

Executive Team

Dominic D. Brown, CPA, CFE
Executive Director

Daryn Miller, CFA
Chief Investment Officer

Jennifer Zahry, JD
Chief Legal Officer

Matthew Henry, CFE
Assistant Executive Director

**KERN COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION**



Board of Retirement

Juan Gonzalez, Chair
Tyler Whitezell, Vice-Chair
David Couch
Phil Franey
Joseph D. Hughes
Jordan Kaufman
Rick Kratt
Lauren Skidmore
Bradly Brandon, Alternate
Chase Nunneley, Alternate
Robb Seibly, Alternate
3rd Member (Vacant)

October 7, 2021

Members, Board of Retirement
Employee Bargaining Units
Requesting News Media
Other Interested Parties

Subject: Meeting of the Kern County Employees' Retirement Association
Board of Retirement

Ladies and Gentlemen:

A meeting of the Kern County Employees' Retirement Association Administrative Committee will be held on Wednesday, October 13, 2021 at 8:30 a.m. via teleconference pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, and Governor Newsom's March 4, 2020 proclaimed State of Emergency, which remains in effect. (Cal. Gov. Code section 54953, as amended by Assembly Bill 361). Items of business will be limited to the matters shown on the attached agenda.

If you wish to listen to the teleconference meeting, please dial one of the following numbers and enter Meeting ID# 289-998-6429:

- (669) 900-9128
- (888) 788-0099 (U.S. Toll-free)
- (877) 853-5247 (U.S. Toll-free)

If you have any questions or require additional service, please contact KCERA at (661) 381-7700 or send an email to administration@kcera.org.

Sincerely,

A handwritten signature in blue ink that reads 'Dominic D. Brown'.

Dominic D. Brown
Executive Director

Attachment

AGENDA:

All agenda item supporting documentation is available for public review on KCERA's website at www.kcera.org following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

**AMERICANS WITH DISABILITIES ACT
(Government Code §54953.2)**

Disabled individuals who need special assistance to listen to and/or participate in the teleconference meeting of the Board of Retirement may request assistance by calling (661) 381-7700 or sending an email to administration@kcera.org. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting materials and access available in alternative formats. Requests for assistance should be made at least two (2) days in advance of a meeting whenever possible.

ROLL CALL

MOMENT OF SILENCE

1. [Discussion and appropriate action on findings needed to utilize alternative teleconferencing requirements during a state of emergency pursuant to California Government Code section 54953, as amended by Assembly Bill 361 presented by Executive Director Dominic Brown and Chief Legal Officer Jennifer Zahry – ADOPT FINDINGS FOR ITSELF AND ALL KCERA STANDING COMMITTEES; RATIFY THE ADMINISTRATIVE COMMITTEE'S FINDINGS; APPROVE RESOLUTION](#)

CONSENT MATTERS

ALL ITEMS LISTED WITH AN ASTERISK (*) ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY STAFF AND WILL BE APPROVED BY ONE MOTION IF NO MEMBER OF THE BOARD OR PUBLIC WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED BY ANYONE, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED IN THE LISTED SEQUENCE WITH AN OPPORTUNITY FOR ANY MEMBER OF THE PUBLIC TO ADDRESS THE BOARD CONCERNING THE ITEM BEFORE ACTION IS TAKEN. STAFF RECOMMENDATIONS ARE SHOWN IN CAPS AFTER EACH ITEM.

- *2. Application for service-connected disability pension benefits for Daniel Burgess, Animal Control (General) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION
- *3. Application for service-connected disability pension benefits for Jeffrey Houston, Sheriff (Safety) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION
- *4. [Summary of proceedings of the following meetings:](#)
 - September 8, 2021 Board of Retirement
 - September 22, 2021 Investment Committee

RECEIVE AND FILE

- *5. [Report from the KCERA office on members retired from service for the month of September 2021 – RATIFY](#)
- *6. [Report from the KCERA office on deceased retirees for the month of September 2021 – RECEIVE AND FILE](#)
- *7. [Report of current disability retirement applications and appeals of KCERA Board decisions for the period ending September 30, 2021 – RECEIVE AND FILE](#)
- *8. [Securities Lending Earnings Summary Report for the period August 1-31, 2021 from Deutsche Bank – RECEIVE AND FILE](#)
- *9. [KCERA asset allocation, budget status, cash flow position and investment fees status report for the month of August 2021 – RECEIVE AND FILE](#)
- *10. [2022 Board of Retirement Meeting Schedule – RECEIVE AND FILE; APPROVE](#)
- *11. [Letter from Executive Director Dominic Brown, dated September 14, 2021, to the Kern County Auditor-Controller-County Clerk regarding Special Board of Retirement Election to fill the vacancy of the Third Member Members – RECEIVE AND FILE](#)
- *12. [Invitation from State Association of County Retirement Systems \(SACRS\) to trustees and staff to attend the SACRS Fall Conference, November 9-12, 2021, in Hollywood, California – APPROVE ATTENDANCE OF TRUSTEES BRADLY BRANDON, JORDAN KAUFMAN AND TYLER WHITEZELL, EXECUTIVE DIRECTOR DOMINIC BROWN AND ASSISTANT EXECUTIVE DIRECTOR MATTHEW HENRY](#)

PUBLIC COMMENTS

13. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Board. This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation.

INVESTMENT MATTERS

14. [Discussion and appropriate action on private market fund recommendation](#) presented by Anelise Hohl, Investment Director, Cambridge Associates, Chief Investment Officer Daryn Miller, CFA, Senior Retirement Investment Officer Brian Long, CFA and the Investment Committee – APPROVE UP TO \$30MM COMMITMENT TO LBA LOGISTICS VALUE FUND IX; AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

ADMINISTRATIVE MATTERS

15. [KCERA Governance Report for the Fiscal Year ending June 30, 2021 presented by](#) Governance Consultant Tom Iannucci, Cortex Applied Research – RECEIVE AND FILE
16. [Presentation of finalist proposal for Governance Consulting Services presented by](#) Jeanna Cullins, Partner, and Julie Becker, Associate Partner, Aon Consulting, Inc. – HEAR PRESENTATION
17. [Presentation of finalist proposal for Governance Consulting Services presented by](#) Rick Funston, CEO, and Randy Miller, COO, Funston Advisory Services LLC – HEAR PRESENTATION
18. [Discussion and appropriate action regarding finalist proposals for Governance](#) Consulting Services presented by Executive Director Dominic Brown and the Administrative Committee – APPROVE SELECTION OF GOVERNANCE CONSULTANT; AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW
19. [Discussion and appropriate action on KCERA's voting delegation for the State](#) Association of County Retirement Systems (SACRS) Fall 2021 Conference, presented by Executive Director Dominic Brown – APPOINT VOTING DELEGATION

20. [Memorandum from Chief Legal Officer regarding SACRS Legislative Proposals for 2022 – APPROVE SACRS LEGISLATIVE PROPOSALS AS RECOMMENDED BY STAFF; DIRECT VOTING DELEGATE TO CAST VOTES ACCORDINGLY](#)
21. [Appointment of Nominating Committee by Chair \(two members\) and the Board \(two members\) to propose a slate of officers to the Board of Retirement for the 2022 calendar year – MAKE APPOINTMENTS TO NOMINATING COMMITTEE; APPROVE](#)

STAFF REPORTS

22. [Report from Executive Director](#)
23. [Report from Chief Investment Officer](#)
24. [Report from Chief Legal Officer](#)

COMMITTEE REPORTS

25. Report from Committee Chairs:
 - a. Administrative Committee: Franey
 - b. Finance Committee: Whitezell
 - c. Investment Committee: Kratt
 - d. KCERA Property, Inc. Board: Seibly

CALL FOR PUBLIC COMMENT ON EXECUTIVE SESSION ITEM(S)

EXECUTIVE SESSION

Items 1-2 are withdrawn from Executive Session if approved on the consent agenda:

1. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Daniel Burgess	Animal Control	General
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2. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Jeffrey Houston	Sheriff	Safety
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RETURN TO PUBLIC SESSION


REPORT OF EXECUTIVE SESSION ACTIONS, IF APPLICABLE

REFERRALS TO STAFF, ANNOUNCEMENTS OR REPORTS

26. On their own initiative, Board members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities.

NEW BUSINESS

27. Consider, discuss, and take possible action to agendize one or more items for future meetings of the Board of Retirement – CONSIDER, DISCUSS, AND TAKE ACTION ON WHETHER TO AGENDIZE PROPOSED ITEMS, IF ANY, FOR A FUTURE MEETING
28. Adjournment



**CONSIDERATION OF
ASSEMBLY BILL 361
SUMMARIZED**

**JENNIFER ZAHRY
CHIEF LEGAL OFFICER**

Brown Act Amendment

- Teleconferencing (pre-pandemic)
- Relaxed Teleconferencing thru 9/30
- Teleconferencing Options (current)



Brown Act Teleconferencing Requirements Section 54953(b)(3)

- ▶ Teleconferencing under the Brown Act (pre-pandemic) required:
 - 1) Each location of Board members participating via teleconference be made public,
 - 2) Meeting agendas be posted at all teleconference locations,
 - 3) Each teleconference location be accessible to the public,
 - 4) Members of the public be allowed to address the Board at each teleconference location, and
 - 5) A quorum of the legislative body participate from locations with the jurisdiction of the Board.



