



AGENDA

RETIREMENT BOARD MEETING

REGULAR MEETING
March 11, 2020
9:00 a.m.

Board Conference Room
1200 Concord Avenue, Suite 350
Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Recognition of Shannon Goss for 5 years of service.
3. Accept comments from the public.
4. Routine items for March 11, 2020.
 - a. Approve certifications of membership.
 - b. Approve service and disability allowances.
 - c. Accept disability applications and authorize subpoenas as required.
 - d. Approve death benefits.
 - e. Accept asset allocation report.
 - f. Accept liquidity report.

CLOSED SESSION

5. The Board will go into closed session pursuant to Govt. Code Section 54957 to evaluate the performance of the following public employee:

Title: Chief Executive Officer

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

6. The Board will continue in closed session pursuant to Govt. Code Section 54957 to consider recommendations from the medical advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Siamak Nasseh	Service Connected	Service Connected

7. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(d)(1) to confer with legal counsel regarding pending litigation:

- a. *Nowicki v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. C17-01266

OPEN SESSION

8. Presentation of disability retirement process.
9. Presentation of semi-annual disability retirement report.
10. Board workshop regarding death during active membership and non-service connected disability.
11. Consider and take possible action on SACRS voting proxy form.
12. Consider and take possible action to amend the Audit Committee Charter as recommended by the Audit Committee.
13. Presentation of the Contra Costa County Clerk-Recorder-Elections Department employer audit report.
14. Report out from Audit Committee Chair on February 26, 2020 Audit Committee meeting.
15. Consider authorizing the attendance of Board:
- a. NCPERS Annual Conference & Exhibition (ACE), May 10-13, 2020, Las Vegas, NV.
 - b. IFEBP Trustees & Administrators Institute, June 29-July 1, 2020, San Francisco, CA.
16. Miscellaneous
- a. Staff Report
 - b. Outside Professionals' Report
 - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

Items requiring Board Action

A. Certifications of Membership – see list and classification forms.

B. Service and Disability Retirement Allowances:

<u>Name</u>	<u>Number</u>	<u>Effective Date</u>	<u>Option Type</u>	<u>Tier</u>	<u>Selected</u>
Bantique, Marc	61415	11/01/19	SR	Safety A	Unmodified
Barden, Timothy	51229	12/20/19	SR	Safety A	Unmodified
Bassett, Neal	73441	06/01/18	NSCD	Safety C	Unmodified
Clark, Adrienne	73154	12/31/19	SR	Tier III	Unmodified
Coleman, LaVetta	75355	01/01/20	SR	Tier III	Option 1
Gould, David	55010	12/04/19	SR	Tier I	Unmodified
Hillman, John	63998	01/01/20	SR	Tier II and III	Unmodified
Hinton, Barbara	47980	11/10/19	SR	Tier II and III	Unmodified
Jenkins-Dean, Kimberly	43201	11/01/19	SR	Tier II and III	Unmodified
Jones, Jerry Jr.	43350	12/28/19	SR	Safety A	Unmodified
Jones, Margaret	42336	01/02/20	SR	Tier II and III	Unmodified
Lawrence, Kathleen	53156	11/16/19	SR	Tier II and III	Unmodified
Lewis, Cheryl	D9990	12/31/19	SR	Tier I	Unmodified
March, Karen	31714	01/01/20	SR	Tier II and III	Unmodified
Moore, Valerie	41853	10/01/19	SR	Tier I	Unmodified
Naku, Jeanette	43059	01/01/20	SR	Tier II and III	Unmodified
Nunn, Jason	64884	12/27/19	SR	Safety A	Unmodified
Orukari, Deborah	61566	01/01/20	SR	Tier II and III	Unmodified
Reyes, Mayiba	66948	01/01/20	SR	Tier III	Unmodified
Torres, Trina	44159	12/20/19	SR	Tier II and III	Unmodified
Vaca, Nicolas	D9500	12/03/19	SR	PEPRA 5.3	Unmodified
Webb, Lori	37614	08/31/19	SR	Tier II and III	Unmodified

C. Disability Retirement Applications: The Board's Hearing Officer is hereby authorized to issue subpoenas in the following cases involving disability applications:

<u>Name</u>	<u>Number</u>	<u>Filed</u>	<u>Type</u>
None			

Option Type
 NSP = Non-Specified
 SCD = Service Connected Disability
 SR = Service Retirement
 NSCD = Non-Service Connected Disability
 * = County Advance
 Selected w/option

Tier
 I = Tier I
 II = Tier II
 III = Tier III
 S/A = Safety Tier A
 S/C = Safety Tier C

Tier
 Pepra 4.2 = Pepra Tier 4 (2% COLA)
 Pepra 4.3 = Pepra Tier 4 (3% COLA)
 Pepra 5.2 = Pepra Tier 5 (2% COLA)
 Pepra 5.3 = Pepra Tier 5 (3% COLA)
 S/D = Pepra Safety Tier D
 S/E = Pepra Safety Tier E

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

D. Deaths:

<u>Name</u>	<u>Date of Death</u>	<u>Employer as of Date of Death</u>
Barley, Glenn	02/24/20	Contra Costa County
Bennett, Shirley	01/04/20	Central Contra Costa Sanitary District
Cardoza, Delores	11/26/19	Contra Costa County Housing Authority
Celoni, Leonard	01/26/20	Diablo Water District
Fontes, Dorothy	01/11/20	Contra Costa County
Hutchin, Dena	11/05/19	Contra Costa County
Inouye, Mitsuru	01/27/20	Contra Costa County
Keenan, Betty	02/08/20	Contra Costa County
Larsen, Adler	02/10/20	Contra Costa County
Layton, Chaunna	02/19/20	Contra Costa County
Molta, Frank	02/13/20	Contra Costa County
Potts, Ray	02/09/20	Contra Costa County Housing Authority
Van Vliet, John	02/04/20	Contra Costa County
Vogler, Virginia	02/07/20	Contra Costa County
Washington, Florida	01/21/20	Contra Costa County

Option Type
 NSP = Non-Specified
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Tier
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Pepra 4.2 = Pepra Tier 4 (2% COLA)
 Pepra 4.3 = Pepra Tier 4 (3% COLA)
 Pepra 5.2 = Pepra Tier 5 (2% COLA)
 Pepra 5.3 = Pepra Tier 5 (3% COLA)
 S/D = Pepra Safety Tier D
 S/E = Pepra Safety Tier E

CERTIFICATION OF MEMBERSHIPS

<i>Name</i>	<i>Employee Number</i>	<i>Tier</i>	<i>Membership Date</i>	<i>Employer</i>
Albertsen, Rachel	89000	P5.2	01/01/20	Contra Costa County
Allen, Latasha	D9990	P4.3	01/01/20	Contra Costa County Housing Authority
Augustyn, Anthony	86932	P5.2	01/01/20	Contra Costa County
Benitez, Stacy	88953	P5.2	01/01/20	Contra Costa County
Benveniste, Megan	88984	P5.2	01/01/20	Contra Costa County
Bhuti, Tenzin	85150	P5.2	01/01/20	Contra Costa County
Boldischar, Michael	88209	P5.2	01/01/20	Contra Costa County
Borsuk-Georgandas, Allison	87551	P5.2	01/01/20	Contra Costa County
Brown, Danielle	86940	P5.2	01/01/20	Contra Costa County
Burgos, Meliza	88947	P5.2	01/01/20	Contra Costa County
Burgueno, Joseph	89023	P4.2	01/01/20	Contra Costa County Fire Protection District
Cabello, Mary	88992	P5.2	01/01/20	Contra Costa County
Carlisle, Candace	74043	P5.2	01/01/20	Contra Costa County
Carofanello, Nicholas	78036	P5.2	01/01/20	Contra Costa County
Castro, Reginald	D9500	P5.3	01/01/20	Contra Costa County Superior Courts
Coffino, Michael	89045	P5.2	01/01/20	Contra Costa County
Conway, Richard	88512	P5.2	01/01/20	Contra Costa County
DeNatale, Frank	89022	P4.2	01/01/20	Contra Costa County Fire Protection District
Devera, Heinrick	85107	P5.2	01/01/20	Contra Costa County
DiNapoli, Jill	89049	P5.2	01/01/20	Contra Costa County
Dillon, Kenneth	88989	P5.2	01/01/20	Contra Costa County
Drolet, Gregory	88983	P5.2	01/01/20	Contra Costa County
Ente, Dante	84281	P5.2	01/01/20	Contra Costa County
Estrada, Gilbert	83322	P5.2	01/01/20	Contra Costa County
Fall, Devon	D9500	P5.3	01/01/20	Contra Costa County Superior Courts
Frazier-Stafford, Linda	83266	P5.2	01/01/20	Contra Costa County
Goodfellow, Brianna	88510	P5.2	01/01/20	Contra Costa County
Hale Jason	87800	P5.2	01/01/20	Contra Costa County
Jeffus, Kristen	86703	P5.2	01/01/20	Contra Costa County
Jimenez, Robert	D3406	P4.3	01/01/20	Central Contra Costa Sanitary District
Jinkerson, Kristen	D9500	P5.3	01/01/20	Contra Costa County Superior Courts
Joslin, Angela	70761	III	01/01/20	Contra Costa County
Kaur, Amandeep	84625	P5.2	01/01/20	Contra Costa County
Kirk, Theresa	87549	P5.2	01/01/20	Contra Costa County
Kohl, Cheryl	52420	III	01/01/20	Contra Costa County
Lemi, Matthew	88664	P5.2	01/01/20	Contra Costa County
Llamas, Michael	86920	P5.2	01/01/20	Contra Costa County
Luster, Monique	87330	P5.2	01/01/20	Contra Costa County
Maningas, Mark Efraim	81237	P5.2	01/01/20	Contra Costa County
Manwill, Eric	88483	P5.2	01/01/20	Contra Costa County

Key:

I = Tier I	P4.2 = PEPPRA Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPPRA Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPPRA Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPPRA Tier 5 (3% COLA)	S/E = Safety Tier E

CERTIFICATION OF MEMBERSHIPS

<i>Name</i>	<i>Employee Number</i>	<i>Tier</i>	<i>Membership Date</i>	<i>Employer</i>
McCarthy (Creer), Camerly	D9500	P5.3	01/01/20	Contra Costa County Superior Courts
McMahon, Margo	88999	P5.2	01/01/20	Contra Costa County
Miller, Jennifer	71725	III	01/01/20	Contra Costa County
Morrison, Kendall	89001	P5.2	01/01/20	Contra Costa County
Nounou, Anne	88968	P5.2	01/01/20	Contra Costa County
Orantes, Nelly	87176	P4.3	01/01/20	First Five of Contra Costa
Padilla, Socorro	78523	P5.2	01/01/20	Contra Costa County
Pallotta IV, Joseph	87819	P5.2	01/01/20	Contra Costa County
Piring, Vanessa	88930	P5.2	01/01/20	Contra Costa County
Porter, Allegra	89002	P5.2	01/01/20	Contra Costa County
Prado, Kelly	84546	P5.2	01/01/20	Contra Costa County
Puri, Paavni	89025	P5.2	01/01/20	Contra Costa County
Robinson, Miles	86986	P5.2	01/01/20	Contra Costa County
Roe, William	89029	P5.2	01/01/20	Contra Costa County
Singer, Stephanie	88972	P5.2	01/01/20	Contra Costa County
Slade, Kendall	89010	P5.2	01/01/20	Contra Costa County
Straughter, Tiffany	78493	P5.2	01/01/20	Contra Costa County
Stephens, Romelyn	88974	P5.2	01/01/20	Contra Costa County
Tancioco, Roland	87079	P5.2	01/01/20	Contra Costa County
Tran, Lan	D9990	I	01/01/20	Contra Costa County Housing Authority
Velasco, Jessica	D9990	P4.3	01/01/20	Contra Costa County Housing Authority
Villanueva Astilleros, Julio	88940	P5.2	01/01/20	Contra Costa County
Villela, Edelmira	89059	P5.2	01/01/20	Contra Costa County
Wade, Dylan	86933	P5.2	01/01/20	Contra Costa County
Waite, Briana	86958	P5.2	01/01/20	Contra Costa County
Warden, Christopher	D9500	P5.3	01/01/20	Contra Costa County Superior Courts
Webb, Janice	89067	P4.2	01/01/20	Contra Costa County Fire Protection District
White, Amber	86978	P5.2	01/01/20	Contra Costa County
Wickham, Abel	88154	P5.2	01/01/20	Contra Costa County
Yu, John	88466	P5.2	01/01/20	Contra Costa County

Key:

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TIER CHANGES

<i>Name</i>	<i>Employee Number</i>	<i>Old Tier</i>	<i>New Tier</i>	<i>Effective Date</i>	<i>Employer</i>	<i>Reason for Change</i>
Curtis, Kelley	88888	P5.2	III	11/01/19	Contra Costa County	Recip In Tier and Age Change
Geeter, Krystel	D9990	P4.3	I	11/01/19	Contra Costa County Housing Authority	Recip In Tier and Age Change
Gutierrez, Katidia	88222	S/A	S/E	12/01/19	Contra Costa County	Tier Correction
Ortiz, Jason	D7160	S/D	S/A	09/01/19	East Contra Costa County Fire Protection District	Recip In Tier and Age Change
Shkidt, Sarah	88565	P5.2	III	09/01/19	Contra Costa County	Recip In Tier and Age Change
Washington, Michelle	88779	P5.2	III	11/01/19	Contra Costa County	Recip In Tier and Age Change

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III = Tier III	P5.2 = PEPRA Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPRA Tier 5 (3% COLA)	S/E = Safety Tier E

Contra Costa County Employees' Retirement Association
Asset Allocation as of January 31, 2020

Meeting Date
03/11/20
Agenda Item
#4

	Market Value	Percentage of Total Fund	Current Target Percentage	Current Target Over/(Under)	Long Term Target	Long Term Over/(Under)
Liquidity						
Insight	934,337,467	10.0%	12.0%	-2.0%		
Sit	543,502,653	5.8%	6.0%	-0.2%		
Dimensional Fund Advisors	448,461,459	4.8%	6.0%	-1.2%		
Total Liquidity	1,926,301,580	20.6%	24.0%	-3.4%	24.0%	-3.4%

Range
16% - 28%

	Market Value	Percentage of Total Fund	Current Target Percentage	Current Target Over/(Under)	Long Term Target	Long Term Over/(Under)
Growth						
Domestic Equity						
Boston Partners	241,873,732	2.6%	2.5%	0.1%		
Jackson Square	252,122,611	2.7%	2.5%	0.2%		
BlackRock Index Fund	204,818,445	2.2%	2.0%	0.2%		
Emerald Advisors	159,085,782	1.7%	1.5%	0.2%		
Ceredex	157,518,892	1.7%	1.5%	0.2%		
Total Domestic Equity	1,015,419,462	10.9%	10.0%	0.9%	5.0%	5.9%

Global & International Equity

Pyrford (BMO)	477,562,481	5.1%	5.0%	0.1%		
William Blair	496,831,167	5.3%	5.0%	0.3%		
First Eagle	380,684,406	4.1%	4.0%	0.1%		
Artisan Global Opportunities	406,322,273	4.3%	4.0%	0.3%		
PIMCO/RAE Emerging Markets	369,299,185	4.0%	4.0%	-0.0%		
TT Emerging Markets	345,420,028	3.7%	4.0%	-0.3%		
Total Global & International Equity	2,476,119,541	26.5%	26.0%	0.5%	24.0%	2.5%

Private Equity	1,054,495,048	11.3%	11.0%	0.3%	11.0%	0.3%
Private Credit	543,788,584	5.8%	5.0%	0.8%	12.0%	-6.2%
Real Estate - Value Add	157,620,045	1.7%	4.0%	-2.3%	4.0%	-2.3%
Real Estate - Opportunistic & Distressed	463,439,167	5.0%	4.0%	1.0%	4.0%	1.0%
Real Estate - REIT (Adelante)	81,005,374	0.9%	1.0%	-0.1%	1.0%	-0.1%
High Yield (Allianz)	208,444,020	2.2%	2.0%	0.2%	0.0%	2.2%
Risk Parity			5.0%	-0.0%	5.0%	-0.0%
AQR GRP EL	237,984,724	2.5%				
PanAgora	226,659,492	2.4%				
Total Other Growth Assets	2,973,436,454	31.8%	32.0%	-0.2%	37.0%	-5.2%

