

2021 DRAFT

**IMPERIAL COUNTY EMPLOYEES' RETIREMENT
SYSTEM BYLAWS AND REGULATIONS**

CHAPTER 1

GENERAL

Section 1 Citation.

The Imperial County Employees Retirement System Bylaws and Regulations govern the operation of the Imperial County Employees Retirement System and the procedures in matters brought before the Imperial County Board of Retirement under the provisions of the County Employees Retirement Law 1937 (commencing at Gov. Code Sec. 31450), operative with respect to the officers and employees of the County of Imperial July 1, 1951, and under the provisions of these bylaws and regulations. These bylaws and regulations shall be cited as the "Retirement System Bylaws and Regulations" and are referred to herein as the "bylaws and regulations." The Imperial County Codified Ordinances are hereinafter referred to as "County Code". (County Code, Secs. 3.36.010, 3.36.020; Gov. Code, Sec. 31525.)

Section 2 Purpose.

The purpose of these bylaws is to provide for regulations, guidelines, rules and procedures pursuant to Government Code Sections 31525 and 31526.

Section 3 Definitions.

Unless the context or subject matter requires otherwise in these bylaws and regulations, the following definitions shall apply in these bylaws and regulations:

- (a) 1937 Act means those provisions, including amendments, recodifications, and judicial interpretations, of the County Employees Retirement Law of 1937 as provided by Title 3, Division 4, Part 3, Chapter 3 (commencing at Sec. 31450) of the Government Code which apply to Imperial County, the Imperial County Board of Supervisors, the Imperial County Employees' Retirement System, the Imperial County Board of Retirement and members of the Imperial County Employees' Retirement System.
- (b) Applicable provisions of the 1937 Act and the Brown Act means those provisions, including amendments, recodifications and judicial interpretations, of the 1937 Act and the Brown Act which apply to Imperial County, the Imperial County Board of Supervisors, the Imperial County Retirement System, the Imperial County Board of Retirement and members of the Imperial County Retirement System.
- (c) Board member means a member of the Board of Retirement. (Gov. Code, Sec. 31520.1.)

- (d) Board of Retirement means the Imperial County Board of Retirement, the body delegated with management of the Imperial County Employees' Retirement System, hereinafter referred to as "Board". (Gov. Code, Sec. 31520.)
- (e) Board of Supervisors means the Imperial County Board of Supervisors.
- (f) Brown Act means the Ralph M. Brown Act Open Meeting Law as provided by Title 5, Division 2, Part 1, Chapter 9 (commencing at Sec. 54950) of the Government Code.
- (g) Bylaws and regulations means the Imperial County Employees' Retirement System Bylaws and Regulations.
- (h) County means Imperial County.
- (i) County Counsel means the County of Imperial County Counsel.
- (j) County Health Officer means the Imperial County Health Officer.
- (k) Court System means the Imperial County Court System.
- (l) Employee means:
 - (1) any officer or other person employed by Imperial County, the Imperial County Court System, Imperial County Transportation Commission or the Local Area Formation Commission whose compensation is fixed by the Imperial County Board of Supervisors or by statute.
 - (2) any other officer or other person employed by any district within Imperial County which is included in the Imperial County Employees Retirement System. (Gov. Code, Sec. 31469.) NOTE: An independent contractor is not an employee.
 - (3) Extra help employee means a person employed for a temporary period to perform a specific task, job or assignment. (County Code, Sec. 3.04.020(H).)
 - (4) Intermittent employee means and includes a non-permanent employee without fixed work schedules, who is qualified and available for work and works for the County when called to work on an as-needed basis. (County Code, Sec. 3.04.020(J).)
 - (5) Limited term employee means and includes any employee who is employed in a special project, program, service or position wherein the duration of employment is limited to a specific termination date or conditioned upon the continuation of special funding for the project, program, service or position. (County Code, Sec. 3.04.020(K).)

