then the Retirement System is responsible for all administrative costs, and such costs are annually capped at 18/100's of 1% of the total assets of the Retirement System; and

WHEREAS, the Board of Retirement is required to operate under Government Code Section 31580.2, and has operated under that section since adopting Government Code Section 31522.1, though it has never formally adopted Section 31580.2; and

WHEREAS, Government Code Section 31580.2 was recently amended to reference a new section of the '37 Act, Government Code Section 31580.3, which is effective January 1, 2008. The text of both provisions is attached hereto and incorporated by this reference; and

WHEREAS, Government Code Section 31580.3 permits the Retirement System to handle expenses for computer software, hardware, and consulting services related to computer technology, by allowing said expenses up to (1) 18/100's of 1% of the total assets of the Retirement System plus one million dollars, or (2) 23/100's of 1% of the total assets of the Retirement System, whichever is greater; and 31580.2. In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1 or 31522.5, or both, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. Except as described in

Section 31580.3, the expense incurred in any year may not exceed 18/100's of 1% of the total assets of the retirement system.

31580.3 (a) If during any year the expense of administration of the retirement system includes expenditures for software, hardware, and computer technology consulting services in support of that software or hardware, the expense incurred may not exceed the greater of the following:

- (1) The sum of eighteen hundredths of 1 percent of the total assets of the retirement system plus one million dollars (\$1,000,000).
- (2) Twenty-three hundredths of 1 percent of the total assets of the retirement system.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

**RESOLUTION OF THE IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
BOARD OF RETIREMENT  
ADOPTING GOVERNMENT CODE SECTION 31529.9**

WHEREAS, the Imperial County Employees' Retirement System (ICERS) and the Board of Retirement (Board) are governed by the County Employees Retirement Law of 1937 (CERL) (Gov. Code, §§ 31450, et seq.); and

WHEREAS, such cap applies to ICERS beginning in 1988 when the Board adopted Government Code Section 31581.2; and

WHEREAS, pursuant to Government Code Section 31529.9, the CERL also provides that legal services may be paid from system assets if the Board of Retirement adopts Government Code Section 31529.9 by resolution and majority vote; and

WHEREAS, ICERS staff has recommended that, for budgetary purposes, it would be beneficial if all legal services were paid from assets of the system rather than under the administrative budget;

NOW, THEREFORE BE IT RESOLVED that the Board of Retirement declares the following:

1. The foregoing recitals are incorporated herein by this reference.
2. The Board of Retirement hereby adopts Government Code Section 31529.9 of the CERL.
3. This resolution shall be effective on the date of its adoption.

ADOPTED AND APPROVED by the Board of Retirement of the Imperial County Employees' Retirement System on May 19, 2010.

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JULIE VILLENEUVE, Chairman  
of the Board of Retirement

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
DISCLOSURE OF PLACEMENT AGENT FEES, GIFTS  
AND CAMPAIGN CONTRIBUTIONS POLICY**

*This policy is effective immediately upon adoption. This policy is intended to supplement any applicable provisions of state or federal law.*

**I. PURPOSE**

This Policy sets forth the circumstances under which the Imperial County Employees' Retirement System (ICERS) shall require the disclosure of payments to *Placement Agents*, as that term is defined by Government Code Section 7513.8, in connection with ICERS investments in or through *External Managers*, as that term is defined by Government Code Section 7513.8. This Policy is intended to apply broadly to all of the types of investment partners with whom ICERS does business, including the general partners, managers, investment managers and sponsors of hedge funds, private equity funds, real estate funds and infrastructure funds, as well as investment managers retained pursuant to a contract. ICERS adopts this Policy to require broad, timely, and updated disclosure of all Placement Agent relationships, compensation and fees. The goal of this Policy is to help ensure that ICERS investment decisions are made solely on the merits of the investment opportunity by individuals who owe a fiduciary duty to ICERS.

**II. APPLICATION**

This Policy applies to all agreements with External Managers that are entered into after the date this Policy is adopted. This Policy also applies to existing agreements with External Managers if, after the date this Policy is adopted, the agreement is amended in any way to continue, terminate, or extend the term of the agreement or the investment period, increase the commitment of funds by ICERS or increase or accelerate the fees or compensation payable to the External Manager (Referred to hereafter as "Amendment"). In the case of an Amendment, the disclosure provisions of this Policy shall apply to the Amendment and not to the original agreement.

**III. RESPONSIBILITIES**

- A. The Board is responsible for:
1. Not entering into any agreement with an External Manager that does not agree in writing to comply with this policy.
  2. Not entering into any agreement with an External Manager who has violated this policy within the previous five years. However, this prohibition may be reduced by a majority vote of the board at a public session upon a showing of good cause.

- B. Each External Manager is responsible for:
1. Providing a statement in writing that the External Manager will comply with this policy.
  2. Providing the following information to the ICERS Investment Staff within 45 days of the time investment discussions are initiated by the External Manager, but in any event, prior to the completion of due diligence. In the case of Amendments, the Placement Agent Information Disclosure is required prior to execution of the Amendment.
    - a. Disclosure of payments or compensation by the External Manager or any of its principals, employees, agents or affiliates, directly or indirectly, to any person or entity to act as a Placement Agent in connection with ICERS investments.
    - b. A resume for each officer, partner, principal of the Placement Agent detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former ICERS Board Member, employee or Consultant or a member of the immediate family of any such person, this fact shall be specifically noted.
    - c. A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent, including the nature, timing and value thereof.
    - d. A description of the services to be performed by the Placement Agent and a statement as to whether the Placement Agent is utilized by the External with all prospective clients or only with a subset of the External Manager's prospective clients.
    - e. A written copy of any and all agreements between the External Manager and the Placement Agent.
    - f. A statement whether the placement agent, or any of its affiliates, are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association, or any similar regulatory agent in a country other than the United States, and the details of that registration or explanation as to why no registration is required.
    - g. A statement whether the placement agent, or any of its affiliates, is registered as a lobbyist with any state or national government.



**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
SECURITIES LITIGATION POLICY**

**I. PURPOSE**

The Board of Retirement adopts this policy to establish procedures and guidelines for monitoring securities actions when appropriate to protect ICERS' interest. As an institutional shareholder, ICERS is frequently a class member in securities class actions that seek to recover damages resulting from alleged wrongful acts or omissions of others. In certain cases, it may be advisable to file a direct action against defendants. In other cases, a class action is preferable. In some cases, both may be recommended.

**II. FUNCTIONS AND REPONSIBILITIES**

**1. Review of Case**

ICERS shall retain at least two law firms to review possible actions and determine whether a case has merit.

**2. Participation as Class Representative or Direct Action**

Staff will recommend that ICERS seek class representative status or file a direct action or both after outside counsel has made its recommendations. ICERS must have losses of \$500,000 or more to file any action. When only monitoring is recommended, ICERS will ask counsel to file a class action claim if and when the case is successfully concluded.

**3. Retention of Outside Counsel**

ICERS will retain one or more law firms to represent ICERS in the matter(s). All retainer agreements will be approved in advance by the Board of Retirement.

## LETTER TO COUNSEL

[Firm Address]

Re: \_\_\_\_\_ Corporation or Company

Dear \_\_\_\_\_:

Imperial county Employees' Retirement System (ICERS) staff has determined that ICERS may have a significant stake in securities transactions related to the above-referenced company. Accordingly, we are considering recommending to the Board of Retirement that ICERS consider legal action. We invite your firm to submit a proposal.

Attached is ICERS's trading history during the relevant period. Please obtain information about the company and provide an analysis and proposal. Your proposal should address the following:

1. Nature and facts of the case;
2. Proposed class period if a class action is recommended;
3. Potential defendant(s);
4. Potential claims and causes of action which could be pursued by a class or ICERS directly;
5. An analysis of damages;
6. Whether your firm would cover litigation costs; and
7. Proposed fee structure.

The minimum loss to ICERS to consider a legal action is \$500,000. Please note that ICERS will not be responsible for any costs or fees prior to executing a written retention agreement. Please send a proposal to me at the address on this letterhead. If you have any questions, please feel free to contact me.

Sincerely,

SCOTT JARVIS  
Retirement Administrator



**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
TREASURER CASH ACCOUNT FUNDING POLICY**

**BACKGROUND**

The Treasurer's Cash Account is used to pay the obligations of the system that include retiree payroll, employee cash outs, legal expenses, invoices from investment managers and other monthly expenses of the system. In the event that the inflows of cash into this cash account are insufficient to maintain a reasonable balance and additional funds are needed to maintain the account in a fiscally prudent manner, the Board hereby declares that:

1. The Treasurer's Cash Account will maintain a balance equal to or greater than the average monthly demands of the system.
2. In the event that the Treasurer's Cash Account balance does require additional funding from the system's assets:
  - a. The Retirement Administrator or Assistant Retirement Administrator shall determine the amount necessary to return the cash account to an appropriate level.
  - b. The Retirement Administrator or Assistant Retirement Administrator shall consult with the system investment consultant who will determine which assets the funding will be obtained from.
  - c. Under no circumstances shall the Retirement Administrator or Assistant Retirement Administrator transfer more than \$5,000,000 without the vote of the majority of the Board of Retirement.
  - d. All transfers of cash under this policy shall be reported to the Board of Retirement at the next scheduled Retirement Board meeting following the transfer.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 401(a)(9)  
MINIMUM REQUIRED DISTRIBUTIONS**

**SECTION I. GENERAL RULES**

**A. Purpose and Effective Date**

In accordance with sections 31485.14, 31525 and 31706 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the minimum distribution requirements under section 401(a)(9) of the Internal Revenue Code (the "Code").

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The System may establish reasonable procedures for complying with the minimum distribution requirements under section 401(a)(9) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

**B. Reasonable Good Faith Interpretation of Code**

In accordance with section 823 of the Pension Protection Act of 2006 ("PPA"), these regulations are promulgated in accordance with a reasonable good faith interpretation of section 401(a)(9) of the Code, and the Treasury regulations thereunder, as applicable to a governmental plan within the meaning of section 414(d) of the Code. For purposes of section 401(a)(9), Code means the Code and applicable Treasury regulations as they apply under a reasonable good faith interpretation of section 401(a)(9).

**C. Elections Under TEFRA § 242(b)(2)**

Notwithstanding the other requirements of this regulation to the contrary, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act.

Capitalized terms used in this Regulation are defined in Section VI. Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

## SECTION II. TIME AND MANNER OF DISTRIBUTION

### A. Required Beginning Date

The Member's entire interest will be distributed, or begin to be distributed, no later than the Member's Required Beginning Date.

### B. Forms of Distribution

#### 1. Periodic And Other Forms Of Payments

A Member's entire interest in the System shall be distributed in the form of RMD Annuity payments that meet the requirements of paragraph 2 of this subsection or in the form of a single sum or an insurance company annuity contract that meets the requirements of paragraph 3.a of this subsection. Payments may be made in a combination of these forms of payment and may include lump sum refunds or withdrawals of Member contributions or death benefits as provided in the CERL provided that these forms comply with a reasonable good faith interpretation of Code section 401(a)(9).

#### 2. General Rules Regarding RMD Annuities

If the Member's interest is to be paid in the form of an RMD Annuity, the RMD Annuity must meet the following requirements:

##### a. Periodic

RMD Annuities must be paid over equal payment intervals which may not be longer than one year.

##### b. Distribution Period

RMD Annuities will be paid over the life or lives of the Member and a beneficiary or over a period certain that does not exceed the maximum length of the period described in Section III or Section IV of this regulation.

##### c. Increases

RMD Annuities may not increase over time except in accordance with the rules in Section V.A.

d. Change in Period Paid

The period over which an RMD Annuity is paid can be changed only in accordance with Q&A-13 of section 1.401(a)(9)-6 of the Treasury regulations.

e. Commencement

Payment of the RMD Annuity must start no later than the Required Beginning Date.

3. Other Forms

a. Annuity Contract

If the Member's interest is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code.

b. Individual Account

Any part of the Member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code that apply to individual accounts.

**C. Amount Required to be Distributed by Required Beginning Date and Later Payment Intervals.**

The amount that must be distributed on or before the Member's Required Beginning Date is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. All of the Member's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date. If the Member dies before distributions begin, the same rules apply with reference to the date distributions are required to begin under sections IV.A.1 or IV.A.2.

**SECTION III. RMD ANNUITY DISTRIBUTIONS BEGINNING DURING MEMBER'S LIFE**

The following rules must be met to comply with the requirements of the Code and this regulation for RMD Annuities that begin during the Member's lifetime.

**A. Single Life RMD Annuity**

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime only, with no benefits paid to any other person, meets the requirements of the Code and this regulation.

**B. Joint and Survivor RMD Annuity - Death of Member After Benefits Begin**

If Member dies after RMD Annuity payments have commenced to the Member, then distributions must continue to be made over the remaining period over which distributions commenced in accordance with the schedule of payments made to the Member. Reasonable delay for administration may occur, but in this case payments that should have been made in accordance with the original payment schedule must be made with the first resumed payment.

**C. Joint and Survivor RMD Annuity With Spouse as the Sole Beneficiary**

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of the Member's surviving Spouse, with no benefits paid to any other person, meets the requirements of the Code and this regulation regardless of the difference in age of the Member and the Member's Spouse.

**D. Joint and Survivor RMD Annuity When the Sole Beneficiary Is Not the Member's Spouse**

1. Limit on Percentage of Member's RMD Annuity Paid to Non-Spouse Beneficiary

The survivor annuity percentage of an RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of a beneficiary other than the Member's surviving Spouse must not at any time exceed the applicable percentage of the RMD Annuity payment during the Member's lifetime, using the table set forth in Treasury regulation section 1.401(a)(9)-6, Q&A-2(c)(2), as determined in the manner described in Q&A-2(c)(1). This Treasury Regulation requires that the RMD Annuity payable to the Member's beneficiary after the Member's death not exceed the percentage of the RMD Annuity payable to the Member during the Member's life specified in the table if the adjusted age difference between the Member and the beneficiary is more than 10 years.

2. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a surviving child of the Member for a limited period of time (such as until the child reaches the age of 22), the survivor benefit shall be treated as payable solely to the surviving Spouse of the Member.

3. Rule Regarding Other Beneficiaries

Solely to the extent required by section 401(a)(9) of Title 26 of the United States Code and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a person other than a surviving Spouse of the Member (or surviving child under paragraph 2 of this subsection D), then the present value (if any) of any benefit that would be in excess of the amount that can be paid in accordance with such regulation shall be paid to such person in a lump sum payment no later than one year after such person becomes entitled to survivor benefits.

**E. Period Certain RMD Annuity**

1. Spouse is the Sole Beneficiary

If the Member's sole beneficiary is the Member's surviving Spouse, and the form of distribution is a period certain with no life annuity, the period certain may not exceed the joint life and last survivor expectancy of the Member and Spouse as determined in accordance with the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9, Q&A-3, of the Treasury Regulations, using the Member's and Spouse's ages as of the Member's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

2. Spouse is Not the Sole Beneficiary

When the Member's surviving Spouse is not the sole beneficiary then the period certain may not exceed the period established under the Uniform Lifetime Table in Q&A-2 of Treasury regulations section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Member is younger than age 70 in that year, then the distribution period for the Member is the distribution period for age 70 increased by the difference between 70 and the age of the Member in the year of the Annuity Starting Date. Also see below regarding Designated Beneficiaries.

3. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, the period certain distribution rules shall not apply to survivor benefits payable to children of the Member but the rules of section III.D above shall apply.

4. Rule Regarding Other Beneficiaries

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a period certain survivor benefit is payable to a person other than a surviving Spouse of the Member, then the present value (if any) of any benefit that would be in excess of the amount that can be paid in accordance with such regulation shall be paid to such person in a lump sum payment no later than one year after such person becomes entitled to a survivor benefit.

**SECTION IV. DISTRIBUTIONS WHEN MEMBER DIES BEFORE BENEFITS BEGIN**

If a Member dies before distributions begin, distributions after the death of the Member must meet the following requirements:

**A. When Distributions Must Begin**

1. Spouse is the Sole Designated Beneficiary

If the Member's sole Designated Beneficiary is the Member's surviving Spouse, then, except as provided in paragraph 5 of this subsection A, distributions to the surviving Spouse must begin by December 31 of the calendar year immediately following the calendar year in which the Member died or, if later, by December 31 of the calendar year in which the Member would have reached age 70½.

2. Spouse is not the Sole Designated Beneficiary

If the Member's sole Designated Beneficiary is not the Member's surviving Spouse, then, except as provided in paragraph 5 of this subsection A, distributions to the Designated Beneficiary must begin by December 31 of the calendar year immediately following the calendar year in which the Member died.



3. No Designated Beneficiary

If there is no Designated Beneficiary as of September 30 of the year following the year of the Member's death, then distributions of the Member's entire interest must be completed by December 31 of the calendar year that contains the fifth anniversary of the Member's death.

4. Death of Surviving Spouse Who Is the Sole Designated Beneficiary

If the Member's surviving Spouse is the Member's sole Designated Beneficiary and the surviving Spouse dies after the Member but before distributions to the surviving Spouse are required to begin, then this section IV.A, other than section IV.A.1 applies as if the surviving Spouse were the Member.

5. Election of Five Year Rule

A Designated Beneficiary may elect, at the time and in the manner determined by the System, to have the five year rule of section IV.A.3 apply, but solely to the extent that the Designated Beneficiary may elect, under the CERL, a benefit which will be paid in the required time period.

**B. When Distributions Are Considered to Begin**

For purposes of this Section IV, unless Section IV.A.4 applies, distributions are considered to begin on the Member's Required Beginning Date. If Section IV.A.4 applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section IV.A.1. If distributions under an RMD Annuity meeting the requirements of this regulation commence to the Member before the Member's Required Beginning Date (or to the Member's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section IV.A.1), the date distributions are considered to begin is the date distributions actually commence.

**C. Length of Distribution Period**

1. Member Is Survived by a Designated Beneficiary

a. General Rule

If the Member is survived by a Designated Beneficiary, the Member's entire interest in the System shall be distributed over the life of the Designated Beneficiary or over a period certain that does not exceed the period specified in C.1.b



b. Period Certain

The period certain in C.1.a may not exceed the Designated Beneficiary's life expectancy determined using the Single Life Table in Treasury regulations section 1.401(a)(9)-9, Q&A-1. If the Annuity Starting Date is in the first Distribution Calendar Year, the life expectancy shall be determined using the Designated Beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death. If the Annuity Starting Date is before the first Distribution Calendar Year, then the life expectancy is determined using the Designated Beneficiary's age in the calendar year that contains the Annuity Starting Date.

2. No Designated Beneficiary

If there is no Designated Beneficiary as of the September 30 of the year following the year of the Member's death, distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

3. Death of Surviving Spouse Before Distributions To Spouse Begin

If the Member's surviving Spouse is the Member's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section IV.C shall apply as if the surviving Spouse were the Member, except that the time that distributions are required to begin is determined without regard to Section IV.A.1.

**SECTION V. SPECIAL RULES**

**A. RMD Annuity Payment Increases**

RMD Annuity payments will either not increase over time or increase only as follows:

1. Cost of Living Adjustments

a. Annual COLA Increases

RMD Annuity payments may increase by an annual percentage that does not exceed the percentage increase in an eligible cost-of-living index, as defined in Q&A-14(b) of section 1.401(a)(9)-6 of the Treasury regulations, for a 12-month period ending in the year during which the increase occurs or a prior year.

b. Cumulative COLA Increases

RMD Annuity payments may increase by a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index, as defined in the preceding paragraph since the Annuity Starting Date, or if later, the date of the most recent percentage increase.

c. Additional COLA Increases

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b) and taking into account the vested rights in retirement benefits created by the California Constitution, RMD Annuity payments may increase by a percentage or amount that is determined by the System, in accordance with the CERL, to represent an appropriate amount to take account of cost of living increases affecting retirees or beneficiaries.

2. “Pop-Up’s”

RMD Annuity Payments may increase to the extent of the reduction in the amount of the Member’s payments to provide for a survivor benefit, but only if there is no longer a survivor benefit because the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member’s beneficiary pursuant to a domestic relations order under applicable state law.

3. Single Sum Distribution

RMD Annuity Payments may increase to the extent necessary to allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Member’s death or under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-14(a)(5) and taking into account the vested rights in retirement benefits created by the California Constitution, to allow a beneficiary to select a lump sum distribution of all or part of the Member’s interest under the System as provided in the CERL.

4. Plan Amendment

Benefits may increase if they result from an amendment to, or interpretation of, the County Employees Retirement Law of 1937, the California Government Code or any other applicable law governing

benefits for Members or from an ordinance, resolution or regulation pursuant to such law.

5. Other Benefits

Benefits may increase (i) to the extent increases are permitted in accordance with paragraphs (c) or (d) of Q&A-14 of section 1.401(a)(9)-6 of the Treasury regulations dealing with additional permitted increases for annuity payments under annuity contracts purchased from an insurance company and additional permitted increases for annuity payments from a qualified trust; (ii) pursuant to Article 5.5 of the CERL dealing with the Supplemental Retiree Benefit Reserve; (iii) pursuant to Section 31691.1 of the CERL; and (iv) pursuant to sections 31681.1 et seq., and 31739 et seq. of the CERL.

**B. Additional Accruals After First Distribution Calendar Year**

Any additional benefits accruing to the Member in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such benefit accrues.

**C. Domestic Relations Orders**

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if Article 8.4 of the CERL applies (relating to the establishment of separate accounts under domestic relations orders), then both the Member and the Member's former Spouse shall be deemed to be separate Members of the System for purposes of these regulations and section 401(a)(9) of the Code.

**D. Reciprocal Member**

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a deferred Member is a current employee and a member of another retirement system with which the System has reciprocity under California law, then for purposes of determining the Required Beginning Date under the System the Member shall be treated as a current employee of the Association and as such, as if he or she had not retired, even if he or she has attained age 70-1/2.