AB 361 (amended Brown Act to add section 54953(e))

- ▶ Section 54953(e)(1) allows legislative bodies to engage in teleconferencing without meeting the requirements in 54953(b)(3) under an active State of Emergency if certain findings are made.
- ▶ Section 54953(e)(2) sets forth required notice, access, participation, and statutory protections for the public.
- ▶ Section 54953(e)(3) describes the findings required every 30-days for legislative bodies that wish to continue operating under the alternative teleconferencing requirements of 54953(e)(1).



Teleconferencing – Public Access Provided vs. New Requirements

Current KCERA Process

- ▶ Agenda cover letter explains how to access meeting
- ▶ Agenda provides three call-in lines to access meeting
- ▶ Chair calls for real-time public comment on agenda items and non-agenda items
- ▶ Staff members use public call-in lines to alert Board Clerk of potential system issues preventing public access

AB 361 Requirements

- ▶ Tell public how to access meeting
- ▶ Include opportunity to attend via call-in option or via internet
- ▶ Provide opportunity to address the Board directly
 - Cannot require submission of questions in advance
- ▶ No further action if system failure prohibits public access until access restored



Transitioning to Alternative Teleconferencing Procedures under AB 361

- ▶ In order utilize alternative procedures allowed by section 54953(e) (as added by AB 361), at the first meeting under AB 361 the Board must consider whether to make findings on the following:

- ▶ A State of Emergency has been proclaimed by the Governor and remains active

AND either

- ▶ Local or State Officials continue to impose or recommend measures to promote social distancing

OR

- ▶ Meeting in person presents imminent risks to the health or safety of attendees



Proposed Action – Adopt Findings and Approve 30-day Resolution re Findings

Recommended Findings:

The Board has determined that

- State or local officials continue to impose or recommend measures to promote social distancing and/or
- As a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees

Date: October 13, 2021
To: Board of Retirement, Trustees
From: Jennifer Zahry, Chief Legal Officer 
Subject: **AB 361 Findings Required to Utilize Alternative Teleconferencing Requirements**

The Governor's Executive Orders allowing Boards to meet under relaxed teleconferencing standards expired September 30, 2021. Therefore, your Board is required to consider whether to adopt findings needed to comply with the Brown Act, as amended by AB 361. Such findings would be required for the Board and its Committees to meet today and during the next 30 days as they have been throughout the State of Emergency related to the COVID-19 Pandemic.

Recommended Findings

Staff recommends the Board make the following findings to be effective for the next 30 days:

The Board has determined that one or both of the following circumstances exist:

- 1) State or local officials continue to impose or recommend measures to promote social distancing and/or
- 2) The legislative body has determined by a majority vote that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees.

Background/Discussion

On March 4, 2020, Governor Newsom declared a State of Emergency to respond to concerns surrounding the spread of COVID-19 throughout communities in the state. At that time, he also issued a series of Executive Orders that suspended certain requirements of the Brown Act to allow legislative bodies to continue to carry on their business and allow public access without running afoul of the Brown Act's teleconferencing requirements.

Without the Executive Orders, teleconferencing under the Brown Act required:

- 1) each location of Board members participating via teleconference be made public,
- 2) meeting agendas be posted at all teleconference locations,
- 3) each teleconference location be accessible to the public,
- 4) that members of the public be allowed to address the Board at each teleconference location, and
- 5) a quorum of the legislative body participate from locations with the jurisdiction of the Board.

AB 361 Findings Required to Utilize Alternative Teleconferencing Requirements

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Executive Orders N-29-20 and N-35-20, which suspended the Brown Act's teleconferencing requirements, allowed legislative bodies, like KCERA, to meet virtually so long as the public was provided with access to the meetings and an ability to address the legislative body. KCERA has been operating under N-29-20 and N-35-20 since March 2020.

On June 11, 2021, the Governor issued Executive Order N-08-21. This Executive Order announced that the portions of N-29-20 and N-35-20 modifying the teleconferencing requirements of the Brown Act would no longer apply after September 30, 2021.

On September 16, 2021, Assembly Bill 361 was signed into law as urgency legislation. AB 361 provides local agencies with the ability to meet remotely during proclaimed states of emergency under modifications to the Brown Act's teleconferencing requirements that are very similar to the alternative provisions allowed by Executive Orders N-35-20 and N-29-20. In fact, KCERA's current teleconference practices satisfy every public access requirement of AB 361. Although AB 361 should have taken effect immediately, the Governor signed an Executive Order on September 20, 2021, which waived the application of AB 361 until October 1, 2021. (This allowed meetings scheduled between September 17th and September 30th to occur under the Executive Orders without having to adhere to AB 361 in such a short time frame.)

AB 361 retains the traditional teleconferencing requirements in the Brown Act; but it amends the statute to allow for alternative teleconferencing procedures during a proclaimed state of emergency, subject to certain action by the legislative body. Specifically, AB 361 added subdivision (e) to California Government Code section 54953. Subdivision (e)(1) of the statute provides the circumstances under which a local legislative body may adopt the alternative teleconferencing procedures. Subdivision (e)(2) lists the requirements for holding a meeting under the alternative teleconferencing procedures. Subdivision (e)(3) describes the required findings needed to continue using the alternative teleconferencing procedures. In the event the Board does not take action to adopt the findings in section 54953(e), the traditional teleconferencing requirements (listed in 1-5 above) will apply.

Adopting Alternative Teleconferencing Procedures Under AB 361

In order to conduct a meeting under the alternative teleconferencing procedures in AB 361, a state of emergency must have been formally proclaimed and either one of the following must be found:

- State or local officials have imposed or recommended measures to promote social distancing at the time the legislative body holds the meeting (Cal. Gov. Code § 54953(e)(1)(A));

OR

AB 361 Findings Required to Utilize Alternative Teleconferencing Requirements

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- The legislative body has determined by a majority vote that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees (Cal. Gov. Code § 54953(e)(1)(C)).

A standing committee of the board is considered a “legislative body” under section 54952; therefore, your Board will be making findings on behalf of your standing committees as well.

The Brown Act (as amended by AB 361) only allows the findings to remain valid for 30 days. Before the findings expire, the Board will be required to reconsider the circumstances of the State of Emergency and determine 1) whether its safety concerns continue to impact the ability of the Board and its committee to meet in-person and/or 2) whether state or local officials continue to recommend measure to promote social distancing. (If Board meetings do not fall within 30 days, a Special Meeting may need to be set.)

Findings

Governor Newsom proclaimed a State of Emergency on March 4, 2020, as a result of the threat of COVID-19 and the concerns over public safety. This State of Emergency remains in effect at this time.

Executive Order N-29-20 recites that the virus continues to spread and is impacting nearly all areas of California. More recently, the CDC released a COVID county-by-county map showing areas of “high” transmission. Kern County is listed as an area of “high” community transmission. [CDC COVID Data Tracker](#). In fact, as of the writing of this memo, the National Guard was currently assisting several local hospitals in caring for their COVID-19 patient population. <https://www.kget.com/health/coronavirus/national-guard-called-to-assist-staffs-at-adventist-health-dignity-health-hospitals-in-bakersfield-amid-latest-covid-19-surge/>

The Kern County Public Health Services Department provides COVID-19 guidance information on their website. The site provides a link to the California Department of Public Health’s (CDPH) “Use of Face Covering Guidance.” The CDPH guidance notes that [with] “the emergence of the more contagious Delta variant in California, which now accounts for over 80% of cases sequenced, cases and hospitalizations of COVID-19 are rising throughout the state, especially amongst those that remain unvaccinated.” The CDPH also states that the “Delta variant is two times as contagious than early COVID-19 variants, leading to increasing infections.” (See attached).