Total Growth Assets	6,464,975,457	69.2%	68.0%	1.2%	66.0%	3.2%
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Range
60% - 80%

	Market Value	Percentage of Total Fund	Current Target Percentage	Current Target Over/(Under)	Long Term Target	Long Term Over/(Under)
Risk Diversifying						
AFL-CIO	340,783,264	3.6%	3.5%	0.1%	3.0%	0.6%
Parametric Defensive Equity	204,706,320	2.2%	2.5%	-0.3%	3.5%	-1.3%
Wellington Real Total Return	187,519,447	2.0%	2.0%	0.0%	3.5%	-1.5%
Total Risk Diversifying	733,009,031	7.8%	8.0%	-0.2%	10.0%	-2.2%

Range
0% - 10%

	Market Value	Percentage of Total Fund	Current Target Percentage	Current Target Over/(Under)	Long Term Target	Long Term Over/(Under)
Cash and Overlay						
Overlay (Parametric)	33,974,665	0.4%		0.4%		
Cash	185,774,211	2.0%		2.0%		
Total Cash and Overlay	219,748,876	2.4%	0.0%	2.4%	0.0%	2.4%

Total Fund	9,344,034,943.55	100%	100%		100%	
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*Current targets and ranges reflect asset allocation targets accepted by the Board on June 26, 2019 (BOR Resolution 2019-4)

Private Market Investments
As of January 31, 2020

REAL ESTATE - Value Add	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Invesco IREF III	08/01/13	08/01/20				35,000,000	1,427,815	0.02%	
Invesco IREF IV	12/01/14	12/01/21				35,000,000	16,144,889	0.17%	5,191,261
Invesco IREF V	09/11/18	09/11/25				75,000,000	18,367,868	0.20%	52,482,955
Long Wharf FREG IV	08/14/13	09/30/21				25,000,000	3,818,430	0.04%	
Long Wharf FREG V	10/31/16	09/30/24				50,000,000	42,060,312	0.45%	
LaSalle Income & Growth Fund VI	01/31/12	01/31/19				75,000,000	25,287,056	0.27%	3,946,000
LaSalle Income & Growth Fund VII	10/31/16	09/30/24				75,000,000	50,513,675	0.54%	18,340,431
Outstanding Commitments						580,000,000	157,620,045	1.69%	79,960,647
Total							237,580,692		

Outstanding Commitments
Total

REAL ESTATE--Opportunistic & Distressed	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
DJ Real Estate Capital Partners, L.P. III	06/30/05	06/30/14				75,000,000	21,069,138	0.23%	4,031,338
DJ Real Estate Capital Partners, L.P. IV	12/31/07	09/30/18	in full liq.			100,000,000	78,589,326	0.84%	3,162,610
DJ Real Estate Capital Partners, L.P. V	07/31/13	12/31/22				75,000,000	45,002,375	0.48%	20,556,753
DJ Real Estate Capital Partners, L.P. VI	02/28/19	01/31/29				50,000,000	23,527,733	0.25%	25,050,462
Oaktree Real Estate Opportunities Fund V	02/01/11	02/01/21				50,000,000	4,320,553	0.05%	25,750,000
Oaktree Real Estate Opportunities Fund VI	09/30/13	09/30/20				80,000,000	29,268,505	0.31%	18,400,000
Oaktree Real Estate Opportunities Fund VII	02/28/15	02/28/23				65,000,000	53,189,163	0.57%	18,720,000
Siguler Guff Distressed Real Estate Opp. Fund	07/30/11	07/30/22				75,000,000	31,410,574	0.34%	5,625,000
Siguler Guff Distressed Real Estate Opp. Fund II	08/31/13	08/31/25				70,000,000	48,655,206	0.52%	8,015,000
Siguler Guff Distressed Real Estate Opp. II Co-Inv	01/31/16	10/31/25				25,000,000	18,824,214	0.20%	4,462,138
Paulson Real Estate Fund II	11/10/13	11/10/20				20,000,000	23,463,776	0.25%	654,377
Angelo Gordon Realty Fund VIII	12/31/11	12/31/18				80,000,000	22,192,554	0.24%	12,334,302
Angelo Gordon Realty Fund IX	10/10/14	10/10/22				65,000,000	63,926,050	0.68%	12,122,500
Outstanding Commitments						830,000,000	463,439,167	4.96%	158,884,480
Total							158,884,480		

Outstanding Commitments
Total

PRIVATE CREDIT	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Torchlight Debt Opportunity Fund III	09/30/08	06/30/16				75,000,000	0	0.00%	0
Torchlight Debt Opportunity Fund IV	08/01/12	08/30/20	2nd 1 YR	LP	06/30/18	60,000,000	10,150,950	0.11%	0
Torchlight Debt Opportunity Fund V	12/31/14	09/17/22				75,000,000	25,162,450	0.27%	15,000,000
Angelo Gordon Energy Credit Opportunities	09/10/15	09/10/20				16,500,000	4,138,549	0.04%	2,319,783
CCCERA StepStone	12/03/17	11/30/27				920,000,000	504,336,635	5.40%	450,256,439
Outstanding Commitments						1,274,500,000	543,788,584	5.82%	467,576,222
Total							1,011,364,806		

Outstanding Commitments
Total

**Private Market Investments
As of January 31, 2020**

PRIVATE EQUITY	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Adams Street Partners	12/22/95	12/22/25				244,310,534	145,744,033	1.56%	25,255,080
Adams Street Secondary II	12/31/08	12/31/20				28,365,000	6,803,533	0.07%	1,635,000
Adams Street Secondary V	10/31/12	10/31/22				30,611,900	20,421,474	0.22%	9,388,100
Adams Street Venture Innovation Fund	03/09/16	03/09/28				45,412,500	54,113,494	0.58%	29,587,500
AE Industrial Partners Fund II	05/18/18	05/18/28				5,161,937	4,635,156	0.05%	29,838,063
Bay Area Equity Fund	06/14/04	12/31/14	2nd 2 YR	LP	12/31/2017	10,000,000	2,405,548	0.03%	0
Bay Area Equity Fund II	2/29/09	12/31/19				10,000,000	12,029,163	0.13%	0
Carpenter Community BancFund	10/31/09	10/31/19				29,314,657	0	0.00%	0
EIF USPF II	06/15/05	06/15/15	3rd 1 YR	LP	06/15/18	65,029,556	6,601,604	0.07%	0
EIF USPF III	02/28/07	02/28/17	1st 1 YR	LP	02/28/18	71,409,097	16,646,603	0.18%	0
EIF USPF IV	06/28/10	06/28/20				63,746,288	43,497,299	0.47%	4
Ares EIF V	09/09/15	11/19/25				47,434,111	42,937,747	0.46%	9,566,328
Genstar Capital Partners IX, L.P.	02/21/19					11,588,302	11,355,539		38,411,698
Oaktree Private Investment Fund 2009	02/28/10	12/15/19				34,816,729	2,003,266	0.02%	6,308,961
Ocean Avenue Fund II	05/07/14	05/07/24				26,100,000	29,734,471	0.32%	3,900,000
Ocean Avenue Fund III	12/09/15	12/09/25				43,500,000	56,618,468	0.61%	6,500,000
Paladin III	08/15/08	08/15/18				33,767,853	40,850,637	0.44%	519,296
Pathway	11/09/98	05/31/21				124,952,575	14,123,359	0.15%	10,892,879
Pathway 2008	12/26/08	12/26/23				29,237,231	18,635,040	0.20%	3,173,690
Pathway 6	05/24/11	05/24/26				38,253,918	35,423,643	0.38%	4,020,237
Pathway 7	02/07/13	02/07/23				64,259,537	71,479,317	0.76%	8,732,121
Pathway 8	11/23/15	11/23/25				38,858,455	48,657,362	0.52%	13,038,216
Siguler Guff CCCERA Opportunities	06/03/14	05/31/25				155,705,741	181,247,856	1.94%	51,874,772
Siguler Guff Secondary Opportunities	12/31/16	12/31/26				29,999,802	68,660	0.00%	43,940,900
Siris Partners IV	05/18/18	05/18/28				16,204,485	16,126,886	0.17%	18,795,515
TPG Healthcare Partners, L.P.	06/28/19					707,439	43,107	0.00%	23,292,561
Trident VIII, L.P.	05/24/19					0	0	0.00%	40,000,000
Real Assets									
Aether III & III Surplus	11/30/13	11/30/20				74,080,118	70,417,052	0.75%	6,303,019
Aether IV	01/01/16	01/01/28				39,090,752	40,784,110	0.44%	13,174,389
Commonfund Capital Natural Resources IX	06/30/13	06/30/20				43,324,995	41,612,032	0.45%	6,675,005
Wastewater Opportunity Fund	12/31/15	11/30/22				22,288,924	19,478,590	0.21%	2,733,302
Outstanding Commitments						1,534,519,124	1,054,495,048	12.72%	407,556,636
Total							1,462,051,685		

Market value equals the most recent reported net asset value, plus capital calls after net asset value date, less distributions after net asset value date. The Target Termination column is the beginning of liquidation of the fund, however, some funds may be extended for an additional two or three years.



Meeting Date
03/11/20
Agenda Item
#4

**Contra Costa County Employees' Retirement Association
Liquidity Report – January 2020**

January 2020 Performance

	Cash Flow	Coverage Ratio
Benefit Cash Flow Projected by Model	\$42,500,000	
Liquidity Sub-Portfolio Cash Flow	\$42,500,000	100%
Actual Benefits Paid	\$40,671,063	104%
<i>Next Month's Projected Benefit Payment</i>	\$42,500,000	

Monthly Manager Positioning – January 2020

	Beginning Market Value	Liquidity Program Cash Flow	Market Value Change/Other Activity	Ending Market Value
Sit	\$539,922,001	(\$1,250,000)	\$4,830,652	\$543,502,653
DFA	\$474,701,746	(\$14,500,000)	(\$11,740,287)	\$448,461,459
Insight	\$980,197,021	(\$26,750,000)	(\$19,109,554)	\$934,337,467
Liquidity	\$1,994,820,769	(\$42,500,000)	(\$26,019,189)	\$1,926,301,580
Cash	\$146,283,055	\$1,828,937	\$37,662,220	\$185,774,211
Liquidity + Cash	\$2,141,103,823	(\$40,671,063)	\$11,643,031	\$2,112,075,791

Functional Roles

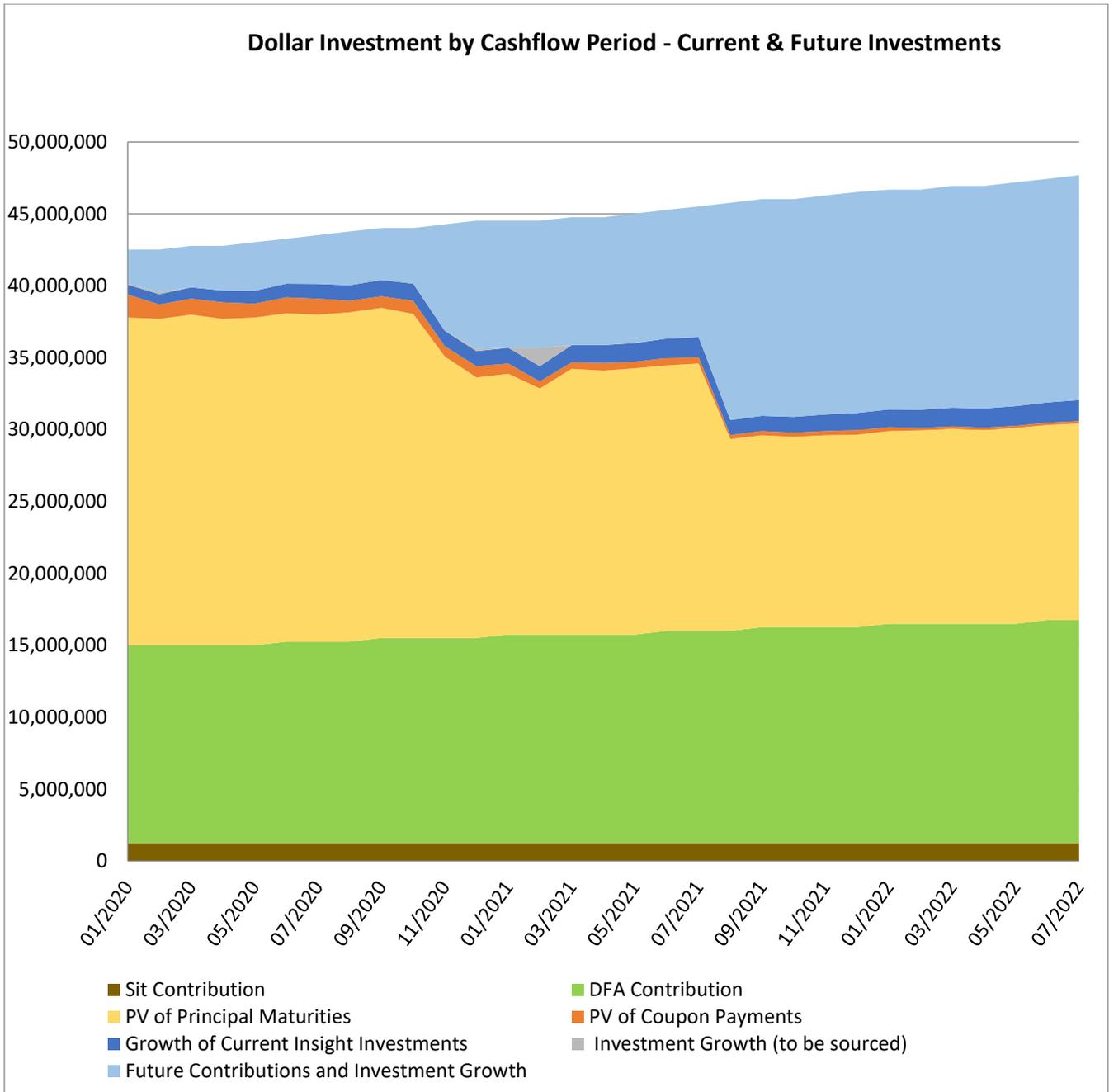
Manager	Portfolio Characteristics	Liquidity Contribution
Sit	High quality portfolio of small balance, government guaranteed mortgages with higher yields.	Pays out net income on monthly basis.
DFA	High quality, short duration portfolio of liquid, low volatility characteristics.	Pays out a pre-determined monthly amount. DFA sources liquidity from across their portfolio.
Insight	Buy and maintain (limited trading) portfolio of high quality, short duration, primarily corporates.	Completion portfolio makes a payment through net income and bond maturities that bridges the gap between other managers and projected payment.
Cash	STIF account at custodial bank.	Buffer in the event of any Liquidity shortfall/excess.

Notes

The first cash flow for 2020 from the liquidity program was completed on January 23rd. The actuarial model cash flow was slightly higher than actual experience, producing \$1,829 thousand more than the actual benefits paid.

Cash Flow Structure

The chart below shows the sources of cash flow for the next several years of CCCERA's projected benefit payments. This table will change slightly as the model is tweaked and as the portfolios receive new rounds of funding each August as part of the Annual Funding Plan.



DISABILITY RETIREMENT OVERVIEW



Meeting Date
03/11/20
Agenda Item
#8

Initial Contact

Member may call or drop-in, or employer may contact CCCERA directly

- Disability process reviewed
- Disability packet mailed/provided

Applications

Accepted as filed vs. submitted

- For an application to be accepted as filed, the member must provide at least one acceptable medical report to support the application.
 - The report must be from a treating physician who is under the opinion the member meets the standard of permanent incapacity as outlined in statute.
- Applications submitted without acceptable medical evidence are returned to the member.
 - The member is counseled on options and can resubmit when they provide acceptable medical evidence to support the application.
- The burden of proving the permanent incapacity resides with the applicant.