**E. Public Safety Member Killed In Line of Duty**

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, any additional retirement benefits paid under CERL section 31787.5 to the surviving Spouse of a public safety Member killed in the line of duty shall not be limited by Code section 401(a)(9) because they shall be treated as incidental death benefits.

**F. Rollovers**

Amounts that are required minimum distributions cannot be rolled over to another qualified retirement plan or other tax-favored vehicle. The amount that cannot be rolled over shall be determined in accordance with Treasury regulations section 1.402(c)-2, Q&A-7.

**G. Payments to Surviving Child Treated as Made to Surviving Spouse**

Solely to the extent required by section 401(a)(9) of Title 26 of the United States Code and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, for purposes of Code section 401(a)(9) and these regulations, payments to a Member's surviving child in accordance with the requirements of Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations shall be treated as if such payments had been made to the Member's surviving Spouse to the extent the payments become payable to the surviving Spouse upon the child's attainment of the age of majority, as determined in accordance with Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or upon the occurrence of such other event specified in Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or as otherwise specified in IRS guidance under section 401(a)(9) of the Code.

**SECTION VI. DEFINITIONS**

**A. Annuity Starting Date**

“Annuity Starting Date” means the first day of the first period for which a retirement benefit is payable as an RMD Annuity or, in the case of a retirement benefit not payable in the form of an RMD Annuity, the first day on which all events have occurred which entitle the Member to payment.

**B. Designated Beneficiary**

“Designated Beneficiary” means the individual who is designated by the Member (or the Member's surviving Spouse) as the beneficiary of the Member's interest under the System and who is the designated beneficiary under section 401(a)(9) of

the Code and section 1.401(a)(9)-4 of the Treasury regulations. Accordingly, entities other than individuals, such as the Member's estate or a trust, cannot be a Designated Beneficiary of a Member's interest in the System. However, the individuals who are beneficiaries under a designated trust shall be treated as Designated Beneficiaries for purposes of determining the distribution period under this regulation and Code section 401(a)(9) if all of the applicable requirements of Treasury regulation section 1.401(a)(9)-4, Q&A-5(b) are met. If all of such applicable requirements are not met, then the distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

**C. Distribution Calendar Year**

"Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section IV.A of this regulation.

**D. Required Beginning Date**

"Required Beginning Date" means April 1 of the calendar year following the later of the calendar year in which the Member attains age 70-1/2 or the calendar year in which the Member retires.

**E. RMD Annuity**

"RMD Annuity" means, for purposes of the required minimum distribution rules in section 401(a)(9) of the Code, a distribution form providing for periodic payments for a specified period of time.

**F. Spouse**

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another

jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 401(a)(17)  
COMPENSATION LIMIT**

**SECTION I. PURPOSE AND SCOPE**

In accordance with Section 31525 and Section 31671 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the limit on annual compensation under section 401(a)(17) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under Section 401(a)(17).

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The System may establish reasonable procedures for complying with the limit on annual compensation under section 401(a)(17) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

**SECTION II. LIMITATION ON ANNUAL COMPENSATION EARNABLE**

**A. In General**

**1. Annual Compensational Earnable Limit**

The annual amount of compensation that is taken into account in determining all benefits provided by the System to affected Members for any year, which is referred to in the County Employees' Retirement Law of 1937 and in these Regulations as "Compensation Earnable", shall in no event be greater than the amount allowed by Code Section 401(a)(17) adjusted in accordance with the Code for increases in the cost of living. This limit has been increased by cost of living adjustments to \$260,000 for 2014. This limit is called the Annual Compensation Earnable Limit in these regulations. (Certain Members may also be subject to the limitation on Compensation Earnable under Government Code Section 7522.10(c) and (d) which would produce a lower limit than the limit under Section 401(a)(17) of the Code.)

**2. Members Affected By the Annual Limit**

**a. Not Applicable to pre-July 1, 1996 for System Members**

The Annual Compensation Earnable Limit does not apply to any individual who first became a Member of the System prior to July 1, 1996.

**b. Applies to New Members of the System On and After July 1, 1996**

In accordance with Government Code Section 31671, the Annual Compensation Earnable Limit shall apply to all individuals who first become Members of the System on or after July 1, 1996.

**c. Date First Becomes a Member**

An individual first becomes a Member on the date that a Member first became a Member in the System, regardless of whether the Member terminated and resumed participation in the System at a later date.

**B. Operational Rules, In General**

This section applies to Members who are not grandfathered under section A.2.a.

**1. Limited Compensation Earnable**

All Compensation Earnable that would be taken into account for determining benefits provided by the System without regard to these regulations is subject to the Annual Compensation Earnable Limit. Such Compensation Earnable is not limited to salary or to base salary.

**2. Benefits Affected by the Limit**

The Annual Compensation Earnable Limit applies to the determination of all benefits provided by the System including pensions, annuities, retirement allowances, death benefits, disability benefits, refunds and withdrawals that are determined by Member contributions (including such contributions that are or may have been in the past “picked up” by the employer) and earnings thereon.

**3. Compensation Earnable From More Than One Employer**

If Compensation Earnable from more than one employer that participates in the System is taken into account in determining a Member’s benefits,



the Annual Compensation Earnable Limit shall apply separately to the Compensation Earnable from each employer. For example, if the Compensation Earnable Limit is \$260,000 for the year and the Member has compensation Earnable of \$200,000 from one participating employer and \$100,000 from another participating employer, the unreduced total Compensation Earnable from each employer may be taken into account. The Annual Compensation Earnable Limit does not apply to the aggregate of Compensation Earnable earned from all employers that participate in the System.

**4. Proration for Short Plan Year**

If a plan year consists of fewer than 12 months, the Annual Compensation Earnable Limit is an amount equal to the otherwise applicable Annual Compensation Earnable Limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12. No proration is required for participation of less than a full plan year.

**5. Reciprocity and New Membership in the System**

An individual who becomes a Member of the System on or after July 1, 1996, and who has reciprocity with another public sector retirement plan nevertheless is a new Member of the System. Membership before July 1, 1996 in another retirement plan with which the System has reciprocity does not create pre-July 1996 System membership for purposes of the Annual Compensation Earnable Limit.

**6. Reciprocity and Prior Membership in the System**

A person who was a grandfathered Member of the System prior to July 1, 1996 under section A. 2. a, who terminated employment with an employer that participated in the System, remains a Member of the System prior to July 1, 1996. Therefore, if the Member established reciprocity between another public sector retirement plan and the System, any higher Compensation Earnable that is earned under the other plan shall be taken into account by the System in accordance with the rules of reciprocity and that Compensation Earnable shall not be limited by the Annual Compensation Earnable Limit.

**7. Relationship Between Section 415 Limit and Compensation Earnable Limit**

The limits of Code Section 415 and Code Section 401(a)(17) are separate and independent. Each limit is operated according to its own rules and applies separately. Therefore, the Annual Compensation Earnable Limit

may apply to a Member and the Code Section 415 limit may not apply. Similarly, the Code Section 415 limit may apply to a Member and the Annual Compensation Earnable Limit may not apply. Also, both of these limits may apply to the same Member.

**8. Clarification Concerning Member Contributions**

Because Member contributions are the basis for benefits provided by the System, Member contributions shall not be made by taking into account Compensation Earnable in excess of the Annual Compensation Earnable Limit. To the extent the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), including Government Code Section 7522.10(h) include greater limitations on the manner in which Member contributions may be calculated, such limits shall apply to the calculation of Member contributions.

**9. General Plan Year Rule for Determining the Limit**

If Compensation Earnable for any prior plan year is taken into account in determining a Member's benefits for the current plan year, the Compensation Earnable for such prior plan year is subject to the applicable Annual Compensation Earnable Limit in effect for that prior plan year. In addition, in determining benefits for plan years beginning on or after January 1, 2002, the Annual Compensation Earnable Limit in effect for plan years beginning before that date is \$200,000.

**SECTION III: PLAN YEAR AND COST OF LIVING ADJUSTMENTS**

**A. Annual Adjustment for Cost-of-Living Increases**

The Annual Compensation Earnable Limit may be adjusted annually by the Internal Revenue Service for cost of living changes in accordance with the Code.

**B. General Rule—Application of Limit to a Plan Year**

In general, the Annual Compensation Earnable Limit is applied to the Compensation Earnable for the plan year on which accruals of benefits from the System are based.

**C. Plan Year Compensation Earnable**

**1. General Rule**

To the extent that the System determines Compensation Earnable for benefit accruals for a plan year based on Compensation Earnable for the plan year, then the Annual Compensation Earnable Limit that applies for

that plan year is the limit in effect for the calendar year in which the plan year begins. Since the System's plan year corresponds to the fiscal year beginning on the first day of July, the Compensation Earnable used to determine all benefit accruals for each plan year is limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year begins.

## **2. Member Contributions**

Since the System's plan year is the fiscal year beginning on the first day of July, Compensation Earnable used to determine Member contributions for each plan year shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year begins.

## **D. Examples**

### **1. Example: Retirement Allowance**

The retirement allowance provided by the System for certain Members is based on the highest 12 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$250,000 for the 2012 calendar year and \$255,000 for the 2013 calendar year. A Member retires in May, 2013. The Member's highest 12 consecutive months of Compensation Earnable is for the period May 1, 2012 through April 30, 2013. The annual Compensation Earnable used for determining this Member's benefits for the 2013 year is limited to \$250,000, not \$255,000, because this is the limit in effect for the calendar year in which the 12-consecutive month period began.

For some Members of the System, including Members subject to the requirements enacted under the Public Employees' Pension Reform Act of 2013 ("PEPRA"), the retirement allowance provided by the System is based on the highest 36 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$245,000 for 2011, \$250,000 for 2012, and \$255,000 for 2013. A Member retires in May 2014. The Member has \$300,000 per year (\$25,000 per month) of Compensation Earnable during the Member's highest 36 consecutive months of Compensation Earnable for the period May 1, 2011 through April 30, 2014. The System may not base the Member's benefits for 2014 on annual Compensation Earnable in excess of \$250,000, the average of the limits in effect for each of the three 12-consecutive month periods: the May 1, 2011 through April 30, 2012 period is capped at \$245,000, the 2011 limit; the May 1, 2012 through April 30, 2013 period is capped at \$250,000, the 2012 limit; and the May 1, 2013 through April 30, 2014 period is capped at \$255,000, the

2013 limit. The average of these capped amounts is the Annual Compensation Earnable Limit for determining benefits for the 2014 plan year for a Member who retires in May, 2014 because that is the limit for the calendar year in which the Member's average compensation earnable begins.

**2. Example: Member Contributions**

The refund or withdrawal benefits from Member contributions are accrued on an annual basis. The Annual Compensation Earnable Limit was \$245,000 for the 2011 calendar year; \$250,000 for the 2012 calendar year; and \$255,000 for the 2013 calendar year.

Since the Association's plan year corresponds to the fiscal year, the Annual Compensation earnable Limit was \$245,000 for the entire plan year beginning July 1, 2011 and ending June 30, 2012; \$250,000 for the entire plan year beginning July 1, 2012 and ending June 30, 2013; and \$255,000 for the entire plan year beginning July 1, 2013 and ending June 30, 2014.

**IMPERIAL COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 402(c) ROLLOVERS**

**SECTION I. PURPOSE AND SCOPE**

In accordance with Section 31485.15 and Section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to rollovers into and out of the System in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The System may establish any reasonable procedures for paying rollover distributions or accepting rollover contributions that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

**SECTION II. ROLLOVER DISTRIBUTIONS FROM THE SYSTEM**

**A. Rollovers**

**1. Direct Rollover**

A "Direct Rollover" is that portion of an Eligible Rollover Distribution that the System pays directly to an Eligible Retirement Plan, and may also be referred to as a trustee-to-trustee transfer to an Eligible Retirement Plan, at the direction of an Eligible Individual.

**2. Indirect Rollover**

An "Indirect Rollover" is that portion of an Eligible Rollover Distribution that the System pays directly to an Eligible Individual.

**B. Eligible Individuals**

**1. Eligible Individual**

Only an "Eligible Individual" may elect a Direct Rollover. An "Eligible Individual" is:

**a. Terminated From Employment**

A Member who has terminated employment from the County (or other agency covered by the System) and who is eligible to withdraw his or her accumulated Member contributions under the System;

**b. Surviving Spouse**

A deceased Member's surviving Spouse;

**c. Alternate Payee**

A Member's or former Member's Spouse or former Spouse who is the alternate payee under a domestic relations order, as defined in Code Section 414(p), with regard to the interest of the Spouse or former Spouse; and

**d. Non-Spouse Beneficiary**

A deceased Member's non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E), subject to the non-spouse beneficiary provisions in Section II.G.

**2. Spouse**

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code Section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

**C. Payments that Can and Cannot be Rolled Over**

**1. Eligible Rollover Distribution Required**

The System will pay a Direct Rollover on behalf of an Eligible Individual only if the payment is an "Eligible Rollover Distribution."

**2. Eligible Rollover Distribution Defined**

An “Eligible Rollover Distribution” is any distribution to an Eligible Individual of all or any portion of the amount credited to the Eligible Individual under the Association. These amounts may include (a) refunds of Member contributions plus accumulated interest, or (b) one-time lump sum death benefit payments.

**3. After-Tax Portion**

The portion of a distribution that consists of after-tax Member contributions may be rolled over if the after-tax funds are transferred in a direct trustee-to-trustee transfer to (a) a qualified trust or (b) an annuity contract described in Code Section 403(b). After-tax Member contributions may also be rolled over to an individual retirement account or annuity described in Code Section 408(a) or (b). The qualified trust or annuity contract must separately account for the transferred after-tax amounts, and must also separately account for the earnings on the after-tax amounts.

**4. Exclusions From Eligible Rollover Distributions**

An Eligible Rollover Distribution does not include the following kinds of payments:

**a. Periodic Payments**

Payments that are part of a series of substantially equal periodic payments (i) made at least once per year over the life (or life expectancy) of the Eligible Individual or the life (or life expectancy) of the Eligible Individual and his or her designated beneficiary, or (ii) made for a period of 10 years or more; or

**b. Required Distributions**

Payments that are “required minimum distributions” under Code Section 401(a)(9).

**D. Eligible Retirement Plans**

**1. Payment to Eligible Retirement Plan**

The System will pay an Eligible Rollover Distribution directly to an “Eligible Retirement Plan.”

**2. Eligible Retirement Plan Defined**

An “Eligible Retirement Plan” is:



- a. An annuity plan described in Code Section 403(a);
- b. An annuity contract described in Code Section 403(b);
- c. A governmental eligible deferred compensation plan described in Code Section 457(b) that agrees to separately account for amounts transferred into such plan from the System;
- d. An individual retirement annuity described in Code Section 408(a);
- e. An individual retirement account described in Code Section 408(b);
- f. A Roth IRA described in Code Section 408A; or
- g. A qualified trust described in Code Section 401(a) (including defined benefit pension plans and defined contribution plans such as 401(k) plans, profit sharing plans, and money purchase plans).

**3. Certain Exclusions**

An Eligible Retirement Plan does not include, and a rollover cannot be made to, a SIMPLE IRA or a Coverdell Education Savings Account.

**E. Direct Rollovers**

**1. Withholding and Direct Rollovers**

The System will not withhold any federal or state income taxes from a Direct Rollover. The only exception is that the System will withhold federal or state income taxes from a Direct Rollover to a Roth IRA if the Eligible Individual requests that withholding on a form and in the manner prescribed by the System.

**2. Administrative Requirements, In General**

An Eligible Individual who requests a Direct Rollover must complete a distribution form in the manner and form that the System prescribes. The System may require the Eligible Individual to provide any reasonable information and/or documentation for purposes of administering the Direct Rollover in accordance with the Code.

**3. Rollover Check**

The Eligible Individual must provide the System with the name of the Eligible Retirement Plan to which the rollover check will be made payable for his or her benefit. If the Eligible Individual so chooses, the System



will provide this rollover check directly to the Eligible Individual who will be responsible for delivering the check to the recipient IRA or plan.

**4. Eligible Individual’s Responsibility Re Recipient Plan**

The Eligible Individual is responsible for ensuring that any Eligible Retirement Plan that he or she has designated to receive the Eligible Individual’s distribution from the System in a Direct Rollover is an Eligible Retirement Plan that will accept and receive the rollover on his or her behalf in accordance with the applicable tax rules.

**5. Time of Payment**

The System will pay a Direct Rollover on behalf of an Eligible Individual as soon as is reasonably and administratively practicable in accordance with its withdrawal and/or death benefit payment processes.

**F. Indirect Rollovers**

**1. Choice of Indirect Rollover**

An Eligible Individual, other than a non-spouse beneficiary, may also choose to receive a rollover payment as an Indirect Rollover.

**2. Indirect Rollover Withholding**

An Indirect Rollover is subject to 20% federal income tax withholding and any applicable state withholding. The System will withhold and deduct these taxes on behalf of the Eligible Individual as prescribed by federal and applicable state law.

**3. Eligible Individual’s Responsibility Re Recipient Plan**

It is the responsibility of the Eligible Individual to roll over all or some portion of his or her Indirect Rollover payment to an IRA or eligible employer plan within 60 days if he or she wants the payment to qualify as a rollover for tax purposes. If an Eligible Individual wants to roll over 100% of the payment, the Eligible Individual must replace the 20% that was withheld for federal income taxes (and any applicable state withholding) with other money.

**G. Direct Rollover of a Non-Spousal Distribution**

**1. Trustee-To-Trustee Transfer Required**

A rollover on behalf of a non-spouse beneficiary must be a direct or trustee-to-trustee transfer and may not be paid in the form of an Indirect Rollover.

**2. Non-Spouse Beneficiaries Who May Rollover and Rollover to Inherited IRA Only**

A non-spouse beneficiary who is a “designated beneficiary” under Code Section 401(a)(9)(E) may roll over all or any portion of the non-spouse beneficiary’s Eligible Rollover Distribution to an IRA that is established by the non-spouse beneficiary for purposes of receiving the distribution and that is treated as an “inherited IRA” under the Code. The IRA must be established in a manner that identifies it as an IRA with respect to a deceased individual and it must identify the deceased individual and the beneficiary (for example, “Tom Smith as beneficiary of John Smith”).

**3. Trust as Beneficiary**

If the non-spouse beneficiary is a trust, the System may make a Direct Rollover to an IRA on behalf of the trust, provided the beneficiaries of the trust satisfy the requirements to be designated beneficiaries within the meaning of Code Section 401(a)(9)(E). The IRA on behalf of the trust must be established in a manner that identifies it as an IRA with respect to a deceased individual and it must identify the deceased individual and the trust beneficiary (for example, “The Smith Family Trust as beneficiary of John Smith”).

**H. Notice Requirements**

**1. 402(f) Notice From the System**

The System will provide the tax notice required under Code Section 402(f) to each Eligible Individual who requests a withdrawal from the System.

**2. Time Periods**

The System will not process any withdrawals from the System until 30 days after the date such notice is received by the Eligible Individual requesting the withdrawal. If, however, the Eligible Individual waives this 30-day period on a form and in the manner prescribed by the System, the System may process the withdrawal before the 30-day period expires.

**SECTION III. ROLLOVER CONTRIBUTIONS TO THE SYSTEM**

Adoption of regulations providing for the acceptance of certain rollover contributions as determined below does not create any continuing entitlement for Eligible Members to make rollover contributions to the System in the future and the right to make rollover contributions to the System may be amended or terminated at any time and for any reason.

If the System has determined to permit any rollover contributions, the System will permit Eligible Members to make a rollover contribution to the System subject to the limitations and conditions described in this Section III.

**A. General Rules**

**1. Eligible Member**

An “Eligible Member” is (1) an active Member of the System, or (2) a Member of the System that has elected a deferred retirement.

**2. Rollovers Allowed**

The System will permit an Eligible Member to make a rollover contribution to the System for (a) a purchase of service credit (to the extent a purchase of service credit is not prohibited under the California Public Employees’ Pension Reform Act of 2013 (“PEPRA”), or (b) a redeposit of previously withdrawn funds plus accumulated interest.

**3. Separate Accounting**

The System will separately account for all rollover contributions.

**4. Certification to the System By Member**

Only eligible rollover distributions as defined by Code Section 402(c)(4) can be contributed to the System. In addition to any requirements under Subsections B, C, and D below, each Eligible Member making a rollover contribution to the System must certify in writing the source of the rollover funds and that the rollover contribution is an eligible rollover distribution under the Code. The System will not accept rollovers of any after-tax contributions or amounts attributable to designated Roth contributions, amounts that represent minimum required distributions, or any rollover that is an indirect rollover.

**5. Elections and System Discretion**

An Eligible Member must make an election to purchase service credit or redeposit previously withdrawn contributions with a rollover contribution in the manner and form that is prescribed by the System. The System has final discretionary authority to determine whether any required information or documentation is satisfactory, whether a purchase of service credit would be prohibited under PEPRA, and whether the System will accept an Eligible Member’s rollover contribution.

## **6. Correction of Errors**

If the System accepts a rollover contribution that it later determines was not eligible to be rolled over to the System, the System will distribute, as soon as administratively possible, the amount of the rollover contribution back to the Eligible Member, plus accumulated interest.

### **B. Rollovers from Qualified Plans**

#### **1. Acceptance of Rollover**

The System may accept a rollover from another plan that is qualified under Code Section 401(a) and exempt from tax under Code Section 501(a).

#### **2. Required Due Diligence Procedure**

The System must take reasonable steps to confirm the sending plan's tax-qualified status and that the rollover contribution is valid. The System may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

##### **a. Eligible Member Certification**

The Eligible Member must provide the following additional information to the System:

- (i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from a Code Section 401(a) qualified plan, contains no after-tax or designated Roth contributions or earnings, or any amounts representing a required minimum distribution under Code Section 401(a)(9); or
- (ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code Section 401(a)(9).

If an Eligible Member does not provide such evidence, the System will not accept the rollover.