- (6) Part-time employee means any employee who is assigned to work less than a normal full-time schedule for the department in which the employee is employed. (County Code, Sec. 3.04.020(N).)
- (7) Seasonal employee means any employee appointed to a position, which is designated as seasonal by resolution of the Board of Supervisors or district within Imperial County. (County Code, Sec. 3.04.020(R).)
- (8) Substitute employee means any employee appointed to a position which is occupied by a regular employee who is off work due to service-connected injury or illness for more than 30 calendar days or on sick leave for more than 30 calendar days. (County Code, Sec. 3.04.020(T).)
- (9) Temporary employee means any employee appointed to a position as temporary by resolution of the Board of Supervisors or district within Imperial County. (County Code, Sec. 3.04.020(W).)
- (m) Employer means the County of Imperial, the Imperial County Court System, Imperial County Transportation Commission or the Local Area Formation Commission.
- (n) ICTC means the Imperial County Transportation Commission.
- (o) LAFCO means the Local Area Formation Commission.
- (p) Member means a member of the Imperial County Employees' Retirement System as provided by the 1937 Act and these bylaws and regulations. (Gov. Code, Secs. 31525, 31526; see generally Gov. Code, Secs. 31469.3, 31469.4, 31470, 31470.1, 31470.2, 31470.3, 31470.4, 31470.5, 31470.7, 31470.8, & 31470.9.)
- (q) Referee or Hearing Officer means an attorney appointed by the Board of Retirement to handle a disability retirement matter. Any reference in these Bylaws to "referee" shall also include "hearing officer."
- (r) Retirement Administrator means the Administrator of the Retirement System or the designated representative of the Retirement Administrator.
- (s) Retirement System means the Imperial County Employees' Retirement System ("ICERS"), a retirement system created and established pursuant to the 1937 Act. The Retirement System was formerly known as the Imperial County Employees' Retirement Association, which is also the name of a private association of County retirees. To avoid confusion the Retirement System changed its name to the Imperial County Employees' Retirement System.
- (t) Subpoena or subpoena means a writ or order issued by the Board of Retirement directed to a person and requiring the person's attendance at a particular time and

place to testify as a witness. (Gov. Code, Secs. 31525, 31535; Code of Civ. Proc., Sec. 1985.)

- (u) Subpoena duces tecum or subpoena duces tecum means a subpoena that also requires the person to whom the subpoena is directed to bring with them any books, documents or other things under the person's control which the person is bound by law to produce in evidence. (Gov. Code, Secs. 31525, 31535; Code of Civ. Proc., Sec. 1985.)
- (v) Treasurer means the Imperial County Treasure/Tax Collector.

Section 4 Resolution of Conflicting Provisions.

The provisions of these bylaws and regulations are intended to conform to the applicable provisions of law, including the 1937 Act, the Ralph M. Brown Act, and the County Code, and such applicable provisions shall prevail in resolving any conflict between the provisions of the 1937 Act or Brown Act or County Code and the provisions of these bylaws and regulations.

Section 5 Retirement System Location and Mailing Address.
Revised November 24, 2010

The location and mailing address and telephone number of the administrative office of the Retirement System is:

Imperial County Employees' Retirement System
1221 W. State Street
El Centro, CA 92243
Telephone: (760) 336-3132

Section 6 Captions and Citations.

Captions in these bylaws and regulations are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of these bylaws and regulations or any of the provisions hereof; statutory, case and other citations are inserted for convenience of reference only. (Gov. Code, Sec. 31525.)

Section 7 Words Used in Present Tense.

Words used in the present tense include the future tense except where otherwise required by the context thereof. (Gov. Code, Sec. 31525.)

Section 8 Number and Gender.

As used in these bylaws and regulations and whenever required by the context thereof, each number, both singular and plural, shall include all numbers, and each gender shall include all genders. (Gov. Code, Sec. 31525.)

Section 9 May and Shall.

Whenever used in these bylaws and regulations, “may” is permissive and “shall” is mandatory. (Gov. Code, Sec. 31525.)

Section 10 California Tort Claims Act.

Notwithstanding any provision of these bylaws and regulations, the provisions and related provisions of the California Tort Claims Act, Division 3.6 of Title 1 of the Government Code, are not waived by County and its employees and agents, the Board of Supervisors and its individual members and the Board of Retirement and its individual members and shall apply to any claim against any and all of these parties arising out of any act or conduct relating to the 1937 Act, these bylaws and regulations or County service unless provided otherwise by resolution of the body against whom a claim may be filed. (Gov. Code, Sec. 31525.)

Section 11 Severability.

If any provision of these bylaws and regulations or application thereof to any person, entity or circumstance shall be declared invalid by a court of competent jurisdiction, or is in contravention to any provision of the constitution, statutes, rules, regulations or case law of the United States or the State of California or ordinances, rules and regulations of Imperial County, the remaining provisions of these bylaws and regulations shall not be invalidated and shall remain in full force and effect, and to that extent the provisions of these bylaws and regulations are declared severable. (Gov. Code, Sec. 31525.)

CHAPTER 2

IMPERIAL COUNTY BOARD OF RETIREMENT

Section 12 Management.

Unless otherwise designated by the Board, the Administrator shall be the Retirement Administrator supported by County ICERS staff. The Retirement Administrator shall manage routine day-to-day administration of the Retirement System; and the provisions of the 1937 Act and these bylaws and regulations, in addition to policies adopted by the Board, shall represent the standards by which the Retirement Administrator shall exercise the delegation of authority. (Gov. Code, Secs. 31520, 31525.)