Counseling

CCCERA staff counsels members on options regarding disability retirement and/or service retirement.

- Basic benefit estimates are provided for service retirement and disability retirement
- Calculate purchases available to meet eligibility guidelines as needed
- Explain disability retirement standards/requirements
- Process service retirement applications in conjunction with the disability application process, if applicable
- Communicate with employer, Risk Management, workers compensation provider and the return to work coordinator, as applicable

Time for application §31722

- The application shall be made while the member is in service, or
- within four months after the discontinuance of service, or
- within four months after the expiration of any period during which a presumption is extended beyond the discontinuance of service, or
- while, from the date of discontinuance of service to the time of the application, the applicant is continuously physically or mentally incapacitated to perform his or her duties.

Eligibility

Service Connected:

All Tiers

- Disability retirement may be filed at any time during employment.

Non-Service Connected:

Tier 1, Safety, and PEPR A 4

- After completing at least five (5) years of retirement service credit.

Tier 3 and PEPR A 5

- After completing at least ten (10) years of retirement service credit.

Service Connected vs. Non-Service Connected Tier 1, Safety, and PEPRA 4 & Safety:

Member must be “permanently incapacitated for performance of duty”:

Service Connected:

- The incapacity is a result of injury or disease arising out of or in the course of employment and the member is unable to continue performing the usual and customary duties of current position.

Non-Service Connected:

- The incapacity did not arise from his or her employment and the member is unable to continue performing the usual and customary duties of current position.

Disability Benefit: Tier 1, Safety, and PEPRA 4 & Safety C, D & E

Service Connected Disability Retirement

- 50% of the highest final 12 month average salary* or the regular service retirement, if greater. Up to 100% of the retirement allowance could be non-taxable.

Non-Service Connected Disability Retirement

- Generally equal to 1/3 of the highest final 12 month average salary*, although it could be less depending on the age and retirement service of the applicant or more if the regular service retirement is greater. This is a taxable benefit.

* Safety C - highest final 36 month average salary

* Safety D & E and PEPRA 4 - highest final 36 month average salary, base pay only.

Service Connected vs. Non-Service Connected Tier 3 and PEPRA 5

Member must meet “substantial gainful employment” provision:

Service Connected:

- The incapacity is a result of injury or disease arising out of or in the course of employment, and the member is unable to engage in any substantial gainful employment.

Non-Service Connected:

- The incapacity did not arise from his or her employment, and the member is unable to engage in any substantial gainful employment.

Substantial Gainful Employment

“Permanent incapacity” is defined as:

- The member is unable permanently to engage in any “substantial gainful employment”.
- “Substantial Gainful Employment”, as adopted by the Board in 1991, is the ability to earn either the amount the applicant would receive in the initial disability benefit or \$300, whichever is more.
- “Permanent inability” to work is determined by examination of a combination of many specific factors, such as age, experience, training, education and appropriate jobs exist.

This standard is unique to CCCERA.

Disability Benefit: Tier 3 and PEPRA 5

For both Service Connected and Non-Service Connected Disability, 40% of highest final 36 month average salary, plus an additional 10% of final average salary for minor children, up to three, or the regular service retirement, if greater.

'37 Act Presumptions (Safety)

- Heart §31720.5
- Cancer §31720.6
- Blood-Born Infectious Disease §31720.7
- Biochemical Substance §31720.9

Effect: Safety members are relieved of the burden of proving their illness arose out of and in the course of employment when a presumption applies, but permanent incapacity must still be proven with medical evidence. Presumptions are rebuttable.

§31720.6 extends the time for an application to be filed as outlined in §31722

File Preparation

To process an application, additional records may be requested:

- Medical Records
 - A copy of the workers compensation file, if service connected
 - Medical records, as needed
- Employment Records:
 - Job Description
 - Essential Job Duties
 - Request information on accommodations

Medical Advisor

Upon receipt of requested records, the file is reviewed by a Disability Specialist and is provided to the medical advisor for review and recommendation.

Medical Advisor Recommendations:

- Grant application as filed
- Insufficient medical evidence to make recommendation
- Grant non-service connected disability when applicant filed for service connected disability retirement
- Applicant is disabled, but substantial gainful employment cannot be determined (§31720.1)

Medical Advisor

If the Medical Advisor Recommendation is to Grant:

- Applicant and all applicable departments are notified
- The recommendation is placed on the Retirement Board Agenda.
- Approval to grant or deny a disability resides with the Board

If Medical Advisor Opines there is insufficient medical evidence for determination:

- Applicant and all applicable departments are notified
- Applicant is advised that they can provide additional medical evidence to support application for disability retirement, and/or request a hearing within six months of the notice.

Recommendation to Grant NSCD When Application is for SCD

Member is notified of the recommendation and given the following options:

1. Accept a non-service connected disability retirement allowance
2. Accept a non-service connected disability retirement allowance and request a hearing related to service connection
3. Decline the non-service connected disability retirement and submit additional medical evidence to the Medical Advisor
4. Decline the non-service connected disability retirement allowance and request a hearing

Discovery

When a hearing is requested and/or by Board request, more information may be attained through discovery.

- Disability file is provided to the Board's Disability Counsel
- An Independent Medical Evaluation may be completed in order to obtain current restrictions pertaining to the disability
- Tier 3 and PEPRRA 5 members will have all work restrictions set forth by treating physicians and IME's may be evaluated by a vocational expert to determine if they are able to engage in substantial gainful employment

If at any time during the discovery process if Disability Counsel and Staff feel they have obtained evidence the applicant does meet the standard for the disability retirement a recommendation to grant is placed on a Board meeting agenda.

Hearing Process

Discovery did not result in a recommendation to grant the application:

- Hearing scheduled with the Office of Administrative Hearings (OAH)
- All evidence submitted to the OAH
- Case is heard by an Administrative Law Judge (ALJ)
- ALJ issues a Report and Recommendation to the Board
- All parties are notified and provided an opportunity to object to the proposed recommendation
- The item is placed on the agenda for Board action
- Final action resides with the Board

Board action after hearing

The Board will consider the Proposed Findings of Fact and Recommended Decision on a date noticed to all parties. Any party or his or her counsel may request the opportunity to make an oral presentation to the Board. No new evidence or witness testimony may be heard or received by the Board. The Board may:

1. Approve and adopt the proposed findings and recommendation of the Hearing Officer, or
2. Refer the matter back to the Hearing Officer for further proceedings with or without instructions, or
3. Require a transcript or summary of all the testimony, plus all other evidence received by the Hearing Officer, and after receipt thereof, the Board shall take such action as it determines is warranted by the evidence, or
4. Set the matter for hearing before itself. At such hearing, the Board shall hear and decide the matter as if it had not been referred to the Hearing Officer.

File is closed with no Board Action

- When an applicant elects to withdraw the disability application or does not request a hearing and/or submit additional medical evidence, the file is closed after 6 months from the date of notice of the medical advisors recommendation and a closing letter is sent to the applicant and all applicable departments
- Applicant may re-file within guidelines of §31722

Questions?



Contra Costa County Employees'
Retirement Association

<i>Meeting Date</i> 03/11/20
<i>Agenda Item</i> #9

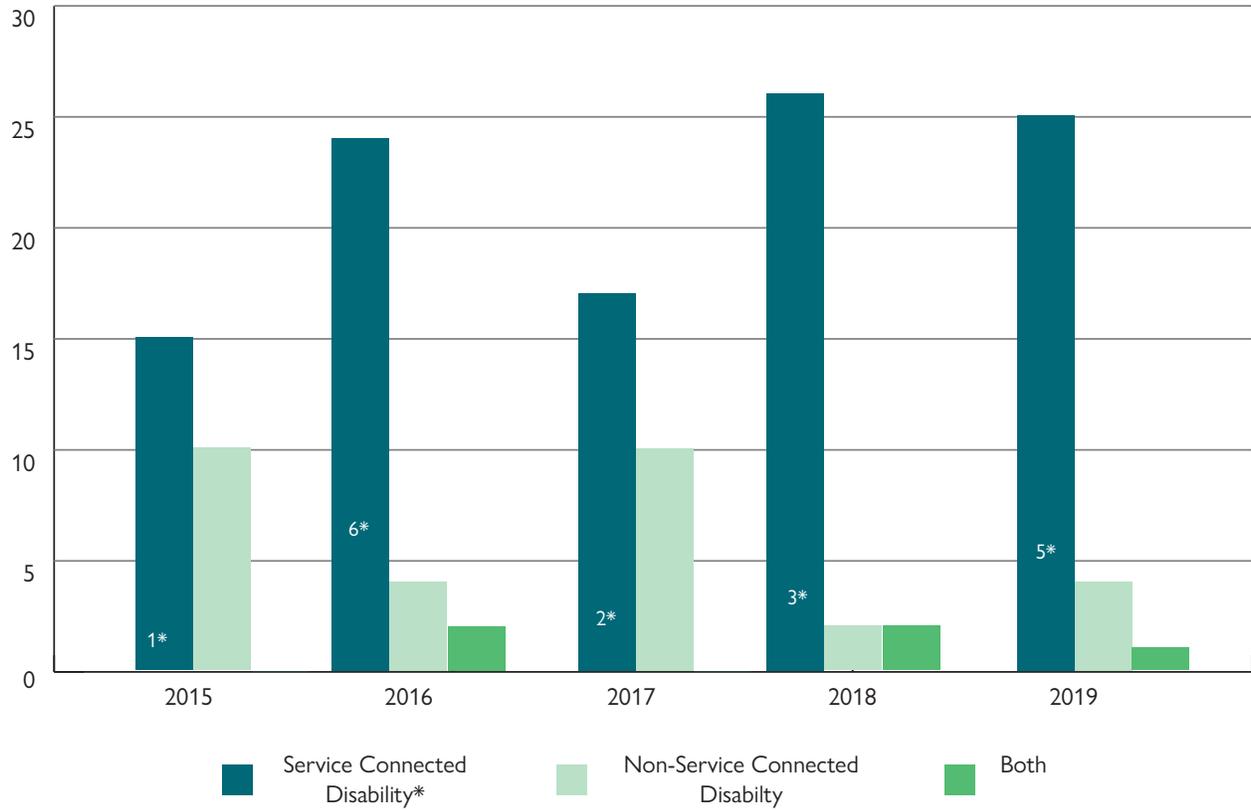
Semi-Annual Disability Retirement Report

for the years ended 2015, 2016, 2017, 2018, and 2019

Semi-Annual Disability Retirement Report

Exhibit 1: Disability Retirement Applications Received by Year

As of December 31, 2019



*Number of service connected disability applications accepted with less than 10 years of service.

Contra Costa County Employees' Retirement Association
 Semi-Annual Disability Retirement Report (Continued)

Exhibit 2: Total Disability Applications Filed with CCCERA (totals listed by employer)

As of December 31, 2019

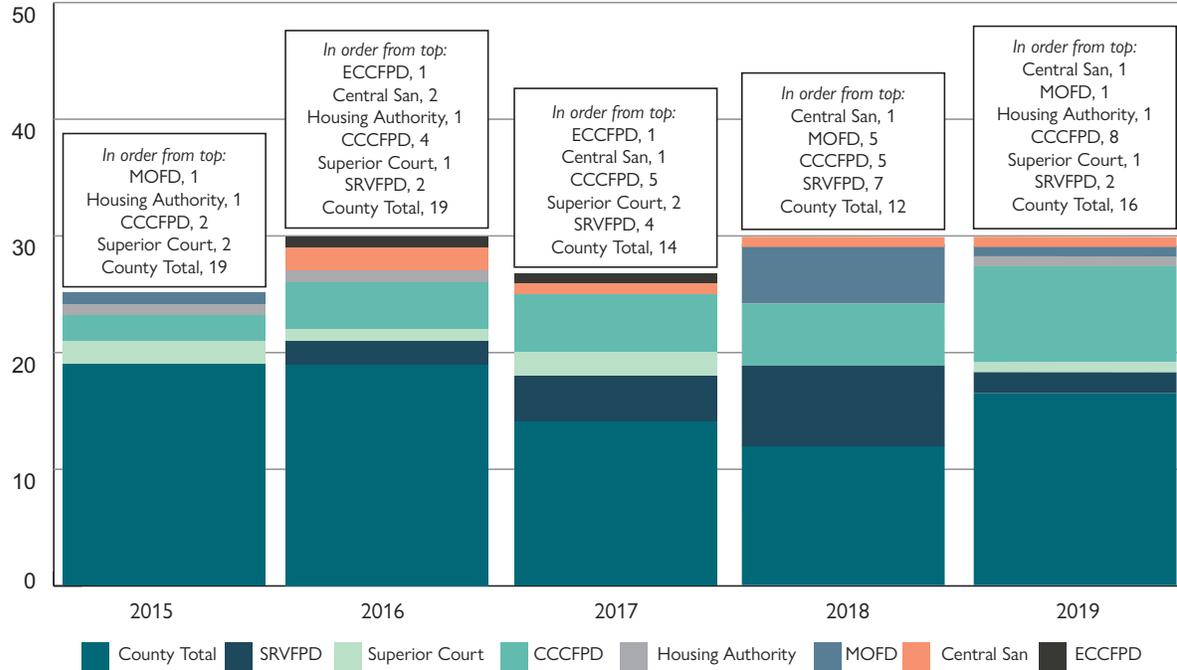
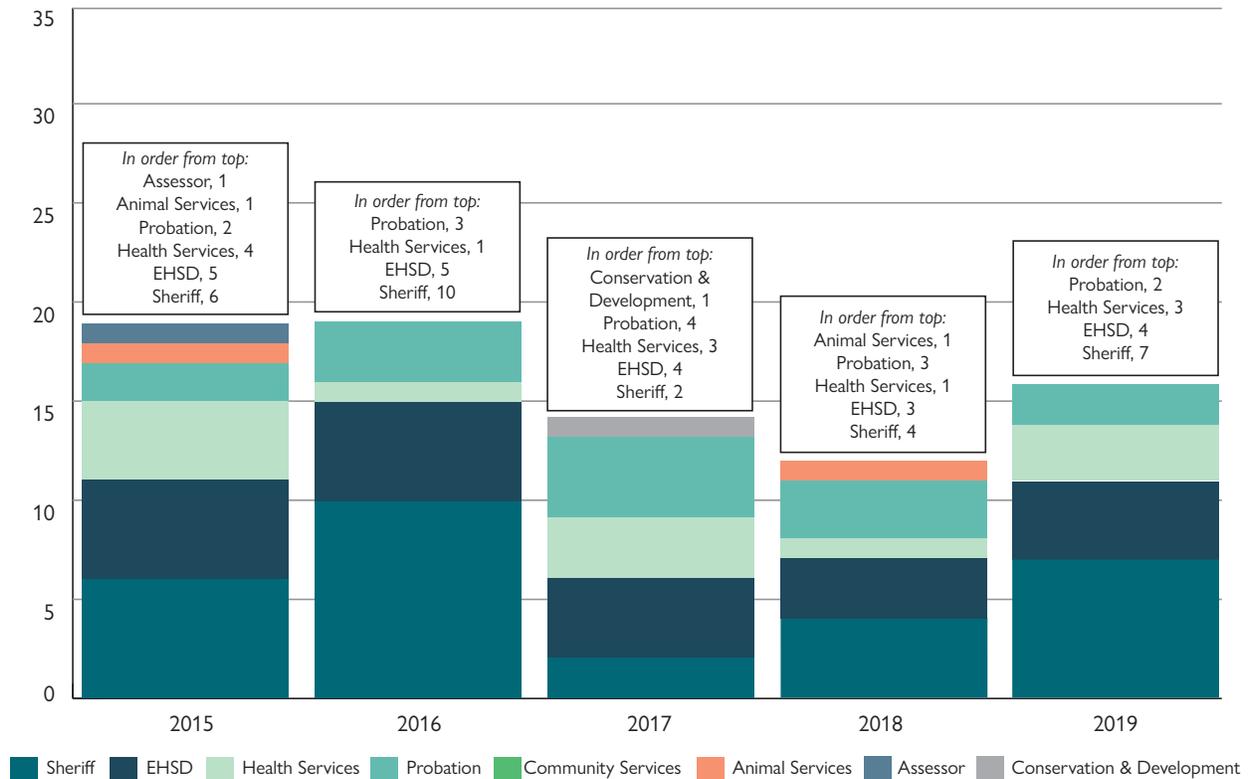