##### **b. System Verification of Payment Source**

The System must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the former

401(a) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

**c. System Verification That the Plan is a Tax-Qualified Plan**

The System must take reasonable steps to verify that the rollover will be from a tax-qualified plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

- (i) The System may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The System will check the entry on the line for characteristics indicating that the plan is intended to be a qualified plan (e.g. examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the System may reasonably conclude that the plan is qualified, unless the System has any direct evidence to the contrary.
- (ii) If the qualified plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the System demonstrating that the source of the rollover contribution is a qualified plan: (a) a copy of the plan's most recent favorable determination letter from the Internal Revenue Service stating that the plan is tax-qualified and a written certification from the plan's administrator that the plan continues to be tax-qualified, or (b) a written and signed certification from the plan's administrator that the source of the eligible rollover distribution is a qualified plan under Code Section 401(a).

**C. Rollovers from an IRA**

**1. Acceptance of Rollover**

The System may accept a rollover from an individual retirement account or annuity (IRA) described in Code Section 408(a) or Code Section 408(b).

**2. Required Due Diligence Procedure**

The System must take reasonable steps to confirm the IRA's status and that the rollover contribution is valid. The System may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

**a. Eligible Member Certification**

The Eligible Member must provide the following additional information to the System:

- (i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from his or her IRA and contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code Section 401(a)(9) or ; or
- (ii) If the Eligible Member cannot certify, with respect to the after-tax or designated Roth contributions, a signed certification from an accountant or tax advisor or the IRA trustee/custodian providing the amount of pre-tax contributions and after-tax or designated Roth contributions in the IRA.

The System will only accept a rollover contribution from the IRA in the amount of the pre-tax contributions and earnings. If an Eligible Member does not provide such evidence, the System will not accept the rollover.

**b. System Verification of Payment Source**

The System must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the IRA of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

**D. Rollovers from Other Plans: 457(b) and 403(b)**

**1. Acceptance of Rollover**

The System may accept rollover contributions from an eligible plan under Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (a “governmental 457(b) plan”), and an annuity contract described in Code Section 403(b).

**2. Required Due Diligence Procedure**

The System must take reasonable steps to confirm the sending plan’s status as an eligible 457(b) plan or an eligible Code Section 403(b) annuity or custodial account and that the rollover contribution is valid. The System may rely on IRS guidance such as that provided in Revenue

Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

**a. Eligible Member Certification**

The Eligible Member must provide the following additional information to the System:

- (i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from an eligible 457(b) or 403(b) plan and contains no after-tax or designated Roth contributions or earnings; or
- (ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings.

If an Eligible Member does not provide such evidence, the System will not accept the rollover.

**b. System Verification of Payment Source**

The System must take steps to verify that the payment source (on the incoming check or wire transfer) is the former eligible 457(b) or 403(b) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

**c. System Verification That the Plan is an Eligible Plan**

The System must take reasonable steps to verify that the rollover will be from an eligible 457(b) plan or 403(b) plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

- (i) The System may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The System will check the entry on the line for characteristics indicating the plan is intended to be an eligible 457(b) or 403(b) plan (e.g., examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the System may reasonably conclude that the plan is an eligible plan, unless the System has any direct evidence to the contrary.
- (ii) If the 457(b) or 403(b) plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the System

demonstrating that the source of the rollover contribution is an eligible governmental 457(b) plan or a Code Section 403(b) plan: (a) a copy of the transferring plan's most recent private letter ruling from the Internal Revenue Service stating that the transferring plan qualifies as an eligible governmental 457(b) plan or a Code Section 403(b) plan, as applicable, and a signed certification from the transferring plan's administrator that the transferring plan continues to be so qualified, or (b) a signed certification from the transferring plan's administrator that the rollover distribution source is an eligible governmental 457(b) plan or a Code Section 403(b) plan, as applicable.

If the above verification cannot be made, the System will not accept the rollover.

ROLLOVERS



**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 415(b)  
LIMITS ON ANNUAL BENEFITS**

**SECTION I. PURPOSE AND SCOPE**

In accordance with Section 31525 and Section 31899 et seq. of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the limits on benefits under Section 415(b) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under Section 415(b). To the extent there is a conflict between these regulations and the Code, the Code governs.

The System may establish reasonable procedures for complying with the limits on benefits under Section 415(b) of the Code that it deems necessary or advisable for complying with applicable tax laws or for administrative purposes.

Capitalized terms used in this Regulation are defined in Section VII. Terms defined in the County Employees Retirement Law apply here unless otherwise stated.

**SECTION II. ANNUAL BENEFIT LIMIT**

**A. Annual Benefit Limit, In General**

1. Annual Limit

Unless the alternative limit described in Subsection E of this Section applies, the Annual Benefit payable to a Member under the System at any time shall not exceed \$210,000 (for 2014) or such other dollar limit specified under Section 415(b)(1)(A) of the Code, automatically adjusted under Section 415(d) of the Code, effective January 1 of each year, as provided by the Internal Revenue Service.

2. Maximum Payment

If the benefit the Member would otherwise be paid in a Limitation Year would be in excess of the limit in A.1, the benefit shall be limited to a benefit that does not exceed the limit.

3. COLA Adjustment

In the case of a Member who has had a severance from employment with the Employer, the Annual Benefit Limit applicable to the Member in any Limitation Year beginning after the date of severance shall be automatically adjusted under Section 415(d) of the Code.

4. Multiple Annuity Starting Dates

- a. For a Member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of these regulations as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates.
- b. For this purpose, the determination of whether a new starting date has occurred shall be made in accordance with Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Treasury regulations.

5. Actuarial Adjustment For Forms Of Benefit

Except as provided in paragraph 6 of this Section II.A, if the Member's benefit is payable in a form other than a Straight Life Annuity, then solely for purposes of applying the limits of Code Section 415 and of this regulation, the actuarially equivalent Straight Life Annuity shall be determined in accordance with paragraph a or b below, whichever is applicable.

- a. Annuities. If the Member's benefit is payable in the form of a non-decreasing life annuity or other form of benefit described in Treasury regulation Section 1.417(e)-1(d)(6) (e.g., other than a lump sum, installments, a decreasing annuity or a term certain), then the actuarially equivalent Straight Life Annuity is equal to the greater of:
  - i. The Straight Life Annuity (if any) payable to the Member under the System commencing at the same annuity starting date as the form of benefit payable to the Member, or
  - ii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using:
    - A. The Applicable Mortality Table; and

B. A 5% interest assumption.

- b. Lump sums, installments, etc. If the Member's benefit is payable in the form of a lump sum, installments, a decreasing annuity, term certain or other form of benefit not described in Treasury regulations Section 1.417(e)-1(d)(6), then the Straight Life Annuity that is actuarially equivalent to the Member's form of benefit is equal to the greatest of:
- i. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the interest rate and the mortality table specified in the Plan for adjusting benefits in the same form;
  - ii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using a 5.5 percent interest rate and the Applicable Mortality Table; or
  - iii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the Applicable Interest Rate and the Applicable Mortality Table divided by 1.05.

6. No Actuarial Adjustment (Or Limitation) Required For Certain Benefits.

In determining the Annual Benefit, no actuarial adjustment to the benefit shall be made for the following benefits or benefit forms:

- a. Qualified joint and survivor annuity. Survivor benefits payable to a surviving Spouse under a joint and survivor annuity that would qualify as a qualified joint and survivor annuity defined in Section 417(b) of the Code. If benefits are paid partly in the form of a qualified joint and survivor annuity and partly in some other form (such as a single sum distribution), the rule of this paragraph applies only to the survivor annuity payments under the portion of the benefit that is paid in the form of a qualified joint and survivor annuity.
- b. Benefits that are not "retirement benefits". Benefits that are not directly related to retirement benefits (such as pre-retirement

qualified disability benefits, preretirement incidental death benefits, and postretirement medical benefits). Additionally, these benefits shall not be subject to the Annual Benefit Limit.

- c. Certain automatic benefit increases. Benefits that meet the following requirements: (i) the System provides for automatic periodic increases such as a form of benefit that automatically increases the benefit paid according to a specified percentage or objective index (but not a benefit that is increased on an ad hoc basis or a basis that is separately determined by action of the System's Board of Retirement or the County's Board of Supervisors) and (ii) the form of benefit complies with Code Section 415(b) without regard to the automatic benefit increase.

In no event shall the amount payable to the Member under the form of benefit in any Limitation Year be greater than the Annual Benefit Limit applicable at the Annuity Starting Date increased by the amounts provided in Code Section 415(d). Also if the form of benefit without regard to the automatic benefit increase is not a Straight Life Annuity, then the Annual Benefit at the Annuity Starting Date is determined by converting the form of benefit to an actuarially equivalent Straight Life Annuity, as provided in Section II.B.1 of this regulation.

7. Rules for Determining Annual Benefit.

- a. Social Security Supplements, Etc. The determination of the Annual Benefit shall take into account social security supplements described in Section 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Section 1.411(d)-4, Q&A-3(c), of the Treasury regulations.
- b. Member Contributions. The determination of the Annual Benefit shall disregard benefits attributable to Member contributions or rollover contributions. Benefits attributable to Member contributions do not include any benefits that are made on a pre-tax basis such as pickups under Code Section 414(h)(2) or such as Member contributions that are actually paid by the Member's employer.
- c. Rollovers. The amount of any benefits attributable to Member contributions and to rollover contributions shall be determined in accordance with Code Section 415.

- d. Voluntary Contributions. Member contributions that are defined as “voluntary” contributions under Code Section 415 (such as certain contribution under California Government Code Section 31627) are not subject to the limits of this regulation but are subject to the limits of Code Section 415(c) concerning defined contribution plans.

**B. Reduction for Less Than 10 Years of Participation**

1. Reduction

If the Member has less than 10 Years of Participation in the System, the Annual Benefit Limit shall be multiplied by a fraction – (i) the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the System, and (ii) the denominator of which is 10.

2. Counting Years of Participation

The Member is credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (i) the Member is credited with at least the number of hours of service or period of service for benefit accrual purposes, required under the terms of the System in order to accrue a benefit for the accrual computation period, and (ii) the Member is included as a Member under the eligibility provisions of the System for at least one day of the accrual computation period. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the portion of a year of benefit accrual service credited to the Member for such accrual computation period. A Member who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In no event shall more than one Year of Participation be credited for any 12-month period. For example, if under the System, a Member receives 1/10 of a year of benefit accrual service for an accrual computation period for each 200 hours of service, and the Member is credited with 1,000 hours of service for the period, the Member is credited with 1/2 year of participation for purposes of this Subsection.

3. Disability and Death Benefits

The reduction described in paragraph 1 of this Subsection shall not apply to disability benefits or death benefits as provided in the Code.

**C. Reduction for Commencement Before Age 62 For Certain Members**

1. No Reduction For Certain Safety Members

The adjustment described in this Subsection shall not apply if the Member's benefit is based on at least 15 years as a full-time employee of any police or fire department of an Employer that maintains the System or as a member of the armed forces of the United States. Such police or fire department must be organized to provide police protection, firefighting services or emergency medical services for any area within the jurisdiction of such Employer.

2. Reduction For Benefits Commencing Before Age 62

If the Member's benefits commence before the Member attains age 62, the Annual Benefit Limit is equal to the lesser of:

- a. The Annual Benefit Limit reduced in accordance with Code Section 415(b) to its actuarial equivalent using:
  - i. The Applicable Mortality Table; and
  - ii. A 5% interest rate; or
- b. The Annual Benefit Limit multiplied by the ratio of the immediately commencing Straight Life Annuity under the System at the Member's Annuity Starting Date to the annual amount of the Straight Life Annuity under the System commencing at age 62, both determined without applying the limitations of this regulation.

3. Probability of Death

No adjustment will be made to the annual benefit limit to reflect the probability of death between the Annuity Starting Date and age 62 unless the Member's benefit is forfeited at death before the Annuity Starting Date.

4. Death and Disability

The adjustment described in paragraph 1 of this Subsection shall not apply to disability benefits or death benefits.

**D. Increase for Commencement After Age 65**

1. Increase For Benefits Commencing After 65

If the Member's benefits commence after the Member attains age 65, the Annual Benefit Limit is equal to the lesser of:

- a. The Annual Benefit Limit increased in accordance with Code Section 415(b) to its actuarial equivalent using:
  - i. The Applicable Mortality Table; and
  - ii. A 5% interest rate; or
- b. The Annual Benefit Limit multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the System at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the System at age 65, both determined without applying the limitations of this regulation. For this purpose, the adjusted immediately commencing Straight Life Annuity under the System at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the System at age 65 is the annual amount of such annuity that would be payable under the System to a hypothetical Member who is age 65 and has the same accrued benefit as the Member.

2. Probability of Death

No adjustment will be made to the Annual Benefit Limit to reflect the probability of death between age 65 and the Annuity Starting Date unless the Member's benefit is forfeited at death before the Annuity Starting Date.

**E. Minimum Benefit Permitted**

The benefit otherwise accrued or payable to a Member under the System is treated as not exceeding the Annual Benefit Limit if:



1. Minimum Benefit Limit Allowed

The sum of the retirement benefits payable under any form of benefit with respect to the Member for the Limitation Year or for any prior Limitation Year under the System and all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Member's Employer does not exceed \$10,000 multiplied by a fraction – (i) the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the Member's Employer or an Affiliated Employer, and (ii) the denominator of which is 10; and

2. Condition

The Member has never participated in any qualified defined contribution plan maintained by the Member's Employer or an Affiliated Employer.

**SECTION III. PARTICIPATION IN MULTIPLE DEFINED BENEFIT PLANS**

**A. Application of Limit to Aggregate Benefits**

If the Member is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the Member's Employer, the sum of the participant's Annual Benefits from all such plans may not exceed the Annual Benefit Limit.

**B. Multiple Plan Benefit Limit Coordination**

Where the Member's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Annual Benefit Limit applicable at that age, the benefits accrued under all such other plans shall be reduced first in order to avoid exceeding the limit and shall be reduced under the System only to the extent that the reduction under such other plans is insufficient to avoid exceeding the limit.

**SECTION IV. MULTIPLE EMPLOYER PLAN**

Benefits attributable to the Member attributable to all of the Employers participating in the System are taken into account for purposes of applying the Annual Benefit Limit.



## **SECTION V. GRANDFATHER RULES**

### **A. Annual Benefit Limit Equals Accrued Benefit**

Notwithstanding anything herein to the contrary, the Annual Benefit Limit with respect to a Qualified Member shall not be less than the accrued benefit of the Qualified Member under the System determined without regard to any amendment made after October 14, 1987.

### **B. Qualified Participant**

For purposes of this Section, the term “Qualified Member” means a Member who first became a Member in the System before January 1, 1990.

### **C. Election**

Pursuant to Section 31899 et. seq. of the California Government Code, the election has been made to have this Section apply.

## **SECTION VI. PURCHASE OF PERMISSIVE SERVICE CREDIT**

### **A. General Rule**

To the extent a Member is not prohibited by the California Public Employees’ Pension Reform Act of 2013 (“PEPRA”), if a Member makes one or more contributions to the System to purchase Permissive Service Credit under the System, then the requirements of this regulation will be treated as met only if:

1. The requirements of this regulation are met, determined by treating the accrued benefit derived from all such contributions as an Annual Benefit for purposes of this regulation; or
2. The requirements of the System’s regulation governing the limits on annual additions applicable to defined contribution plans are met by treating all such contributions as annual additions.

### **B. Permissive Service Credit**

#### **1. Permissive Service Credit Defined**

For purposes of this Section, “Permissive Service Credit” means credit:

- a. recognized by the System for purposes of calculating a Member’s benefit under the System;
- b. which such Member has not received under the System; and

- c. which the Member may receive only by making a voluntary additional contribution in an amount determined under the System, which does not exceed the amount necessary to fund the benefit attributable to the service credit purchased.

Permissive Service Credit also includes service credit for periods for which there is no performance of service and, notwithstanding subparagraph b of this paragraph, may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the System, but only to the extent not prohibited by PEPRA.

2. Limitation on Nonqualified Service Credit

The System will fail to satisfy the requirements of this regulation if

- a. More than 5 years of Nonqualified Service Credit is taken into account for purposes of this Section; or
- b. Any Nonqualified Service Credit is taken into account under this Section before the Member has at least 5 Years of Participation under the System.

3. Nonqualified Service Credit

For purposes of paragraph 2 of this Subsection, the term “Nonqualified Service Credit” means permissive service credit other than that allowed with respect to:

- a. Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, a State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in Subsection C of this Section);
- b. Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (a) of this paragraph) of an educational organization described in Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

- c. Service as an employee of an association of employees who are described in subparagraph (a) of this paragraph; or
- d. military service (other than qualified military service under Code Section 414(u)) recognized by the Association.

In the case of service described in subparagraphs a, b or c of this paragraph, such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same period of service under more than one plan.

Even if any proposed service credit purchase meets the above requirements, to the extent such proposed service credit purchase is prohibited under the terms of PEPRA, the System will not process such service credit purchase.

4. Trustee-to-Trustee Transfers

In the case of a trustee-to-trustee transfer to the System to which Code Section 403(b)(13)(A) or 457(e)(17)(A) applies, (without regard to whether the transfer is made from a plan that is maintained by the same Employer):

- a. the limitations of paragraph 2 of this Subsection shall not apply in determining whether the transfer is for the purchase of Permissive Service Credit; and
- b. the distribution rules applicable under the Code to the System shall apply to such amounts and any benefits attributable to such amounts.

**C. Repayment of Cashouts**

In the case of any repayment of contributions (including interest) to the System with respect to an amount previously refunded upon a forfeiture of service credit under the System or under another governmental plan maintained by a state or local government employer with in the State of California, any such repayment shall not be taken into account for purposes of this regulation.

**SECTION VII. DEFINITIONS**

**A. Annual Benefit**

“Annual Benefit” means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided in Section II.A.5, where a benefit is payable in a form other than a Straight Life Annuity, the benefit shall be adjusted

(solely for purposes of applying the limits of Code Section 415 and of this regulation) pursuant to Section II.A.7 to an actuarially equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month.

**B. Annual Benefit Limit**

“Annual Benefit Limit” means the limit described in Section II.A.1 of this regulation.

**C. Annuity**

“Annuity” for purposes of this regulation does **not** mean “annuity” as defined in the County Employee Retirement Law but instead means a retirement benefit that is payable by the System, as provided in Section 415 of the Code.

**D. Annuity Starting Date**

“Annuity Starting Date” means the first day of the first period for which a retirement benefit is payable as an annuity or, in the case of a retirement benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Member to payment under the System.

**E. Applicable Interest Rate**

“Applicable Interest Rate” means the “applicable interest rate” defined in Section 417(e)(3)(C) of the Code and shall be such rate of interest determined as of the first month preceding the stability period, which shall be the month containing the Annuity Starting Date for the distribution and for which the Applicable Interest Rate shall remain constant.

**F. Applicable Mortality Table**

“Applicable Mortality Table” means the “applicable mortality table” defined in Section 417(e)(3)(B) of the Code.

**G. Employer**

“Employer” means the participating County or other governmental employer that participates in the System and employs the Member. The term “Employer” also includes any Affiliated Employer. Solely to the extent provided in the Code with respect to public agencies, the term “Affiliated Employer” means all members of a controlled group of an Employer.

**H. Limitation Year**

“Limitation Year” means the calendar year.

**I. Spouse**

Effective June 26, 2013, consistent with Federal tax rules, the term “Spouse” means a person who is lawfully married under California law, including marriages recognized under California Family Code Section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term “Spouse” does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

**J. Straight Life Annuity**

“Straight Life Annuity” means an Annuity payable in equal installments for the life of the Member and terminating on the Member’s death.

**REGULATIONS FOR IRC SECTION 415(c)  
DEFINED CONTRIBUTION LIMITS**

**SECTION I. PURPOSE AND SCOPE**

In accordance with Section 31525 and Section 31899 et seq. of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the limits on annual additions under Section 415(c) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under Section 415(c). To the extent there is a conflict between these regulations and the Code, the Code governs.

The System may establish reasonable procedures for complying with the limits on annual additions under Section 415(c) of the Code that it deems necessary or advisable for complying with applicable tax laws or for administrative purposes.

Capitalized terms used in this Regulation are defined in Section III. Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

**SECTION II. ANNUAL ADDITIONS LIMITATION**

**A. Annual Additions Limit, In General**

Notwithstanding anything to the contrary contained in the System, the total Annual Additions allocated to a Member's Account under the System, when added to the Annual Additions allocated to the Member's accounts under all other Aggregated Plans maintained by the Employer or an Affiliate for any Limitation Year, shall not exceed the Maximum Permissible Amount; provided, however, that the limit described in Section III.G.2 shall not apply to an individual medical benefit account (as defined in Section 415(l) of the Code).

**SECTION III. DEFINITIONS**

Solely for purposes of this regulation, the following definitions shall apply:

**A. Account**

"Account" means the separate Member account provided under the System for benefits that are separate and apart from the retirement benefits (annuity and pension) otherwise provided under the County Employees Retirement Law.

**B. Affiliate**

Solely to the extent provided in the Code with respect to public agencies, the term “Affiliate” means all members of a controlled group of an Employer.

**C. Aggregated Plan**

“Aggregated Plan” means any defined contribution plan which is aggregated with the System pursuant to Section III of this regulation.

**D. Annual Additions**

“Annual Additions” means the sum of the following amounts credited to a Member’s Accounts under the System and any Aggregated Plans for the Limitation Year:

1. Employer contributions allocated to the Member’s Account that is separate and apart from any pension or annuity benefits provided under the County Employees Retirement Law of 1937;
2. Employee contributions (after-tax), including mandatory contributions (as defined in Section 411(c)(2)(C) of the Code and Treasury regulations issued thereunder), as well as voluntary employee contributions used to purchase permissive service credit (as defined in Code Section 415(n)(3)), to the extent such service credit purchase is not prohibited under PEPRA, if an election is made to treat those amounts as Annual Additions in the year contributed pursuant to Code Section 415(n)(1).
3. Forfeitures;
4. Amounts allocated to the Member’s individual medical account (within the meaning of Section 415(l)(2) of the Code), which is part of a pension or annuity plan maintained by the Employer or Affiliate, except that such amounts are not included in Annual Additions for purposes of applying the 100% of compensation limit.