Section 13 Composition, Election, Appointment Term; Vote of Alternate Member.

- (a) Composition. The Board of Retirement shall consist of nine board members, one of whom shall be the County Treasurer, and one alternate pursuant to Gov. Code Sec. 31520.1, who shall be an eligible safety member candidate from a group not represented by the successful candidate for the seventh member seat. The Board of Retirement may also, by majority vote, appoint an alternate retired member from a list of nominees submitted by a qualified retiree organization, to serve as alternate retired member to the office of the eighth member of the Board of Retirement. (Gov. Code, Sec. 31520.5.)
- (b) The second and third members of the Board of Retirement are general members of the Imperial County Employees' Retirement System and shall be elected only by general members. The seventh member is a safety member and shall be elected only by safety members. The eighth member is a retired member and shall be elected only by retirees of the Imperial County Employees' Retirement System. The tenth and eleventh members of the Board of Retirement are alternate members.
- (c) The seventh and tenth members of the Board of Retirement, designated as safety and alternate members, shall be safety members and shall be elected only by such safety members. The alternate member shall be that candidate, if any, for the safety member from the group under Section 31470.2 or 31470.4 of the Government Code which is not represented by a safety board member who received the highest number of votes of all candidates in that group. If there is no such candidate, there shall be no alternate member. The eleventh member is the alternate retired member and shall be elected only by retirees of the Imperial County Employees' Retirement System.

CHAPTER 2

IMPERIAL COUNTY BOARD OF RETIREMENT

Section 14 Conduct of Elections

A. Regular Election:

- (1) The Board of Retirement shall request that the Board of Supervisors call for an election. The Clerk of the Board of Supervisors shall notify the Registrar of Voters that an election has been called. If any date falls on a holiday, weekend or other day that business is not being conducted, the following day shall be the applicable date.
- (2) The Registrar of Voters shall, not less than three (3) days before the first Friday in October for terms that begin on January 1, or the first Friday in April for terms that begin on July 1, send to each county department, the courts, ICTC, LAFCO and the Imperial County Association of Retired Employees (ICARE), and post in conspicuous places and on the Internet, notices that state that nomination petitions are available from the Registrar of Voters, the number of signatures required, and date of election.
- (3) Nomination shall be by petition signed by not less than twenty (20) general members for general member elections; five (5) safety members for safety member elections; and five (5) retired members each for the retired member elections, and the alternate retired member elections, respectively.

Petitions for nomination shall be in substantially the following form:

“We, the undersigned [general] [safety] [retired] members of the Imperial County Employees’ Retirement System, do hereby nominate _____ as a candidate for the office of _____ member of the Board of Retirement, to be elected for a term of three years by members of said Retirement System.”

- (4) Nomination petitions shall be presented to the Registrar of Voters no earlier than 9:00 a.m. on the first Friday in October and no later than 5:00 p.m. on the third Friday in October for terms beginning January 1 and no earlier than 9:00 a.m. on the first Friday in April and no later than 5:00 p.m. on the third Friday in April for terms beginning July 1. If an election has been called and only one member nominated, the Board of Supervisors shall order that no election be held and shall appoint the nominee in lieu of an election. The candidate will take office and serve as if elected.
- (5) Each candidate may prepare a statement of qualifications. The statements may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate’s education and

qualifications. Any cost to file and distribute a candidate's statement will be borne by the candidate and paid to the elections office. The statement must be presented to the Registrar of Voters no later than the third Friday in October for terms beginning January 1 and the third Friday in April for terms beginning July 1.

- (6) The Imperial County Employees' Retirement System ("Retirement System") staff shall determine whether the person named in the nomination petition is a general, safety or retired member and whether the persons signing the nomination petition are general, safety or retired members.
- (7) The Retirement System staff shall prepare a list and labels of all persons entitled to vote and shall furnish the list to the Registrar of Voters on the first Monday following the last day that nominating petitions can be presented to the Registrar of Voters. The Registrar of Voters shall prepare a ballot and provide the ballot proof to the Retirement Administrator for approval. The Registrar of Voters will order and distribute the ballots.
- (8) Any candidate statement shall be distributed with the ballots. Ballots shall be printed by the Registrar of Voters and shall contain the names of those nominated for each position. There are no provisions for write-in candidates and no write-in votes will be counted. Ballots will be mailed to safety, general and retiree members, together with a postage-paid return envelope. Any undeliverable ballots will be returned to the Registrar of Voters.
- (9) At the time the ballots are mailed, an e-mail notification will be provided by the Registrar of Voters to safety and general members advising them to expect to receive their ballot in the mail.
- (10) The election will be held on the fourth Tuesday in November for terms beginning January 1 and the fourth Tuesday in May for terms beginning July 1. All voted ballots must be received by the Registrar of Voters no later than 5:00p.m. on Election Day.
- (11) The Registrar of Voter shall canvass the votes after the election. The canvass shall be public and made by tallying the vote for each name appearing on the ballot and declaring the results of such tally. The Registrar of Voters shall certify the results of the election to the Board of Supervisors at the next regular meeting of the Board of Supervisors following the canvass, and shall declare the person receiving the greatest number of votes to be an elected member of the Board of Retirement for a term of three (3) years.