Other CDPH Guidance, notes that “Due to the rapid spread of the highly transmissible Delta variant of COVID-19, the immediate and primary call to action continues to be for eligible Californians to get vaccinated. A secondary call to action is for all Californians to comply with updated indoor masking recommendations to help prevent COVID-19 transmission and to consider their personal choices around harm reduction and risk tolerance in the fact of the Delta variant and the likelihood of additional variants emerging the future.” (See attached).

AB 361 Findings Required to Utilize Alternative Teleconferencing Requirements

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Likewise, California's Public Health Officer urges Californian's to "remain vigilant against variants of the disease". He notes that COVID-19 remains a concern to public health. To prevent its spread, limited and temporary public health limitations, including masking indoors, remain necessary at this time. (See attached.)

The COVID-19 Prevention Emergency Temporary Standards issued by the California Division of Occupational Safety and Health (Cal/OSHA) (codified at 8 C.C.R. § 3205) recommends physical distancing and requires it under certain circumstances. For example, the regulations require employees not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19. In addition, six feet of distance between people is recommended even when outdoors for those who are unmasked and unvaccinated. (See attached.)

Cal/OSHA also encourages employers and workers to follow the recent update from the CDPH recommending that all individuals wear face coverings while indoors regardless of vaccination status." See attached, Cal/OSHA August 25, 2021 News Release.

Conclusion

The above, along with the attached and linked materials, provides your Board with a basis to reasonably conclude and find that teleconferencing under section 54953(e) is appropriate for Board and Committee meetings during the next 30 days because 1) meeting in person during the current State of Emergency continues to present imminent risks to the health or safety of attendees and/or 2) state or local officials continue to recommend measures to promote social distancing.

If the Board makes these findings and directs teleconferencing under Section 54953(e), KCERA will continue to ensure compliance with the agenda and public participation requirements of the statutes, as amended by AB 361.

Attachments

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

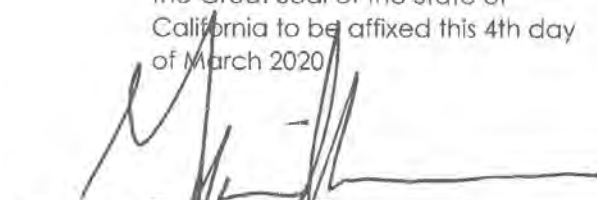
7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.
14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

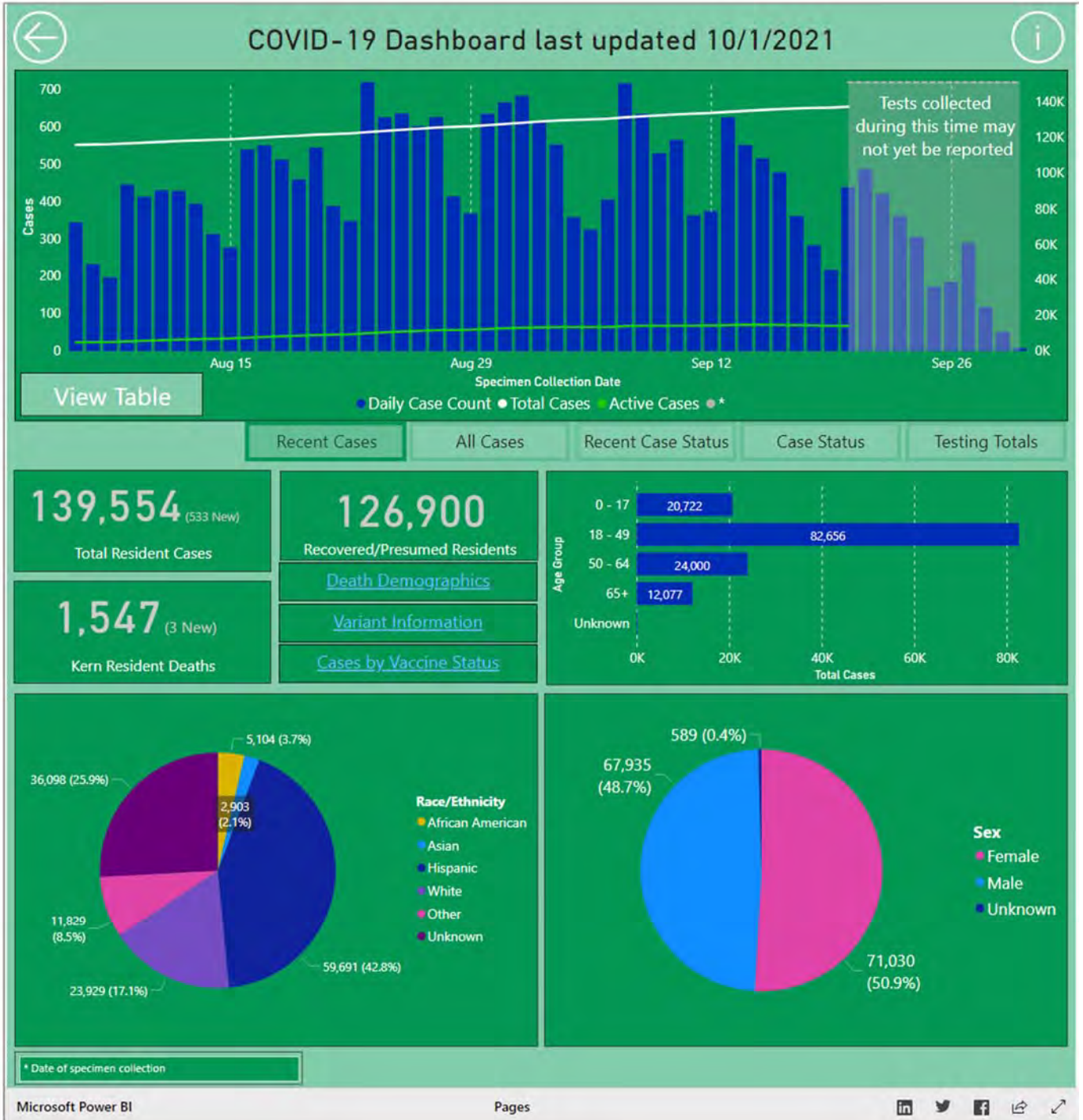
IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 4th day
of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



Variants of Concern

B.1.617.2 (Delta) 249

Variants Being Monitored

B.1.1.7 (Alpha) 73

B.1.351 (Beta) 3

B.1.427 (Epsilon) 1

B.1.429 (Epsilon) 11

B.1.525 (Eta) 0

B.1.526 (Iota) 1

B.1.617.1 (Kappa) 0

B.1.617.3 (n/a) 0

P.1 (Gamma) 4

P.2 (Zeta) 0



State of California—Health and Human
Services Agency
**California Department of
Public Health**



June 11, 2021

TO: All Californians
SUBJECT: Beyond the Blueprint

State Public Health Officer Order of June 11, 2021

At this point in the COVID-19 pandemic, California is prepared to enter a new phase. We have made significant progress in vaccinating individuals and reducing community transmission thanks to the steps taken by Californians.

The COVID-19 vaccines are effective in preventing infection, disease, and spread. Unvaccinated persons are more likely to get infected and spread the virus which is transmitted through the air and concentrates indoors.

We must remain vigilant against variants of the disease especially given high levels of transmission in other parts of the world and due to the possibility of vaccine escape. For these reasons, COVID-19 remains a concern to public health and, in order to prevent its spread, limited and temporary public health requirements remain necessary at this time.