The term “Annual Additions” excludes:

1. Repayments of cash-outs as described in Code Section 415(k)(3) (for example, to purchase restoration of an accrued benefit that was lost when employee contributions were previously cashed out) for the limitation year in which the restoration occurs;
2. Catch-up contributions made in accordance with Code Section 414(v);

3. Restorative payment described in Treasury regulations Section 1.415(c)-1(b)(2)(ii)(C);
4. Excess deferrals that are distributed in accordance with Treasury regulations Section 1.402(g)-1(e)(2) or (3);
5. Rollover contributions (as described in Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d) and 457(e)(16) of the Code);
6. Loan repayments;
7. Employee contributions to a qualified cost-of-living arrangement described in Code Section 415(k)(2)(B);
8. Employee contributions picked up by the Employer under Code Section 414(h)(2);
9. Make-up contributions attributable to a period of qualified military service, as defined in Code Section 414(u), with respect to the year in which the contribution is made (but not with respect to the year to which the contribution relates); and
10. Employee contributions to purchase permissive service credit (as defined in Code Section 415(n)(3)) to the extent such service credit purchase is allowed under PEPRA and if an election is made to treat the accrued benefit derived from all such contributions as an annual benefit subject to the limits of Code Section 415(b).

**E. Employer**

“Employer” means the participating County or other governmental employer that participates in the System and employs the Member.

**F. Limitation Year**

“Limitation Year” means the calendar year.

**G. Maximum Permissible Amount**

“Maximum Permissible Amount” means the lesser of:

1. \$52,000 (for 2014), as adjusted for increases in the cost-of-living under Section 415(d) of the Code; or
2. 100 percent of the Member’s Total Compensation for the Limitation Year.



## **H. Severance From Employment**

“Severance From Employment” means the Member ceases to be an employee of the Employer. A Member does not have a Severance From Employment if, in connection with a change of employment, the Member’s new employer maintains the System with respect to the Member.

## **I. Total Compensation**

“Total Compensation” means all items of remuneration described in paragraph (1) and excludes all items of remuneration described in paragraph (2), below.

### **1. Items Included**

Total Compensation includes all of the following items of remuneration for services:

- a. A Member’s wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer and any Affiliate to the extent that the amounts are includible in gross income (or to the extent that amounts would have been includible in gross income but for an election under Code Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements, or other expense allowances under a non-accountable plan, as described in Treasury regulations Section 1.62-2(c);
- b. Amounts described in Code Sections 104(a)(3), 105(a), or 105(h), but only to the extent that these amounts are includible in the gross income of the Member;
- c. Amounts paid or reimbursed by the Employer or an Affiliate for moving expenses incurred by a Member, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are not deductible by the Member under Code Section 217;
- d. The amount includible in the gross income of a Member upon making the election described in Code Section 83(b);
- e. Amounts that are includible in the gross income of a Member under the rules of Code Section 409A or Code

Section 457(f)(1)(A), or because the amounts are constructively received by the Member;

- f. An amount that is excludable under Code Section 106 that is not available to a Member in cash in lieu of group health coverage because the Member is unable to certify that he or she has other health coverage; provided, however, that the Employer does not request or collect information regarding the Member's other health coverage as part of the enrollment process for the health plan; and
- g. Differential wage payments as defined in Internal Revenue Code Section 3401(h)(2).

## 2. Items Excluded

The following items are excluded from Total Compensation:

- a. Employer contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a deferred compensation plan (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p), and whether or not qualified) to the extent such contributions are not includable in the Member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a deferred compensation plan (whether or not qualified) other than amounts received during the year by a Member pursuant to a nonqualified unfunded deferred compensation plan to the extent includible in gross income;
- b. Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are excludible from the gross income of the Member, and are not salary reduction amounts that are described in Code Section 125);
- c. Other items of remuneration that are similar to any of the items listed in a and b, above.

## 3. Timing

- a. In order to be taken into account for a Limitation Year, Total Compensation must be paid or made available (or, if earlier, includible in the gross income of the Member) during the Limitation Year. For this purpose, compensation is treated as paid on a date if it is actually paid on that date or it would have been

paid on that date but for an election under Code Sections 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b)).

- b. In order to be taken into account for a Limitation Year, Total Compensation must be paid or treated as paid to the Member prior to the Member's Severance From Employment with the Employer; provided, however, that Total Compensation includes amounts paid to the Member by the later of 2½ months after Severance From Employment or the end of the Limitation Year if the amounts are regular compensation for services during the Member's regular working hours, compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation that absent a Severance From Employment would have been paid to the Member while the Member continued in employment with the Employer.
- c. Total Compensation does not include amounts paid after Severance From Employment that are severance pay, unfunded nonqualified deferred compensation, or any other payment that is not described in the preceding paragraph, even if paid within 2½ months, except for:
  - i. Payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service to the extent that these payments do not exceed the amounts that the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service; and
  - ii. Payments to a Member who is permanently and totally disabled; provided, however that salary continuation applies to all Members who are permanently and totally disabled for a fixed or determinable period. For this purpose, a Member is permanently and totally disabled only if the Member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months.

4. Limit

A Member's Total Compensation shall not include compensation in excess of the limitation of Code Section 401(a)(17) that is in effect for the calendar year in which such Limitation Year begins.

**SECTION III. AGGREGATION WITH OTHER DEFINED CONTRIBUTION PLANS**

All defined contribution plans (as defined in Section 1.415(c)-1(a)(2) of the Treasury regulations and whether or not terminated) maintained by the Employer or an Affiliate shall be aggregated with the System, and all plans so aggregated shall be considered as one plan in applying the limitations of this regulation.

**SECTION IV. COORDINATION WITH OTHER DEFINED CONTRIBUTION PLANS**

In the event that a Member participates in another defined contribution plan of the Employer or of an Affiliate that is a tax-qualified defined contribution plan, contributions or allocations that would otherwise be made on behalf of the Member to the System shall be reduced to the extent necessary to avoid exceeding the limitations of this regulation when contributions are aggregated as described above.

**SECTION V. CORRECTION**

Any excess Annual Additions shall be corrected using the methods specified in guidance promulgated by the Secretary of the Treasury describing the procedures for correcting excess Annual Additions under the Employee Plans Compliance Resolution System ("EPCRS") or its successor.

**IMPERIAL COUNTY EMPLOYEES RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 401(a)  
RETURN TO WORK AND SEPARATION FROM SERVICE**

**SECTION I. PURPOSE AND SCOPE**

In accordance with Section 31485.15 and Section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the return to work of retired Members and a bona fide separation from service prior to such return to work applicable for the System in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The System may establish any reasonable procedures dealing with the return to work of Members following retirement under the System and the requirement for a bona fide separation of service that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

**SECTION II. RETURN TO WORK AND BONA FIDE SEPARATION FROM SERVICE**

For purposes of employment with the County or a participating employer under the System after retirement for service, a Member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by Section 401(a) of Title 26 of the United States Code. A bona fide separation from service is defined as follows:

1. The Member has not entered into any predetermined agreement (either written or unwritten) with the County or a participating employer under the System prior to retirement to return to work for the Member's employer after retirement, regardless of the length of the separation.
2. Prior to entering into an agreement to return or returning to employment with the County or a participating employer under the System while retired, the Member must have a separation from service

of at least the greater of (a) any required separation from service prior to return to work required under the terms of the California Public Employees' Pension Reform Act of 2013 or (b) a 60 calendar day separation from service.

3. The Member may be employed by the County or a participating employer under the System prior to the time in Sections 1 and 2 for emergency situations as defined in Government Code Section 8558.

ICEERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
REGULATIONS FOR IRC SECTION 401(a)  
NORMAL RETIREMENT AGE**

**SECTION I. PURPOSE AND SCOPE**

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Imperial County Employees' Retirement System (the "System") with respect to the normal retirement age applicable for the System in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The System may establish any reasonable procedures for determining and applying the normal retirement age requirements that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees Retirement Law of 1937 apply here unless otherwise stated.

**SECTION II. NORMAL RETIREMENT AGE**

1. Normal Retirement Age for general Members is age 62 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the System. In accordance with the County Employees Retirement Law, normal retirement age is not later than age 70 years.
2. Normal Retirement Age for safety Members is age 50 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the System. In accordance with the County Employees Retirement Law, normal retirement age is not later than age 70 years.
3. The normal retirement age for general Members is based on safe harbor provisions in Treasury Regulation Section 1.401(a)-1(b)(2)(ii). The normal retirement age for safety Members is based on safe harbor provisions in Treasury Regulation Section 1.401(a)-1(b)(2)(v) applicable to qualified public safety employees.

4. The Board of Retirement for the System may change the normal retirement age determined herein to the extent required to comply with section 401(a) of Title 26 of the United States Code or for any other reasons determined by the Board. The normal retirement age determined herein does not create any “vested rights” under California or federal law including but not limited to the contracts clause of the California Constitution.

ICEERS



**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
POLICY FOR THE CONTINUATION OF MEMBER BENEFITS  
TO ELIGIBLE SURVIVING CHILDREN OVER THE AGE OF 18**

All children, through the age of 21, of a Member who is entitled to a benefit under Section 31781.1 shall meet these qualifications.

- A. Beneficiary has to remain single, i.e., never married or divorced.
- B. Enrolled full time in High School or College with a minimum of Twelve (12) semester units or equivalent with a minimum "C" average grade.
- C. Full-time is defined as at least two completed semesters or at least three complete quarters per school year.
- D. Schools must be fully accredited as determined by the Retirement Administrator regardless of type, i.e., College, University, Trade School, and High School.

The above policy is to be interpreted by the Retirement Administrator and his/her decision may be appealed to the Board of Retirement.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
RE-ISSUING OF RETIREE WARRANTS POLICY**

It shall be the policy of the Board of Retirement that prior to re-issuing a retiree warrant, the retiree must:

- A. wait seven (7) days after issue; and
- B. submit a signed and notarized affidavit of lost warrant.

ICERS

## **RETIREMENT BOARD POLICY ON BUYBACK OF SERVICE CREDIT-EVIDENCE REQUIRED**

It is the intent of the Imperial County Board of Retirement to establish a policy by which eligible employment, inclusive dates of employment, and salary may be proven when a Member of the retirement system wishes to purchase additional service credit as allowed by the California Government Code.

1. When a Member wants to purchase buyback time, the following items may serve as proof of service credit. It is the Member's responsibility to obtain such proof.
  - A. Copies of actual payroll records or pay stubs.
  - B. Letter from Member's employer/department certifying service time including starting and finishing dates.
  - C. Copies of Member's W-2 or IRS records.
  - D. Copy of Member's DD-214 (discharge papers) for military service credit.
  - E. Two affidavits under penalty of perjury from persons with personal knowledge of the details of the Member's employment.
  - F. Other credible evidence, as determined by the Retirement Administrator.
2. The Retirement Administrator shall determine if the documents provided by the Member meet the necessary requirements of proof.
3. The Retirement Administrator may require additional data/information or may refer the matter to the Board of Retirement for their decision. In the case of service credit for time on a Board, commission, or similar service not considered as full-time must be determined by the Board.
4. The Member has the right to appeal the Retirement Administrator's decision to the Board of Retirement upon written request.
5. A Member may re-apply when it appears that new evidence not previously considered by the Retirement Administrator and/or Board of Retirement is now available.
6. All decisions by the Board of Retirement regarding the sufficiency of the proof presented will be final.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
DISCONTINUANCE OF CONTRIBUTION AFTER 30 YEARS OF SERVICE POLICY**

Pursuant to provisions of the 1937 Act applicable in Imperial County, all Members' contributions stop after 30 years of service if the Member joined before March 3, 1973 (Gov. Code § 31625.2(a)). A Safety Member's contributions end after 30 years of service regardless of the date the Member joined the system (Gov. Code § 31664.1(c)).

If, as a consequence of dissolution of marriage, legal separation, or dissolution of domestic partnership, a Member who previously did have 30 years of service no longer is credited with 30 years of service because of such divorce, separation, or dissolution, that Member's contributions shall end regardless.

In determining the years of service the purchase of public service time shall count towards the 30-year service requirement for this benefit.

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
PURCHASE OF RESERVE EXTRA HELP TIME POLICY**

In the situation when an extra help employee becomes a full-time County employee and the extra help position he/she held was labeled a "Reserve" position, that employee may purchase the extra help service time for retirement purposes. The time will be calculated in either the general or safety members category as indicated by the underlying job classification attached to the "Reserve" designation.

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
POLICY REGARDING EFFECTIVE DATE OF RETIREMENT  
AND CHANGING DATE OF RETIREMENT**

WHEREAS, pursuant to Government Code Section 31672, a Member's effective date of retirement cannot be earlier than the date the application is filed nor more than 60 days after the date of filing the application; and

WHEREAS, the Imperial County Board of Retirement believes it is in the best interests of its Members to establish a written policy as to effective date of retirement and cancellation of retirement.

NOW, THEREFORE, the Imperial County Board of Retirement hereby adopts the following policy with regard to retirement and cancelling retirement:

1. The Member shall state their effective date of retirement on their application for retirement. It must be the same date as the date of separation from service or a later date.
2. Any Member wishing to cancel retirement must notify the Retirement System in writing of cancellation up to and including 5:00 p.m. on the effective date of retirement as stated on the Member's application.
3. If the Member does not notify the Retirement System of cancellation up to and including the effective date of retirement, then retirement is effective and cannot be cancelled or rescinded in any way.

Adopted this April 20, 2011 by the Imperial County Board of Retirement, this amended policy supersedes the policy dated June 20, 2007.

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JULIE VILLENEUVE, Chairman of the Board

Attest:

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JAMES E. RHODES, Secretary

**RESOLUTION OF THE IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
BOARD OF RETIREMENT ADOPTING A BENEFIT UNDER  
THE PENSION PROTECTION ACT OF 2006**

WHEREAS, the Imperial County Employees' Retirement System (ICERS) is a governmental pension entity that operates under the California County Employees' Retirement Law of 1937, commonly referred to as "the '37 Act;" and

WHEREAS, Section 845 of the Pension Protection Act of 2006 ("the Act") is a provision of federal law that describes a benefit for qualifying Public Safety Officer retirees that may be adopted by the governing body of a governmental pension fund; and

WHEREAS, law enforcement officers, firefighters, chaplains, rescue squad, ambulance crew, and disaster relief workers all qualify as Public Safety Officers under the Act; and

WHEREAS, it is necessary under the Act to adopt a "normal retirement age" and that age may be the same age that a Member is vested and eligible to retire; and

WHEREAS, the Board of Retirement finds that it would be beneficial to adopt said benefit for qualifying retirees of ICERS;

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board of Retirement of ICERS hereby adopts Section 845 of the Pension Protection Act of 2006, retroactively effective on and after January 1, 2007.
2. The benefit is eligible to Public Safety Officers defined under the Act as law enforcement officers, firefighters, chaplains, rescue squad, ambulance crew, and disaster relief workers, as well as their spouses and dependents.
3. The benefit allows qualifying retiring and already retired Public Safety Officers, their spouses and dependents, to claim a deduction on a tax return of up to three thousand dollars (\$3,000) annually toward the cost of health insurance premiums including medical, dental, vision, accident and long-term care.
4. "Normal retirement age" is established as age fifty (50) for all Members who qualify as Public Safety Officers under the Act. A Member must also have at least ten (10) years of service so as to be vested or be disabled.

PASSED AND ADOPTED, by the Board of Retirement of the Imperial County Employees' Retirement System, this 16th day of April, 2008, by an affirmative vote of the Members present:

AYES: VILLENEUVE, LEIMGRUBER, FLAMMANG, WILLIAMS,  
PADILLA, HUSKEY, RHODES  
NAYES: NONE  
ABSENT: VOGEL, YARNALL  
ABSTENTIONS: NONE

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KAREN VOGEL  
Chairman of the Board of Retirement

IMPERIAL COUNTY



**RESOLUTION OF THE BOARD OF RETIREMENT OF THE IMPERIAL  
COUNTY EMPLOYEES' RETIREMENT SYSTEM PERTAINING  
TO EMPLOYEE FURLOUGHS AND CALCULATION OF RETIREMENT  
ALLOWANCES, CONTRIBUTIONS, AND SERVICE CREDIT**

WHEREAS, the Imperial County Employees' Retirement System (ICERS) and the Board of Retirement (Board) are governed by the County Employees' Retirement Law of 1937 (Gov. Code, § 31450, et seq.); and

WHEREAS, an ICERS Member's retirement allowance is directly dependent upon his or her "final compensation," which is calculated by determining the amount "compensation earnable" the Member has to his or her credit during the Member's final compensation period (Gov. Code, §§ 31462 and 31462.1); and

WHEREAS, the Board must "determine" a Member's "compensation earnable" within statutory boundaries and provides specifically that the "computation for any absence shall be based on the compensation of the position held by the Member at the beginning of the absence" (Gov. Code, § 31461); and

WHEREAS, a Member's retirement service credit depends upon the period of time in service for which retirement contributions are deducted from the Member's compensation earnable (Gov. Code, § 31641); and

WHEREAS, the amount of compensation deemed earnable during a period determines the amount of employee and employer contributions that must be collected for that period to adequately fund the Member's projected retirement benefits, and contributions must be collected in order for that period to count as "service" for which the Member will receive retirement service credit; and

WHEREAS, the absence of sufficient pay throughout a given pay period would make the deduction of contributions based upon compensation earnable for that period impossible, as there would be insufficient pay from which deductions for contributions could be made; and

WHEREAS, a relatively short furlough may be distinguished from an ordinary period of unpaid leave if the Member continues to receive sufficient pay (albeit a reduced amount) during the pay period that includes the furlough to allow the ICERS Member and employer to continue to pay full retirement contributions to ICERS on the full compensation deemed "earnable" during the pay period including the short period of furloughed absence(s); and

WHEREAS, the Board seeks to inform all of its Members and employers regarding its calculation of retirement allowances, contributions and service credit in the context of potential employee furloughs.

NOW THEREFORE, BE IT RESOLVED that the Board of Retirement declares the following:

1. The foregoing Recitals are incorporated herein by this reference:
2. During employee furloughs, if any, ICERS employers shall continue to report its employees' compensation earnable at the full rate of pay earnable over the period of absence from work as if the employee were not on furlough, and the employee's and the employer contributions for the pay period including any furlough day(s) shall continue to be made based upon that same full compensation earnable pay rage, rather than the actual reduced compensation for that pay period.
3. As long as the Member employee continues to receive sufficient compensation from the employer for full retirement contributions from the employee and the employer to be made in the same amounts during the furlough(s) as prior to the furlough(s), then the Member's final compensation for retirement purposes will not be decreased, and ICERS service credit will not be affected by the Member working the reduced schedule.
4. If the Member employee's compensation is insufficient to support a continuation of such full retirement contributions to ICERS throughout the furlough, however, then the employee's retirement allowance may potentially be adversely impacted by the furlough(s) and the employee will not receive full service credit for that period of time as to which full retirement contributions have not been made.
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' Retirement System on August 20, 2009.

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JULIE VILLENEUVE, Chairman  
of the Board of Retirement

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JAMES E. RHODES, Secretary

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
POLICY ON DISABILITY, SERVICE RETIREMENT, AND SICK LEAVE**

The Board of Retirement hereby adopts the following policy as to how to handle sick leave upon retirement under certain circumstances. This policy is based upon the County Employees' Retirement Law, county ordinances, opinion of counsel and the court's ruling in the case of *Hollingsworth v. ICERS*.

This policy shall apply where a Member first petitions for a disability retirement, then takes a service retirement pending the outcome of the disability retirement, but before having run out of all of his or her accumulated sick leave. Subsequently, the Member is granted a disability retirement.

ICERS staff shall advise a Member that the Member can maximize his or her employment and retirement income by choosing a service retirement date that will take effect after any accumulated sick leave for which the person is eligible has run out. (Some Members may be in a different position if their service is long and the Member has an opportunity to cash out the sick leave.)

Choosing an earlier service retirement date will eliminate the Member's ability to run out any accumulated sick leave remaining upon the subsequent grant of his or her disability retirement application. The grant of a disability retirement does not revive the accumulated service credit balance that was previously used up at the time of the Member's service retirement. If a disabled Member wishes to take advantage of the 100% cash out of accumulated sick leave available only on the grant of a disability retirement, the Member should be advised by ICERS not to take a prior service retirement before his or her disability retirement application is resolved.

This policy is adopted this April 21, 2010 by the Imperial County Board of Retirement.

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY  
OF IMPERIAL REGARDING NOTIFICATION OF CHANGE OF  
BENEFICIARY**

WHEREAS, the Imperial County Employees' Retirement System, a qualified retirement plan, was established in accordance with the provisions of the County Employees' Retirement Law of 1937 (the "1937 Act"; Gov. Code, §§ 31450-31899.10); and

WHEREAS, Government Code Section 31760.3 requires notification to the current spouse of the selection of benefits or change of beneficiary made by a Member and specifically states:

An application for a refund of the Member's accumulated contributions, and election of optional settlement, or a change in beneficiary designated shall contain the signature of the current spouse of the Member, unless the Member declares, in writing under penalty of perjury, any of the following:

- (a) The Member is not married.
- (b) The current spouse has no identifiable community property interest in the benefit.
- (c) The Member does not know, and has taken all reasonable steps to determine the whereabouts of the current spouse.
- (d) The current spouse has been advised of the application and has refused to sign the written acknowledgement.
- (e) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.
- (f) The Member and the current spouse has executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code which makes the community property law inapplicable to the marriage; and

WHEREAS, Government Code Section 31778.3(b), provides that the "participant's beneficiary designated may not be given effect, and shall be overridden, to the extent that designation would impair the rights of any surviving spouse or surviving minors" and, therefore notification will prevent such designations from being overridden; and

WHEREAS, Government Code Section 31760.3 is made operative in Imperial County only when adopted by Resolution by majority vote of the Imperial County Board of Supervisors.