Exhibit 3: Total Disability Applications Filed with CCCERA (by County Department)

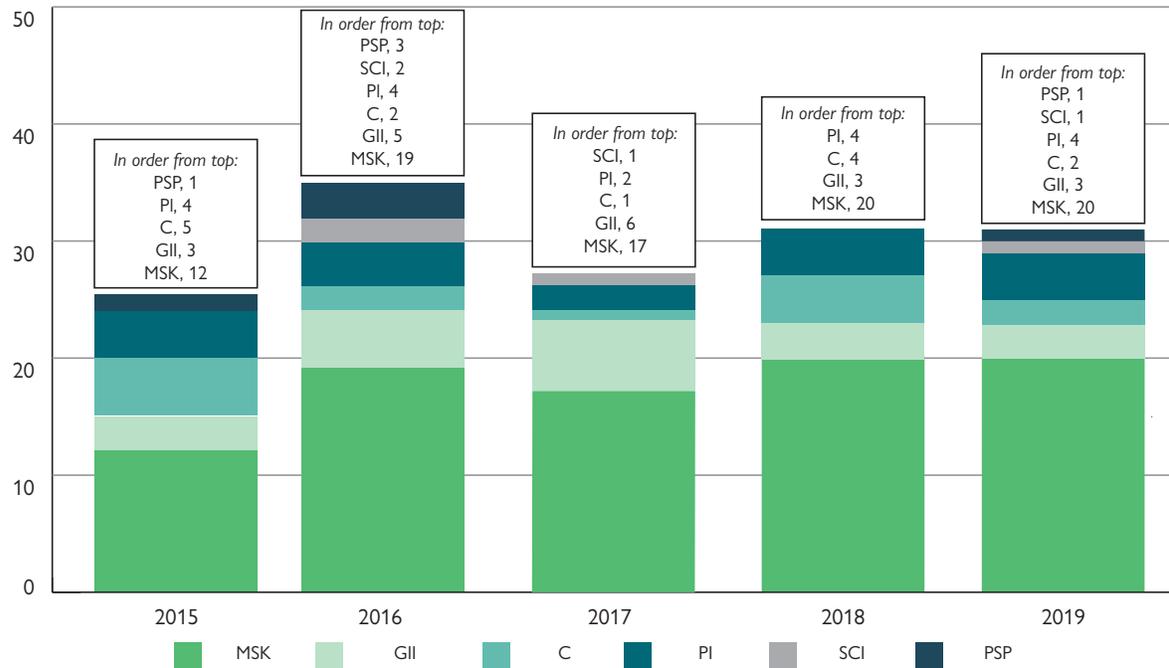
As of December 31, 2019



Contra Costa County Employees' Retirement Association
 Semi-Annual Disability Retirement Report (Continued)

Exhibit 4: Total Disability Filed by Type (Some applications filed with multiple disability types.)

As of December 31, 2019



The following acronyms group different illnesses together by type to show trends and are not limited to the examples below.

Musculoskeletal (MSK)	Will include all orthopedic injuries and illness. Examples include carpal tunnel syndrome, amputation, avascular necrosis, back injury, degenerative disc disease, fibromyalgia, lumbar stenosis, neck injury, shoulder injury, and disc herniation.
General Internal Incapacitation (GII)	Will include all injuries and illness that are general non-orthopedic issues, not covered by the noted above. Examples include diabetes, any disease or injury to an internal organ, rheumatology, pulmonary, gastrointestinal.
Cancer (C)	Will include all permanent incapacitation that was the result of a form of cancer.
Psychiatric Incapacitation (PI)	Will include all psychiatric and mental health conditions and injuries. Examples would be PTSD, OCD, depression, schizophrenia, anxiety disorders, mood and emotional disorders.
Severe Cognitive Impairment (SCI)	Will include all illness' and injuries where the incapacitation has caused diminished cognitive function. Examples include traumatic brain injury, dementia, dyslexia, dyscalculia, memory impairments, diminished concentration and speech.
Public Safety Presumptions (PSP)	Will include all illness and injuries where the cause is governed under GC Sections 31720.5, 31720.6, 31720.7, or 31720.9. Presumptions will be listed twice; once under total presumption and once under type of disability.
Unknown (UKN)	Disability application filed for unknown medical reasons. An example would be an employer that filed an application with limited medical records due to HIPAA.

Contra Costa County Employees' Retirement Association
 Semi-Annual Disability Retirement Report (Continued)

Exhibit 5: Type of Disability by Injury/Illness Group (Employer Level)					
Employer	2015	2016	2017	2018	2019
Contra Costa County Fire Protection District (CCCFPD)					
PI	0	0	0	2	3
MSK	1	4	5	4	4
C	0	0	0	0	1
PSP	0	0	0	0	1
Central Sanitary District					
MSK	0	2	0	1	1
GII	0	0	1	0	0
SCI	0	1	0	0	0
East County Fire					
PI	0	1	0	0	0
MSK	0	0	1	0	0
Housing Authority of Contra Costa County					
MSK	0	1	0	0	1
C	1	0	0	0	0
Moraga/Orinda Fire Protection District					
MSK	1	0	0	4	1
C	0	0	0	1	0
GII	0	0	0	0	0
San Ramon Valley Fire Protection District					
PI	0	2	0	1	0
MSK	0	1	4	4	2
GII	0	0	0	2	0
Contra Costa County Superior Court					
PI	0	0	0	0	1
MSK	1	1	0	0	0
C	1	0	0	0	0
GII	0	0	1	0	0
SCI	0	0	1	0	0
Contra Costa County*					
PI	4	1	2	1	0
MSK	9	10	7	7	11
C	3	2	1	3	1
GII	3	5	4	1	3
SCI	0	1	0	0	1

*Detail by Contra Costa County departments on following page.

Contra Costa County Employees' Retirement Association
 Semi-Annual Disability Retirement Report (Concluded)

Exhibit 5: Type of Disability by Injury/Illness Group (County Department Level)					
Department	2015	2016	2017	2018	2019
Contra Costa County					
Animal Services					
GII	1	0	0	0	0
MSK	0	0	0	1	0
Assessor					
GII	1	0	0	0	0
Conservation and Development					
C	0	0	1	0	0
Employment & Human Services Department (EHSD)					
PI	2	0	0	0	0
MSK	2	1	1	2	2
C	1	1	0	1	0
SCI	0	0	0	0	1
GII	0	3	3	0	1
Health Services Department					
PI	1	0	1	0	0
MSK	1	1	1	1	1
C	1	0	0	0	0
GII	1	1	1	0	2
Probation Department					
PI	1	1	1	0	0
MSK	1	1	3	2	2
C	0	0	0	1	0
GII	0	1	0	0	0
Sheriff's Office					
PI	0	0	0	1	0
MSK	5	7	2	1	6
C	1	1	0	1	1
SCI	0	1	0	0	0
GII	0	0	0	1	0



Karen Levy, Esq.

General Counsel

Tim Hoppe

Retirement Service
Manager

Death During Active Membership and Non- Service Connected Disability

Board Workshop

Meeting Date
03/11/20
Agenda Item
#10

March 11, 2020

Disability Retirement General Principles

CCCERA members who are permanently incapacitated may be entitled to disability retirement.



Disability retirement application can be made:

- (1) While the member is in service;
- (2) Within four months after the member's discontinuance of service;
- (3) Within four months after the expiration of any period during which a presumption is extended beyond the member's discontinuance of service; or
- (4) While, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.

There are two types of disability retirement:

- (1) Service-Connected Disability Retirement – member becomes permanently ill or injured as a result of performing their job duties and is unable to perform their job (Safety, Tier 1, PEPR Tier 4) or unable to engage in substantial gainful employment (Tier 3 and 5).
The employment must have contributed substantially to the member’s incapacity.
- (2) Non-Service Connected Disability Retirement – the member is unable to perform their job (Safety, Tier 1, PEPR Tier 4) or unable to engage in substantial gainful employment (Tier 3 and 5).

Disability Retirement

Permanent incapacity for the performance of duty shall in all cases be determined by the Retirement Board.

The Retirement Board may require such proof, including a medical examination at the expense of the member, as it deems necessary or the Board upon its own motion may order a medical examination to determine the existence of the disability.

Evidence

Competent medical evidence is required in order to support a disability claim. (Government Code § 31720.3)



CCCERA requires the submission of medical reports supporting the disability application.

(Disability Retirement Application and Hearing Policy, Section 2.1.1.c.)

Medical Evidence

- Medical reports about the illnesses, injuries or conditions
- Medical reports about when the condition began
- Medical reports about how the condition limits member's activities
- What did medical tests show
- What medical treatment was received



Medical Evidence (Cont.)

- Medical reports about the member's work restrictions
- In cases of death, what do the death certificate and coroner report state as the cause of death?
- If the member is seeking a service-connected disability, they must provide evidence that their incapacity is a result of injury or disease arising out of and in the course of the member's employment.

Burden of Proof

The burden of proof is on the applicant (or, if applicant is deceased, on the beneficiaries). An applicant must prove the existence of a permanent incapacity by a preponderance of the evidence to the Board of Retirement and to the courts.

(Government Code Section 31721; Rau v. Sacramento County Ret. Bd., 247 Cal. App. 2d 234, 238 (1966).)

Substantial Evidence is Required

The evidence must amount to “substantial evidence.”

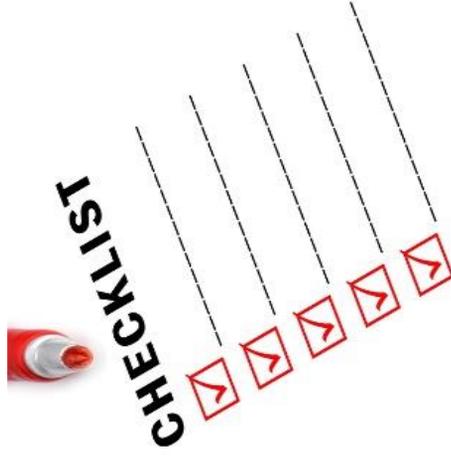
“Substantial” means anything credible, and of solid value.

(Weiser v. Bd. Of Retirement, 152 Cal. App. 3d 775, 783 (1984); Estate of Teed, 112 Cal. App. 2d 638, 644 (1952), cited in Beck Dev. Co., Inc. v So. Pac. Trans. Co., 44 Cal. App. 4th 1160, 1203-1204 (1996).)

Review of Disability Applications

When the disability application file is complete, CCCERA staff provides all documents to the Board’s Medical Advisor for review. The Medical Advisor makes a preliminary recommendation, summarizing the evidence or absence of evidence supporting the recommendation.

(Disability Retirement Application and Hearing Policy, Section 2.4)



Review of Disability Applications

If the Medical Advisor's preliminary recommendation is to grant the application, the matter is placed on the agenda for Board consideration of the recommendation.

If the Medical Advisor cannot recommend granting the application based on the evidence submitted, CCCERA staff advises the applicant that she or he may:

Review of Disability Applications (cont.)

1. Submit additional medical or other evidence in support of the application, which shall be transmitted to the Medical Advisor for additional review and recommendation; or
2. Request a hearing before a Hearing Officer within six months of the date of the letter informing the member that the Medical Advisor is unable to recommend granting the application.

(Disability Retirement Application and Hearing Policy, Section 2.4)

Death During Active Membership/ Non-Service Connected Disability

Example: Gorman v. Cranson, 64 Cal.2d 441 (1966).

Gorman was a judge and a member of the Judges' Retirement System. He had signed an advance consent form seeking disability retirement prior to undergoing surgery, and asked his son to mail it in the event he did not survive surgery.

Example: Gorman v Cranson, 64 Cal.2d 441 (1966) (Cont.)

Following surgery, the member appeared to be making satisfactory progress when suddenly he lapsed into a coma resulting from a cerebral hemorrhage and died without having regained consciousness.

The member's advanced consent was mailed, and it included the name of a doctor and the doctor's attestation to the member's disability. The disability retirement application was denied on the basis that the disability retirement application did not constitute a valid application.

Example: *Gorman v Cranson*, 64 Cal.2d 441 (1966) (Cont.)

The Supreme Court held in favor of the Judge's widow, who sought survivor benefits based on her late husband's disability retirement. The Supreme Court explained that the Legislature intended to provide for the surviving spouse of any judge who retires due to disability: *"Petitioner herein fairly comes within this class, and the fact that her late husband was not conscious during his last hours while he was disabled after giving explicit instructions which, if carried out, would have qualified her for benefits, should not in itself operate to deprive her of such benefits."*

Example: Gorman v Cranson, 64 Cal.2d 441 (1966) (Cont.)

By the mere signing of an advance consent, a member will have been deemed to have retired for disability at the time he or she become disabled, even if for minutes before death.

The Court rejected the argument that accepting the disability application in this case would authorize a disability benefit in almost every instance.



Death During Active Membership/ Non-Service Connected Disability

CCCERA Form: Death During Active Membership

Purpose of Form: Authorizes CCCERA to file an application for non-service connected disability on the member's behalf, in the event that the member is permanently incapacitated by reason of injury or other disability leading to death while the member is an active member of CCCERA. The form allows the member to preselect an Optional Settlement, pursuant to CERL Section 31762 or 31764.

CCCERA Form: Death During Active Membership (Cont.)

The member acknowledges, if the non-service connected disability is granted, this will entitle the beneficiaries to receive a non-service connected disability retirement survivor continuance under Optional Settlement 2 or 4.

Member must be eligible to apply for a non-service connected disability (Members in Tier 1, Tier 4 and Safety must have five or more years of retirement service credit, and members in Tier 3 and Tier 5 must have 10 or more years of retirement service credit.)

CCCERA Form: Death During Active Membership (Cont.)

January 12, 2011 Board meeting, Agenda Item 9: Board review of the active death/disability applications process and implementation of fiduciary counsel's recommendations:

1. The form was revised;
2. The process was clarified to include a board determination on whether to grant a non-service connected disability;
3. Forms on file should be honored but a formal non-service connected disability application must be filed; and
4. Regularly advice should be given to active members of their choices in this regard.

Death Benefit

If a deceased member **does not** qualify for a disability retirement, death benefits are paid pursuant to CERL Section 31780 et seq.:

- Death benefit to beneficiary or, if no beneficiary, to the member's estate:
 - Lump-sum payment of member's accumulated contributions, plus
 - Salary Death Benefit: one month of member's compensation earnable for each full year of Service Credit (not to exceed six months of compensation)

Death Benefit

In lieu of the lump-sum death benefit, the member's surviving spouse may elect to receive an optional death allowance.

The optional death allowance equals 60% of the disability retirement allowance the deceased member would have received had he or she been retired on a non-service connected disability at the time of death.

Note: if the deceased member leaves no surviving spouse but leaves an unmarried child or children, the child(ren) may make an election of the optional death allowance through a legally appointed guardian.

Government Code § 31781.1

Death Benefit Versus Non-Service Connected Disability Benefit

Example of an approximate dollar difference between the death benefit and the non-service connected disability benefit with optional settlement:

Monthly death benefit amount (60% if elected by a surviving spouse in lieu of the lump sum, per G.C. Section 31781.1)	Monthly benefit amount of non-service connected disability with Optional Settlement 2 or 4 (G.C. Sections 31727 et seq., 31762, 31764)
\$1,565	\$2,065

Death During Active Membership/ Non-Service Connected Disability

CCCERA Historical Data – Form on File Only

Year	Processed Active death/non-service-connected disability benefits
2015	1
2016	1
2017	1
2018	3
2019	1

In 2020, one active death/non-service connected disability benefit was processed.

Instant Death or Disability Leading to Death?