I, as State Public Health Officer of the State of California, order:

1. All individuals must follow the requirements in the Guidance for the Use of Face Coverings issued by the California Department of Public Health. I will continue to monitor the scientific evidence and epidemiological data and will amend this guidance as needed by the evolving public health conditions and recommendations issued by the federal Centers for Disease Control & Prevention (CDC) and other public health authorities.
2. All individuals must follow the requirements for Mega Events in the Beyond the Blueprint for Industries and Business Sectors issued by the California Department of Public Health. I will review the need for this guidance by no later than September 1, 2021, to determine whether it remains necessary, and I will continue to monitor the scientific evidence and epidemiological data and will amend this guidance as needed by the evolving public health conditions and recommendations issued by CDC and other public health authorities.

3. All individuals must continue to follow the requirements in the current COVID-19 Public Health Guidance for K-12 Schools in California, the current COVID-19 Public Health Guidance for Child Care Programs and Providers, and the portions of the current K-12 Schools guidance that have been made explicitly applicable to day camps and other supervised youth activities. I will continue to monitor the scientific evidence and epidemiological data and will amend this guidance as needed by the evolving public health conditions and recommendations issued by the CDC and other public health authorities.
4. The California Department of Public Health will continue to offer public health recommendations and guidance related to COVID-19. However, aside from the mandatory guidance referenced in paragraphs 1, 2 and 3, the other public health guidance related to COVID-19, issued by the California Department of Public Health, will not be mandatory. Instead, they will represent the Department's best recommendations for preventing the spread of COVID-19 based on the scientific evidence and epidemiological data. I strongly encourage Californians to follow such guidance to keep themselves, their families, and their communities healthy.
5. This Order supersedes the August 28, 2020, State Public Health Officer Order, the July 13, 2020, State Public Health Officer Order, the May 7, 2020, State Public Health Officer Order, and the March 19, 2020, State Public Health Officer Order.
6. This Order goes into effect on June 15, 2021, at 12:01 a.m.
7. This Order is issued pursuant to Health and Safety Code sections 120125, 120140, 120175, 120195 and 131080 and other applicable law.



Tomás J. Aragón, M.D., Dr.P.H.

Director & State Public Health Officer

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State of California—Health and Human
Services Agency
**California Department of
Public Health**



July 28, 2021

TO: All Californians

SUBJECT: Guidance for the Use of Face Coverings



Note: This guidance is effective July 28, 2021 and supersedes all prior face coverings guidance.

Related Materials: [Face Coverings Q&A](#) | [Face Coverings Fact Sheet \(PDF\)](#) | [Face Mask Tips and Resources](#) | [Face Shields Q&A \(PDF\)](#) | [Safe Schools for All Hub](#) | [More Home & Community Guidance](#) | [All Guidance](#) | [More Languages](#)

Updates as of July 28, 2021:

- Adds recommendation for universal masking indoors statewide
- Adds Adult and Senior Care Facilities to settings where all individuals must wear masks indoors
- References new requirements for unvaccinated workers in the State Health Officer July 26 Order

Guidance For the Use of Masks

Background

The COVID-19 vaccines are effective in preventing serious disease. Unvaccinated persons are more likely to get infected and spread the virus which is transmitted through the air and concentrates indoors. About 15% of our population remains without the option for vaccination (children under 12 years old are not yet eligible) and risk for COVID-19 exposure and infection will remain until we reach full community immunity.

The purpose of this guidance is to provide information about higher risk settings where masks are required or recommended to prevent transmission to persons with higher risk of infection (e.g., unvaccinated or immunocompromised persons), to persons with prolonged, cumulative exposures (e.g., workers), or to persons whose vaccination status is unknown. When people who are not fully vaccinated wear a mask correctly, they protect others as well as themselves. Consistent and correct mask use by people who are not fully vaccinated is especially important indoors.

With the emergence of the more contagious Delta variant in California which now accounts for over 80% of cases sequenced, cases and hospitalizations of COVID-19 are rising throughout the state, especially amongst those that remain unvaccinated.

Despite ongoing outreach and improving COVID-19 vaccine access, as of July 27, 2021, a significant proportion of Californians throughout the state are not yet fully vaccinated. The Delta variant is two times as contagious than early COVID-19 variants, leading to increasing infections.

In California, unvaccinated persons continue to be required to wear masks in all indoor public settings. This guidance is an update, in light of review of the most recent CDC recommendations. To achieve universal masking in indoor public settings, we are recommending that fully vaccinated people also mask in indoor public settings across California. This adds an extra precautionary measure for all to reduce the transmission of COVID-19, especially in communities currently seeing the highest transmission rates. Local health jurisdictions may be more restrictive than this guidance.

In California, fully vaccinated people might choose to wear a mask in indoor non-public settings, particularly if they are immunocompromised or at increased risk for severe disease from COVID-19, or if they have someone in their household who is immunocompromised, at increased risk of severe disease, not fully vaccinated, or not yet eligible for vaccination.

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard and should consult those regulations for additional applicable requirements.

Masking Requirements

Masks are **required for all individuals** in the following indoor settings, regardless of vaccination status:

- On public transit^[1] (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- **Indoors** in K-12 schools^[2], childcare^[3]
- Emergency shelters^[4] and cooling centers^[5]

Masks are **required for all individuals**, in the following indoor settings, regardless of vaccination status (and surgical masks are recommended):

- Healthcare settings^[6]
- State and local correctional facilities and detention centers^[7]
- Homeless shelters^[8]
- Long Term Care Settings^[9] & Adult and Senior Care Facilities^[10]

Additionally, masks are **required* for unvaccinated individuals** in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state and local government offices serving the public).

See State Health Officer Order, issued on July 26, 2021, for a full list of high-risk congregate and other healthcare settings where surgical masks are required for unvaccinated workers, and recommendations for respirator use for unvaccinated workers in healthcare and long-term care facilities in situations or settings not covered by Cal OSHA ETS or ATD.

For additional information on types of masks, the most effective masks, and ensuring a well-fitted mask, individuals should refer to CDPH Get the Most out of Masking and see CDPH Masking Guidance Frequently Asked Questions for more information.

***Guidance for Businesses, Venue Operators or Hosts**

In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements

The following **individuals** are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

[1] CDC Requirement for Face Masks on Public Transportation Conveyances and at Transportation Hubs

[2] Interim Public Health Recommendations for Fully Vaccinated People

[3] CDC Guidance for Operating Child Care Programs during COVID-19

[4] CDC Interim Guidance for General Population Disaster Shelters During the COVID-19 Pandemic

[5] CDC Interim Guidance to Reduce the Risk of Introducing and Transmitting SARS COV-2 in Cooling Centers

[6] Healthcare settings includes all settings in Categories A and C of State Health Officer Order, including Residential Substance Use Disorder and Mental Health Facilities, issued on July 26, 2021

- See: CDC Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19 Vaccination

[7] CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

[8] CDC's Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)

[9] Refer to State Health Officer Order, issued on July 26, 2021 for definition

[10] CDC Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes

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State of California—Health and Human
Services Agency
**California Department of
Public Health**



August 18, 2021

TO: All Californians

SUBJECT: Beyond the Blueprint for Industry and Business Sectors

Related Materials: Beyond the Blueprint Q&A | Vaccination Record Guidelines & Standards

Updates as of August 18, 2021:

- Applied vaccine verification or negative testing requirement to Indoor Mega Events involving 1,000 or more participants.
- Removed self-attestation as a mode for both vaccine verification and for verification of negative COVID-19 test for indoor events scheduled after September 20, 2021.
- Extended date for requirements and recommendations to remain in place to November 1, 2021.

Background:

On June 15, California fully reopened the economy and moved beyond the Blueprint for a Safer Economy. All sectors listed in the Blueprint Activities and Business Tiers Chart returned to usual operations (with the limited exceptions noted below for Mega Events).

California has made great strides in vaccinating its residents, with more than 75 percent of those eligible at least partially vaccinated. Although vaccinations provide a powerful protection against COVID-19 hospitalization and death, the Delta variant, which is currently the most common strain of COVID-19 in California, is highly transmissible and may cause more severe illness.[1] In fact, recent data suggests that viral load is roughly 1,000 times higher in people infected with the Delta variant than those infected with the original coronavirus strain. California is currently experiencing the fastest increase in COVID-19 cases during the entire pandemic with 25.7 new cases per 100,000 people per day, with case rates increasing eleven-fold within two months. Given the rapid spread of the highly transmissible Delta variant, additional precautionary measures must be taken in large, indoor events, which have the potential to cause large, substantial, and severe outbreaks.