B. Vacancies:

If a vacancy in the office of a board member (with the exception of the eighth member) occurs for any reason, a successor shall be chosen at a special election conducted in the manner as set forth below. If a date fall on a holiday, weekend or any date where business is not conducted, then the

following day shall be the applicable date. If such election has been called and only one member nominated, the Board of Supervisors shall order that no election be held and shall appoint the nominee in lieu of an election.

In the case of a vacancy in the office of the eighth member, pursuant to section 31520.5 (b) the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

C. Special Election:

Special elections as required to fill vacancies on the Board of Retirement shall be called by the Board of Supervisors and shall be conducted in accordance with these regulations. The person elected shall complete the remaining term of the vacated seat.

- (1) The Board of Retirement shall request that the Board of Supervisors call for an election. Once the Board of Supervisors calls for an election, the Clerk of the Board of Supervisors shall notify the Registrar of Voters that an election has been called. If a date falls on a holiday, weekend or any date where business is not conducted, then the following day shall be the applicable date.
- (2) The Registrar of Voters shall, not less than fifty-six (56) days before the election, send to each county department, the courts, ICTC, LAFCO and the Imperial County Association of Retired Employees (ICARE), post in conspicuous places, and on the Internet, notices that state that nomination petitions are available from the Registrar of Voters, the number of signatures required, and date of election.
- (3) Nomination shall be by petition signed by not less than twenty (20) general members for general member elections; five (5) safety members for safety member elections; and five (5) retired members each for, the retired member, and the alternate retired member elections, respectively. Nomination petitions shall be presented to the Registrar of Voters no earlier than fifty-three (53) days before election, and no later than thirty-nine (39) days before Election Day. If such election has been called and only one member nominated, the Board of Supervisors shall order that no election be held and shall appoint the nominee in lieu of an election. The candidate will take office and service as if elected.
- (4) Each candidate may prepare a statement of qualifications. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications. Any cost to file and distribute a candidate's statement will be borne by the candidate and paid to the elections office. The statement must be presented to the Registrar of Voters no later than thirty-nine (39) days before Election Day.
- (5) The Imperial County Employees' Retirement System ("Retirement System") staff shall determine whether the person named in the nomination petition is a general, safety or retired member and whether the persons signing the nomination petition are general, safety or retired members.

- (6) The Retirement System staff shall prepare a list and labels of all of persons entitled to vote and shall furnish the list to the Registrar of Voters on or before thirty-six (36) days before each election. The Registrar of Voters shall prepare a ballot and provide the ballot proof to the Retirement Administration for approval. The Registrar of Voters will order and distribute the ballots.
- (7) Any candidate statement shall be distributed with the ballots. Ballots shall be printed by the Registrar of Voters and shall contain the names of those nominated for each position. There are no provisions for write-in candidates and no write-in votes will be counted. Ballots will be mailed to safety, general and retiree members together with a postage-paid return envelope.
- (8) At the time the ballots are mailed, an e-mail notification will be provided by the Registrar of Voters to safety and general members advising them to expect to receive their ballots in the mail..
- (9) The election will be held on the fourth Tuesday of the following month. Each voter shall return the voted ballot to the Registrar of Voters no later than 5:00 p.m. on Election Day.
- (10) The Registrar of Voters shall canvass the votes after election. The canvass shall be made in public and by tallying the vote for each name appearing on the ballot and declaring the results of such tally. The Registrar of Voters shall certify the results of the election to the Board of Supervisors at the next regular meeting of the Board of Supervisors following the canvass, and shall declare the person receiving the greatest number of votes to be an elected member of the Board of Retirement.

D. Tie:

If any election results in a tie, the candidates shall draw straws before a regular meeting of the Board of Supervisors to ascertain the winner. The short straw wins. The straws will be held by the Retirement Administrator or Chairman of the Board of Retirement.