Medical evidence of whether the death occurred instantly or whether the death occurred after some period of incapacity.

Definition of Death

An individual who has sustained either:

- (1) irreversible cessation of circulatory and respiratory functions, or
- (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead.

A determination of death must be made in accordance with accepted medical standards.

Uniform Determination of Death Act.

Death During Active Membership/ Non-Service Connected Disability

January 12, 2011 Board meeting, Agenda Item 9:

- Process was reviewed, practices were revised.

April 24, 2019 Board meeting, Agenda Item 8:

- Historical information and data were provided;
- The Disability Retirement Application and Hearing Policy was reviewed;
- The “Death During Active Membership/Non-Service Connected Disability” form and process were reviewed.

Death During Active Membership/ Non-Service Connected Disability

The Board's discussion in April 2019 involved two requirements:

1. There must be a discernable period of time between the event of incapacity and death;
2. The discernable period of time must be supported by competent medical evidence.

If the death is sudden, and there is no competent medical evidence showing that the member was disabled prior to death, then the member would not qualify for a disability retirement. Instead, the death benefit would be paid as set forth in CERL Section 31780 *et seq.*

Death During Active Membership/ Non-Service Connected Disability

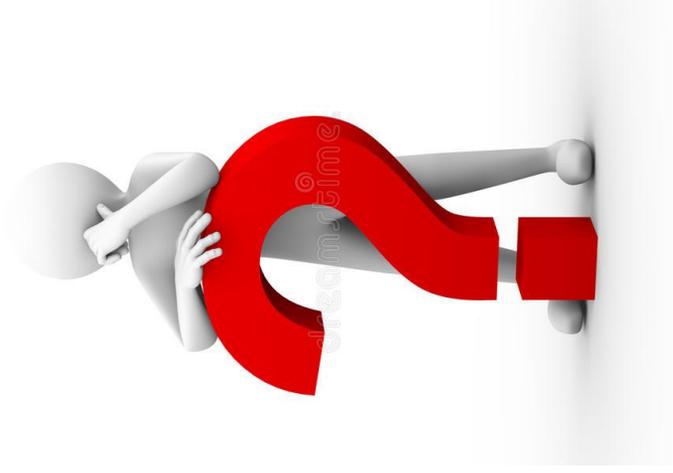
Items For Further Discussion and Exploration

- Competent medical evidence addressing whether and to what extent and duration the member's medical condition or injury existed prior to the member's death.
- What medical evidence is needed prior to the filing of the disability application on the deceased member's behalf?
- What medical evidence is needed prior to the acceptance of the disability application on the deceased member's behalf?

Death During Active Membership/ Non-Service Connected Disability

Items For Further Discussion and Exploration (Cont.)

- Opportunity for the member's beneficiary(ies) to
 1. Submit additional evidence in support of the disability application; or
 2. Request a hearing before a hearing officer within six months of the date of the determination that the evidence of disability prior to death is insufficient.



Questions?



DEATH DURING ACTIVE MEMBERSHIP

MEMBER ELECTION FORM
FOR OPTIONAL ALLOWANCE IN THE EVENT OF
DEATH DURING ACTIVE MEMBERSHIP

FORM

104

(Rev. 2020)

Purpose of the form: This form authorizes CCCERA to file an application for non-service connected disability on your behalf, in the event that you are permanently incapacitated by reason of injury or other disability leading to death while you are an active member of CCCERA. This form allows you to preselect an Optional Settlement, pursuant to CERL Section 31762 or 31764 or the successor section.

NOTE: The original document must be submitted. Fax/copies are not accepted.

Section 1: MEMBER INFORMATION

Full Name	Employee #	Social Security #
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STOP – Your choice must match the beneficiaries chosen in your *Beneficiary Designation Form (Form 102)* and a SIGNATURE(s) and adult witness is required below in order for this form to be valid.

Section 2: ELECTION OF OPTIONAL SETTLEMENT

To the Board of Retirement:

- I choose Optional Settlement 2 (up to 100% continuance to one beneficiary) I only have 1 primary beneficiary listed on Form 102 – Beneficiary Designation Form.
- I choose Optional Settlement 4 (up to 100% continuance divided among more than one beneficiary) I have 2 or more primary beneficiaries listed on Form 102 – Beneficiary Designation Form.

Section 3: AUTHORIZATION TO FILE NON-SERVICE CONNECTED DISABILITY RETIREMENT APPLICATION

I understand that the beneficiary(ies) of the allowance that continues after my death is (are) the beneficiary(ies), having an insurable interest in my life, on file at CCCERA at the time of my death as were designated by me on a *Beneficiary Designation Form (Form 102)*, a separate form.

I understand that by signing this form I elect a monthly allowance for my beneficiary(ies) in lieu of any other death benefit including the return of accumulated contributions under CERL Section 31781.

I understand that this election is binding on me unless I withdraw this election before the first payment of any retirement allowance is made to me, and that at retirement I may make another election of an Optional Settlement, or choose to receive the unmodified allowance, under CERL.

In accordance with the provisions of CERL, I hereby authorize CCCERA to file an application for a non-service connected disability retirement on my behalf in the event that I am permanently incapacitated by reason of injury or other disability leading to death while I am an active member of CCCERA. I understand that, if granted, this will entitle my survivor(s) to receive a non-service connected disability retirement survivor continuance under Optional Settlement 2 or 4.

In accordance with the provisions of the County Employees Retirement Law of 1937 (CERL), and the by-laws and regulations governing the Contra Costa County Employees' Retirement Association (CCCERA), I hereby elect an Optional Settlement, pursuant to CERL Section 31762 or 31764 or successor section.

Member Signature (Required)	Date (mm/dd/yyyy)
Adult Witness Signature (Required)	Date (mm/dd/yyyy)
Adult Witness Name (Print)	



DEATH DURING ACTIVE MEMBERSHIP

MEMBER ELECTION FORM
FOR OPTIONAL ALLOWANCE IN THE EVENT OF
DEATH DURING ACTIVE MEMBERSHIP

FORM

104

(Rev. 2020)

Survivor Benefits: Active Member Death (Pre-Retirement)

Death and continuing benefits depend on several factors. If a member dies prior to retirement, death benefits are determined based on:

- Member status (active or deferred)
- Category of death (service-connected or non-service connected)
- Retirement Service Credit
- Relationship of recipient to member (eligible survivor or named beneficiary)

To qualify as an eligible survivor in cases involving the death of an active member, a spouse or domestic partner must have been married to or in a duly registered California domestic partnership with the member prior to the member's death. No minimum length of marriage or domestic partnership requirement applies.

Type of Death	Basic Death Benefit	Optional Death Allowance
Service-Connected	Lump-sum payment of member's accumulated contributions Salary Death Benefit: one month of member's compensation earnable for each full year of Service Credit (not to exceed six months of compensation)	Full amount (100%) of disability retirement allowance deceased member would have received had he or she been retired on an Service-connected Disability at the time of death
Non-Service Connected	Lump-sum payment of member's accumulated contributions Salary Death Benefit: one month of member's compensation earnable for each full year of Service Credit (not to exceed six months of compensation)	60% of disability retirement allowance deceased member would have received had he or she been retired on an Non-service Connected Disability* at the time of death
Deferred Member	Lump-sum payment of member's accumulated contributions	

**In order for the survivor to be eligible for the Optional Death Allowance following a non-service connected death, the member must have been eligible for a retirement in the event of a non-service connected disability.*

NON-SERVICE CONNECTED DISABILITY

A non-service connected disability means a member's permanent illness or injury did not arise from his or her employment. Members who qualify for a non-service connected disability retirement will receive the service retirement allowance to which the member is entitled, or one-third of your annual Final Average Salary, whichever is greater.

DISABILITY RETIREMENT APPLICATION AND HEARING POLICY

Adopted 9/5/07

1. GENERAL PROCEDURES

1.1 Purpose.

The purpose of these procedures is to provide for the fair, efficient, and equitable processing and consideration of applications for disability retirement made by members of the Contra Costa County Employees' Retirement Association under the County Employees Retirement Law of 1937 (Government Code section 31450 et.seq.).

1.2 Amendments.

These procedures may be amended at any regular or specially noticed meeting of the Contra Costa County Employees' Retirement Association Board of Retirement ("Board") by a majority vote of the Board.

In order to facilitate the orderly and efficient implementation of these procedures, the Board hereby delegates to the Chief Executive Officer the authority to approve amendments of a minor, non-substantive nature that do not alter the fundamental rights and responsibilities of any parties in the disability retirement process. The scope of this delegation of authority includes, but is not limited to, typographical errors, format revisions, conforming terminology, revision of forms, and similar types of amendments.

1.3 Definitions.

"Applicant" means the person or entity-filing the application for disability retirement benefits under the County Employees Retirement Law of 1937, which may include the member or any other person or entity entitled to file an application pursuant to Government Code section 31721.

"Application Date" means the date an application meeting all requirements is filed and accepted by the Contra Costa County Employees' Retirement Association.

"Association" or **"Retirement Association"** means the Contra Costa County Employees' Retirement Association ("CCCERA").

"Board" means the Board of Retirement of the Contra Costa County Employees' Retirement Association.

"Day" means calendar day. When "day" is intended to refer to business day, it is noted in these procedures.

"Disability" or **"Disabled,"** for members of the Tier I and Safety Plan, means the permanent incapacity for the performance of duty, defined as the substantial inability of the applicant to perform his or her usual duties: (California

Government Code section 31720)

"Disability" or "Disabled," for members of the Tier II and Tier III Plan, means the permanent incapacity to engage in any substantial gainful employment (as defined in "Substantial Gainful Employment" below). (Government Code section 31720.1)

"Hearing Officer" means the person who conducts administrative hearings on issues related to an application for disability retirement and provides a Proposed Recommendation including proposed Findings of Law and Fact to the Board. A Hearing Officer must be a qualified member of the State Bar of California appointed by the Board pursuant to the provisions of Government Code section 31533, including an Administrative Law Judge designated by the state Office of Administrative Hearings.

"Member" means a member of the Contra Costa County Employees' Retirement Association.

"Non-Service Connected Disability Retirement" means a type of disability retirement awarded to a member who becomes permanently incapacitated from a cause that does not arise out of and in the course of his or her employment in accordance with the statutory and case law describing the requirements for finding "service connection." The Tier I or Safety member must have completed five years of service and the Tier II or Tier III member must have completed 10 years of service.

"Service-Connected Disability Retirement" means the type of disability retirement awarded to a member of CCCERA who becomes permanently incapacitated and whose incapacity is the result of an injury or a disease arising out of and in the course of the member's employment. The employment must have contributed substantially to the incapacity, in accordance with the statutory and case law describing the requirements for determining "service connection."

"Substantial Gainful Employment" shall be determined by application of the following criteria, as adopted by the Board on April 16, 1991:

1. **"Substantial employment"** is work activity that involves physical or mental effort, regardless of the time spent.
2. **"Gainful employment"** is work activity that is done for pay or profit, whether or not a profit is realized, including work as a self-employed individual.

In general, employment will be considered gainful if the monthly salary from that employment is equal to or exceeds the greater of either: (a) \$300 a month, or (b) the initial monthly disability retirement benefit that would otherwise be payable.

In general, self-employment will be considered gainful, without regard to income, if the activity is comparable to that of unimpaired individuals who are in the same or similar business as their means of livelihood.

3. Inability will be determined using the following factors:
- a. Previous work experience
 - b. Education or training whether formally obtained through schooling or informally obtained through work experience.
 - c. Transferability of knowledge, skills and abilities to perform other work.
 - d. The extent to which chronological age affects the ability to adapt to a new work setting.
 - e. The existence of jobs in one or more occupations, having requirements that the member is able to meet and that lie within a 100 mile radius of the member's residence, regardless of whether a specific job vacancy exists, or whether the member would be hired if he or she applied, or whether the member wishes to do a particular job.

1.4 Quorum and Voting Requirements.

Whenever the Board considers any action in a disability matter, a quorum is required. A quorum shall consist of a majority of the entire Board. No motion may be passed in any disability matter without at least five affirmative votes.

1.5 Communication with Board Members.

The Board is the decision-maker for all disability retirement applications. As such, any *ex parte* communications between any Board member and any interested parties or their representatives concerning the merits or substance of an application are forbidden until all proceedings with respect to the application have been concluded. Violations of this rule may result in the Board member being found ineligible to participate in any discussion regarding the application or to vote on the application.

1.6 Representation by Counsel.

Any applicant is entitled, at his or her expense, to be represented by an attorney during the disability retirement process. The party must file with the Retirement Association written notice designating counsel and providing the counsel's name, an address, and telephone number. Absent such written notice, the Retirement Association is not obligated to recognize any attorney claiming to represent a party. After notification of representation, all notices and documents shall be sent to that attorney. No applicant or member is required to have an attorney at any time.

1.7 Stipulations.

No stipulation, agreement, or understanding of the employer or of any other party to a proceeding in a workers' compensation or any other proceeding in which neither the Board nor the Retirement Association is a party, shall be binding upon

this Board or Association insofar as it asserts to relate to or affect a disability retirement application or matter of a CCCERA member.

1.8 Service of Documents.

When a provision of these procedures requires that parties be served, service shall be made upon all parties who are participating in the proceedings. If the party to be served has an identified attorney of record, service shall be made upon the attorney of record.

Unless otherwise provided in these procedures, service may be made either personally or by mail in accordance with this section. Service may be made by fax, if previously agreed to by the party to be served. Any document served by fax must also be sent by regular U.S. Mail with first class postage fully prepaid.

Service by mail is completed by depositing the envelope in the U.S. Mail with first class postage fully prepaid, properly addressed to the party to be served at the address latest on file with the Retirement Association. Service by mail shall extend applicable time limitations in the manner prescribed in Code of Civil Procedure § 1013. It is the responsibility of the member to notify the Retirement Association and all parties of any change of address.

1.9 Penalties for Failure to Comply with Disability Retirement Procedures.

Failure of the member or 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 the Association, 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 procedures.

1.10 Burden Of Proof.

The applicant has the burden of proving, by a preponderance of the evidence, that the member meets the criteria for a disability retirement, including that she or he has a permanent incapacity in accordance with the statutory standards of the County Employees Retirement Law of 1937 and the standards for Tier I, Tier II, Tier III, or Safety members of the Association as defined in section 1.3 above.

With regard to an application for service connected disability retirement, the burden rests with the applicant to prove by a preponderance of the evidence that the member's permanent incapacity arose out of and in the course of his or her employment, and that the employment contributed substantially to the disability.

For Safety Members who have completed five (5) or more years of service and have certain specified diseases as defined in Government Code sections 31720.5, 31720.6, 31720.7, and 31720.9, such

diseases are presumed to arise out of and in the course of employment. When such a presumption exists, the burden of proof shifts to the Retirement Association to show that the disease and resultant disability was not work-related.

2. APPLICATION PROCESS

2.1 Making Application for Disability Retirement:

The Retirement Association shall furnish application forms to any person upon request, including a copy of the regulations and policies which govern disability retirement applications and hearings. The applicant shall complete the forms fully and in accordance with these procedures, and shall sign and verify under oath or penalty of perjury. The application shall be deemed filed the day it is received by the Retirement Association. An application shall not be accepted for filing unless it is complete and includes copies of the following documents to be furnished by the applicant:

- a. Application for Disability Retirement
- b. Authorization and Release of Medical Information if the applicant is the member.
- c. All medical reports upon which the applicant relies to support the application.
- d. All other medical reports or other information relevant to the application within the possession of the applicant or his or her agent.

If all supporting documents are not filed within 30 days of the application, the application will be returned.

2.2 Withdrawal of Application.

A member may withdraw an application at any time. If an application has been withdrawn without prejudice, any subsequent application, including resubmission of the withdrawn application, is considered a new application and must meet all requirements, including timely filing requirements. Any withdrawal of an application after assignment to a hearing officer is deemed a withdrawal with prejudice. An application withdrawn with prejudice precludes the filing of any future application based on the same disability, injury, or disease.