THEREFORE, after full consideration of the facts, the Imperial County Board of Supervisors HEREBY RESOLVES AS FOLLOWS: that effective immediately Government Code Section 31760.3 shall be applicable and operative in the County of Imperial that the Member shall notify the current spouse and/or domestic partner of a change of beneficiary.

PASSED AND ADOPTED by the Board of Supervisors, County of Imperial, State of California, on this 24th day of May, 2012 by the following vote:

Renison, Terrazas, Kelley, Castillo

\_\_\_\_\_  
MICHAEL W. KELLEY, Chairman  
Imperial County Board of Supervisors

\_\_\_\_\_  
SYLVIA BERMUDEZ, Clerk of the Board  
County of Imperial, State of California

**RESOLUTION OF THE BOARD OF IMPERIAL COUNTY EMPLOYEES’  
RETIREMENT SYSTEM ESTABLISHING A SINGLE RATE OF CONTRIBUTION  
FOR GENERAL AND SAFETY MEMBERS PARTICIPATING IN TIER 3**

WHEREAS, the Imperial County Employees’ Retirement System (ICERS) and the Board of Retirement are governed by the County Employees’ Retirement Law of 1937 (CERL) (Gov. Code, § 31450, et seq.); and

WHEREAS, in September of 2012 Governor Jerry Brown signed the California Public employees’ pension Reform Act of 2013 and mandates this Board to establish a new plan tier for employees who become “new Members” of ICERS on and after January 1, 2013. This new plan tier is based upon the previously available contributory plan tiers available to new Members, however, significantly modified by PEPRA’s mandated plan benefit structure. For purposes of administration, this plan tier has been designated as Tier 3 for General and Safety Members; and

WHEREAS, PEPRA requires that equal sharing of “normal costs” between public employers and public employees shall be the standard (Gov. Code, § 7522.30); and

WHEREAS, Government Code Sections 31621.11 and 31639.26 provide that the Board of Retirement may, upon actuarial advice, establish a single rate of contributions applicable to all persons; and

WHEREAS, ICERS’ actuary has advised the Board that a single rate of contributions applicable to new Members contributing to PEPRA tiers is a viable method of achieving the normal cost contribution mandates of PEPRA; and

WHEREAS, ICERS’ staff has advised the Board that the California Public Employees’ Retirement System, the California State Teachers’ Retirement System, the University of California Retirement Plan, and eighteen of the twenty 1937 Act rate of contribution for new Members under PEPRA. ICERS’ staff has also advised the Board that use of single rate of contributions will help improve customer service and reduce complexity in administering the PEPRA tiers.

NOW, THEREFORE BE IT RESOLVED that the Board of Retirement declares the following:

1. The facts recited above are true.
2. ICERS’ actuary has evaluated the proposed use of a single rate of contributions and found it to be within acceptable actuarial practices.

3. The proposed use of a single rate of contributions for new Members in the PEPRA tiers will maintain the integrity and security of the Retirement Fund and will enhance the administration of the plan.
4. The Board of Retirement adopts Government Code Sections 31621.11 and 31639.26 establishing a single rate of contribution for General and Safety Members participating in Tier 3.

Adopted February 20, 2013, by the following vote:

AYES: Vogel, McDonald, Holbrook, Terrazas, Jauregui, Williams, Tabarez, Jr., Rhodes

NAYS: McFetridge

ABSENT: None

BOARD OF RETIREMENT,  
IMPERIAL COUNTY RETIREMENT SYSTEM

By: \_\_\_\_\_  
POMPEYO TABAREZ, JR., Chairman

Approved as to form:

\_\_\_\_\_  
ROSARIO GONZALEZ, Deputy County Counsel

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
POLICY REGARDING THE DIVISION OF THE COMMUNITY PROPERTY  
INTEREST IN THE ACCRUED BENEFITS OF A MEMBER UPON DIVORCE OR  
LEGAL SEPARATION (PURSUANT TO THE PROVISIONS OF ARTICLE 8.4 OF THE  
COUNTY EMPLOYEES' RETIREMENT LAW OF 1937)**

WHEREAS, the Family Code provides for the division of a pension under community property law in the event of a marriage dissolution or legal separation. Family Code Section 2610 authorizes a court: (1) to order the parties to split the benefits when paid after retirement, or, when authorized by law, to order a split of the Member's account and service time before retirement, (2) to order the Member to elect a particular option, and (3) to order the plan to pay the nonmember directly when payment is due. The court may not order a plan to make payments in any manner that will result in an increase in the amount of benefits paid by the plan; and

WHEREAS, the County Employees Retirement Law of 1937 (Gov. Code, § 31450, et seq.<sup>1</sup>, hereafter "1937 Act") does authorize a split of the account and service time before retirement upon legal separation or dissolution of marriage (Article 8.4, § 31685 et seq.). The Imperial County Board of Supervisors adopted this optional method effective March 16, 2004; and

WHEREAS, under Article 8.4, if the parties use it, the Member's account is divided into two separate accounts. One account remains in the name of the Member, while the other account is established in the name of the nonmember. (As relevant here, Art. 8.4 defines the term "nonmember" as "the spouse or former spouse." (§ 316851.1.)<sup>2</sup>) The nonmember's account is credited with his or her share of the community property interest in both the Member's accumulated contributions and the Member's accrued service credit; and

WHEREAS, Article 8.4 does not clearly describe the procedures for dividing benefits in a post-retirement divorce, when a Member no longer has a separate account to be divided. This policy therefore describes not only how Imperial County Employees' Retirement System will administer a Domestic Relations Order in a pre-retirement divorce or legal separation, but also how ICERS will approach a post-retirement divorce or legal separation, whether or not Article 8.4 is used; and

WHEREAS, the purpose of this policy is to provide a procedure whereby Article 8.4 (§ 31685, et seq.) is implemented. This policy is not intended to repeat all applicable provisions of the 1937 Act. In the event of conflict between the 1937 Act and this policy, the 1937 Act will control.

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<sup>1</sup> All subsequent statutory references are to the Government Code, unless otherwise specified.

<sup>2</sup> At the time Article 8.4 was enacted, registered domestic partners did not have the rights of spouses. Under current law, registered domestic partners are treated as spouses for purposes of community property law, so all references in this policy to a spouse, former spouse, or nonmember should be read as including a registered domestic partner or former registered domestic partner.



NOW, THEREFORE BE IT RESOLVED that the Board of Retirement declares the following:

This policy applies only to the division of a Member's account pursuant to the provisions of Government Code section 31685 et seq.

**I. PROVISIONS NOT MANDATORY.**

These provisions are intended to provide the parties with more flexibility in drafting a domestic relations order, however, Members and their attorneys are not required to use these provisions to divide the community property interest in the Member's retirement account. In addition, Family Code Section 2610, Subdivision (a)(3), provides that the provisions of Government Code Section 31685 may be ordered only upon the agreement of the non-employee spouse.

**II. JOINDER REQUIRED.**

In order for the Imperial County Employees' Retirement Association (ICERS) to respond to a Domestic Relations Order (DRO), it must be joined as a party to the proceedings in accordance with the provisions of the Family Law Code. However, if the parties have not served joinder pleadings upon ICERS but have signed a stipulation and proposed DRO, ICERS will accept the proposed DRO for review and approval, but will not be bound by the terms of the DRO until ICERS is served with a conformed copy of the court order. Pursuant to the provisions of Family Code Section 4363.2, if the parties obtain a DRO from the court without prior written approval of ICERS, ICERS will have 30 days from the date of service of the order within which to review the order and either approve it or file a motion to set aside or modify the order. The DRO shall not become effective until the court has resolved the motion. If no motion is filed, the DRO shall become effective upon the expiration of the 30-day period.

The court is prohibited from imposing a DRO on ICERS which would require the payment of benefits with an actuarial value in excess of the value of benefits that would be received by the Member had the DRO not been issued.

**III. CONFIDENTIALITY.**

After the Member's account is divided pursuant to a DRO, each party gains sole control over his/her own account. Unless specifically provided for by the DRO, and other than the required notifications by ICERS discussed later in this document, confidentiality of activity in each account will be honored by ICERS with respect to inquiries from the other party. Information pertaining to each account may be released upon presentation of a signed consent to such release or in response to a subpoena.

**IV. VESTING.**

A member who is vested at the time a DRO is issued will continue to be vested with ICERS even after the court-ordered transfer of service credit to the account of the nonmember.

## V. EVENTS AND SUBSEQUENT IMPACT.

The following summarizes a series of events and the related impact on the account of the Member and nonmember.

### A. Member is Vested in the Retirement System:

Member's Account – Member's service credit, contributions and interest credited to his/her account are divided in accordance with the provisions of the DRO. The Member remains vested in the retirement system regardless of the amount of service credit remaining in his/her account after the division. The member will be requested to name a beneficiary.

Nonmember's Account – A separate account is established by the Retirement System on behalf of the nonmember with service credit, contributions and interest transferred from the account of the member in accordance with the provisions of the DRO. The nonmember will be requested to name a beneficiary. The nonmember may request a refund of contributions and interest, commence receipt of a monthly retirement benefit if eligible, or maintain the account by electing a deferred retirement until such time as he/she elects either a refund of contributions and interest or becomes eligible to receive a monthly retirement benefit.

### B. Member is Not Vested in the Retirement System:

Member's Account – Member's service credit, contributions and interest credited to his/her account are divided in accordance with the provisions of the DRO. The Member will become vested based on the combined service in both accounts. The member will be requested to name a beneficiary.

Nonmember's Account – A separate account is established by the Retirement System on behalf of the nonmember with service credit, contributions and interest transferred from the account of the member in accordance with the provisions of the DRO. The nonmember must be paid a refund of contributions and interest. The nonmember may request a "rollover" of the taxable portion of any distribution.

### C. Nonmember is Paid a Refund:

Member's Account – ICERS must notify the Member in writing that the nonmember has elected a refund of his/her share of the Member's accumulated contributions. Member has five (5) years from the date notification is mailed to elect to redeposit with ICERS all contributions withdrawn, plus interest, in order to regain service credit forfeited by nonmember. The redeposit of such contributions may be made in lump sum or through biweekly payroll deductions for a period of time not to exceed five years.

Nonmember's Account – By accepting a refund, nonmember waives all rights to receive a retirement benefit in the future. Nonmember may not redeposit contributions that are withdrawn and may not rescind the election to accept a refund after a check is placed in the mail by ICERS.

**D. Nonmember Does Not Elect a Refund (Member Vested):**

Member's Account – No effect.

Nonmember's Account – The nonmember may elect a deferred retirement. Contributions on deposit will be credited with interest semiannually. Nonmember may rescind this election at any time and elect to receive a refund of contributions. Nonmember may also receive a service retirement allowance if minimum eligibility requirements are met.

A nonmember who elects a deferred retirement, and later files for a monthly retirement allowance, shall have his/her retirement allowance calculated pursuant to the benefit provisions applicable to the Member at the time such service was accrued.

**E. Eligibility for Service Requirement:**

Member's Account – Service credit requirement is met using the combined service before the division of the account, plus service credit accrued after the division of the account.

Nonmember's Account – Member must have sufficient service credit to retire (includes service awarded to nonmember), and the Member or nonmember must have attained the minimum age for receipt of a retirement allowance as provided for by the benefit formula applicable to the Member.

**F. Member Retires Before Nonmember:**

Member's Account – The Member's retirement benefit will be based on the age factor applicable to the Member on the date of retirement, final average compensation, and service credit remaining in his/her account after the account division, service credit accrued after the account division (separate property), plus any other eligible service credit that may have been purchased by the Member. Member may elect any retirement option and beneficiary.

Nonmember's Account – ICERS provides notice to nonmember of Member's retirement. Nonmember may (a) Elect to leave account intact (deferred retirement). Final compensation that will be used to calculate benefit is frozen at the rate applicable to calculate the retirement benefit paid member; (b) Elect to begin receiving a retirement benefit computed using Member's final compensation, service credit received from the division of Member's account,

plus other eligible service credit that may have been purchased, and age factor based on nonmember's age on the effective retirement date. The retirement allowance shall be computed pursuant to the benefit provisions that were applicable to the Member at the time such service was accrued.

The nonmember may elect an optional retirement allowance as provided for pursuant to Government Code Sections 31761, 31762, 31763, or 31764. The election of an optional retirement allowance is the only method whereby a nonmember may provide a survivors continuance. The nonmember may elect a beneficiary.

**G. Nonmember Retires Before Member:**

Member's Account – No impact on Member.

Nonmember's Account – Retirement benefit would be calculated based on Member's final compensation prior to the effective date of nonmember's retirement, service credit received from the division of the Member's account, plus any other eligible service credit that may have been purchased, and age factor based on nonmember's age on the effective retirement date. The retirement allowance shall be computed pursuant to the benefit provisions that were applicable to the Member at the time such service was accrued.

The nonmember may elect an optional retirement allowance as provided for pursuant to Government Code §§ 31761, 31762, 31763 or 31764. The election of an optional retirement allowance is the only method whereby a nonmember who retires may provide a survivors continuance. The nonmember may elect a beneficiary.

**H. Purchase of Retirement Service Credit:**

Member's Account – Member may purchase his/her community property share as specified in the DRO. If the DRO is silent, Member may elect to purchase the entire amount of eligible service credit. A Member who elects to purchase retirement service credit shall complete that purchase within one hundred and twenty (120) days after the effective date of his or her retirement. Purchase of service credit may be made in a lump sum or through biweekly installment payments. The Member may purchase any community property share of service credit awarded to nonmember if the nonmember elects a refund of contributions or dies prior to purchasing his/her interest in Member's retirement service credit.

Nonmember's Account – Nonmember may purchase his/her community property share as specified in DRO. Payment for service credit purchased must be made in a lump sum prior to the effective date of retirement. If nonmember elected a refund of contributions awarded when the account was divided, he/she is not eligible to make a purchase of retirement service credit.

**I.     Redeposit of Contributions Withdrawn Before DRO:**

Member's Account – Member has same options as is the case with the purchase of retirement service credit (see H).

Nonmember's Account – Nonmember has the same options as is the case with the purchase of retirement service credit (see H.).

**J.     Redeposit of Account Withdrawn After DRO:**

Member's Account – Member may redeposit previously withdrawn contributions, plus interest, to reinstate service credit. Member may also redeposit any contributions withdrawn by nonmember if election is made within five years of receipt of notice from ICERS of such withdrawal.

Nonmember Account – Nonmember may not redeposit his/her contributions once withdrawn and may not redeposit contributions withdrawn by Member under any circumstances.

**K.     Member Dies Prior to Retirement:**

Member's Account – Benefit is paid to Member's beneficiary as would be the case had there not been a DRO.

Nonmember's Account – Nonmember would have the same choices as if the Member had retired before nonmember (see Section F).

**L.     Death of Nonmember:**

Upon the death of the nonmember before the effective date of retirement, his/her accumulated contributions shall be paid to such person as he/she nominates as beneficiary by written designation duly executed and filed with the Board.

Should the death of the nonmember occur prior to the effective date of retirement of the member, the member shall have the option to redeposit all contributions refunded to the beneficiary of the nonmember as set forth in Section C.

Upon the death of the nonmember after the effective date of his/her retirement, if the total retirement allowance income received by the nonmember during his/her lifetime was less than his/her accumulated contributions, his/her designated beneficiary shall be paid in one lump-sum the difference between the total contributions and the total retirement allowance income.

**M.     Vested Member Terminates Service:**

Member's Account – The Member may retire for service if eligibility requirements are met, elect a refund of his/her contributions and interest or elect a

deferred retirement. Unless reciprocity is established, final average compensation is frozen at Member's termination.

Nonmember's Account – Same as for Member.

**N. Nonvested Member Terminates:**

Member's Account – Member must either (1) leave contributions or deposit; (2) elect a refund; or (3) establish reciprocity with a reciprocal retirement system.

Nonmember's Account – Must elect a refund of contributions and interest credited to his/her account at the time Member's account was divided.

**O. Member is Granted Disability Retirement Before or After Retirement of Nonmember:**

Member's Account – The combined benefit payable to the Member and the nonmember may not exceed the benefit that would have been payable to the Member alone had the DRO not been issued. Once the amount of disability retirement is determined, the parties will be required to obtain a court order which allocates the percentage of the disability retirement benefit to be paid to each party, unless the parties can stipulate to a method of division which can be calculated and administered by ICERS.

Nonmember's Account – Same as for Member.

**P. Member is Retired at the Time of Divorce or Legal Separation:**

Member's Account – The DRO may provide that the retirement allowance being paid to the Member, including any cost-of-living and any other benefit adjustments as approved by the Board of Retirement, will be divided between the Member and nonmember. Payments would stop upon the death of the Member, unless the nonmember was eligible for a continuance. Alternatively, the DRO may provide that the retirement allowance being paid to the Member will be converted to the actuarial equivalent of this allowance, based on the life expectancies of the Member and nonmember. Benefits would be paid to both parties for the remainder of their individual lives. Both parties would receive annual cost-of-living and any other benefit adjustments as approved by the Board of Retirement.

Nonmember's Account – Same as for Member.

\*NOTE – The 1937 Act provides that the option chosen at the time of retirement is irrevocable. The Member may not change options once the first payment has been made under the option chosen.

**VI. LEGAL REPRESENTATION.**

Neither the Board of Retirement, its staff, nor its attorney, can provide legal advice on this subject. It is recommended the parties consult with an attorney prior to entering into any agreement for the division of retirement benefits under these provisions.

**VII. POLICY REVIEW.**

This policy may be amended at any time.

Adopted May 20, 2013, by the following vote:

AYES: Vogel, McDonald, Jauregui, Williams, Rhodes, Bumgart, Jernigan

NOES:

ABSENT: Holbrook, Terrazas, Tabarez, Jr. McFetridge

BOARD OF RETIREMENT, IMPERIAL  
COUNTY RETIREMENT SYSTEM

By: \_\_\_\_\_  
Pompeyo Tabarez, Chairman

Approved as to form:

\_\_\_\_\_  
Rosario Gonzalez  
Deputy County Counsel



**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA**

Resolution No. 2004-23

**RESOLUTION OF THE BOARD OF )  
SUPERVISORS OF THE COUNTY OF )  
IMPERIAL, STATE OF CALIFORNIA, )  
ADOPTING CALIFORNIA )  
GOVERNMENT CODE ARTICLE 8.4 )**  
\_\_\_\_\_ )

WHEREAS, the Imperial County Board of Retirement has moved to recommend that the Imperial County Board of Supervisors adopt California Government Code Article 8.4, entitled “Community Property,” as part of the law that the Imperial County Employees’ Retirement System (“ICERS”) operates under, the County Employees Retirement Law of 1937, commonly referred to as “the ’37 Act”; and

WHEREAS, California Government Code Article 8.4 is only operable in a county if the Board of Supervisors resolves to adopt said article; and

WHEREAS, California Government Code Article 8.4 divides ICERS accounts by the laws of community property and allows both Members and non-members more choices in the handling of their funds; and

WHEREAS, the Imperial County Board of Supervisors finds it would be beneficial that Members and non-members of ICERS have more choices in the handling of such funds.

NOW THEREFORE, BE IT RESOLVED THAT:

The Imperial County Board of Supervisors hereby adopts California Government Code Article 8.4, “Community Property”, to be effective the first day of the month following said adoption.



PASSED AND ADOPTED, by the Board of Supervisors, County of Imperial, State of California, this 16th day of March 2004, by the following roll call vote:

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GARY WYATT,  
Chairman of the Board of Supervisors

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ALEBERT ESPINOZA,  
Clerk of the Board of Supervisors

IMPERIAL

## **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM RECIPROCITY POLICY**

### **BACKGROUND**

The County Employees' Retirement Law of 1937 (CERL), Article 15, (Government Code Sections 31830 – 31840.8), grants reciprocal benefits to Members who are entitled to retirement benefits from two or more retirement systems, as those systems are listed or described in Article 15. Government Code section 31830 specifically states the legislative intent of Article 15 is to encourage reciprocity and to delineate the financial obligations of each reciprocal system. Reciprocal benefits described in Article 15 are further explained and interpreted by case law. But note that depending on individual circumstances, reciprocal benefits in Article 15 may not fully apply to PEPRA members, employees becoming Members of the Imperial County Employees' Retirement System (ICERS) on or after January 1, 2013.

### **RECIPROCAL BENEFITS**

If a Member establishes the right to reciprocal benefits between ICERS and another retirement system, as described in Article 15, the Member is entitled to:

- **age of entry** into ICERS will be the same as the age of entry into the first reciprocal retirement system for purposes of calculating employee contributions. (Gov. Code, § 31833.)
- **highest average earnable compensation** used by ICERS for the purposes of calculating final compensation will be the highest average earnable compensation earned by the Member among any of the reciprocal retirement systems. (Gov. Code, § 31835.)
- **service credit for vesting** in ICERS for purposes of qualification for the payment of benefits and allowances will include service credit in reciprocal retirement systems. (Gov. Code, § 31836.)

### **OTHER RECIPROCAL BENEFITS DEPENDING UPON INDIVIDUAL CIRCUMSTANCES**

If a Member establishes the right to reciprocal benefits between ICERS and another retirement system, as described in Article 15, the Member may also be entitled other retirement benefits in Article 15, in addition to those describe above, depending on individual circumstances if qualified, such as, but not limited to: discontinuance of contributions pursuant to Section 31625.2. (Gov. Code, § 31836.1.) In addition, all of the service credit earned by a Member may be used for purposes of vesting under Section 31836 even though the Member's account was split after divorce pursuant to Article 8.4 of the CERL.

## **RECIPROCITY LIMITING BENEFITS**

If a Member establishes the right to reciprocal benefits between ICERS and another retirement system, as described in Article 15, the Member's benefits may be significantly limited if the Member retires from the last retirement system on a disability retirement. Sections 31837 – 31838.5 and *Block v. OCERS* (2008) 161 Cal.App.4th 1297. This is a very complex set of statutes and case law, and the Member should contact ICERS as soon possible to understand how the decision to apply for disability retirement may affect or reduce retirement benefits from ICERS.