E. Cost of Election:

All costs of an election shall be borne by the Imperial County Employees' Retirement System.

F. Recounts:

In the event a candidate makes a request for a recount of the election results, the requestor shall bear the cost of such a recount. A written request for a recount must be filed with the Registrar of Voters within ten (10) days after the election. The candidate filing the request for a recount shall deposit a sum with the Registrar of Voters as a deposit against the cost of the recount. The Registrar of Voters shall determine the deposit sum. In the event the recount results in a determination that the candidate who requested a recount has received a plurality of votes cast, all money deposited shall be returned to the candidate.

Section 15 Election of Officers.

- (a) Election. At the regular December meeting of the Board of Retirement, the Board of Retirement shall elect one of its members Chairman, a second member Vice-Chairman and a third member Secretary who each shall take office on January 1 of the following year. The Vice-Chairman shall act (1) as temporary Chairman in the absence of the Chairman, or (2) as Secretary in the absence of the Secretary. The Secretary shall serve as temporary Chairman as well as Secretary in the event of the absence of the Chairman and Vice-Chairman. Absence as used therein shall mean (1) absence from any meeting of the Board of Retirement or (2) unavailable to represent the Board of Retirement.

- (b) Vacancy. If a vacancy occurs in the office of Chairman, Vice-Chairman or Secretary for any reason, the Board of Retirement shall select a successor for the balance of the unexpired term at its next regular meeting. (Gov. Code, Sec. 31526.)

Section 16 Staff Personnel.

The Board of Retirement may appoint such administrative, technical, and clerical staff personnel as are required to accomplish the necessary work of the Retirement System and the Board of Retirement. The appointments shall be made from eligible lists created in accordance with the civil service or merit system rules of Imperial County. The personnel shall be County employees and shall be subject to County civil service or merit system rules and shall be included in the salary ordinance or resolution adopted by the Board of Supervisors for the compensation of County officers and employees. (Gov. Code, Sec. 31522.1.)

Section 17 Retirement Administrator Position.

In a county in which the Board of Retirement or both the Board of Retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint an administrator as provided for in this section. The position of the administrator shall not be subject to County civil service or merit system rules. The person so appointed shall be a County employee and the position of administrator shall be included in the salary ordinance or salary resolution adopted by the Board of Supervisors for the compensation of County officers and employees. The administrator so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the administrator by the appointing board or boards. (Gov. Code, Sec. 31522.2; March 15, 2006.)

Section 18 Counsel.

The Board of Retirement may contract with attorneys in private practice or employ staff attorneys for legal services. (Gov. Code, Sec. 31529.9.)

Section 19 Subpoenas.

- (a) Issuance of Subpoenas. The Board of Retirement shall issue subpoenas and subpoenas duces tecum signed but otherwise in blank (“the subpoena power”). 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, including a proceeding on an application for disability retirement (“the party”). The party shall fill in the subpoena or subpoena duces tecum before service.
- (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 Sec. 25170 of the Government Code); except that such power shall extend only to matters within the jurisdiction of the Board of Retirement, and committees of the Board of Retirement shall not have subpoena power.
- (c) Signing of Subpoena. The Chairman or Secretary of the Board of Retirement, the Retirement Administrator or their designee (including any referee or hearing officer the Board of Retirement appoints) shall sign subpoenas. (Gov. Code, Sec. 31535.)
- (d) Oaths. Any member of the Board of Retirement, the referee, 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, Secs. 31525, 31535.)
- (e) Witness. A witness served with a subpoena shall attend at the time appointed, with any papers under the control of the witness lawfully required by the subpoena, and answer all relevant and legal questions; and, unless sooner discharged, shall remain until testimony is closed. (Gov. Code, Secs. 31525, 31535; Code of Civ. Proc., Sec. 2064.)
- (f) Failure to Comply with Subpoena. Failure of any witness, including a physician or other expert witness, to comply with the provisions of subdivision (e) shall be grounds for not admitting into evidence any statement, document, including complete report or report, or other evidence attributable to the witness, or for construing any statement, document or other evidence in a way unfavorable to such witness. (Gov. Code, Sec. 31535.)
- (g) Depositions. Subpoenas and subpoenas duces tecum may be used for taking depositions from parties and witnesses at such times and locations designated by a party which shall constitute taking such deposition before the Board of Retirement. (Gov. Code, Secs. 31525, 31535.)

Section 20 Agent for Service of Process.

The Clerk of the Board of Retirement shall act as agent for service of process on the Board of Retirement. (Code of Civ. Proc., Sec. 416.50.)

CHAPTER 3

MEETINGS OF BOARD OF RETIREMENT

Section 21 Types of Meetings.