Large events involve several factors that increase the risk of transmission including (a) persons attending often travel from outside the immediate area, from areas with higher levels of transmission, and some types of travel may increase the risk of exposure; (b) events have prolonged duration; (c) crowding is common in large events; (d) even in counties or venues with universal masking requirements, masks are removed for eating and drinking; and

(e) the larger the number of people gathered in crowded settings, the greater the likelihood that contagious persons are present and the more individuals who are exposed with the potential of becoming infected and spreading infections within their families, communities, schools, and workplaces.

Indoor settings are especially high risk for transmission. While universal masking reduces the spread of infectious droplets and aerosols, masks are often removed for eating and drinking. Activities like singing, yelling, or cheering increase transmission risk, even when masks are being worn.

The immediate and primary call to action continues to be for eligible Californians to get vaccinated. A secondary call to action is for all unvaccinated Californians to comply with indoor masking requirements and for all Californians to consider their personal choices around harm reduction and risk tolerance in the face of the Delta variant and the likelihood of additional variants emerging in the future.

Additionally, a key method to reduce transmission in large gatherings is to expand the number of events that require attendees to be verified fully-vaccinated against COVID-19 or verified tested negative, both indoors and outdoors.

CDPH is therefore updating the general public health requirements and recommendations as follows, effective September 20, 2021. These updated measures will remain in place until **November 1, 2021**:

	Restrictions Applying to Indoor & Outdoor Settings
UPDATE: Definitions of Mega Events	Crowds greater than 1,000 (indoors) attendees Crowds greater than 10,000 (outdoors) attendees
UPDATE: Vaccine Verification / Negative Testing	Required for Indoor Mega Events Recommended for Outdoor Mega Events Self-attestation may not be used to verify status as fully vaccinated or as proof of negative test result for indoor settings. For outdoor settings, it is recommended not to use self-attestation to verify status as fully vaccinated or as proof of negative test result.
Capacity Limitations	No restrictions
Physical Distancing	No restrictions for attendees, customers, and guests
Masking	Follow current CDPH Guidance for Face Coverings
Travelers	Recommend following CDC recommendations.

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the CalOSHA Aerosol Transmissible Diseases Standard, and should consult those regulations for additional applicable requirements.

Limited Requirements for Mega Events:

Mega Events are characterized by large crowds greater than 1,000 indoor OR 10,000 outdoor attendees. Mega Events may have either assigned or unassigned seating, and may be either general admission or gated, ticketed, and permitted events. Mega Events do not include venues such as shopping malls or museums that are open to

public circulation as part of their regular operations, except to the extent that such venues host qualifying events.

Mega Events are considered higher risk for COVID transmission because:

- Participants and attendees are spending extensive periods of time physically close to large numbers of people they don't usually interact with.
- The frequency and total duration of close contact between attendees is increased, thereby increasing the risk that respiratory particles will be transmitted between attendees and participants.
- They draw from beyond the nearby community and will often draw attendees and participants from other states and countries who may be infected with more infectious COVID variants.
- Effective contact tracing may be difficult given the number of potential uncontrolled mixing between groups and attendees among individuals who are unlikely to be together again and the nature of the events.

For Indoor Mega Events (example: conventions/conferences/expos/sporting events and concerts[2]):

In addition to the general public health recommendations:

- Verification of fully vaccinated status* or pre-entry negative test** result is required of all attendees.
 - Indoor venue and event operators may not use self-attestation as a mode of verification.
- Information will be prominently placed on all communications, including the reservation and ticketing systems, to ensure guests are aware of testing and vaccination requirements (including acceptable modes of verification).
- Attendees must follow CDPH Guidance for Face Coverings.
- Venues should make masks available to attendees upon request.

For Outdoor Mega Events (example: music or food festivals/car shows/large endurance events and marathons/parades/sporting events and concerts):

In addition to the general public health recommendations:

- Verification of fully vaccinated status or pre-entry negative test result is strongly recommended for all attendees.
 - If implemented, venue and event operators are recommended to not use self-attestation as a mode of verification but rather use verification options for providing proof of vaccination in the CDPH Vaccine Record Guidelines & Standards.
- Attendees must follow CDPH Guidance for Face Coverings.
- Information will be prominently placed on all communications, including the reservation and ticketing systems, to ensure guests are aware that the State strongly recommends that they be fully vaccinated or obtain a negative COVID-19 test prior to attending the event.
- Venues should make masks available to attendees upon request.

Additional recommendations for sponsors of Mega Events:

- Encourage everyone to get vaccinated when eligible.

- Facilitate increased ventilation of indoor spaces (i.e., open all windows and doors to increase natural air flow), following current CDPH and CalOSHA guidance.
- Encourage everyone to sign up for CA Notify as an added layer of protection for themselves and the community to receive alerts when they have been in close contact with someone who tests positive for COVID-19.
- Convey the risk of attending large, crowded events where the vaccine status of others in attendance may be unknown to the individuals.
- Convey the risk of attending large, crowded events for populations that may not currently be eligible for vaccination or may be immunocompromised and whose vaccine protection may be incomplete.
- Encourage all venues along any parade or event route to provide outdoor spaces for eating/drinking/congregating to reduce the risk of transmission in indoor settings.

The requirements and recommendations for negative testing / vaccine verification will be in place effective September 20, 2021 through November 1, 2021. The state will assess conditions by October 15, 2021, to determine whether updated requirements or recommendations are needed beyond November 1, 2021.

[1] CDC - Delta Variant: What We Know About the Science

[2] These requirements continue to be recommended but not mandatory for places of worship meeting the definition of a mega event.

* Fully vaccinated

1. Definition: See current CDPH Guidance for Fully Vaccinated Persons for definitions, acceptable vaccines, and updates on additional vaccines as they are approved.
2. Verification: See current Options for Providing Proof of Vaccination in the CDPH Vaccine Record Guidelines & Standards for acceptable methods of vaccine verification.

** Pre-entry negative testing

1. Definition: Testing must be conducted within 72 hours before event start time (both PCR and antigen are acceptable). Results of the test must be available prior to entry into the event or venue.
2. Verification: See current CDPH Updated Testing Guidance for acceptable methods of proof of negative COVID-19 test result.

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Barclays Official California Code of Regulations Currentness
Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
Introduction

8 CCR § 3205

§ 3205. COVID-19 Prevention.

NOTE: See *Executive Order N-84-20 (2019 CA EO 84-20)*, issued in response to the COVID-19 pandemic, which suspends certain provisions relating to the exclusion of COVID-19 cases from the workplace.

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) “Close contact” means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the high-risk exposure period.

(2) “COVID-19” means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(3) “COVID-19 case” means a person who:

(A) Has a positive “COVID-19 test” as defined in this section; or

(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or

(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official;
or

(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) “COVID-19 hazard” means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from

procedures performed on persons which may aerosolize saliva or respiratory tract fluids. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) “COVID-19 test” means a viral test for SARS-CoV-2 that is:

(A) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

(B) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

(7) “Exposed group” means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the high-risk exposure period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the high-risk exposure period, and the COVID-19 case was

wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

NOTE: An exposed group may include the employees of more than one employer. See [Labor Code sections 6303 and 6304.1](#).

(8) “Face covering” means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(9) “Fully vaccinated” means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Vaccines must be FDA approved; have an emergency use authorization from the FDA; or, for persons fully vaccinated outside the United States, be listed for emergency use by the World Health Organization (WHO).

(10) “High-risk exposure period” means the following time period:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(11) “Respirator” means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(12) “Worksite,” for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was

present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

NOTE: The term worksite is used for the purpose of notice requirements in subsections (c)(3)(B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5)(I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees who are not fully vaccinated and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

NOTE: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the disinfection plan required by [Labor Code section 6409.6\(a\)\(4\)](#). The notice must be sent to the following:

a. All employees at the worksite during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers at the worksite during the high-risk exposure period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall provide the notice required by [Labor Code section 6409.6\(a\)\(2\)](#) and (c) to the authorized representative of any employee at the worksite during the high-risk exposure period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C), with the following exceptions:

a. Employees who were fully vaccinated before the close contact and do not have COVID-19 symptoms.

b. COVID-19 cases who returned to work pursuant to subsection 3205(c)(10) (A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for 90 days after the first positive test.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4:

1. How to properly wear the respirator provided;
2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that face coverings are additionally recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained. Employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) For all employees who are not fully vaccinated, employers shall provide face coverings and ensure they are worn when indoors or in vehicles.