## **NO LIMITED RECIPROCITY**

In order to receive the retirement benefits in Article 15 of CERL, a Member must establish *reciprocity*, as described in Article 15, between ICERS and one or more retirement systems. There is no “limited reciprocity.”

## **DETERMINATION OF RETIREMENT BENEFITS IS SPECIFIC TO ICERS**

Each retirement system makes its own determination whether a person is entitled to reciprocal retirement benefits and to what degree. So while ICERS determines whether an ICERS Member has established reciprocity with another retirement system for purposes of awarding retirement benefits from ICERS, another retirement system may make a different determination whether this same person has established reciprocity for purposes of awarding retirement benefits from that retirement system, and the decisions may not be consistent. In other words, different retirement systems with different laws and local policies may make conflicting decisions regarding reciprocity. A determination as to reciprocal benefits by ICERS is not binding upon another retirement system and vice versa.

## **POLICY ON APPLICATION TO CHANGE CLASSIFICATION FROM GENERAL TO SAFETY MEMBER**

This policy amends and supersedes the policy adopted by the Board of Retirement on April 20, 1994 and describes the procedure for a Member to be reclassified from General to Safety Member pursuant to Government Code Section 31470.8.

1. The Member shall complete a written application to the Retirement Administrator, on the form provided by ICERS, along with evidence/documents to support change of membership classification. The application shall include instructions to the applicant and a brief summary of the law.
2. The Retirement Administrator puts the request on the Retirement Board agenda with the completed application form.
  - A. Applicant may appear before the Board at the meeting.
  - B. Staff will make a recommendation regarding legal eligibility for classification change.
  - C. By a majority vote of the Board Members, the Board may grant the application, deny the application, or set the matter for a hearing.
3. If a hearing is to be set, the Chair will set a date which may be during a regular Board meeting or another date after consulting with the Applicant and staff.
4. Staff will prepare the appropriate questionnaires for the following:
  - A. Department Head
  - B. Immediate Supervisor
  - C. All employees in the effected job classification for which the application is made.
5. After the documentation is received and responses to the questionnaires, staff will send a complete packet to the Human Resources Department and request their input.
6. Evidence not supplied in advance may be admitted at the hearing only with the approval of the Chair.
7. All materials supplied to Board Members in advance of the hearing may be available for review in ICERS' office at least five (5) days prior to the hearing.
8. Board Members and the Applicant will be supplied with copies of all of the above information at least five (5) days prior to the hearing.
9. If the Board finds in favor of the Applicant, pursuant to the County Employees' Retirement Law and the Case of *Bonner v. County of San Diego* (2006) 139 Cal.App.4th 1336:

- A. Such reclassification shall only be retroactive to the date the application was filed;
- B. Members shall pay the difference between the General Member contribution amount and the Safety Member contribution amount retroactive to the date of the application;
- C. The employer has the choice of paying the difference between the General Member contribution amount and the Safety Member contribution amount, or allowing that amount to be added to the unfunded actuarial liability.

PASSED AND ADOPTED by the Imperial County Board of Retirement on September 15, 2010.

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
POLICY FOR BOARD ASSESSMENT OF COMPENSATION AND  
PROCEDURE FOR REVIEW OF BOARD COMPENSATION DECISIONS**

WHEREAS, the Imperial County Employees' Retirement System (ICERS) and the Board of Retirement are governed by the County Employees Retirement Law of 1937 (CERL) (Gov. Code, § 31450, et seq.); and

WHEREAS, in September of 2012 Governor Jerry Brown signed the California Public Employees' Pension Reform Act of 2013 (Assembly Bill No. 340) which becomes effective January 1, 2013 and mandates this Board to adopt a procedure, pursuant to Government Code Section 31542, for assessing and determining whether an element of compensation was paid to enhance a Member's retirement benefit and to provide for a Member or the employer to seek review of the Board's determination that an element of compensation was paid to enhance a Member's benefit; and

WHEREAS, the purpose of this policy is to provide a procedure whereby Section 31542 is implemented;

NOW, THEREFORE BE IT RESOLVED that the Board of Retirement declares the following:

**A. STAFF REVIEW**

1. With respect to all retirement applications with an effective date of retirement on or after January 1, 2013, the Board directs ICERS staff to review all compensation included within the calculation of the Member's final compensation within the meaning of California Government Code Sections 7522.32, 7522.34, 31641, 31462, 31462.1, 31462.11, and 31462.2, as applicable, for the purpose of making an initial assessments to whether any item of compensation included in final compensation was paid to enhance a Member's retirement benefit.
2. In conducting such review and making such initial assessment, staff shall consider:
  - a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;

- b. Whether the compensation exceeds a Member's normal base pay, as calculated by multiplying the Member's hourly rate of pay by their authorized hours;
- c. Whether the pay items reported are in accordance with the statutes cited in paragraph 2 of this policy and other applicable law.
- d. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a Member's retirement benefit; and
- e. Information and explanation provided by the Member and the employer in response to ICERS' request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the Member's retirement benefit. A Member and the employer shall be given no less than 15 days to respond to such a written request. Staff may conduct such written and oral follow-up communication as staff believes is appropriate in the exercise of reasonable diligence.

**B. PREPARATION OF WRITTEN ADMINISTRATIVE RECOMMENDATION, AND BOARD ACTION**

1. If after conducting the initial assessment described in Section A of this policy, ICERS staff believes that an item of compensation was paid to enhance a Member's retirement benefit, staff shall prepare a written report to the Board that any item not be included in the calculation of the Member's retirement benefit. The report shall contain a description of the reasons for staff's recommendation, including the specific facts and circumstances supporting staff's recommendation.
2. The report shall be noticed and agendaized for a regular meeting of the Board, at which time the Board will act upon staff's administrative recommendation. Before the Board acts, ICERS, the Member, and the employer shall be given an opportunity to be heard by the Board.
3. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no later than 10 days before the recommendation is presented to the Board for action.

### **C. HEARING DE NOVO ON ADMINISTRATIVE RECOMMENDATION**

1. If the Board accepts staff's administrative recommendation, the Member and the employer shall be given written notice of their right to make a request, in writing, for a hearing *de novo* before the ICERS Board. A written request for a hearing *de novo* must be submitted by the Member and/or the employer within 10 days after mailing of the notice. The hearing *de novo* will be conducted within 45 days after mailing of the written request for such a hearing.
2. At the hearing *de novo*, the Member and the employer may present evidence that an item of compensation as described in the administrative recommendation was not paid to enhance the Member's retirement benefit, and ICERS staff may present evidence to support the information stated in the administrative recommendation.
3. The ICERS Board will, within 10 days after conclusion of the hearing, prepare a written recommendation as to whether the item of compensation was or was not paid to enhance the Member's retirement benefit. A copy of the ICERS Board's recommendation will be submitted by the ICERS Board concurrently to ICERS staff, the Member, and the employer.

### **D. FINAL BOARD ACTION**

1. The ICERS Board's written report will be noticed and agendaized for the next regular meeting of the Board, provided that the Members and the employer must be provided at least 10 days written notice of the meeting.
2. At the meeting, the Board will enter the final decision as to whether the item of compensation was paid to enhance the Member's retirement benefit into the record of the meeting.
3. ICERS will provide the Member and the employer written notice of the record of decision with 5 days, which notice will inform the Member and the employer of their right to seek judicial review of the Board's action by filing petition for writ of mandate within 30 days after the mailing of that notice.
4. If the Board finds the item of compensation should be included, staff will adjust the Member's benefit to include said item, retroactive to the effective date of retirement.



**E. BENEFIT PAYMENT**

If the payment of the Member's benefit would be delayed by seeking resolution through the administrative process identified in Section C of this policy, ICERS may process the benefit excluding the compensation in question. If it is later determined that the compensation should be included, ICERS will adjust the benefit retroactive to the effective retirement date.

**F. POLICY REVIEW**

This policy may be amended at any time.

ICERS

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM POLICY  
FOR AUDIT OF COMPENSATION AND RETIREMENT INFORMATION**

WHEREAS, the Imperial County Employees' Retirement System (ICERS) and the Board of Retirement are governed by the County Employees Retirement Law of 1937 (CERL) (Gov. Code, § 31450, et seq); and

WHEREAS, in September of 2012 Governor Jerry Brown signed the California Public Employee' Pension Reform Act of 2013 (Assembly Bill No. 340) which becomes effective January 1, 2013 and permits this Board to audit the employer to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the retirement system pursuant to Government Code Sections 31542.5 and 31543.

WHEREAS, Sections 7522.72 and 7522.74 further provide that ICERS may audit the employer's compliance with those statutes. The purpose of this policy is to provide a procedure whereby audits under these statutes. The purpose of this policy is to provide a procedure whereby audits under these statutes shall be approved and implemented by the Board and ICERS staff.

**A. STAFF REQUEST AND REPORT**

If ICERS staff believes that reason exists to audit information submitted by the employer with respect to retirement benefits, reportable compensation, and/or enrollment in, and reinstatement to, the retirement system or compliance with the statues listed in paragraph (1), staff shall submit a written report to the Board setting forth:

- a. a complete explanation of the reason for the audit, including a report as to prior informal requests of the employer so as to resolve any issues without an audit,
- b. the books, papers, data, or records that staff believes should be provided by the employer in connection with the audit, including but not limited to personnel and payroll records,
- c. the protocol that staff wishes to follow in conducting the audit, including but not limited to who will conduct the audits and a proposed time and place,
- d. the estimated cost of the audit, adjustment, or correction, and

- e. a request for specific action by the Board in authorizing an audit, and any follow on requests relating to adjustments or corrections that may be required as a result of an audit.

## **B. BOARD ACTION**

1. Such report will be presented to the Board for action at a regularly noticed and agenda meeting. The employer will be provided with a copy of staff's report at least 10 days prior to the Board meeting. ICERS staff and the employer will both be given an opportunity at the meeting to address the Board with respect to staff's request.
2. If the Board approves staff's request for an audit, the employer will be informed and the audit will then be conducted by staff in accordance with the parameters established by the Board.

## **C. STAFF FOLLOW-UP REPORT, AND SUBSEQUENT BOARD ACTION**

1. Upon completion of the audit, ICERS staff will provide to the Board a written report of the audit results and the conclusions of the auditor and ICERS staff. A copy of the report will be provided to the employer at least 10 days prior to any Board discussion or action.
2. The Board may thereafter determine whether, and if so, in what amount the costs of the audit and any adjustment or correction may or will be charged to the employer under applicable law and if other Board action should be taken as a result of the audit.

## **D. CONFIDENTIAL INFORMATION**

Appropriate steps, in accordance with applicable law, will be taken by ICERS staff and the Board throughout the process described in this policy to protect confidentiality of information produced in an audit, presented in staff reports and discussed by or with the Board.

## **E. POLICY REVIEW**

This policy may be amended at any time.

# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM BENEFIT APPEALS POLICY AND PROCESS**

## **I. PURPOSE AND POLICY STATEMENT**

This procedure provides direction for consideration and action on appeals of staff decisions regarding benefits provided by Imperial County Employees' Retirement System. This procedure seeks to provide direction to completely and expeditiously process benefit appeals. This procedure seeks to protect the Member's right to receive notice and opportunity to be heard and present the Member's case. Disability retirement applications shall be governed by the Disability Retirement Policy and Process and not this procedure.

## **II. DEFINITIONS**

- A. Benefit – any retirement benefit paid by ICERS or element used by ICERS to calculate a retirement benefit including, but not limited to, Highest Average Salary, compensation, service accrual, service purchases, benefit formulas, premium pay items, and buybacks.
- B. Board – the Board of Retirement of the Imperial County Employees' Retirement System.
- C. Member – any person who requests review of a benefit determination by ICERS staff and is authorized to receive a benefit or act on behalf of a benefit recipient.
- D. Retirement Administrator – the Retirement Administrator of ICERS or designee.
- E. ICERS – the Imperial County Employees Retirement System.
- F. ICERS office – 1221 State Street, El Centro, CA 92243.

## **III. BENEFIT APPEALS PROCESS**

- A. Generally, initial Benefit determinations are made by the ICERS Retirement Specialist I staff after contact from the Member, Retirement Specialist I staff may consult with the Retirement Specialist II and / or the Assistant Retirement Administrator on complex matters. Upon written request by the Member, Retirement Specialist staff will provide the Member with a written explanation of the initial Benefit determination. The written determination may include a synopsis of the Member's request, citation to any authority relied upon by staff in making its determination, and the determination itself as well as instructions regarding how the Member can appeal staff's initial determination to the Retirement Administrator.

- B. If the Member disagrees with a Benefit determination by staff, the Member may file a first level appeal with the Retirement Administrator. The first level appeal must be in writing and must arrive at the ICERS office no later than thirty (30) days after the initial determination by Members Services staff.
- C. Upon receipt of the first appeal, the Retirement Administrator will provide a written response to the Member addressing the Benefit issue raised by the Member. The response may include a synopsis of the Member's request and staff's response, citation to any authority relied upon by the Retirement Administrator in making his or her determination, and the determination itself as well as instructions regarding how the Member can appeal the determination to the Board.
- D. If the Member disagrees with the determination of the Retirement Administrator, the Member may file a second level appeal to the Board. The second level appeal must be in writing and must arrive at the ICERS office no later than sixty (60) days after the determination of the Retirement Administrator.
- E. The Board will take action on the Member's request only at a duly-noticed meeting where the matter has been properly placed on a regular Board meeting agenda. The Member or the Member's representative, if any, will be given notice of the date and approximate time the Board will consider the Member's request and will be given the opportunity to be heard by the Board.
- F. After the Board takes action, the Member will be notified in writing of the Board's decision and the Member's right to have the matter heard by an administrative hearing officer if the Member disagrees with the Board's decision.
- G. The Member will have sixty (60) days from the date of mailing of the letter notifying the Member of the Board's decision to make a written request for an administrative hearing of the matter.
- H. Administrative hearings and subsequent Board determinations shall follow a procedure set to be determined by the Board of Retirement, which shall be provided to the Member and / or the Member's attorney after ICERS' receipt of the Member's written request for an administrative hearing.

#### **IV. DISMISSAL OF A BENEFIT APPEAL**

If the Member fails to pursue his or her appeal after initially requesting review or if the Member fails to file a written appeal within the time prescribed above, the matter will be considered closed and the determination of staff, the Retirement Administrator, or Board will be implemented.

**V. CONFLICT WITH LAWS**

In the event that this policy and process conflicts with relevant statute or authoritative case law, the statute or case law will control.

**VI. HISTORY**

The Board adopted this policy on October 16, 2019.

ICERS

# **IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM ADMINISTRATIVE HEARING RULES AND PROCEDURES**

## **I. PURPOSE AND POLICY STATEMENT**

The Imperial County Employees' Retirement System ("ICERS") intends that this policy apply to and govern administrative review hearings regarding benefit decisions made by the Board of Retirement pursuant to the County Employees Retirement Law of 1937, as amended ("CERL"), and as contemplated in ICERS's Benefit Appeals Policy and Process. This policy applies to determinations of individual cases. This policy shall be publicly available and shall be distributed to all Applicants who request or participate in an administrative review hearing.

## **II. DEFINITIONS**

The following terms shall have the meanings set out in this section. All other words shall have their common meanings.

- A. **Administrative Record:** The Administrative Record includes any documents submitted by an Applicant or on behalf of an Applicant, documents prepared by ICERS or by independent sources that are received by ICERS, or any other documents that are relevant to deciding the issue of an Applicant's request to receive or modify a benefit and that are admitted into evidence by the Hearing Officer after the Parties have had an opportunity to object.

The Administrative Record also includes written correspondence, Party Pre-Hearing Statements, Party briefs, Hearing Officer findings and recommendations, Party objections and requests for clarification, rulings on objections and requests for clarification, Hearing transcripts, and other documents that are relevant to deciding the issue of an Applicant's request to receive or modify a benefit.

- B. **Applicant:** Any member of ICERS, or a person or other entity on behalf of a member of ICERS, who files an Application with ICERS to request or modify a benefit that the Board of Retirement may grant pursuant to its authority set forth in the CERL.
- C. **Application:** The paper(s) initially filed with ICERS by or on behalf of an Applicant, and/or any amended paper(s) filed with ICERS by or on behalf of an Applicant after the initial filing, to request or modify a benefit provided by ICERS.
- D. **Board:** The Board of Retirement of ICERS.
- E. **Days:** All days are calendar days.

- F. Hearing: Presentation of sworn testimony, other evidence, and legal argument before a Hearing Officer on the merits of an Application or benefit determination.
- G. Hearing Officer: Pursuant to Government Code section 31533, either an Administrative Law Judge whose services are obtained through the Office of Administrative Hearings or a member of the Board of Retirement.
- H. Hearing Rules, Rules: The “Board of Retirement Policy, Administrative Hearing Rules and Procedures.”
- I. Member Services Manager: The ICERS staff member who manages the Member Services Department of ICERS or his/her designee.
- J. Party or Parties: ICERS and/or any Applicant who sought administrative review of a decision by the Board.
- K. Pre-Hearing Conference: A Pre-Hearing Conference is a conference between the Applicant(s) and ICERS conducted by the assigned Hearing Officer to discuss preliminary matters related to the Hearing process.
- L. Respondent: ICERS and/or Board.
- M. Rule: A Hearing Rule including all subparagraphs or subdivisions as contained in this ICERS Board of Retirement Policy on Administrative Hearing Rules and Procedures.

### **III. ADMINISTRATIVE HEARING RULES**

- A. A. Hearing Initiation and Scope: A written request for Hearing must be received by the Board, or its designee, within sixty (60) days after the initial Board determination on a benefit appeal. If the Applicant does not provided a written request for Hearing within sixty (60) days, the Board’s initial determination will be final, and ICERS staff will notify the Applicant in writing of the final determination. A Hearing shall be scheduled before a Hearing Officer. These Rules shall not apply to disability retirement applications; those applications are governed by ICERS’s Disability Policies and Procedures.
- B. Request for or Referral to a Hearing/Assignment of Hearing Officer: Within fourteen (14) days after ICERS receives a request for Hearing or referral to a Hearing, ICERS counsel will request a Hearing Officer be assigned by the state Office of Administrative Hearings.
- C. Reassignment of Hearing Officers: A Hearing Officer may be removed and a new Hearing Officer assigned under the following circumstances:



1. Removal for Cause: Each Party is entitled to challenge a Hearing Officer for cause by submitting a written request, with supporting declarations and any other evidence the Party is relying on, to the Member Services Manager, who shall then place the matter on the agenda for the next regularly scheduled Board meeting. The Board will then decide whether the party has stated sufficient reasons for the removal of the assigned Hearing Officer. If the Board determines the Hearing Officer should be removed, a new Hearing Officer will be assigned pursuant to section III, B above from the Office of Administrative Hearings.
  2. Removal Due to Unforeseen Circumstances: If the service of a Hearing Officer is discontinued due to unforeseen circumstances, including but not limited to death, termination with or without cause, or for medical restrictions, an assigned Hearing Officer will be assigned pursuant to section III, B above from the Office of Administrative Hearings.
- D. Notice of Appointment to Hearing Officer: When the selection of the Hearing Officer has been made, the ICERS counsel shall contact the Hearing Officer by letter notifying the Hearing Officer of his/her assignment, providing the name, address and phone number of the Applicant, Applicant's counsel, if any, and counsel representing ICERS.
- E. Preparation of the Administrative Record: Following receipt of the request for a Hearing, ICERS counsel shall assemble the Administrative Record and provide it to the Applicant or his or her attorney, if any, and the Hearing Officer.
- F. Pre-Hearing Statements: The Applicant and ICERS's counsel shall serve a Pre-Hearing Statement on the other Party and the Hearing Officer no later than thirty (30) days before the date on which the Hearing is to be held.
1. The Pre-hearing Statement shall include the following:
    - a. A statement of the issues and contentions of the Party, and a summary of the evidence to be presented;
    - b. A list and copies of any expert's reports, depositions of any witnesses, and any other documentary evidence, if not already in the Administrative Record;
    - c. The names, addresses and telephone numbers of any non-expert witnesses whose testimony the Party intends to present at the Hearing and a brief description of the content of that testimony; and

- d. The names, addresses and phone numbers of any expert witnesses whom the Party intends to call for oral testimony at the Hearing and a synopsis of the expected testimony.
  2. If at any time during the Hearing process the Applicant (i) raises an issue that was not previously presented to the Board; or (iii) submits additional material evidence that may have a substantial effect on the Board's determination, the Hearing process may be suspended by ICERS to permit the applicant an opportunity to supplement the benefit appeal, which shall be referred back to ICERS to be processed. If the Board denies the amended appeal or refers it for Hearing, the Hearing Officer who is presiding at the time of the suspension will hear all allegations at the same time. A new Hearing date will be set in accordance with these Rules all Pre-Hearing Statements not already served will be due in accordance with the new Hearing date.
  3. Any Party may submit supplemental Pre-Hearing Statements in the event of a change of witnesses or discovery of additional documentary evidence. Supplemental Pre-Hearing Statements shall be served on the Parties and the Hearing Officer no later than fourteen (14) days prior to the Hearing date. Supplemental Pre-Hearing Statements served later than fourteen (14) days before the Hearing may be disregarded by the Hearing Officer.
- G. Applicant's Non-Compliance in Submitting Pre-Hearing Statement: If, after written notification from ICERS's counsel and a final opportunity to provide a Pre-Hearing Statement, an Applicant does not comply with the requirements of Rule III, F above, the Hearing shall be taken off calendar and the administrative proceeding shall be suspended until the Pre-Hearing Statement has been filed unless otherwise agreed to by the Parties. Subject to Rule III, T, "Dismissal," once the Pre-Hearing Statement has been filed, the Hearing will be reset in the same manner as set forth in Rule III, H, below.
- H. Establishing a Hearing Date and Time: The Hearing Officer will confer with the Parties to set a mutually agreeable Hearing date. The Hearing Officer may continue any Hearing upon stipulation of the Parties or for good cause upon written request of either Party. The Hearing Officer will confer with the Parties to set a new Hearing date that is agreeable to the Parties. Hearings that are not concluded within the original time set shall be continued to the next agreeable Hearing date.
- I. Reporting and Place of Hearings: ICERS, at its expense, shall arrange for a court reporter and a Hearing room. Pre-Hearing Conferences shall be held

at the County Counsel offices and may be held telephonically on the agreement of the Parties and the Hearing Officer.