- (a) Regular Meetings. Regular meetings of the Board of Retirement shall be held on the third Wednesday of each month in the chambers of the Imperial County Board of Supervisors, Second Floor, 940 West Main Street, El Centro, California (hereinafter referred to as “the Board of Supervisors’ Chambers”). The Board may take action to designate other dates for that calendar year as Regular Meetings in order to avoid scheduling conflicts. If the regular meeting date falls on a holiday, such regular meeting shall be held on the next business day, or an alternate date as determined by the Board of Retirement. (Gov. Code Secs., 31525, 31526(a), 54954.)
- (b) Disability Retirement Hearings. Disability retirement hearings, special presentations and miscellaneous items of business (hereinafter referred to as “disability hearings”) shall be set by the Retirement Administrator as necessary and held on the first Wednesday of a month, or at such other time as a quorum of the Board of Retirement can meet, in the Board of Supervisors’ Chambers. (Gov. Code, Secs. 31525, 31526(a).)
- (c) Special, and Emergency Meetings.

Special and Emergency meetings may be called at any time by the Chairman, or other presiding officer, of the Board of Retirement or by a majority of the members of the Board of Retirement in accordance with the applicable provisions of the Ralph M. Brown Act (Gov. Code Sec. 54950 et. seq.)(Brown Act).

Section 22 Communications and Requests.

Communications and requests to the Board of Retirement shall be made in writing and directed to the Board of Retirement in care of the Retirement Administrator. The substance of such requests and the action of the Board of Retirement shall be noted in the minutes of the Board of Retirement. The Board of Retirement shall not take any action on oral requests except as provided by the Brown Act.

Section 23 Quorum.

- (a) Quorum. Five members of the Board of Retirement shall constitute a quorum. No motions may be passed or business transacted without five affirmative votes. (Gov. Code, Sec. 31525.)
- (b) Recusal. A trustee who is also the supervisor, manager or director of an applicant for disability retirement shall recuse himself/herself from voting on the matter. This shall not apply if the trustee is the Board of Supervisor member.

- (c) Tie Vote. In the event of a tie vote on a disability retirement application, the disability application will be deemed denied.

Section 24 Rules of Order.

- (a) The Chairman of the Board of Retirement shall:
 - (1) preside over all meetings of the Board of Retirement; and
 - (2) exercise such control over meetings as the Chairman deems reasonable and necessary.
- (b) The Chairman of the Board of Retirement shall have a vote on all motions and questions. (Gov. Code, Secs. 31525, 31526(a).)

Meetings of the Board shall be guided by the principles embodied in “Robert’s Rules of Order Newly Revised” to the extent that such principles are consistent with the Brown Act.

Section 25 Recording of Meetings, Hearings and Proceedings; Minutes; Retention of Minutes and Tapes.

- (a) Recording of Meetings, Hearings and Proceedings. The Retirement Administrator shall cause all meetings, hearings and proceedings of the Board of Retirement to be electronically audio recorded except for closed sessions and shall provide for the protection and permanent storage of each recording for future use as may be necessary and as provided by this section.
- (b) Contents of Minutes. The Secretary of the Board of Retirement shall record the minutes in writing and present the minutes for approval by the Board of Retirement at its next regular meeting or as soon as is administratively feasible. All minutes shall include the following:
 - (1) the time and place of each meeting of the Board of Retirement,
 - (2) the names of members of the Board of Retirement present and not present,
 - (3) all official acts of the Board of Retirement, and
 - (4) the votes given by board members except when action is unanimous, and when requested, a board member's dissent or approval.
- (c) Minutes as Part of Permanent Records. The minutes, or a true copy thereof, submitted by the secretary and signed by the Secretary and the Chairman, shall form a part of the permanent records of the Board of Retirement.
 - (1) Minutes. Hardcopies of minutes shall be retained 2 years from the date of their approval and then scanned into the appropriate media.

- (2) Recordings. Recordings shall be retained for a minimum of 5 years, except the recordings related to disability retirement proceedings or any proceeding in which a decision of the Board of Retirement is appealed to or considered by a court of law. Such recordings shall be retained for a minimum of 5 years from the date of the final decision of the Board of Retirement on an application for disability retirement or 5 years from the final date of decision on such appeal or consideration, whichever is later. (Gov. Code, Secs. 31525, 31526(a).)

Section 26 Right of Public to Address Board of Retirement.