(B) Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.

(C) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(D) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.
2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.
3. Employees wearing respirators required by the employer and used in compliance with section 5144.

4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.

5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(E) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.

(F) Any employee not wearing a face covering, pursuant to the exceptions in subsections (c) (6)(D)4. or 5., and not wearing a non-restrictive alternative when allowed by subsection (c) (6)(E), shall be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(F) as an alternative to face coverings when face coverings are otherwise required by this section.

(G) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(H) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(I) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) Employers shall implement cleaning and disinfecting procedures, which require:

1. Identifying and regularly cleaning frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, phones, headsets, bathroom surfaces, and steering wheels. The employer shall inform employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of cleaning and disinfection.

2. Cleaning of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period, and disinfection if the area, material, or equipment is indoors and will be used by another employee within 24 hours of the COVID-19 case.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

(C) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer. Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(D) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.

2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.

3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(D)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(E) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms who are not fully vaccinated, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by [Labor Code section 6409.6](#).

(B) The employer shall maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall exclude from the workplace employees who had a close contact until the return to work requirements of subsection (c)(10) are met, with the following exceptions:

1. Employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms; and

2. COVID-19 cases who returned to work pursuant to subsection (c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed COVID-19 symptoms, for 90 days after the first positive test.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available

in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

EXCEPTION 1: Subsection (c)(9)(C) does not apply where the employee received disability payments or was covered by workers' compensation and received temporary disability.

EXCEPTION 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria.

(A) COVID-19 cases with COVID-19 symptoms shall not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medications; and
2. COVID-19 symptoms have improved; and
3. At least 10 days have passed since COVID-19 symptoms first appeared.

(B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

(C) Once a COVID-19 case has met the requirements of subsection (c)(10)(A) or (B), as applicable, a negative COVID-19 test shall not be required for an employee to return to work.

(D) Persons who had a close contact may return to work as follows:

1. Persons who had a close contact but never developed any COVID-19 symptoms may return to work when 10 days have passed since the last known close contact.

2. Persons who had a close contact and developed any COVID-19 symptom cannot return to work until the requirements of subsection (c)(10)(A) have been met, unless all of the following are true:

a. The person tested negative for COVID-19 using a polymerase chain reaction (PCR) COVID-19 test with specimen taken after the onset of symptoms; and

b. At least 10 days have passed since the last known close contact; and

c. The person has been symptom-free for at least 24 hours, without using fever-reducing medications.

3. During critical staffing shortages, when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the following categories may return after Day 7 from the date of last exposure if they have received a negative PCR COVID-19 test result from a specimen collected after Day 5:

a. Health care workers who did not develop COVID-19 symptoms;

b. Emergency response workers who did not develop COVID-19 symptoms; and

c. Social service workers who did not develop COVID-19 symptoms and who work face to face with clients in child welfare or assisted living.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine

is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10)(A), (c)(10)(B), or (c)(10)(D), as applicable.

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: [Section 142.3, Labor Code](#). Reference: [Sections 142.3, 144.6 and 6409.6, Labor Code](#).

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.
2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.
3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).
4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to [Government Code sections 8567, 8571 and 8627](#) (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

This database is current through 9/17/21 Register 2021, No. 38

8 CCR § 3205, 8 CA ADC § 3205

End of Document

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**BEFORE THE BOARD OF RETIREMENT
KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION No. 2021-02**

In the matter of:

**MEETINGS OF THE KCERA BOARD OF RETIREMENT AND ITS STANDING
COMMITTEES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION
54953, AS AMENDED BY ASSEMBLY BILL 361.**

Ayes:

Noes:

Absent:

Dominic D. Brown,
Secretary to the Board of Retirement,
Kern County Employees' Retirement Association

RESOLUTION

Section 1. WHEREAS:

- (a) The Kern County Employees' Retirement Association ("KCERA") is required by the Ralph M. Brown Act (Cal. Gov. Code¹ 54950 – 54963) ("the Brown Act") to conduct open and public meetings, so that any member of the public may attend, participate, and watch KCERA's legislative bodies conduct their business; and

¹ All statutory references are to the California Government code unless stated otherwise.

- (b) All meetings of KCERA's Board of Retirement and its standing committees are open and public in accordance with the Brown Act or other governing authority; and
- (c) KCERA is committed to preserving and encouraging public access and participation in meetings of the Board of Retirement; and
- (d) The Brown Act, at section 54953(e) (as added by Assembly Bill 361), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the teleconference requirements of section 54953(b)(3), subject to the existence of certain conditions; and
- (e) A state of emergency must have been declared by the Governor pursuant to section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in section 8558; and such state of emergency must be in effect at the time of the meeting in order to conduct a meeting under section 54953(e); and
- (f) A legislative body must find that either state or local officials have imposed or recommended measures to promote social distancing and/or that the legislative body meeting in person would present imminent risks to the health and safety of attendees in order to conduct a meeting under section 54953(e); and
- (g) Governor Newsom proclaimed a State of Emergency on March 4, 2020, pursuant to section 8625; and

- (h) California's Division of Occupational Safety and Health, ("Cal/OSHA") updated its COVID-19 Prevention Emergency Temporary Standards on June 17, 2021, to include requirements for vaccinated and unvaccinated workers. (8 C.C.R. § 3205). These Standards recommend physical distancing as part of training and instruction that must be given to employees. And, in some circumstances, the Standards require physical distancing. (8 C.C.R. § 3205). These standards apply to all workers in California with few exceptions. KCERA has been following the Cal/OSHA guidance.
- (i) Kern County is currently designated as having "high" community transmission by the Centers for Disease Control and Prevention ("CDC") and the California Department of Public Health ("CDPH").
- (j) According to the CDPH, the Delta variant is two times as contagious than early COVID-19 variants, leading to increasing infections.
- (k) The Board finds that due to the highly transmissible properties of the Delta variant of COVID-19 and the current local case rate indicating "high" community transmission, meetings in person by the Retirement Board and its standing committees at this time would present imminent risk to the health and safety of its attendees.
- (l) The Board finds that the threat of the COVID-19 Pandemic, including the highly transmissible Delta variant, and the current local case rate indicating high community transmission, has caused, and will continue to cause concern over the safety of persons within the jurisdiction of the KCERA Board over the next thirty days.

Section 2. NOW, THEREFORE BE IT RESOLVED, by the Board of Retirement for the Kern County Employees' Retirement Association as follows:

Effective as of October 13, 2021, the following actions are authorized and required of KCERA:

- 1) Remote Teleconference Meetings. The Executive Director and legislative bodies of KCERA are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act in order to avoid imminent health and safety risk to attendees that in-person meetings would present during the next 30 days of the current State of Emergency (proclaimed by the Governor on March 4, 2020).
- 2) Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) November 13, 2021, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of KCERA may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

RESOLUTION HISTORY

- 1) This Resolution was:
 - a) Approved by the Board on October 13, 2021.

**KERN COUNTY EMPLOYEE'S RETIREMENT ASSOCIATION (KCERA)
Board of Retirement**

SUMMARY OF PROCEEDINGS

Teleconference Meeting – Board of Retirement Meeting

September 8, 2021

8:31 a.m.

Board Members: Brandon (Alternate), Couch, Franey, Chair Gonzalez, Hughes, Kaufman, Kratt, Nunneley (Alternate), Robinson, Seibly (Alternate), Skidmore, Whitezell

ROLL CALL

Present: Brandon, Couch, Franey, Gonzalez, Hughes, Kratt, Nunneley, Robinson, Seibly, Skidmore, Whitezell

Absent: Kaufman

MOMENT OF SILENCE

CONSENT MATTERS

NOTE: The vote is displayed in bold below each item. For example, Couch-Kaufman denotes Trustee David Couch made the motion and Trustee Jordan Kaufman seconded the motion.