2.3 Medical Examinations.

The Retirement Association may require a member to undergo a medical examination by a physician who is a specialist in the appropriate field of medicine, for which the Association shall pay. Refusal of any member applicant to submit to a medical examination shall result in the denial of the application.

2.4 Review of Application.

When the application file is complete, all documents will be reviewed by the Board's Medical Advisor, who will make a preliminary recommendation, summarizing the evidence or absence of evidence supporting the recommendation. If the recommendation is to grant the application, the matter will be placed on the agenda for Board consideration of the recommendation.

If the Medical Advisor cannot recommend granting the application based on the evidence submitted, the Retirement Association staff shall advise the applicant that she or he may: 1) submit additional medical or other evidence in support of the application, which shall be transmitted to the Medical Advisor for additional review and recommendation; *or* 2) request a hearing before a Hearing Officer within six months of the date of the letter informing the member that the Medical Advisor is unable to recommend granting the application.

3. HEARINGS BEFORE A HEARING OFFICER

3.1 Purpose.

The purpose of this Section is to establish rules for the presentation of evidence to a Hearing Officer, and to establish rules governing the process by which Hearing Officers submit *Proposed Findings of Fact and Recommended Decisions* on legal and factual issues, including credibility, for consideration by the Board.

3.2 Right to Hearing.

Upon timely written request, any party shall be entitled to a hearing on his or her application. The Board may also refer the matter for the setting of a hearing. The Board may hold a hearing itself, or it may delegate the matter to a Hearing Officer. If a Hearing Officer holds the hearing, he shall transmit to the Board, in writing, the Proposed Findings of Fact and Recommended Decision.

3.3 Discovery.

Discovery shall be only as provided in Government Code section 11507.6, except that for good cause shown, the Hearing Officer, on his or her own motion or on the written noticed motion of a party, may make appropriate orders concerning discovery. Whenever possible, informal discovery and exchange of information between the parties is encouraged.

3.4 Subpoenas.

Each party is responsible for obtaining those subpoenas it seems necessary for the presentation of its evidence. Applications for subpoenas may be made to the Retirement Association. All subpoenas are to be issued in accordance with Government Code section 31535. Issuance of a subpoena for **medical** witness' attendance at hearing or deposition shall be contingent on the requesting party accepting the obligation to pay the medical witness. Before the Board or Hearing Officer issues any subpoena, proof of payment arrangements for the medical witness may be required. Service of the subpoena is the responsibility of the

requesting party.

3.5 Notice of Hearing before Hearing Officer.

After the applicant has requested a hearing, the Retirement Association shall notify applicant within 30 days that the matter has been referred to counsel, and shall provide a copy of the hearing policy and regulations. Upon notification by both parties that the matter is ready to proceed to hearing, the Retirement Association shall notify all parties of the date of the hearing and the name and address of the person or entity assigned to be the Hearing Officer.

3.6 Scheduling the Hearing

The applicant and, if represented, his or her attorney and the counsel for the Retirement Association shall arrive at a mutually agreeable hearing date. The Retirement Association will arrange for a certified reporter and notify all parties of the date, time, and location of the hearing. If an applicant fails to respond to the Association's reasonable requests to set a hearing date, the Association 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.

3.7 Submission of Proposed Evidence.

The parties shall submit all proposed evidence to the Hearing Officer and to the other party no later than fourteen (14) days before the scheduled hearing date, unless the parties mutually agree to a different schedule. The parties will exchange information regarding proposed witnesses (if any) no later than seven days before the hearing, unless they mutually agree to a different schedule.

3.8 Prehearing Conference.

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 hearing issues or the admissibility of disputed evidence.

3.9 Hearing Brief.

Either party may submit a hearing brief prior to the hearing.

3.10 Rules of Evidence.

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 various 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. 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. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be

recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

3.11 Written Medical Reports as Evidence.

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.

Submission of a medical report less than 10 days before the hearing 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 assigned to the case and send a copy of the request to counsel for the Retirement Association and all other parties. The request shall state the reason the medical report was not timely produced.

3.12 Oral Testimony of Medical Witnesses.

Oral testimony of a medical witness may also be taken at hearing. However, whenever possible, the Retirement Association encourages the presentation of medical evidence by way of sworn written report.

3.13 Affidavits.

At any time twenty (20) or more days prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit which he or she proposes to introduce at the hearing. Unless the opposing party, within ten days after such mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his or her right to cross-examine such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally, if an opportunity to cross-examine an affiant is not afforded after request therefore is made as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence. The notice referred to above shall be substantially in the following form:

The accompanying affidavit of (here *insert name of affiant*) will be introduced as evidence at the hearing in (here *insert title of proceeding*). (here *insert name of affiant*) will not be called to testify orally and you will not be entitled to question him or her unless you notify (here *insert name of proponent or his/her attorney*) at (here *insert address*) that you wish to cross-examine him or her. To be effective your request must be mailed or delivered to (here *insert name of proponent or his/her attorney*) on or before (here *insert a date ten days* after the date of mailing or delivering the affidavit to the opposing party).

3.14 Continuances.

The original hearing date may be continued by the Hearing Officer, at the request of either Party. Any continuance beyond sixty (60) days from the original hearing date must be agreed to by all parties and the Hearing Officer. If the hearing is scheduled before an Administrative Law Judge with the Office of Administrative Hearings, the party seeking the continuance will comply with any procedures required by the Office of Administrative Hearings.

3.15 Time and Place of Hearing.

The hearing will be set at a time and place determined by the Retirement Administration, and a Notice of Hearing with all pertinent information will be sent to all parties.

The hearing or any proceeding with respect to the application may proceed in the absence of the member who, after due notice, fails to be present or obtain a continuance. A decision on the application shall not be based solely upon the absence of the Member.

3.16 Reporter.

All hearings before a Hearing Officer shall be reported by a stenographic reporter, whose presence will be arranged by the Association. The *per diem* cost of the reporter shall be borne by the Retirement Association. The cost of a transcript copy, including an e-version copy, ordered by a Party shall be borne by the Party requesting the transcript. Requests for transcripts must be made directly to the stenographic reporter.

3.17 Issues at Hearing.

At a hearing on the Completed Application, the Hearing Officer shall make findings and recommendations on the following issues, as applicable:

- a. Tier I or Safety Member: Whether the member is permanently incapacitated from performing the usual duties of his or her job, and if service connection is sought, whether the incapacity arose out of and in the course of his or her employment. If the application is not requesting service connection, then whether the member has completed five years of service.
- b. Tier II or Tier III Member: Whether the applicant is permanently incapacitated from performing any "substantial gainful employment" (as defined in section 1.3 above) **and either** a) the member's incapacity is substantially caused by injury or disease arising out of his or her employment, *or* b) the member has completed a total of ten years of service.

3.18 Order of Business of Hearings.

Unless the Hearing Officer otherwise rules, all hearings shall proceed in the following manner:

- a. The Hearing Officer shall call the case and ask for appearances by all parties.
- b. Relevant documents shall be marked for identification.
- c. The parties may be offered an opportunity to make an oral

opening argument or statements.

- d. The applicant shall present his or her evidence.
- e. The Retirement Association shall then present its evidence
- f. Rebuttal evidence may then be presented in the same order
- g. The Hearing Officer may allow oral and/or written argument.

3.19 Close of Record.

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

3.20 Cost of Transcript.

If ordered by the Retirement Association or the Hearing Officer, Association's counsel, or the Retirement Board, the Association shall pay the cost of a hearing transcript. If ordered by the applicant or the applicant's attorney, applicant shall pay the cost of a transcript. The applicant or applicant's attorney, and the Retirement Administrator may agree in writing to split the cost of a transcript when both parties agree to the preparation of a transcript.

4. DECISION

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

After the hearing is concluded and the record closed, the Hearing Officer will send a written report to the Board within 30 days, summarizing the evidence, findings of fact, and making a recommendation to the Board. The Retirement Association shall serve all parties with the Hearing Officer's *Proposed Findings of Fact and Recommended Decision*.

4.2 Objections to Hearing Officer's Proposed Findings of Fact and Recommended Decision.

Any party objecting to a Hearing Officer's *Findings of Fact and Recommended Decision* has ten days after service of the *Findings of Fact and Recommended Decision* to submit written objections to the Retirement Association, which will send copies of the objections to all parties and provide a courtesy copy to the Hearing Officer. The Association and any other parties may respond in writing to any objections. Any objections and the responses thereto shall be incorporated into the record to be considered by the Board.

4.3 Board Consideration and Action.

The Board will consider the Proposed Findings of Fact and Recommended Decision on a date noticed to all parties. Any party or his or her counsel may request the opportunity to make an oral presentation to the Board. No new evidence or witness testimony may be heard or received by the Board. The Board may:

1. Approve and adopt the proposed findings and recommendation of the Hearing Officer, or
2. Refer the matter back to the Hearing Officer for further proceedings with or without instructions, or
3. Require a transcript or summary of all the testimony, plus all other evidence received by the Hearing Officer, and after receipt thereof, the Board shall take such action as it determines is warranted by the evidence, or
4. Set the matter for hearing before itself. At such hearing, the Board shall hear and decide the matter as if it had not been referred to the Hearing Officer.

4.4 Notice of Decision.

The Board shall give written notice of its decision to all parties and their representatives within five days of the date of its decision. Such notice shall be by first class mail and shall include the decision and the date it was rendered.

4.5 Reconsideration after Board Action on Proposed Decision.

No later than seven calendar days after service of the Notice of Decision, a party may file with the Board a written motion for reconsideration based on one of the following reasons:

1. Irregularity in the proceedings, or any order, or abuse of discretion, by which the party was prevented from having a fair hearing;
2. Accident or surprise; which reasonable diligence and prudence could not have guarded against;
3. The availability of material evidence which, in the exercise of reasonable diligence, could not have been produced at the hearing;
4. Error of law.

When a party's motion is for a cause mentioned in paragraphs 1, 2, or 3 above, it must be made upon affidavit(s). The Board may on its

own motion order reconsideration, but the order must be within seven calendar days of its original decision and on one or more of the causes listed above. If the Board does not rule on a party's motion for reconsideration by its next regular meeting, it shall be deemed denied. When reconsideration is granted, it suspends the original decision, and the Board shall proceed as though the matter were still pending before it for original decision, but the decision on reconsideration becomes final when made. The Retirement Association shall promptly mail copies to all parties.

4.6 Finality of Decision.

Except as otherwise provided in section 4.7 below entitled Judicial Review or section 4.5 entitled Reconsideration, action by this Board granting or denying in whole or in part any application for disability retirement shall be deemed to be final and conclusive with regard to any and all issues raised by the application which were either presented to the Board or could have, with the exercise of reasonable diligence, been presented.

4.7 Judicial Review.

Notice of the right to judicial review of the Board's decision pursuant to Code of Civil Procedure section 1094.6, and the time limits for filing such review, shall accompany the written notice of the Board's decision.

4.8 Request for Preparation of Administrative Record.

Any request for the preparation of the administrative record pursuant to Code of Civil Procedure § 1094.6 shall be made in writing and filed with the Retirement Association, which shall, within ten days of receiving such a request, notify the requesting party of the estimated cost of preparing the record.

The requesting party shall within ten days of receiving such notification, deposit with the Retirement Association an amount sufficient to cover the estimated cost. If the cost exceeds the amount deposited, the party shall pay the excess. If the amount deposited exceeds the cost, the difference shall be returned to the party. Upon receiving the required deposit, the Retirement Association shall promptly prepare the record, including the transcript of the proceedings, all pleadings, all notices and orders, the final decision, all admitted exhibits, all rejected exhibits in the possession of the Board, all written evidence, and any other papers in the case.

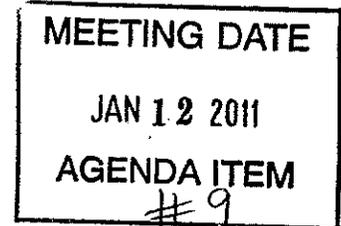
From: Harvey L. Leiderman
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Tel +1 415 543 8700
Fax +1 415 391 8269
www.reedsmith.com

To: Board of Retirement
Contra Costa County Employees' Retirement Association

Date: December 20, 2010

Subject: Active Death/Disability Applications



As explained in the legal analysis contained in our Confidential Memorandum to the Board of this same date, we believe that CCCERA's current practice relating to active death/disability applications reflects a reasonable interpretation of its governing law. The practice is also consistent with the Legislature's policy to allow active members to maximize their survivors' benefits in the event of the members' untimely demise. Accordingly, we do not believe that the Board needs to adopt any additional written policy in connection with its application for a tax determination letter from the Internal Revenue Service. We understand tax counsel agrees with this assessment.

Going forward, we recommend that CCCERA's practices be revised as follows:

1. The member should make a written election of Optional Settlement 2 (effective upon vesting), obtain the written consent of his current spouse (if possible) and file the election form with the Board at some time during active service. The member may change his election during his final pre-retirement processing with CCCERA staff, if Option 2 is no longer appropriate for his particular marital, parental, health or economic situation.
2. A member who elects Optional Settlement 2 during service should also execute a written authorization for CCCERA to file on his behalf an application for non-service connected disability if, immediately prior to his death, he is permanently incapacitated for non-service connected reasons.
3. The Board should proceed to make a formal determination whether the member was permanently incapacitated for the performance of duty at the time it filed the application for non-service connected disability.

For members who currently have the active death/disability form on file with CCCERA, we believe the system may continue to honor those forms, but should still separately file a formal disability application on behalf of the member if and when appropriate, and make the determination of disability, as indicated in steps 2 and 3, above. For new applicants, we recommend that the application form be revised consistent with steps 1 and 2, above. A proposed revised form is attached to this Memorandum for the Board's consideration.

Memorandum to CCCERA Board of Retirement
December 20, 2010

Finally, we recommend that staff regularly advise active members of their choices in this regard, through inclusion in the member benefit handbook, informational postings on its website and discussions in employer and employee meetings and member retirement interviews.



Employees' Retirement Association
1355 willow way suite 221 concord ca 94520
925.521.3960 fax 925.646.5747

**ELECTION OF OPTIONAL SETTLEMENT ALLOWANCE 2
AND AUTHORIZATION TO FILE APPLICATION
FOR NON-SERVICE CONNECTED DISABILITY RETIREMENT
IN THE EVENT OF MEMBER'S DEATH DURING ACTIVE SERVICE**

To the Board of Retirement:

Election of Optional Settlement Allowance 2

In accordance with the provisions of the County Employees Retirement Law of 1937 ("CERL"), and the by-laws and regulations governing the Contra Costa County Employees' Retirement Association ("CCCERA"), I hereby elect Optional Settlement Allowance 2, pursuant to CERL Section 31762 or successor section.

I understand that this election is binding on me unless I withdraw this election before the first payment of any retirement allowance is made to me, and that I may make another election of an optional settlement allowance at any time, or choose to receive the unmodified allowance, under CERL.

Authorization to File Non-Service Connected Disability Retirement Application

In accordance with the provisions of CERL, I hereby authorize CCCERA to file an application for a non-service connected disability retirement on my behalf in the event that I am permanently incapacitated by reason of injury or other disability leading to death while I am an active member of CCCERA. I understand that, if granted, this will entitle my survivors to receive a non-service connected disability retirement survivor continuance under Optional Settlement Allowance 2.

Social Security Number: _____

BENEFICIARY INFORMATION (Please Print)

_____	_____/_____/_____ Date of Birth
Name	
_____	_____-_____ Social Security Number
Address	
_____	_____ Relationship to Member
City, State & Zip Code	

Signature of Member

Signature of Consenting Spouse, if any

Signature of Adult Witness



<i>Meeting Date</i> 03/11/20
<i>Agenda Item</i> #11

SACRS VOTING PROXY FORM

The following are authorized by the _____ County Retirement Board to vote on behalf of the County Retirement System at the upcoming SACRS Conference

(if you have more than one alternate, please attach the list of alternates in priority order):

_____ Voting Delegate

_____ Alternate Voting Delegate

These delegates were approved by the Retirement Board on ____ / ____ / ____.