- (a) The Public Comments section appearing on every agenda for regular meetings of the Board of Retirement shall provide an opportunity for members of the public to directly address the Board of Retirement on items of interest to the public that are within the subject matter jurisdiction of the Board of Retirement, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by the Brown Act.
- (b) Unless provided otherwise by a majority vote of the members of the Board of Retirement, each member of the public shall be allowed to speak three minutes on an item of interest to the public. (Gov. Code, Secs. 31526(a), 54954.3.)

Section 27 Closed Sessions

Closed sessions of the Board are governed exclusively by the provisions of the Brown Act.

Section 28 Public Records

Responses to requests made for ICERS records under the California Public Records Act “CPRA” will be made in compliance with the CPRA and the guidelines and procedures set forth in Board Policy.

CHAPTER 4

MEMBERSHIP

Section 29 Persons Eligible for Membership.

Except as otherwise provided by this chapter, persons eligible for membership in the Retirement System shall become members of the Imperial County Employees' Retirement System as follows:

- (a) for a person who is paid monthly or semi-monthly: upon the first day of the calendar month following entrance into Employer's service;
- (b) for a person who is paid bi-weekly: upon the first day of the first bi-weekly pay period following entrance into Employer's service. (Gov. Code, Secs. 31551, 31552.)
- (c) for a person establishing reciprocity with a California public pension system: upon the date of hire.

Section 30 Exclusion and Exemption from Membership: Determination of Safety Membership.

- (a) Exclusion/Exemption from Membership. Temporary, extra help, seasonal and intermittent employees are excluded from membership. All permanent full-time employees, limited term employees, substitute employees, or permanent part-time employees (designated three-quarter time, sixty (60) hours per pay period, or more) belong to the Imperial County Employees' Retirement System.
- (b) Safety Membership Determination. In cases of doubt as to whether a person is eligible to become a safety member, the Board of Retirement shall decide. (Gov. Code, Sec. 31470.8.)
- (c) Newly hired employees who have attained the age of 60 may waive membership in this Retirement System. (Government Code Secs. 31552, 31525.)

CHAPTER 5

GENERAL OPERATING REGULATIONS

Section 31 Sworn Statements.

Every person who is or becomes a member of ICERS shall upon entry into the Retirement System, complete and properly execute a sworn statement showing the person's date of birth and such other information as is required by the Board of Retirement. (Gov. Code, Sec. 31526(b).) The person's date of birth given on the sworn statement (affidavit) will be the birth date used in calculating all retirement benefits.

Section 32 Retirement Certificates.

Upon retirement of a member of the Retirement System, the member shall be furnished with a Retirement Certificate signed by the Retirement Administrator. The Retirement Certificate shall indicate the effective date of retirement, the member's retirement allowance, and the total contributions to the credit of the member at date of retirement. (Gov. Code, Sec. 31526(c).)

Section 33 Other Forms.

The Board of Retirement and Retirement Administrator shall have authority without approval or adoption by the Board of Supervisors to generate, use and modify such forms as are required or necessary in the administration and operation of the Retirement System. (Gov. Code, Sec. 31526(c).)

Section 34 Deductions of Member Contributions.

Deductions of member's contributions shall be made from either salary or wage warrants. (Gov. Code, Sec. 31527(a).)

Section 35 Warrants, Checks or Electronic Funds Transfers.

All warrants, checks, or electronic funds transfers drawn on the retirement fund shall be signed or authorized by two employees as designated by the Board of Retirement. The employees so designated are the Retirement Administrator or the Assistant Retirement Administrator, and the Imperial County Auditor-Controller. This authorization shall be by a standing order to draw warrants and checks or make electronic funds transfers. Such order shall be good until revoked. A warrant, check, or electronic funds transfer is not valid until it is signed, numbered, and recorded by the Auditor-Controller. (Gov. Code, Sec. 31590.) Revised November 24, 2009.

Section 36 Deduction of Past-Due Contributions.

- (a) Clerical Error. Where through clerical error a member's mandatory contributions are not deducted at the time and in the manner required by law and these Regulations, and where the total of such past-due contributions, at one time, would cause difficulty and unnecessary hardship to the member, the Retirement

Administrator may apportion the deduction thereof over a period not to exceed two (2) years. (Gov. Code, Sec. 31525.)

- (1) Failure to Elect Causes Automatic Deduction of Past Due Deductions. Unless the returning member re-enters the service as a new member or files an election described by subdivision (b) (1) of this section, the Imperial County Auditor-Controller or other officer charged with the duty of drawing salary or wage warrants shall deduct past due contributions pursuant to subdivision (b) (1) (B) of this article. (Gov. Code, Secs. 31649, 31650.)

Section 37 Redeposit of Withdrawn Contributions.