- *1. Application for service-connected disability pension benefits for Ian (Melanie) Chandler, Sheriff (Safety) – **ADOPTED RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION**

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *2. Application for service-connected disability pension benefits for Mark Herman, District Attorney (Safety) – **ADOPTED RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION**

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *3. Application for service-connected disability pension benefits for Neil Weiting, Sheriff (Safety) – **ADOPTED RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION**

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *4. Application for service-connected disability pension benefits for Derek Zdarstek, Probation (Safety) – ADOPTED RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *5. Summary of proceedings of the following meetings:

- August 11, 2021 Board of Retirement

RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *6. Monthly report from the KCERA office on members retired from service for the month of August 2021 – RATIFIED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *7. Monthly report from the KCERA office on deceased retirees for the month of August 2021 – RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *8. Report of current disability retirement applications and appeals of KCERA Board decisions for the period ending August 31, 2021 – RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *9. Securities Lending Earnings Summary Report for the period July 1-31, 2021 from Deutsche Bank – RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *10. KCERA asset allocation, budget status, cash flow position and investment fees status report for the month of July 2021 – RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *11. Report on Special Pays Codes classified by the Executive Director – RECEIVED AND FILED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

- *12. Service provider evaluation period initiated pursuant to Evaluation Period Policy – RATIFIED

Franey-Robinson – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

PUBLIC COMMENTS

13. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Board. This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation – NONE

ADMINISTRATIVE MATTERS

14. Discussion and appropriate action pursuant to KCERA's Legislative Policy regarding AB 826 presented by Executive Director Dominic Brown and Chief Legal Officer Jennifer Zahry – CHAIR JUAN GONZALEZ HEARD; TRUSTEES DAVID COUCH, EDWARD ROBINSON AND LAUREN SKIDMORE HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; CHIEF LEGAL OFFICER JENNIFER ZAHRY HEARD

APPROVED STAFF RECOMMENDATION AS OUTLINED IN MEMO

Couch-Skidmore – 8 Ayes; 1 Abstention (Robinson)

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

15. Discussion and appropriate action regarding report from Kern County Grand Jury dated July 7, 2021 and Kern County Employees' Retirement Association response dated August 25, 2021 – CHAIR JUAN GONZALEZ HEARD; TRUSTEES RICK KRATT AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD

RECEIVED AND FILED

Whitezell-Franey – 9 Ayes

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

INVESTMENT MATTERS

16. Presentation regarding Environmental, Social, and Corporate Governance (ESG) presented by Scott Whalen, CFA, Verus – SCOTT WHALEN, CFA, VERUS, HEARD; CHAIR JUAN GONZALEZ HEARD; TRUSTEES DAVID COUCH, RICK KRATT, EDWARD ROBINSON AND ROBB SEIBLY HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; CHIEF LEGAL OFFICER JENNIFER ZAHRY HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

RECEIVED AND FILED

Robinson-Kratt – 8 Ayes; 1 No (Robinson)

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

STAFF REPORTS

17. Report from Executive Director

EXECUTIVE DIRECTOR DOMINIC BROWN REPORTED THE FOLLOWING:

- ALAMEDA PHASE 4 UPDATE
- FACILITIES UPDATE
- STAFFING UPDATE
- RESPONSE TO REFERRAL REGARDING BEHAVIORAL HEALTH RESOURCES
- STAKEHOLDER NOTIFICATIONS
- RFQ FOR GOVERNANCE SERVICES
- DISABILITY UPDATE
- SACRS FALL CONFERENCE
- OPERATIONS ACTIVITY
- UPCOMING MEETINGS AND EVENTS

CHAIR JUAN GONZALEZ HEARD

18. Report from Chief Investment Officer

CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, REPORTED THE FOLLOWING:

- REBALANCING REPORT FOR AUGUST
- POSITIONING
- STAFF UPDATE
- KEY INITIATIVES
- INVESTMENT COMMITTEE MEETINGS

CHAIR JUAN GONZALEZ HEARD; TRUSTEES DAVID COUCH, RICK KRATT AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; RETIREMENT INVESTMENT ANALYST JACK BOWMAN HEARD

19. Report from Chief Legal Officer

CHIEF LEGAL OFFICER JENNIFER ZAHRY REPORTED THE FOLLOWING:

- SACRS LEGISLATIVE UPDATES
- SEPTEMBER 2021 CALENDAR ITEMS
- QUARTER 2 2021 METRICS UPDATE

COMMITTEE REPORTS

20. Report from Committee Chairs:

- Administrative Committee: FRANEY – NONE
- Finance Committee: WHITEZELL – NONE
- Investment Committee: KRATT – MEETING TO BE SCHEDULED
- KCERA Property, Inc.: SEIBLY – NONE

TRUSTEE EDWARD ROBINSON HEARD

CALL FOR PUBLIC COMMENT ON EXECUTIVE SESSION ITEM(S) – NONE

EXECUTIVE SESSION

TRUSTEE DAVID COUCH LEFT 10:42 A.M.

21. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Mark Ashley

Sheriff

Safety

RETURN TO PUBLIC SESSION

BOARD OF RETIREMENT RECONVENED AT 11:18 A.M.

ROLL CALL

Present: Brandon, Franey, Gonzalez, Hughes, Kratt, Nunneley, Robinson, Seibly, Skidmore, Whitezell

Absent: Couch, Kaufman

REPORT OF EXECUTIVE SESSION ACTIONS, IF APPLICABLE

ITEM 1 – ADOPTED FINDINGS OF FACT AND RECOMMENDATION OF HEARING OFFICER TO FIND THE APPLICANT IS PERMANENTLY INCAPACITATED ON A NON-SERVICE-CONNECTED BASIS; GRANT NON-SERVICE-CONNECTED DISABILITY RETIREMENT AND DENY REQUEST FOR SERVICE-CONNECTED DISABILITY RETIREMENT

Whitezell-Hughes – 6 Ayes; 2 Noes (Kratt, Robinson); 1 Absent (Couch)*
Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

**Prior to passage of the above action, the following motion occurred:*

MOTION TO DRAFT ALTERNATE FINDINGS AND GRANT SERVICE-CONNECTED DISABILITY

Robinson-Kratt – 2 Ayes; 6 Noes (Franey, Gonzalez, Hughes, Skidmore, Whitezell, Nunneley); 1 Absent (Couch)
Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

MOTION FAILED (FIVE AFFIRMATIVE VOTES REQUIRED)

REFERRALS TO STAFF, ANNOUNCEMENTS OR REPORTS

22. On their own initiative, Board members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities – CHAIR JUAN GONZALEZ HEARD; TRUSTEES PHIL FRANAY, RICK KRATT, EDWARD ROBINSON AND LAUREN SKIDMORE HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD; CHIEF LEGAL OFFICER JENNIFER ZAHRY HEARD; RETIREMENT ADMINISTRATIVE SERVICES MANAGER AIMEE MORTON HEARD

TRUSTEE EDWARD ROBINSON MADE A REFERRAL TO STAFF TO ISSUE A PRESS RELEASE REGARDING INVESTMENT RETURNS, INCLUDING COMPARISON TO OTHER ENTITIES

NEW BUSINESS

23. Consider, discuss, and take possible action to agendize one or more items for future meetings of the Board of Retirement – CHAIR JUAN GONZALEZ HEARD

CHAIR JUAN GONZALEZ MADE A REFERRAL TO BRING ESG MATTER BACK TO BOARD IN SEPTEMBER 2022

Gonzalez-Robinson – 8 Ayes

24. ADJOURNED – 11:32 A.M.

Secretary, Board of Retirement

Chair, Board of Retirement

**KERN COUNTY EMPLOYEE'S RETIREMENT ASSOCIATION (KCERA)
Board of Retirement**

SUMMARY OF PROCEEDINGS

**Teleconference Meeting – Investment Committee
September 22, 2021**

11:01 a.m.

Committee Members: Couch, Gonzalez, Hughes (Alternate), Kaufman, Chair Kratt

ROLL CALL

Present: Couch, Gonzalez, Hughes, Kaufman, Kratt

Absent: None

NOTE: The vote is displayed in bold below each item. For example, Gonzalez-Couch denotes Trustee Juan Gonzalez made the motion and Trustee David Couch seconded the motion.