J. Documentary Evidence:

1. Statement of Policy: Documentary evidence shall be attached to the Parties' Pre-Hearing Statements or included in the Administrative Record.
2. Late Submission of Documentary Evidence: Documentary evidence that could not have been previously produced despite reasonable diligence may be submitted at any time up to and including the day of the Hearing. Upon submission of such documentary evidence, the Hearing Officer shall allow the other Party or Parties sufficient time to review the evidence and obtain rebuttal evidence from experts.

K. Pre-Hearing Discovery:

1. Documentary Evidence: Generally, all documentary evidence will be contained in the Administrative Record prepared by ICERS and supplemented with documents provided by the Applicant.
2. Depositions: Witness depositions may be taken by either Party before a certified shorthand reporter and shall be taken under oath or affirmation. The Party taking the deposition shall pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party shall provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
3. Subpoenas and Related Fees/Costs:
  - a. Any Party may request a subpoena for the personal appearance of a witness at the time of the Hearing or at a deposition. The request must be in writing and addressed to the Retirement Administrator. ICERS will prepare the subpoena, but the requesting Party shall be obligated to serve the subpoena and pay all associated witness fees and costs of service. The Party requesting oral testimony of an expert witness shall in all cases be responsible for any expert witness fees.
  - b. Any Party may request a subpoena for the production of documents. The request must be in writing and addressed to the Retirement Administrator. ICERS will prepare the subpoena, but the requesting party shall be obligated to serve the

subpoena and pay all associated costs of service and production.

- c. Any fee disputes between a witness and the requesting Party is independent from any proceeding between the Applicant and ICERS. Those fee disputes shall be resolved by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority or jurisdiction to hear evidence about, or decide any such dispute.
4. Subpoena Power: The subpoena power of the Board is granted by Government Code section 31535 (*see also* Gov't Code § 25170). If a witness fails to appear at a deposition or Hearing, or refuses to answer questions after the Hearing Officer determines the witness must answer, the Hearing Officer shall refer the matter to the Board with a recommendation that the witness be held in contempt.
- L. Resolution of Disputes About Discovery and Conduct of Hearings: With the exception of accusations and findings of contempt, the Hearing Officer shall resolve disputes about depositions and conduct of the Hearing. If not made at a Hearing, a request for resolution of a dispute shall be made in writing and may be supported by declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution. The adverse Party involved shall have ten (10) days after receipt of such a request in which to respond. Declarations, a copy of the deposition or Hearing transcript, a memorandum of points and authorities and a proposed resolution may also accompany the response. The Hearing Officer shall notify the Parties and the witness(es) involved of the Hearing Officer's resolution of the dispute within thirty (30) days of the Hearing Officer's receipt of the adverse Party's response to the request for resolution. Where the Hearing Officer has decided a dispute pursuant to this section and determined a Party has unreasonably failed to comply, the Hearing Officer may impose any sanction available under the Code of Civil Procedure in a superior court civil matter. Such sanctions include, but are not limited to, drawing adverse inferences against the non-complying Party, or suspending or terminating the proceedings.
- M. Conduct of Hearings:
  1. Oral evidence shall be taken only on oath or affirmation administered by the Hearing Officer or the shorthand reporter.
  2. Interpreters:
    - a. If an Applicant or witness does not speak or understand English sufficiently to participate in the proceedings or provide

testimony, an interpreter certified to provide interpretation services in administrative hearings shall be provided to that Applicant or witness at ICERS's expense. An Applicant or witness who requires interpreting services shall provide ICERS with reasonable notice in advance of the Hearing of the need for an interpreter and the language the Applicant or witness will use during the proceedings so that ICERS has sufficient time to locate and contract with an interpreter.

- b. The Hearing Officer may continue or reschedule a Hearing so that the Applicant or witness requesting an interpreter can be accommodated.
- c. All interpreters in ICERS's Hearings shall be certified to provide interpreting services in administrative hearings pursuant to Government Code section 11435.30. The interpreter shall not have had any involvement in the issues of the case prior to the Hearing.
- d. If an Applicant or witness objects to the interpreter provided by ICERS and wishes to locate his or her own interpreter certified under Government Code section 11435.30, the Applicant or witness shall provide ICERS with contact information for his or her chosen interpreter. ICERS will pay the chosen interpreter the same amount ICERS would have paid an interpreter hired directly by ICERS. The Applicant or witness shall be responsible for any amounts charged by the interpreter that are over the amount ICERS would have paid to an interpreter hired directly by ICERS. Fee disputes between the interpreter and the Applicant or witness shall not be resolved in this forum, and the Hearing Officer shall have no authority to resolve any fee disputes between interpreters and the Parties.
- e. Each Party shall have these rights: Subject to paragraph (b) of this subsection (3) of this Rule, to call and examine witnesses; to introduce exhibits, including reports and depositions of witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, ICERS may call and examine the Applicant under cross-examination.
- f. Any witness not listed in a Party's Pre-Hearing Statement shall not be called, and any evidence not provided with the Pre-Hearing Statement shall not be admitted except on a showing of

good cause. If an unlisted witness is called to testify, the other Party or Parties may request a continuance of the Hearing to obtain rebuttal evidence and/or to cross-examine the unlisted witness. The Hearing Officer, in his or her discretion, may exclude an unlisted witness upon a finding that the unlisted witness' testimony will be repetitive or will not be relevant. The Party who originally called the unlisted witness to testify shall bear the responsibility of ensuring the unlisted witness's attendance at each further Hearing set for that witness's cross-examination. If the unlisted witness does not attend a subsequent Hearing set for cross-examination, the testimony provided on direct examination will not be admitted into evidence.

3. The Hearing need not be conducted according 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. Irrelevant and unduly repetitious evidence shall be excluded. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the Hearing.
  4. Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but shall not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions.
  5. Each Party shall have the right to submit oral or written argument, as determined by the Hearing Officer. The record shall be closed to new evidence at the conclusion of the final day of Hearing unless each Party stipulates to leave the record open. However, if subsequent to the close of the Hearing, a Party discovers or obtains new evidence that is relevant and not repetitive, that Party may submit that evidence to the Hearing Officer to be considered for inclusion in the Administrative Record. The Hearing Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of Good Cause under Rule 12(b), the Hearing Officer allows inclusion of the new evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule 12(b).
- N. Findings of Fact, Conclusions of Law, and the Hearing Officer's Recommended Decision: The Hearing Officer shall serve his/her Proposed Findings of Fact, Conclusions of Law, and Recommended Decision on all Parties or their counsel. Service shall be made within thirty (30) days of either (i) the date the Hearing



Officer receives the last brief, or (ii) the date the Hearing Officer deems the matter closed.

O. Objections to and Responses to Objections to the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Decision:

1. Any Party shall have thirty (30) days after service of the Proposed Findings of Fact, Conclusions of Law, and Recommended Decision, to submit written objections and/or written requests for clarification to the Hearing Officer and serve such objections and/or requests for clarification on each other Party.
2. The Hearing Officer, in his or her discretion, may reopen the record for good cause if additional evidence accompanies an objection.
3. Each adverse Party shall then have twenty (20) days after service of the written objections and/or written requests for clarification to serve a response to them.
4. If the Hearing Officer reopens the record to receive additional evidence, the other Party or Parties shall be given sufficient time to obtain rebuttal evidence.
5. The objections and/or requests for clarification and any response shall be added to the Administrative Record to be considered by the Board.
6. Within thirty (30) days after the later of the date that Hearing Officer receives the objections and/or requests for clarification or an adverse party's response to such objections and/or requests for clarification, the Hearing Officer may:
  - a. Affirm the findings, conclusions, and recommendations as originally submitted, or
  - b. Make such changes the Hearing Officer deems appropriate in light of the evidence, the objections or requests for clarification submitted by the Parties, and the responses.

P. Content of Hearing Officer's Proposed Findings of Fact and Recommended Decision: The Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommended Decision shall include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) the exhibits offered by the parties, both those received into evidence and those not received; (4) procedural issues resolved by the Hearing Officer, if any; (5) a factual discussion of evidence upon which the Hearing Officer relied; (6) conclusions of law with citations to legal authority; and (7) recommended action.

- Q. Action by the Board: The Hearing Officer's Proposed Findings of Fact and Recommended Decision shall be referred to the Board. The Proposed Findings of Fact and Recommended Decision shall include the Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommended Decision, any related objections and/or requests for clarification and any responses to those objections and/or requests for clarification. After reviewing the foregoing documents, pursuant to Government Code section 31534, the Board may:
1. Approve and adopt the proposed findings, conclusions and recommendation of the Hearing Officer; or
  2. Require a transcript or summary of all Hearing testimony, plus all other evidence received by the Hearing Officer. On receipt thereof, the Board shall take such action as in its opinion is indicated by such evidence; or
  3. Refer the matter back, with or without instructions, to the Hearing Officer for further proceedings; or
  4. Set the matter for Hearing before itself. At such hearing, the Board shall hear and decide the matter de novo. Generally, the Board will only set a new hearing before the Board itself when there has been a showing of irregularity in the Hearing proceedings, misconduct of the Hearing Officer or counsel, or accident or surprise, which ordinary prudence could not have guarded against.
- R. Board's Decision After Its Review of the Record: In any case where the Board makes a decision based on a transcript or summary of all Hearing testimony, plus other evidence received by the Hearing Officer, the Board may approve and adopt the Proposed Findings, Conclusions of Law and Recommended Decision of the Hearing Officer or direct the prevailing Party to prepare Proposed Findings of Fact, Conclusions of Law and Recommended Decision consistent with the Board's tentative decision. In cases where the Board sets the matter for Hearing before itself, the Board shall direct the prevailing Party to prepare Proposed Findings of Fact, Conclusions of Law and Recommended Decision consistent with the Board's tentative decision. The Proposed Findings shall then be served on the unsuccessful Party who shall have ten (10) days after such service to serve and file written objections to the Board. The Party who drafted the Proposed Findings shall then have the opportunity to respond in writing within ten (10) days. The Board shall then consider such written objections, if any, and then adopt its final decision as it deems appropriate.
- S. Alteration of Time Requirements: Nothing in these Rules shall be construed to prevent the Parties from stipulating to different intervals than those prescribed in these Rules. The Hearing Officer may, for good cause shown after giving both parties an opportunity to be heard, shorten or lengthen the times specified above as he/she deems necessary.



- T. Dismissal Without Prejudice for Failure to Pursue the Hearing: Except as otherwise provided, if, as a result of an Applicant's failure to comply with any of these Rules and/or with any request made by either the Hearing Officer or Member Services staff, the Applicant's request for an Administrative Hearing or Board referral is not heard within one year after receipt of the Applicant's request for Hearing, or the Board's referral of a case to a Hearing Officer, the case shall be dismissed without prejudice by the Board. This section in no way limits an Applicant's right to refile an Application in the future. Any new Application shall receive a new Application date, and there will be no relation back to any prior Application.
- U. Service of Documents: Unless otherwise agreed to by the Hearing Officer and Parties in writing, service of documents provided for in these Rules may be made by first class mail, postage pre-paid, by personal delivery, or by facsimile or electronic mail. If documents are sent by first-class mail, the postmark date shall be deemed the date of service. If served by facsimile transmission or electronic mail, the service date for any documents so delivered will be the date shown in a delivery receipt generated by the facsimile machine or electronic mail program.

#### **IV. CONFLICT WITH LAWS**

In the event that this policy and process conflicts with relevant statute or authoritative case law, the statute or case law will control.

6. Discussion/Action: Proposed 2022/2023 ICERS Administrative Budget.

Mr. Puente presented the proposed budget for fiscal 2022-2023, prepared in accordance with guidelines established by both the California Government Code and the California Employees' Retirement Law (CERL).

**MOTION** by Bermudez, Second by Jauregui, to accept and approve the proposed budget for fiscal year 2022-2023 and directed staff to make the necessary transfers. Motion carried unanimously by roll call vote. (Lizarraga, Bermudez, Plancarte, Jauregui, Landeros, Prince and Escobosa)

7. Discussion/Action: The Board will consider a recommendation to hire an outside vendor to provide Trustee/Staff email services.

Mr. Jarvis presented the Board with a proposal from Conveyor Group to provide Trustee/Staff email services.

**MOTION** by Bermudez, Second by Lizarraga, to table item until the next ICERS' Board Meeting on July 20, 2022. Motion carried by roll call vote. (YES: Lizarraga, Bermudez, Plancarte, Jauregui and Escobosa, NO: Landeros and Prince)

8. Discussion/Action: The Board will discuss the ongoing Governance Policies and Bylaws revision project, including revisions to the Investment Policy Statement, and will be asked to consider adopting the Board Policy Manual.

**MOTION** by Prince, Second by Landeros, to approve the revisions to the Investment Policy Statement. Motion carried unanimously by roll call vote. (Lizarraga, Bermudez, Plancarte, Jauregui, Landeros, Prince and Escobosa)

**MOTION** by Prince, Second by Bermudez, to approve and adopt the ICERS' Board Policy Manual. Motion carried unanimously by roll call vote. (Lizarraga, Bermudez, Plancarte, Jauregui, Landeros, Prince and Escobosa)

9. Discussion/Action: The Board will consider cancelling the regularly scheduled Board meeting in August.

**MOTION** by Jauregui, Second by Escobosa, to approve cancelling the regularly scheduled Board meeting in August. Motion carried unanimously by roll call vote. (Lizarraga, Bermudez, Plancarte, Jauregui, Landeros, Prince and Escobosa)

10. Discussion/Action: The Board will consider altering ICERS' office hours to remain open during lunch.

**MOTION** by Jauregui, Second by Lizarraga, to approve the ICERS' office to remain open during lunch. Motion carried by roll call vote. (YES: Lizarraga, Bermudez, Plancarte, Jauregui, Landeros and Escobosa, NO: Prince)

6. Presentations by Investment Managers:
- A. ASB Capital Management, LLC: Frank Nigro, Vice President and David Quigley, CIO
- Mr. Nigro provided an overview of ASB Capital Management and Mr. Quigley reviewed ICERS' Performance as of June 30, 2022.
- B. Clarion Partners: Reza Basharzad, Managing Director, Jessica Betts, Vice President
- Mr. Basharzad provided an overview of Clarion Partners and Ms. Betts reviewed ICERS' performance as of June 30, 2022.

**BREAK AT 10:15AM RECONVENED AT 10:26 AM**

- C. American Realty Advisors (ARA): Jay Butterfield, Executive Managing Director
- Mr. Butterfield provided an introduction of American Realty Advisors and reviewed ICERS' performance as of June 30, 2022.
7. Presentation by Investment Consultants: Scott J. Whalen, Executive Managing Director and Senior Consultant Brian Kwan, Consultant, Verus Investments:

Market Review and 2<sup>nd</sup> Quarter Investment Performance Report

Mr. Whalen provided an overview of the current investment environment and Mr. Kwan reported on ICERS' investment performance for the quarter ending June 30, 2022.

8. Discussion/Action: The Board will discuss the ongoing Governance Policies and Bylaws revision project and consider approving the proposed Policy Manual Appendix

**MOTION** by Plancarte, Second by Lizarraga to approve the proposed Policy Manual Appendix with the request to modify the table of contents by adding a column to include the date of approval and modification of policies. Motion carried unanimously by roll call vote. (Lizarraga, Vogel, Jauregui, Armstrong, Plancarte, Landeros, Prince, and Escobosa)

**MR. JARVIS LEFT THE MEETING AT 12:00PM AND RETURNED AT 12:25PM**

9. Discussion/Action: The Board will discuss a resolution ratifying approval of Retirement Administrator's Cost of Living Adjustment and One-Time Bonus for July 2022 and approving future Cost of Living Adjustments and One-Time Bonus.

**MOTION** by Prince, Second by Armstrong to approve a resolution ratifying approval of Retirement Administrator's Cost of Living Adjustment and One-Time Bonus for July 2022 and to approve future Cost of Living Adjustments and One-Time Bonus. Motion carried unanimously by roll call vote. (Lizarraga, Vogel, Jauregui, Armstrong, Plancarte, Landeros, Prince, and Escobosa)

Board requested that an Ad Hoc Committee be formed to define roles and obligations between County and ICERS with respect to the terms and conditions of employment of the Retirement Administrator. Committee members to include Trustees Lizarraga, Plancarte, Jauregui and Gaddis.

# ICERS PROCUREMENT AND CONTRACTING POLICY

## I. Purpose and Background

The Procurement and Contracting Policy (Policy) establishes the guidelines by which ICERS will procure goods and services.

## II. Objectives

The objectives of this policy are to ensure that:

1. Contractual arrangements for the purchase of goods and services are made in a manner consistent with ICERS's fiduciary duty to its members and beneficiaries;
2. The procurement of goods and services is efficient, transparent, economical, fair, and in compliance with all applicable laws;
3. A system of internal controls related to the procurement of goods and services is implemented;
4. All contracting activities are performed by qualified individuals with specifically delegated authority using sound business practices in an ethical manner; and
5. The selection of Contractors reflects a level of rigor that is commensurate with the importance and cost of the service or goods in question.

## III. Principles

- a. The Retirement Administrator or designee is responsible for the purchase of goods and the execution of contracts for ICERS and for keeping the Board apprised of such actions when they are material. In the procurement of goods and selection of service providers requiring Board approval, the Retirement Administrator or designee will provide sound research and analysis concerning potential providers, develop clear and rigorous screening criteria, and to make recommendations to the Board. The Retirement Administrator shall also seek advice and counsel from the Board as required.
- b. In accordance with its fiduciary duty, the general role of the Board in the procurement process is to establish appropriate procurement policies and satisfy itself that the recommendations and accompanying analysis provided by the Retirement Administrator have been prepared with the requisite level of skill, diligence, and care, and reflect the mission and goals of ICERS. The Board is responsible for approving, as appropriate, on recommendation of the Retirement Administrator, Core service provider contracts and procurement contracts in excess of \$50,000.
- c. ICERS staff and members of the Board shall not be directly or indirectly involved in a procurement decision presenting a conflict of interest pursuant to the Board's Conflict of Interest Policy or Conflict of Interest Code.
- d. Service providers can be divided into two broad categories: Core service providers and non-core service providers. Core service providers include, but are not limited to:
  1. The actuary;
  2. The auditor;

3. The custodian/Trustee;
  4. The general investment consultant;
  5. Investment managers, including securities lending managers, directed commission managers, transition managers, prime brokers, etc.
  6. External legal counsel; and
  7. Other service providers, where the cost of providing the service in question is expected to exceed \$50,000 annually.
- e. Examples of non-core service providers include, but are not limited to:
1. Ad hoc consultants;
  2. Graphic designers;
  3. Building maintenance; and
  4. Architectural services.
- f. Procurement contracts can be divided into two basic categories: Contracts requiring an expenditure of \$50,000 or less and those requiring an expenditure of more than \$50,000. The Retirement Administrator has the authority and responsibility for entering into contracts requiring an expenditure of \$50,000 or less annually without Board authorization provided that the expenditure is authorized in ICERS' budget. The Retirement Administrator has authority to execute contracts in excess of \$50,000 if the contracting authority and specific expenditure has been approved by the Board.

#### **IV. Guidelines**

##### **a. General Provisions**

- i. All goods and services shall be selected in the best interests of ICERS and its members and beneficiaries.
- ii. The selection of all goods and services shall be subject to a level of due diligence that is commensurate with the importance and materiality of the services and/or goods in question.
- iii. Contracts or similar arrangements clearly defining the terms of engagement and the expectations of ICERS will be established for all goods acquired and all service providers engaged by ICERS.
- iv. All service providers hired by ICERS shall be subject to periodic review to ensure that each provider complies with the terms of engagement and continues to meet the needs and expectations of ICERS. The frequency and depth of such reviews shall be commensurate with the risks presented to ICERS by each provider.
- v. Each year, the Retirement Administrator will present to the Board a three-year timeline depicting all scheduled performance reviews of and due diligence visits to ICERS service providers and will report to the Board annually on progress achieved.

b. Core Service Providers

- i. The search for a core service provider shall generally be initiated by an action of the Board, on the recommendation of the Retirement Administrator. Throughout the process provided below, the Retirement Administrator may utilize and act through designees.
- ii. Where it is deemed that a new core service provider is required, the Board shall delegate responsibility for overseeing the search process to an Ad Hoc Committee as appropriate, depending on the nature of the service provider. Alternatively, the Board may elect to oversee the search process itself.
- iii. The Retirement Administrator, with the assistance of consultants and advisors as required, shall develop sound and rigorous screening criteria to ensure that all candidates are accorded a fair and thorough review. Screening criteria may include, but are not limited to:
  1. Company experience and track record;
  2. Caliber of people assigned to work with and provide service to ICERS;
  3. Client references;
  4. Costs;
  5. Sound business and ethical practices;
  6. Liability coverage; and
  7. ICERS satisfaction with past service, in the case of incumbent providers.
- iv. Prior to conducting a search, the Retirement Administrator shall present the following items to the Board or designated committee for approval:
  1. Screening criteria;
  2. Timeline for completion of the search process;
  3. Recommendation concerning the use of a search consultant;
  4. Recommendation concerning the need for due diligence visitations; and
  5. Recommendation concerning the means by which service providers will be invited to participate in the search process (e.g. Request for Proposal, Request for Information, etc.).
- v. Trustees may suggest names of potential candidates to the Retirement Administrator. These candidates may be invited to participate in the search process and will be subject to the same rigorous and objective screening process applied to all other potential suppliers. When such suggestions are made, both the Trustees in question and the Retirement Administrator shall provide disclosure to the Board at the next regularly scheduled Board meeting.
- vi. The Retirement Administrator shall provide the Board or committee with periodic reports on the status of all search processes.
- vii. Based on the approved screening criteria, the Retirement Administrator shall select a short list of potential candidates. The Retirement Administrator shall interview the short-listed candidates and may conduct due diligence visits to identify the most suitable candidate. The Retirement

Administrator will inform the Board of the interview schedule; interested Board members are encouraged to attend as observers.