The person authorized to fill out this form on behalf of the Retirement Board:

Signature: _____

Print Name: _____

Position: _____

Date: _____

Please send your system's voting proxy by April 1, 2020 to Sulema H. Peterson, SACRS Administrator at Sulema@sacrs.org.



<i>Meeting Date</i> 03/11/20 <i>Agenda Item</i> #12
--

MEMORANDUM

Date: March 11, 2020
To: CCCERA Board of Retirement
From: Karen Levy, General Counsel
Subject: Consider and Take Possible Action to Amend the Audit Committee Charter.

Background

The CCCERA Board of Retirement established a standing Audit Committee of up to four trustees on April 8, 2015. The Board adopted an Audit Committee Charter on August 12, 2015. On December 11, 2019, the Board approved the creation of a new staff position, an internal auditor. It is advisable to amend the Audit Committee Charter to encompass the role and duties of the internal auditor. On February 26, 2020, the Audit Committee voted to recommend the enclosed amendments to the Audit Committee Charter, for the Board's consideration.

The suggested changes pertain to areas of responsibility of the Audit Committee, including:

- Overseeing the work of the internal auditor and participating in the interview of final candidate(s) for the internal auditor position;
- Ensuring the independence of the internal and external auditors;
- Ensuring that the scope of audits conducted by the internal auditor encompasses the examination and evaluation of the adequacy and effectiveness of CCCERA's system of internal controls and the quality of performance in carrying out assigned responsibilities; and
- Ensuring that the internal and external auditor have all necessary opportunities to share their findings with the Committee or the Board as appropriate.

An amended Audit Committee Charter that include these changes is enclosed as Attachment A. A redline reflecting all suggested changes is enclosed as Attachment B.

Recommendation

Consider and take possible action to amend the Audit Committee Charter.

Attachment

A

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

AUDIT COMMITTEE CHARTER

I. INTRODUCTION

The Board of Retirement ("Board") has established an Audit Committee ("Committee") to assist it in overseeing the audit function within the Contra Costa County Employees' Retirement Association ("CCCERA").

II. PURPOSE

The purpose of the Committee is to serve as an advisory committee to the Board on matters of the integrity of the trust fund's finances, financial reports, operations and internal controls.

III. MEMBERSHIP

The Committee will consist of at least three and no more than four members of the Board. At the second regular meeting in July, as the second order of business, or as required to fill vacancies, the Board Chairperson will appoint members of the Committee as provided in the CCCERA Regulations and designate one member to serve as the Committee Chairperson and another member to serve as the Committee Vice Chairperson.

Ideally, members should have expertise in accounting, auditing, financial reporting, and internal control. Although these desired traits are not mandatory, members should be sufficiently knowledgeable about these topics to make informed recommendations with the assistance of a financial expert.

IV. MEETINGS

The Committee will meet at least quarterly, with authority to convene additional meetings as circumstances require. All Committee members are expected to attend each meeting. Three Committee members present at the meeting shall constitute a quorum. No motion may be passed or business transacted without three affirmative votes. The Administrator/Chief Executive Officer will appoint appropriate staff to attend the Committee meetings. Meeting notices will be provided to interested parties in conformance with applicable laws, regulations, customs, and practices. All meetings are subject to the Ralph M. Brown Act, Government Code Section 54950 *et seq.* Meeting agendas will be prepared and provided in advance to Committee members, along with appropriate briefing materials. Minutes of meetings will be prepared. Minutes of the meeting will contain a record of persons present, actions taken, and a high-level summary of the discussion.

V. RESPONSIBILITIES AND DUTIES

The Committee's areas of responsibility are:

1. Reviewing recommendations of CCCERA staff and external auditor regarding the audited financial statements, CCCERA internal controls and audit and compliance plans;
2. Reviewing and addressing audit and compliance review findings;
3. Monitoring compliance with policies and oversight of CCCERA's internal controls;
4. Overseeing the appointment of the external auditor;
5. Overseeing the work of the internal auditor and participating in the interview of final candidate(s) for the internal auditor position;
6. Ensuring the independence of the internal and external auditors;
7. Ensuring that the scope of audits conducted by the internal auditor encompasses the examination and evaluation of the adequacy and effectiveness of CCCERA's internal controls and the quality of performance in carrying out assigned responsibilities;
8. Ensuring that the internal and external auditor have all necessary opportunities to share their findings with the Committee or the Board as appropriate;
9. Other specific subject matters that the Board deems appropriate.

VI. REPORT AND RECOMMENDATION TO THE BOARD

The Committee will report its activities and make recommendations to the Board. All formal actions taken at Committee meetings must be considered for approval by the Board at a scheduled and properly noticed Board meeting.

VII. HISTORY

Adopted: August 12, 2015

Amended: January 10, 2018, _____, 2020.

Attachment

B

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

AUDIT COMMITTEE CHARTER

I. INTRODUCTION

The Board of Retirement ("Board") has established an Audit Committee ("Committee") to assist it in overseeing the audit function within the Contra Costa County Employees' Retirement Association ("CCCERA").

II. PURPOSE

The purpose of the ~~Audit~~ Committee is to serve as an advisory committee to the ~~full~~ Board on matters of the integrity of the trust fund's finances, financial reports, operations and internal controls.

III. MEMBERSHIP

The ~~Audit Committee~~ Committee will consist of at least three and no more than four members of the Board. At the second regular meeting in July, as the second order of business, or as required to fill vacancies, the Board Chairperson will appoint members of the ~~Audit Committee~~ Committee as provided in the CCCERA Regulations and designate one member to serve as the Committee Chairperson and another member to serve as the Committee Vice-Chairperson.

Ideally, members should have expertise in accounting, auditing, financial reporting, and internal control. Although these desired traits are not mandatory, members should be sufficiently knowledgeable about these topics to make informed recommendations with the assistance of a financial expert.

IV. MEETINGS

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V. RESPONSIBILITIES AND DUTIES

The ~~Audit Committee~~Committee's areas of responsibility are:

1. Reviewing recommendations of CCCERA staff and ~~external~~outside auditor regarding the audited financial statements, CCCERA internal controls and audit and compliance plans;
2. Reviewing and addressing audit and compliance review findings;
3. Monitoring compliance with policies and oversight of CCCERA's internal controls;
4. Overseeing the appointment of the ~~external~~outside auditor;
5. Overseeing the work of the internal auditor and participating in the interview of final candidate(s) for the internal auditor position;
6. Ensuring the independence of the internal and external auditors;
7. Ensuring that the scope of audits conducted by the internal auditor encompasses the examination and evaluation of the adequacy and effectiveness of CCCERA's ~~system of~~ internal controls and the quality of performance in carrying out assigned responsibilities;
8. Ensuring that the internal and external auditor have all necessary opportunities to share their findings with the ~~Ce~~committee or the Board as appropriate;
9. Other specific subject matters that the ~~full~~Board deems appropriate.

VI. REPORT AND RECOMMENDATION TO THE ~~FULL~~ BOARD

The ~~Audit Committee~~Committee will report its activities and make recommendations to the ~~full~~ Board. All formal actions taken at ~~Ce~~committee meetings must be considered for approval by the ~~full~~ Board at a scheduled and properly noticed ~~full~~Board meeting.

VII. HISTORY

Adopted: August 12, 2015

Amended: January 10, 2018, _____, 2020.



<i>Meeting Date</i> 03/11/20 <i>Agenda Item</i> #13
--

MEMORANDUM

Date: March 11, 2020
To: CCCERA Board of Retirement
From: Wrally Dutkiewicz, Compliance Officer
Subject: Contra Costa County Clerk-Recorder-Elections Department Employer Audit Report

Background

The Contra Costa County Clerk-Recorder-Elections Department is a County Department. Its staff are County employees and their employment and compensation are set by the County Board of Supervisors.

Between November 2019 and January 2020 an employer audit was performed on Contra Costa County Clerk-Recorder-Elections Department. An onsite review was performed at the Department's office on December 17, 2019.

The employer audit scope items include the following:

- Accuracy of Payroll Information Provided to CCCERA;
- Salaries In Accordance with Publicly Available Pay Schedules;
- Enrollment of All Eligible Employees;
- Pension Benefit Review;
- Internal Revenue Code 415 Limits;
- Retiree Return to Work Monitoring; and
- Forfeiture of Benefits Earned or Accrued from the Commission of a Felony.

Follow Up Items

The Employer Audit Report was presented to the CCCERA Audit Committee at its February 26, 2020 meeting.

The County, as the employer of the Clerk-Recorder-Elections Department, responded to the employer audit report on February 13, 2020, which stated that the employer agreed with the findings and has no questions nor comments.

The following items were noted during the course of the review and require follow-up by the Clerk-Recorder-Elections Department:

- **Enrollment:** CCCERA requests that prospectively all new County employees, and specifically those new employees of the Clerk-Recorder-Elections Department, are provided with the current CCCERA Enrollment Affidavit (Form 101) to be completed by the new employee and certified by the employer's representative. These forms can be found on CCCERA's website (www.cccera.org) under the forms section in the Resource Center.

In its February 5, 2020 response, the Clerk-Recorder-Elections Department stated the department's previous payroll clerk used an older physical copy of the enrollment affidavit. A new administrative analyst was hired in November 2019 and they are aware of where to obtain the current version of the affidavit online. No further issues are expected in regards to enrolling new employees in CCCERA.



Contra Costa County Employees'
Retirement Association

EMPLOYER AUDIT REPORT

February 12, 2020

Meeting Date

03/11/20

Agenda Item

#13

EMPLOYER AUDIT

Contra Costa County

Clerk-Recorder-Elections Department

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February 12, 2020

David Twa
Contra Costa County Administrator
651 Pine Street, 10th Floor
Martinez, CA 94553

RE: Employer Audit Report – Contra Costa County Clerk-Recorder-Elections Department

Dear Mr. Twa,

Enclosed is the employer audit report of the Contra Costa County Clerk-Recorder-Elections Department (Clerk-Recorder-Elections Department) employer audit, conducted pursuant to Government Code Section 31543. I want to thank you and all department staff for their assistance in gathering all the records and documents and making them readily available during this audit. This cooperation was greatly appreciated and allowed for the audit to be completed in an efficient manner.

The *Employer Audit Report* is enclosed for your review. Contained in the report is a list of Follow-Up Items that were noted during the audit and for the Department to address. CCCERA is in receipt of a written response from the Clerk-Recorder-Elections Department dated February 5, 2020 pertaining to the “*Follow-Up Items*” indicated in the report. This response will be included in the “*Final Report*” which will be submitted to CCCERA’s Audit Committee for its review.

This report will be placed on the agenda and will be presented to the CCCERA Board of Retirement Audit Committee at its Wednesday, February 26, 2020 meeting.

Contra Costa County Clerk-Recorder-Elections Department

In addition, I would like to extend my gratitude to Contra Costa County payroll and human resources staff and the courtesy that they extended to CCCERA compliance staff during the review. Should you wish to discuss or have any questions regarding the items reviewed and the observations contained within this report, please contact me at 925-521-3960.

Best regards,



Wrally Dutkiewicz
Compliance Officer

CC: Lisa Driscoll, County Finance Director
Deborah Cooper, County Clerk-Recorder and Registrar of Voters
Scott Konopasek, Assistant Registrar
Barbara Dunmore, Deputy Clerk-Recorder

BACKGROUND

The Contra Costa County Employees' Retirement Association (CCCERA) is a public employee retirement system that was established by Contra Costa County on July 1, 1945, and is administered by the Board of Retirement (Board) to provide service retirement, disability, death, and survivor benefits for Contra Costa County (County) employees and 16 other participating agencies under the California State Government Code, Section 31450, et. seq. (County Employees Retirement Law of 1937 or CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA).

CCCERA administers the retirement benefits for the employees of Contra Costa County and participating District employers. Participating employers within the CCCERA retirement system provide payroll information and retirement contributions to fund the benefits for their employees. CCCERA establishes member accounts, processes service and disability applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, makes adjustments to retirement benefits when needed and prepares tax reporting records.

Retirement allowances are computed in accordance with statute using three factors: years of service, age at retirement, and final compensation. For Legacy (pre-PEPRA) members, final compensation is defined as the highest average annual compensation earnable (as defined in G.C. Section 31461) by a member during the last one or three consecutive years of employment depending on the member's Tier, unless the member elects a different period with a higher average. For PEPRA members, final compensation is defined as the highest average annual pensionable compensation (as defined in G.C. Section 7522.34) earned by the member during a period of 36 consecutive months.

The employer's knowledge of the rules relating to membership and payroll reporting facilitates the employer in providing CCCERA with appropriate employee information. Correct enrollment of eligible employees and correct reporting of payroll information are necessary for the accurate computation of a member's retirement allowance.

The Contra Costa County Clerk-Recorder-Elections Department is a County department. Its staff are County employees and their employment and compensation are set by the County Board of Supervisors. The Clerk-Recorder-Elections Department is responsible for Elections, Community Outreach and Education and Clerk-Recorder services. Elections oversees registrations and voting options, running for office, filing measures, and stores current and past election data. Outreach and Community Education provides public speakers, connects residents with county government resources and manages news releases. The Clerk-Recorder function manages vital record information such as birth and death certificates, weddings, and records and manages recordable information.¹

Per CCCERA records, the Clerk-Recorder-Elections Department had approximately seventy-five (75) employees in fiscal years 2016-2017 and 2017-2018 with active memberships in CCCERA. For these employees the County reported pensionable compensation to CCCERA of approximately \$4,291,000 for fiscal year 2016-2017 and \$4,324,000 for fiscal year 2017-2018. The County submitted approximately

¹ <https://www.contracostacore.us/>

Contra Costa County Clerk-Recorder-Elections Department

\$436,000 in employee pension contributions and \$1,193,000 in employer pension contributions for fiscal year 2016-2017 and \$456,000 in employee pension contributions and \$1,176,000 in employer pension contributions for fiscal year 2017-2018. As of December 31, 2018, CCCERA had fifty-seven (57) retirees and beneficiaries on record for the Clerk-Recorder-Elections Department with a total paid benefit amount of approximately \$1,741,000 in 2018.

SCOPE

The 2013 Pension Reform legislation granted CCCERA the authority under Government Code Section 31543 to conduct audits of employers to ensure that employee and payroll information used in the calculation of retiree pension benefits is correct and verifiable. The scope of these on-site reviews includes:

- Correctness of retirement benefits;
- Reportable compensation;
- Enrollment in, and reinstatement to the system (GC 31543);
- Pensionable compensation (GC 31461 and GC 7522.34);
- Determine if employees convicted of certain felonies have forfeited benefits earned or accrued from the commission of the felony (GC 7522.72(g) and GC 7522.74(g));
- Review MOUs with respect to compensation and salary regulations (i.e. Vacation Sales, etc.);
- Determine if compensation is paid to enhance a member's retirement benefit (GC 31461(b)(1) and GC 7522.34(c)(1)); and
- Evaluate employer's compliance with restrictions on retirees returning to work (GC 7522.56, I.R.S. bona fide separation and normal retirement age rules).

The on-site review of the Clerk-Recorder-Elections Department was conducted on December 17, 2019. The review period encompassed active employee records and retired employee records from 2016 through 2018.

OBSERVATIONS AND FINDINGS

ACCURACY OF PAYROLL INFORMATION PROVIDED TO CCCERA

➤ **Scope Item 1:** *No exceptions were observed in this section.*

PAYROLL AND REPORTING PROCESS AND RECEIVABLES REVIEW

Pursuant to Board of Retirement Regulations Section IV: Employer pensionable payroll and corresponding pension contributions are to be reported to the retirement system timely and accurately. (Contributions And Reporting, 2. Due Dates, 4. Employer Certification).

Due Dates:

Each employer shall report to the Association in a manner and frequency as determined by the Board sufficient for the Board to credit contributions and service to each member's record.

Unless otherwise specified, reports shall be due no later than the tenth of each month for the previous month's payroll and shall be accompanied by member and employer contributions. If the tenth of the month falls on a weekend or holiday, the due date shall be the last working day before the tenth. Reports, which are unreadable or incorrect, shall not be accepted and shall be returned to the employer. (Emphasis added.)