- (a) Definition of Regular Interest. “Regular Interest” shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required by this section had been on deposit from the date of separation from the Retirement System until the amount required to be deposited has been paid.
- (b) Redeposit. Any member may redeposit in the retirement fund, prior to filing an application for retirement, by lump sum payment or by installment payments of \$5.00 or more over a period of one year or period of time equal to the length of service the redeposit represents, not to exceed 5 years, an amount equal to all of the accumulated normal contributions which the member has withdrawn, plus regular interest thereon from the date of separation from the retirement system, and the member’s membership is the same as if unbroken by such termination. Except as provided in Government Code Section 31652, the member’s rate of contribution shall be based on age at the nearest birthday at time of re-entrance into the system. If the member does not re-deposit all of the accumulated normal contributions previously withdrawn, the member shall be considered as a new member without credit for any previous service. (Gov. Code, Secs. 31527(b), 31652.)

Section 38 Persons Brought Within Field of Membership.

- (a) Brought Within Field of Membership. If any Employer’s officer or employee not previously included within the field of membership of the Retirement System is brought within the field of membership, or if any elected Employer official chooses to come within the field of membership, the person shall not receive credit for service or for prior service unless either:

The person elects to and does pay into the Retirement System within one year thereafter, or within such longer time as is provided in subdivision (b) of this section and before an application for retirement is filed, an amount equal to the contributions the person would have made if the person had been a member of the Retirement System from the date of its organization, or from the date of his entry into Employer’s service, whichever is the later, together with regular interest thereon, as defined by Section 46(a), of this chapter (for this section only “total

amount”) or,(2) The Board of Supervisors, by a four-fifths vote, provides that it shall make, on behalf of all such officers or employees eligible to receive credit for prior service under this section, all or a part of the contributions to the system that the officer or employee would be required to make for the person’s prior service, except that the contributions made by the Employer pursuant to this section shall be available only for the purpose of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of the member’s accumulated contributions made by the member.

- (b) Extension of Time to Deposit. An Employer’s officer or employee brought within the field of membership shall be allowed to deposit the total amount in a lump sum payment or in equal installment payments over a period of one year or a period of time equal to the length of service the total amount represents (rounded to the nearest full year), not to exceed five years. In no event shall the installment payments for this purpose be less than \$5.00 per pay period in addition to member’s regular deduction. (Gov. Code, Secs. 31527(c), 31648.)

Section 39 Separation from Service.

- (a) If the service of a member is discontinued other than by death or retirement, upon proper written application filed with ICERS, the member may:
 - (1) Be paid all of the member’s accumulated contributions plus interest, minus a withdrawal charge described by subdivision (b) of this section. Accumulated contributions shall be paid at the end of the month following the month after the employee terminates from service.
 - (2) Choose deferred retirement, if eligible to do so.
 - (3) Choose to leave accumulated contributions with ICERS, pursuant to Gov. Code Sec. 31629.5.
- (a) Withdrawal Charge. Except as to those members whose membership is terminated by reason of attaining compulsory retirement age, death, or forced reduction layoff as provided by County Code Section 3.40 et seq., when the member withdraws his or her accumulated contributions, there shall be deducted a withdrawal charge of \$25.00. This shall apply unless the interest credited to the member's account is less than the sum of \$25.00, in which case the withdrawal charge shall be the total amount of interest so credited. (Gov. Code, Secs. 31527(d), 31628, 31629.)
- (b) The service of a member will not be considered discontinued, and the member will be ineligible to be paid his or her accumulated contributions, if the member continues to work for the employer or for another participating employer, even if the member’s work schedule is below the minimum number of hours required to qualify for coverage. In these cases interest will continue to be credited to the member's account. (Gov. Code, Sec. 31700(c).)

CHAPTER 7

ADOPTION AND AMENDMENTS

Section 40 Repeal of Existing Bylaws and Regulations.

Except as provided in these bylaws and regulations, any and all previously enacted bylaws and regulations of the Retirement System are hereby repealed effective the date these bylaws and regulations are approved by the Board of Supervisors.

Section 41 Amendments.

These bylaws and regulations may be amended at any regular or special meeting of the Board of Retirement by five (5) affirmative votes of the Board of Retirement, subject to approval by the Board of Supervisors. Amendments shall become effective when approved by the Board of Supervisors. (Gov. Code, Sec. 31525.)

Section 42 Date of Approval of Bylaws and Regulations by Board of Retirement.

These bylaws and regulations are hereby adopted by the Imperial County Board of Retirement on the 19th day of May, 2021.

Section 43 Effective Date of Bylaws and Regulations.

These bylaws and regulations are hereby approved by the Imperial County Board of Supervisors and become effective the 14th day of September, 2021.