- viii. The Retirement Administrator shall prepare a report for the Board or committee that will include:
  - 1. The criteria used to screen potential candidates;
  - 2. A list of candidates that were considered; and
  - 3. A recommendation as to the candidate who would best fulfill the needs identified by ICERS, and the rationale behind the recommendation.
- ix. The Board or committee shall consider the analysis and recommendation of the Retirement Administrator. In reviewing the recommendation, the Board or committee shall satisfy itself that the rationale behind the recommendation is sound and that a diligent search process was conducted in accordance with the agreed upon search criteria. Where members of the Board or committee have special and pertinent knowledge concerning a particular candidate that may not have come to light in the search process, they shall bring such knowledge to the attention of the Retirement Administrator to ensure that it is brought to bear in the recommendation.
- x. The Board or committee may, at its option, interview the Retirement Administrator's recommended candidate.
- xi. If a committee is satisfied with the Retirement Administrator's analysis, it shall accept the Retirement Administrator's recommendation and in turn recommend the selected candidate to the Board for approval.
- xii. If the Board or committee is not satisfied with the Retirement Administrator's analysis or the search process undertaken, the Board or committee shall direct the Retirement Administrator to address any areas of concern regarding the analysis or the search process. Once such additional efforts are complete, the Retirement Administrator shall resubmit a recommendation.

c. Guidelines for the Use of Requests for Proposal

- i. Requests for Proposal (RFPs) shall generally be used in searching for goods and services where the project is significant in scope or financial costs.
- ii. All ICERS RFPs shall clearly state that contracts will not necessarily be awarded to the lowest bidder.
- iii. When an RFP is issued, ICERS shall ensure that all candidates are provided with identical information and service or product requirements. Additional information requested by a particular candidate shall be shared with all respondents to the RFP.

d. Non-Core Service Providers and Contracts up to \$50,000

- i. The Retirement Administrator may approve the hiring of non-core service providers or purchase of goods up to a contract value of \$50,000 without

the approval of the Board. provided that the expenditure is authorized in ICERS” budget.

- ii. The Retirement Administrator shall inform the Board of any non-core service providers whose services have been engaged by ICERS, including the amount of the expenditures involved and the impact on ICERS’s budget. The Retirement Administrator shall inform the Board of any expenditure for goods or services that may cause the budget to be exceeded.

e. Services of Imperial County

- i. It is the intention of the Board of Retirement that when seeking particular service providers (e.g. building maintenance, printing services, architectural services, etc.), the County of Imperial will be considered as a potential supplier as other suppliers are considered. Accordingly, ICERS will purchase services from the County of Imperial if:
  - 1. The County of Imperial is able to provide services that meet the requirements of ICERS;
  - 2. The County of Imperial is willing to provide the services in question; and
  - 3. The services offered by the County of Imperial are cost-competitive and in the best interests of ICERS and its members and beneficiaries.

f. Black-Out Periods

- i. The Board will initiate a “black-out” period when:
  - 1. The Board or any committee is presented with a list of potential candidate firms for consideration in a search process; or
  - 2. A current service provider is placed on an official “watch status” signifying that the service provider’s performance has fallen below expectations or other issues have arisen that warrant closer scrutiny; or
  - 3. The Board deems it is in the best interest of ICERS to require that, for a limited time, communications between Trustees and specified service providers be restricted to Board and committee meetings only.
- ii. During black-out periods, Board members shall not communicate with the specified service providers on matters pertaining to ICERS, except during Board or committee meetings. Furthermore, during black-out periods, staff, individual Board members or groups of Board members will not meet with specified service providers for entertainment or social purposes. Exceptions may be made in the case of industry conferences such as SACRS, where staff and ICERS Board members may socialize with specified service providers during open social events that are also attended by Trustees or staff of other systems, provided staff and ICERS Board members do not discuss matters pertaining to ICERS business.



- iii. Staff or Board members who need to communicate with such service providers for reasons unrelated to ICERS business agree to disclose such need in writing to the Retirement Administrator and the Board prior to undertaking such communications. Disclosure to the Board shall be made in writing at a meeting of the Board. If time does not permit timely disclosure to the Board, the staff or Board member shall then also provide disclosure of the intended communication to the Chair, or to the Vice Chair if the Board member in question is the Chair.
- iv. For the purpose of black-out provisions, communications include telephone conversations, letters, and e-mail.
- v. Black-out periods will cease when:
  - 1. The Board authorizes staff or the investment consultant to negotiate a contractual arrangement with a successful bidder, or the search process is otherwise ended by the Board; or
  - 2. When the service provider is removed from watch-status; or
  - 3. When the black-out period is otherwise ended by the Board.
- vi. All ICERS service providers shall be provided with a copy of these Black-out Policy provisions and shall be asked to agree in writing to comply with its provisions.
- vii. All RFPs shall include the Black-out Policy provisions and require that prospective service providers comply with its provisions during the selection process.
- viii. Nothing in this section is intended to prevent necessary staff members from engaging in needed communications with service providers or potential service providers.

IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM  
RECORDS RETENTION POLICY

**I. Authority and Purpose**

The ICERS Board of Retirement (Board) has authority to establish efficient records management procedures and to provide for the maintenance and disposal of records within its jurisdiction (Gov. Code § 31537). In addition (per Gov. Code § 12236), the Secretary of State is to establish guidelines for local government record retention. ICERS has leveraged those guidelines in drafting this policy.

This Records Management Policy establishes timeframes for the retention and destruction of ICERS' records in a manner compliant with binding statutes and regulations. This policy recognizes that effective records management ensures that records are kept only as long as they have administrative, fiscal, or legal value.

An up-to-date record retention schedule ensures that ICERS' obsolete records are properly and timely destroyed and enables efficient responses to public record requests. Retaining expired records is costly and makes it more difficult to find the records needed to ICERS business.

**II. Policy Objectives**

The objectives of the policy are to ensure that:

- ICERS maintains its records for the necessary time period;
- ICERS properly disposes of records once the retention period has passed; and
- ICERS' staff is informed of the requisite retention periods for agency records.

**III. Definitions**

For purposes of this policy, the following definitions apply:

1. **Records** – Documents and files created, received, owned, or used by ICERS regardless of physical form or the manner in which the record has been stored. For records created by ICERS, this policy only applies to records in their final form, that is, records that have been finalized or approved for the ICERS' activity related to the content of the record.
2. **Non-Records** - Material not included within the definition of Records, such as documents or files kept only for convenience or reference. For example:
  - Informal notes, working papers, and calculations.
  - Library and reference material.
  - Rough drafts.
3. **Records Retention Schedule or Retention Schedule** – The table set forth below that designates the period of time that each record must be retained, after which time each record is to be disposed of. Records are listed by Division and category.

4. **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal, or legal function. The required retention period is listed in the Retention Schedule.
5. **Drafts** – Drafts consist of works in progress, preliminary drafts, and copies of notes that have either not been finalized or approved. Preliminary drafts and notes are to be disposed of once the document or file they apply to has been finalized. The Retention Schedule does not apply to draft documents and files. It is ICERS' policy that such preliminary drafts and notes are not to be retained.

#### **IV. Retention and Disposition of Records**

The Board's policy is that records should be retained only as long as they serve the administrative, legal, or fiscal purposes for which they were created, after which they should be disposed of as soon as practicable and in a secure manner.

Records have administrative value when they are created to help accomplish the functions for which ICERS is responsible, and have administrative value only as long as they assist ICERS in performing current or future work. Their administrative use is exhausted when the transactions to which the records relate are complete.

Records have legal value when they contain evidence of ICERS' legally enforceable rights or obligations. Examples are records that provide the basis for action, such as legal recommendations and opinions; documents representing transactions and agreements, such as leases, titles, and contracts; and records evidencing action in particular cases, such as claim forms, filings, and pleadings.

Fiscal records pertain to ICERS' financial transactions, for example, budgets, ledgers, financial statements, and payrolls. After some fiscal records have served their function, additional retention may be necessary to protect ICERS against court action, to support audits, or to comply with IRS rules.

Proper disposal of outdated records is an essential part of a records management program in order to protect any confidential information included in the records. Additionally, if records were never destroyed, the agency's file cabinets and computer networks would fill up with obsolete records that are no longer useful or necessary to the conduct of ICERS' business. The volume of such records would make it more and more challenging to search for and find the records that are still valuable and necessary to ICERS' operations or that are responsive to discovery and public record requests.

The Retention Schedule specifies the time period that at least one version of a designated record must be retained. For example, paper records may be disposed of at any time after they are saved in a digital format or are transferred to an electronic recordkeeping system. Once the retention period has passed, all copies of the record should be disposed of as soon as practicable or, at the latest, by the end of that calendar year. Copies of the record should be disposed of regardless of format or location, i.e., paper and digital versions, located on- or off-site. Records will be disposed of as follows:

- All paper records will be destroyed by placing them in the secure shredding bins located in the ICERS' office.
- All electronic records will be purged from ICERS' systems manually by the user or automatically by the system configured to automatically purge/delete the records in accordance with the established retention period.

## **V. Electronic Mail**

At present, email will be retained indefinitely, subject to the future receipt by the County and ICERS of new guidelines from the California Secretary of State concerning records retention by local government agencies.

## **VI. Exceptions to the Retention Schedule**

### **Retirement Administrator Approval**

The Retirement Administrator ("RA") may authorize retention of a record beyond the period shown on the Retention Schedule by designating the record as an archival record and providing a revised disposal date. Requests to depart from the Retention Schedule must be approved in writing by the RA or their designee.

### **Litigation Holds**

Whenever ICERS learns that litigation against ICERS is reasonably anticipated, threatened, or pending, the division must notify ICERS' General Counsel. Counsel will analyze the potential for litigation and, as needed, issue a litigation hold letter to the appropriate parties. ICERS' staff must comply with the directives of Counsel for the retention of records pursuant to a litigation hold letter even if those directives require retention of a record beyond the period stated in the Retention Schedule.

## **VII. Compliance**

It is the responsibility of the Retirement Administrator and Assistant Retirement Administrator to:

- ensure this policy is communicated to every team member in ICERS;
- ensure that ICERS is initially brought into full compliance with this policy;
- institute a periodic reminder system and process for ensuring that ICERS remains in full compliance with this policy;
- require each team member in ICERS to certify to the Retirement Administrator on an annual basis that ICERS is in full compliance with this policy; and
- review the record categories listed in the Retention Schedule on at least an annual basis to confirm that the record categories continue to be accurate and reflective of the types of records maintained by ICERS and promptly inform the General Counsel if any modifications are necessary.

## **VIII. Policy Review**

The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

## Record Retention Schedule

### Board of Retirement

Record Category	Description/Citations	Retention Period
Board Meeting agendas, materials, and minutes	Materials for any meeting of the Board or Board Committee.	Permanent
Digital Recordings of Board Meetings	Gov. Code § 54953.5(b) allows for destruction of recordings 30 days after the recording is made. County Clerk Function	Permanent
Existing Tape Recordings of Board Meetings	See above.	Disposition subject to discretion of Retirement Administrator in consultation with General Counsel
Board Policies and Charters		Permanent
Board Resolutions		Permanent
Employer Sponsor Agreements and MOUs		Permanent
Board of Supervisors Resolutions	Includes Retirement System's By-Laws; Board of Retirement Elections; Employee/Employer Contributions. Redundant with County BOS.	Permanent
Actuarial Reports		Permanent
Audited Financial Statements		Permanent
ICERS' Strategic Plan		Active + 5 years

### Executive/Administrative

Record Category	Description/Citations	Retention Period
Conflict of Interest Statement/ Statement of Economic Interests	Annual statement of designated employees disclosing financial interests as required by the Political Reform Act.	Official records kept by County for 7 years. Govt. Code 81009(e); Duplicate copy kept by ICERS for 4 years. Govt. Code 81009(f).
Contracts and Agreements (including ICERS' RFP and the successful bidder's RFP Response)	Agency-wide contracts other than those for investment managers and for the purchase of real estate. E.g., hardware and software licenses and agreements, medical provider contracts, professional services agreements, etc. CCP §337	Active + 4 years
Unfilled RFPs and RFP Responses of unsuccessful bidders		4 years
Insurance Policies	Fiduciary Liability, Cyber Security, General Liability, etc.	Active +7 years
ICERS' Corporation	Governing Documents; Corporate Filings; Shareholder/Board of Director Meetings	Permanent
ICERS' Corporation	Tax returns; Property Appraisals; Lease Agreements; Vendor agreements/records; Bank Statements/ Reconciliations, Cancelled Checks, and Deposit Slips	7 years
ICERS' Corporation Leases – Real Estate	Records related to leasing ICERS or private sector real estate. Includes: correspondence, transmittals, reports, terms and conditions, resolutions or the ICERS Board of Retirement, maps	Leases signed by ICERS kept permanently. Leases signed by private

	blueprints, rental payment schedule, lease document, etc.	sector tenants destroyed 4 years after termination of occupancy.
ICERS' Corp. Construction Files; Contracts; Financial records	Project files for construction or renovation of ICERS' facilities and systems or for ICERS' managed projects. Includes bid, contract, construction & environmental documents, correspondence, reports, design and safety records CCP 337.15	Destroy 10 years after expiration or termination of contract. Keep blueprints until superseded.
Annual Actuarial Review – Support Documentation	Consists of membership/accounting data provided to Actuary in support of preparing the valuation, including financial statements, reserve schedule, contributions and benefit payments by rate group, and covered payroll. Guidelines for retention of Final Actuarial Report can be found under Board section of the Retention Schedule.	7 years
Real Estate Contracts	Contracts for the purchase of real property.	Duration of ownership + 10 years
Maintenance Work Order	Form sent to County Facilities Department requesting service	2 years after the close of the Fiscal Year.
Records Center Inventory	Listing of boxes stored at Pro Storage – records storage facility. Includes: box number, location, volume, record title, schedule and item numbers, dates and comments.	Destroy when superseded or obsolete.
Records Retention Schedule	Document which assigns retention periods to all categories of records received or created by ICERS and permits destruction of obsolete records. Must be adopted by ICERS' Board of Retirement in their capacity as a governing body. Includes: schedules.	Permanent
Employee Personnel Files/HR	Including, e.g., performance evaluations, disciplinary actions and family leave records. Redundant with records in Human Resources  Civil Rights Act of 1964 (Title VII) Americans with Disabilities Act (ADA) GINA, FMLA 29 CFR §§ 1602.14, 1627.3 Cal Labor Code § 1198.5, CCP §337	Official records kept by the County Human Resources Dept.
Recruitment Process Records/HR	Including job postings, résumés, applications, and any scored components.  Age Discrimination in Employment Act (ADEA) ADA Title VII	Official records kept by the County Human Resources Dept.
Employment Certification Records/HR	Records created during the process of opening and filling a job for both permanent and extra help positions. Includes: request for certification/eligible, exam plan, correspondence. ICERS' retention to match that of County.	Official records kept by the County Human Resources Dept.
Form I-9/HR	8 CFR § 274a.2	Official records kept by the County Human Resources Dept.
Accident Reports/Workers' Compensation Records/HR		Official records kept by the County Human Resources Dept.
Authorized Signatures	Official signatures of those authorized to sign documents. Includes list of signatures.	Destroy when superseded or obsolete.
Warranties	Warranties on owned or leased equipment.	Destroy when expired or the equipment is no longer owned or leased by the System, whichever comes first.

## Investments

Record Category	Description/Citations	Retention Period
Capital Call Letters/Wire Transfers	Redundant with Custodian, JP Morgan	Active + 5 years
Investment Manager and Consultant Performance Reports	Monthly and/or Quarterly	7 years
Investment Manager, Custodian and Consultant Correspondence; Portfolio Reviews	Correspondence includes work paper, pacing studies from Investment Consultants and Investment Manager Search Materials from Consultants	7 years
Form ADV	Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Adviser	7 years
Investment Manager Contracts	Including separately managed accounts, limited partnerships, mutual funds, and collective trust funds.	Active + 5 years

## Finance/Accounting

Record Category	Description/Citations	Retention Period
Accounts Payable Ledgers and Schedules	Includes: Vendor Files; Invoices from Vendors; Employee/Board Travel; Pool Car Authorization; Tuition Reimbursement Expense Reports; Purchase Orders; Claims; Blanket Purchase Orders;	7 years
Accounts Receivable Ledgers and Schedules	Includes: invoices to customers, employees, employers, and members; Deposit Authorizations; Bank statements & reconciliations; interoffice and outside billings for services.	7 years
Administrative Budget	Includes department budget templates, presentation materials, and other supporting documentation. Appropriation Transfers. Final Budget will be included in retention guidelines for Board materials under the Board section of the Retention Schedule.	5 years
Audit Support Documentation	Financial Notes; GASB updates; Investment reconciliations; Fixed Asset Record; One Solution General Ledger work papers; Year-end documentation; etc. Guidelines for retention of Final Audited Financial Statements can be found under Board section of the Retention Schedule.	7 years following completion of audit.
Fixed Assets and Depreciation Schedules	26 USC §168(e) (IRS depreciation rules)	Permanent
General Ledger and General Journal	Part of Financial Statements/Treasurer's Cash and Reconciliation Report	Permanent
Transfers	Documentation for the transfer of appropriations or transfer of funds from expenditure, revenue and fund accounts. Also used to set up contracts, make adjustments, etc. Includes: transfers and related backup.	Destroy 5 years after close of the Fiscal Year.
Chart of Accounts	Part of Financial Statements	Permanent

## Member Services

Record Category	Description/Citations	Retention Period
1099R's	Electronic copy of 1099R forms in Retiree's member file. 1099R sent to retirees for income tax purposes.	Permanent
Active Payroll – Balancing Records	Records used to balance the retirement accounting system with the County payroll system. Includes: One Solutions Prelist Report, Employer reports, adjustments, PS2 reports, and related backup.	Permanent
Retired Payroll Reports	Reports on Retiree payroll including: input sheets, tax changes, insurance support documentation (Health and/or Supplemental) and all other related backup.	Permanent
Member File – Active & Retired	<p>The Member account in the pension administration system application.</p> <p>Including:</p> <ul style="list-style-type: none"> <li>• Support Orders and Tax Levies</li> <li>• Dissolution documents</li> <li>• Member identification documents</li> <li>• Death Certificates</li> <li>• Transaction requests</li> </ul> <p>Upon death of member, records moved to Member File – Deceased; Upon Deferred Status or Withdrawal of Contributions, records moved to Member File – Deferred or Withdrawn.</p> <p>CCP §§ 704.110, 706.031; 26 USC §§ 6322, 6333; ERISA §§ 107, 209; Gov. Code § 31532</p> <p>CCP § 338</p>	Permanent
Member File – Disability Application Records	<p>Disability Files consist of all records relating to a member's disability application, including:</p> <ul style="list-style-type: none"> <li>• Disability application packet</li> <li>• Medical records and reports</li> <li>• Workers' Compensation file documents</li> <li>• Investigator Reports</li> <li>• Employer File documents</li> <li>• Correspondence regarding the disability application</li> </ul> <p>ERISA §§107, 209</p>	Active + 6 years Disability files are considered "Active" until all administrative proceedings have concluded and the Board has made a final decision.
Member File – Deceased	Records of deceased members whether from Active or Retiree File	Permanent
Member File – Deferred or Withdrawn	Records of members that have deferred retirement or withdrawn from the Retirement System	Permanent
Member Services Actuarial Reports	Including member specific documents provided by actuaries regarding 415 calculations or option calculations.	Permanent



## Legal

Record Category	Description/Citations	Retention Period
Legal Memoranda and other Attorney Work Product		Indefinitely, i.e., retained for the period of time they are deemed useful by the General Counsel and then destroyed.
Legal Opinions	Legal opinions issued by prior County Counsel and current outside counsel. Includes tax opinions such as ICERS' Determination Letter.	Permanent
Liability Claims	Liability claims filed against ICERS for personal injury or property damage allegedly due to System negligence. Includes: claim forms, proof of claim, legal pleadings, transcripts, correspondence, etc.	Final settlements kept permanently. Destroy other records 5 years after final settlement or close of case.
Litigation Files	Records of all impending, possible and ongoing litigation matters for or against ICERS. Includes: pleadings, transcripts, correspondence, etc.	Final settlements kept permanently. Destroy other records 20 years after final settlement or close of case.
Administrative Record and related filings for hearings, appeals, and writs of both member and non-member actions	Cases are considered "Active" until all writs and appeals have been fully adjudicated.	Active + 5 years
Securities Litigation Reports from Outside Counsel		7 years

## Information Technology/Security

Record Category	Description/Citations	Retention Period
Hardware and Software Reference Material and User Guides	County IT Function; To include design specification documents	Active
IT Project Documentation	Pension Administration System change requests, updates, security enhancements, etc.	Project life + 1 year
IT Audit and Assessment Reports	Linea Secure; Also part of annual Financial Statement Audit	7 years
Information Security Event Notifications	Provided by Linea Secure and/or County IT	1 year
Security Incident Reports	Including supporting documentation	5 years
System Summary Reports	E.g., PENFAX Service Reports	3 years
Business Continuity Program Documentation	Including meeting materials, recovery documents, plan documents, and summary reports.	Destroy when superseded or obsolete.

## Communications

Record Category	Description/Citations	Retention Period
Media releases, Board commendations, and Board member biographical info		Indefinitely, i.e., retained for the period they are deemed useful by the Retirement Administrator and then destroyed.
Member Statements, Employee/Employer Correspondence		Indefinitely, as above.
ICERS Insights newsletters	This includes all employee newsletters created by Communications.	Indefinitely, as above.
Informational Videos	This includes video tutorials and FAQs created by Communications.	Active

ICERS