Reports and contributions received after the due date shall be considered late and subject to a late reporting penalty equal to: the prime rate in effect on the due date computed on a daily, non-compounding basis and applied to the contributions due.

➤ **Observation 1:** *None*

INPUT FILE REVIEW

Employer Certification

Each payroll and pension contribution report shall include or be accompanied by a certification, under penalty of perjury, as to its accuracy. The certification shall be made by a duly authorized representative of the employer. (Board of Retirement Regulations *Section IV, 4. Employer Certification*.)

➤ **Observation 2:** *None*

COMPENSATION LIMITS

Federal and state laws place annual limits on the compensation that can be used to determine contributions and benefits for CCCERA plan members.

Legacy Members:

- The Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans which are adjusted annually for cost-of-living increases.
- Members who commenced participation in CCCERA on or after January 1, 1996 are subject to the annual federal Internal Revenue Code Section 401(a)(17) compensation limit.
- For CERL benefit formulas (General Tiers 1, 3, Safety Tiers A & C), the 2018 calendar year compensation limit was increased by the I.R.S. to \$275,000 from \$270,000 for calendar year 2017.
- Members who commenced participation in CCCERA prior to January 1, 1996 are not subject to the Internal Revenue Code annual compensation limit.

PEPRA Members:

- For new employees who commenced participation in CCCERA on or after January 1, 2013 under PEPRA benefit formulas (General Tiers 4,5, Safety Tiers D & E), the compensation which exceeds that annual pensionable compensation limit under California Government Code Section 7522.10(c) and (d) is not included in determining benefits or contributions.
- The 2018 calendar year PEPRA compensation limits are as follows:
 - For employees enrolled in Social Security – increased to \$121,388.
 - For employees not enrolled in Social Security – increased to \$145,666.
- The 2017 calendar year PEPRA compensation limits are as follows:
 - For employees enrolled in Social Security – increased to \$118,775.
 - For employees not enrolled in Social Security – increased to \$142,530.

➤ **Observation 3:** For two PEPRA employees compensation exceeding \$118,775 and contributions using the full salary as basis were reported in 2017. The review showed that in PeopleSoft an off-cycle pay check dated 12/21/2017 was processed with an adjustment for both employees. No evidence of these adjustments being reported to CCCERA was found in CPAS or the submitted input files. For the same two employees, compensation exceeding \$121,388 was reported in 2018. Contributions were correctly reported based on the compensation limit. CCCERA engaged with the County to address this issue. The input file generation workflow was revised starting at the beginning of 2019.

PAYROLL REPORTING – PENSIONABLE COMPENSATION AND CONTRIBUTION REVIEW

Compensation Earnable Applicable Law for Legacy Members

"Compensation earnable" does not include, in any case, the following:

Contra Costa County Clerk-Recorder-Elections Department

“Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.” (G.C. § 31461(b)(3).)

Pursuant to CCCERA’s “Compensation Earnable Policy”², Section III.D. “Compensation Earnable” excludes payments for additional services rendered outside of normal working hours.

Pay received for "overtime" is not included in "compensation earnable." To be included, the time for which compensation is received:

- (1) must be the normal working hours set forth in the applicable employment agreement;
- (2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked); and
- (3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay during the FAS period.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers must report to CCCERA as pensionable only that pay for work that is required of and ordinarily served by everyone in the same grade or classification, at the same rate of pay.

Pensionable Compensation Applicable Law for PEPRA members

PEPRA defines "pensionable compensation" as follows:

"Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid. (Gov. Code Section 7522.34(a) and (b).)

PEPRA excludes from "pensionable compensation" the following:

- (1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.
- (2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- (3) Any one-time or ad hoc payments made to a member.
- (4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

² <https://www.cccera.org/governance-and-policies>

Contra Costa County Clerk-Recorder-Elections Department

- (5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- (6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
- (7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
- (8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code [FLSA].
- (9) Employer contributions to deferred compensation or defined contribution plans.
- (10) Any bonus paid in addition to the compensation described in subdivision (a) [of G.C. § 7522.34].
- (11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a) [of G.C. § 7522.34].
- (12) Any other form of compensation a public retirement board determines should not be pensionable compensation. (Gov. Code Section 7522.34(a) and (b).)

Pursuant to CCCERA's "Pensionable Compensation Policy"³, Section III:

The CCCERA Board has determined that "Pensionable Compensation" includes "base pay." Pensionable compensation does not include any pay other than base pay, in accordance with Govt. Code Sections 7522.34(c)(11) and (12).

Pensionable compensation (GC 31461 and 7522.34) is to be reported to the retirement system and the corresponding contributions are to be reported to the retirement system.

➤ **Observation 4: None**

³ <https://www.cccera.org/governance-and-policies>

SALARIES IN ACCORDANCE WITH PUBLICLY AVAILABLE PAY SCHEDULE

➤ **Scope Item 2:** *No exceptions were observed in this section.*

Pursuant to CCCERA's Policy On Determining "Pensionable Compensation"⁴ Under PEPR For Purposes Of Calculating Retirement Benefits, a "publicly available pay schedule" must meet all of the following requirements:

1. Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
2. Identifies the position title for every employee position;
3. Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
4. Indicates the time base, including, but not limited to, whether the time base is hourly daily, bi-weekly, monthly, bi-monthly, or annually;
5. Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
6. Indicates an effective date and date of any revisions;
7. Is retained by the employer and available for public inspection for not less than five years; and
8. Does not reference another document in lieu of disclosing the pay rate.

➤ **Observation 5:** *None*

⁴ <https://www.cccera.org/governance-and-policies>

ENROLLMENT OF ELIGIBLE EMPLOYEES

➤ **Scope Item 3:** All 2017 and 2018 enrollment packets were submitted on outdated enrollment forms.

1. Exclusion from Membership – By Type of Employment

- A. All officers and employees of the County or districts shall be members of the association as provided in Article 4 under Sections 31550-31567 of the County Employees' Retirement Law of 1937 (Gov. Code Secs. 31450, et seq. "CERL"), unless excluded from membership by this Section.
- B. The following employees shall be excluded from membership:
 - i. Temporary, seasonal or independent contract employees who are employed or re-employed for temporary service or at certain specified periods each year.
 - ii. Intermittent or permanent-intermittent employees who are appointed to serve less than 80% of the full number of working hours required of regular employees or who actually serve less than 80% of such full number of working hours in one year as certified by their appointing authority.
 - iii. Part-time employees whose service for the County or district is less than fifty (50) percent of the full number or working hours required of fulltime employees at that employer.
 - iv. Project employees, unless the appointing authority certifies that the project is expected to be of one year or more in duration on a greater than part-time basis.
 - v. Provisional employees, unless they otherwise meet the requirements for reciprocal benefits with other retirement systems under Article 15 of CERL.
- C. In making its determination regarding an employee's inclusion in or exclusion from membership, the Board will not rely solely upon the term given to the type of employment. Rather, the Board will rely upon such additional facts such as the nature of the employment, its expected or actual duration, and its relationship to what is considered full-time, permanent employment.

2. Exclusion from Membership – by Compensation

Except as otherwise herein provided, all employees of the County or district who receive compensation amounting to less than one-hundred (\$100) dollars per month, and in the case of employees paid on other than a monthly basis an average of one-hundred (\$100) dollars per month for the preceding year, including maintenance valued according to the schedule adopted by the governing body, are hereby excluded and exempted from membership in the Retirement Association. Any member of the Retirement Association whose salary is reduced to an amount less than one-hundred (\$100) dollars per

Contra Costa County Clerk-Recorder-Elections Department

month shall have the option of continuing or discontinuing his/her active membership in the Association.

2.1 Exclusion from Membership – by Waiver

Newly hired employees age 60 and older may waive membership as authorized by Gov. Code Section 31552. Any such waiver of membership shall be effective only if it is submitted to the CCCERA Chief Executive Officer within 90 days of the employee's date of hire; provided, however, that the Chief Executive Officer may, in his/her sole and reasonable discretion, waive the time limitation if the newly hired employee establishes good cause for such a waiver.

3. Certifications

Every employee of the County or district within the county whose employees are members of the Association shall, upon entry into the Association, complete a sworn statement as provided for in Gov. Code Section 31526(b). A certified copy of the member's birth certificate or other evidence of birth may be required by the Board.

It shall be the employer's responsibility to assure compliance with this section. The Board shall assess the employer five hundred (\$500) dollars per employee for every month or fraction thereof that the required certification is not submitted. The Board shall notify the employer in writing of the imposition of assessment at least thirty days before the assessment.

➤ **Observation 6:** *The employer enrolled fourteen (14) new hires in 2017 using an outdated enrollment affidavit form with the revision date of February 2003. The employer enrolled two (2) new hires in 2018 using the same outdated form. The CCCERA Enrollment Affidavit (Form 101) has been revised in 2017 and 2019.*

PENSION BENEFIT REVIEW

➤ **Scope Item 4:** No exceptions were observed in this section.

REVIEW OF PENSION BENEFIT CALCULATIONS

- a. Compensation Policies
 - i. Policy On Determining “Compensation Earnable Under Assembly Bill 197 For Purposes Of Calculating Retirement Benefits For “Legacy” (Pre-PEPRA) Members – Adopted: 9/10/2014; GC 31461;
 - ii. Policy On Determining “Pensionable Compensation” Under PEPRA For Purposes Of Calculating Retirement Benefits - Adopted: 9/10/2014; GC 7522.34;
 - iii. Policy Regarding Assessment and Determination Of Compensation Enhancements – Adopted 11/1/2012, Amended: 3/8/2017; GC 31461(b)(1) and 7522.34(c)(1)

➤ **Observation 7:** None

RETIREE RETURN TO WORK MONITORING

- b. Retiree Return to Work Monitoring
 - i. GC 7522.56 Retired Persons; Service and Employment Restrictions

➤ **Observation 8:** None

FORFEITURE OF BENEFITS EARNED OR ACCRUED FROM THE COMMISSION OF A FELONY

- c. Felony Forfeiture Monitoring and Notification – GC 7522.72(g) and GC 7522.74(g)

➤ **Observation 9:** None

INTERNAL REVENUE CODE SECTION 415 COMPLIANCE

As adopted on December 8, 2010 and amended on January 9, 2013 and July 11, 2018.

➤ **Observation 10:** None

FOLLOW-UP ITEMS

The following items were noted during the course of the review and require follow-up by the Department and CCCERA:

1. **Enrollments:** CCCERA requests that prospectively all new County employees, and specifically those new employees of the Clerk-Recorder-Elections Department, are provided with the current CCCERA Enrollment Affidavit (Form 101) to be completed by the new employee and certified by the employer's representative. These forms can be found on CCCERA's website (www.cccera.org) under the forms section in the Resource Center.

EMPLOYER REPLY

The following reply was received from the Clerk-Recorder-Elections Department by CCCERA:

INTEROFFICE MEMORANDUM
CONTRA COSTA COUNTY
CLERK-RECORDER'S OFFICE
555 ESCOBAR STREET MARTINEZ, CA 94553
925-335-7899 PHONE 925-335-7893 FAX

TO: WRALLY DUTKIEWICZ, KRISTINA DOHRN
FROM: DEBI COOPER, COUNTY CLERK-RECORDER 
SUBJECT: RESPONSE TO CCCERA EMPLOYER AUDIT REPORT
DATE: FEBRUARY 5, 2020
CC: DAVID TWA, LISA DRISCOLL

The Clerk-Recorder Elections Office appreciates the effort and diligence on behalf of CCCERA in assuring our compliance with procedures and quality standards. We take pride in the handling of personal information and accuracy of record-keeping. It is the goal of our office to provide exemplary service to our constituents and staff members in these regards. Below is our response to the follow-up item from the audit.

Our department's previous payroll clerk was using an older physical copy of the enrollment affidavit. We hired a new administrative analyst in November of 2019, and they are aware of where to access the current version of the affidavit online. We expect no further issues in regards to enrolling new employees in CCCERA.

I would like to specifically thank Kristina Dohrn and Wrally Dutkiewicz for their consummate professionalism in making this a seamless process. If you have any concerns or questions, please do not hesitate to reach me at the number listed above or at my direct line: (925) 335-7897



Meeting Date
03/11/20
Agenda Item
#15a.

ANNUAL CONFERENCE & EXHIBITION (ACE)

May 10 - 13
Caesars Palace Hotel
Las Vegas, NV

SCHEDULE OF EVENTS

SUNDAY, MAY 10

- 2:00 pm – 6:00 pm Registration
- 2:00 pm – 3:00 pm First Timers Meet & Greet
- 3:00 pm – 4:00 pm Opening General Session I
- 4:00 pm – 6:00 pm Exhibition
- 4:00 pm – 6:00 pm Welcome Reception



MONDAY, MAY 11

- 6:30 am – 7:45 am Breakfast
- 6:30 am – 5:00 pm Registration
- 10:30 am – 5:30 pm Exhibition
- 8:00 am – 9:30 am General Session II
- 9:45 am – 10:45 am Three (3) Concurrent Breakout Sessions
- 11:00 am – 11:30 am Exhibit Break
- 11:45 am – 12:45 pm Three (3) Concurrent Breakout Sessions
- 1:00 pm – 2:00 pm Lunch & Lecture Series (*not open to guests*)
- 2:15 pm – 3:15 pm Three (3) Concurrent Breakout Sessions
- 3:30 pm – 4:15 pm National Committee Election
- 3:30 pm – 4:15 pm Service Provider & Affiliates Town Hall
- 4:30 pm – 5:30 pm Networking Reception

TUESDAY, MAY 12

- 6:30 am – 7:45 am Breakfast
- 6:30 am – 5:00 pm Registration
- 10:30 am – 5:30 pm Exhibition
- 8:00 am – 9:30 am General Session III
- 9:45 am – 10:45 am Three (3) Concurrent Breakout Sessions
- 11:00 am – 11:30 am Exhibit Break
- 11:45 am – 12:45 pm Three (3) Concurrent Breakout Sessions
- 1:00 pm – 2:00 pm Lunch & Lecture Series (*not open to guests*)
- 2:15 pm – 3:15 pm Three (3) Concurrent Breakout Sessions
- 3:30 pm – 4:30 pm Administrators Forum
- 3:30 pm – 4:15 pm National Committee Executive Board Elections
- 4:30 pm – 5:30 pm Networking Reception

WEDNESDAY, MAY 13

- 6:30 am – 7:45 am Breakfast
- 6:30 am – 12:00 pm Registration
- 8:00 am – 9:00 am Three (3) Concurrent Breakout Sessions
- 9:15 am – 10:15 am Three (3) Concurrent Breakout Sessions
- 10:30 am – 12:00 pm General Session IV

Trustees & Administrators Institute

Monday, June 29 - Wednesday, July 1, 2020
Hilton San Francisco Union Square, San Francisco, CA

Meeting Date
03/11/20
Agenda Item
#15b.

Topics/Agenda

Below are the topics for the 2020 program.

- Economic Update
- Political and Legislative Changes in Health Care
- Reading and Understanding the Actuarial Report
- Pension Reform and Retirement Benefits Update
- Wellness Programs—Are They Working for Your Fund?
- Retirement Insecurity—Diagnosis of the Retirement Landscape
- End-of-Life Care
- Funding Challenges
- Medicare for All and the Public Option
- Opioid Epidemic
- Innovations in Digital Health Care for Families
- Impact of Divorces on Your Benefit Plans
- On-Site Clinics
- Trustee-Administrator Relationship
- Communicating About DC Plans in a DB World
- Successorship and Building an Effective Board of Trustees Pharmacy Benefits
- Guided Open Forum—Trustees
- Guided Open Forum—Administrators
- Consolidations in the Health Care Industry
- Marijuana Law Update
- Resiliency and Mental Health
- Running Effective Trust Fund Meetings

Hotel Information

Hilton San Francisco Union Square

Rate: U\$289 Single/Double Occupancy

Reservation Deadline: May 22, 2020

You will be charged a \$400 deposit upon registration. Please specify your hotel requirements on the registration form.

Note: Hotel room availability is not guaranteed outside of scheduled program dates.