1. Discussion and appropriate action on private market fund recommendation presented by Anelise Hohl, Investment Director, Cambridge Associates¹, Chief Investment Officer Daryn Miller, CFA, and Senior Retirement Investment Officer Brian Long, CFA – ANELISE HOHL, CAMBRIDGE ASSOCIATES, HEARD; CHAIR RICK KRATT HEARD; TRUSTEES DAVID COUCH AND JUAN GONZALEZ HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD; SENIOR RETIREMENT INVESTMENT OFFICER BRIAN LONG, CFA, HEARD

RECOMMENDED THE FOLLOWING TO THE BOARD OF RETIREMENT:
APPROVE UP TO \$30MM COMMITMENT TO LBA LOGISTICS VALUE FUND IX;
AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE
AND REVIEW

Couch-Kaufman – 4 Ayes

¹ Written materials and investment recommendations from the consultants, fund managers and KCERA investment staff relating to alternative investments are exempt from public disclosure pursuant to California Government Code §6254.26, §6255, and §54957.5.

PUBLIC COMMENTS

2. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Committee. This portion of the meeting is reserved for persons to address the Committee on any matter not on this agenda but under the jurisdiction of the Committee. Committee members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Committee at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation – NONE

COMMITTEE MEMBER ANNOUNCEMENTS OR REPORTS

3. On their own initiative, Committee members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities – CHAIR RICK KRATT HEARD; TRUSTEE DAVID COUCH HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD
4. ADJOURNED – 11:22 A.M.

Secretary, Board of Retirement

Chair, Investment Committee



PRUDENT INVESTMENT • QUALITY SERVICE

**Kern County Employees' Retirement Association
New Retirees- September 1, 2021 to September 30, 2021**

Employer Name: County Of Kern

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Abrams	Tammy	11/16/2019	General Tier I	1110 - Auditor-Controller
Ambrose	Jacquelyn	07/31/2021	General Tier I	1160 - Information Technology Sv
Boller	Dean	07/31/2021	Safety Tier I	2415S - Fire
Clough	Kevin	07/17/2021	General Tier I	4300 - California Childrens Svcs
Garcia	Joe	08/14/2021	Safety Tier I	2210S - Sheriff
Gibbins	Paul	07/31/2021	Safety Tier I	2415S - Fire
Guerzon	David	08/13/2021	Safety Tier II	2340S - Probation-Safety
Halkola	Kurt	08/06/2021	General Tier I	8997 - Kern Medical Center
Hayes	Robert	08/14/2021	Safety Tier I	2210S - Sheriff
Hayes	Shelly	08/14/2021	General Tier I	1610 - General Services Division
Hwang	Hui Fang	07/01/2021	General Tier I	1420 - County Clerk Elections
Marquez	Adam	08/14/2021	Safety Tier I	2340S - Probation-Safety
Mitchell	John	07/31/2021	General Tier I	2180 - District Attorney
Moore	Gregory	07/03/2021	Safety Tier I	2340S - Probation-Safety
Pelayo	Alicia	08/31/2021	General Tier I	5120 - Depart Of Human Services
Peshkin	Ira	07/31/2021	Safety Tier I	2415S - Fire
Regan	Corey	07/31/2021	Safety Tier I	2415S - Fire
Reynolds	Jeanna	08/14/2021	General Tier II	4120 - Behavioral Health & Reco



PRUDENT INVESTMENT • QUALITY SERVICE

**Kern County Employees' Retirement Association
New Retirees- September 1, 2021 to September 30, 2021**

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Robinson	Derek	07/31/2021	Safety Tier I	2415S - Fire
Stevens	Alton	08/14/2021	General Tier I	2210 - Sheriff
Taylor	Kim	07/31/2021	General Tier I	1120 - Treasurer-Tax Collector
Witt	David	07/31/2021	Safety Tier I	2415S - Fire

Employer Name: KC Superior Court

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Whitworth	Julie	07/31/2021	General Tier I	9410 - Superior Court

Employer Name: Kern County Hospital Authority

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Kang	Seongmi	08/03/2021	General Tier I	9460.2 - KCHA Post 201807
Leal	Eleanor	07/31/2021	General Tier I	9460 - Kern County Hospital Authority
Randhawa	Davinder	08/14/2021	General Tier I	9460 - Kern County Hospital Authority
Zepeda	Teresa	07/17/2021	General Tier I	9460 - Kern County Hospital Authority

Employer Name: Ws Recreation & Park

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Bishop	Kenneth	08/28/2021	General Tier I	0991 - Westside Park & Rec



PRUDENT INVESTMENT • QUALITY SERVICE

Kern County Employees' Retirement Association Decedents- September 1, 2021 to September 30, 2021

Pre-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Doucette	Janet	General	County Of Kern

Post-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Brown	Herman	General	County Of Kern
Canning	John	General	County Of Kern
Colt	Pamela	General	County Of Kern
Evans	Pamela	General	County Of Kern
Evans	Pamela	Safety	County Of Kern
Fry	Kenneth	General	County Of Kern
George	Robin	Safety	County Of Kern
Hernandez	Clemente	General	County Of Kern
Lukehart	Michael	General	County Of Kern
Mansfield	Patricia	General	Kern County Hospital Authority
Mays	Debby	General	County Of Kern
Rikard	David	General	Berrenda Mesa Water District
Rodriguez	John	Safety	County Of Kern
Rymer	Patricia	General	Kern County Hospital Authority
Sanders	Steven	General	County Of Kern
Spencer	Halta	General	County Of Kern
Stampes	W	General	County Of Kern
Taylor	Daisy	General	County Of Kern
White	Patricia	General	County Of Kern
Wilbanks	John	General	County Of Kern

**KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 09/30/21**

NAME	DEPARTMENT	DATE FILED	DATE OF LAST CONTACT	NUMBER OF DAYS
Kauffman, Stephen	DISTRICT ATTORNEY	08/16/21	09/10/21	20
Campas, Phillip	SHERIFF	08/11/21	08/24/21	37
Lucio, Juan	PUBLIC WORKS	07/19/21	07/25/21	67
Gardner, Stephen	FIRE	07/19/21	08/04/21	57
Brannan, Derek	SHERIFF	07/14/21	07/24/21	68
Leon, Theresa	HUMAN SERVICES	07/07/21	07/23/21	69
Patton, Eric	SHERIFF	06/30/21	09/30/21	0
Introini, Jessica	SHERIFF	06/18/21	09/30/21	0
Garcia, Judy	KERN COUNTY WATER AGENCY	03/29/21	08/09/21	52
Smith, Thomas Jr.	SHERIFF	03/16/21	09/30/21	0
NAME	DEPARTMENT	DATE FILED	MMRO ASSIGNED	MMRO RECEIVED
Candelaria, Valerie	HUMAN SERVICES	06/23/21	09/15/21	
Williams, Theron	GENERAL SERVICES	05/12/21	09/15/21	
Brandon, Bradly	SHERIFF	03/04/21	08/20/21	
Bravo, Enrique	SHERIFF	03/01/21	08/20/21	
Sanders-Stubblefield, Misty	AGING AND ADULT SERVICES	02/25/21	08/20/21	
McAdoo, John	SHERIFF	02/24/21	08/20/21	
Bankston, Josh	SHERIFF	02/09/21	08/19/21	
Cushman, Harris	SHERIFF	12/22/20	08/19/21	
Carrillo, Mabelle	ANIMAL CONTROL	11/18/20	04/21/21	
Burchfield, James	PUBLIC WORKS	11/17/20	07/16/21	
Tisinger, Douglas	KERN COUNTY WATER AGENCY	10/05/20	02/24/21	
Fleeman, Justin	SHERIFF	09/17/20	02/08/21	
Diffenbaugh, Anthony	FIRE	06/11/20	04/26/21	
Haight, Anita	COURTS	05/14/20	09/29/20	
Conner, James	SHERIFF	05/14/20	08/31/20	
Burgess, Daniel	ANIMAL CONTROL	04/21/20	07/17/20	09/22/21
Brown, Michael	SHERIFF	04/14/20	08/31/20	
Baker, Breanne	HUMAN SERVICES	04/02/20	09/29/20	
Terry, Leann	SHERIFF	10/17/19	06/30/20	
Martinez de Moore, Brenda	BEHAVIORAL HEALTH & RECOVERY SERVICES	12/10/18	09/08/20	
Boren, Colleen	RISK MANAGEMENT	08/02/18	09/03/20	
Champlin, Timothy	PROBATION	04/25/18	04/30/20	
Hulsey, Jonathan	PROBATION	04/18/18	04/22/20	
Alaniz, Maria D.	PUBLIC HEALTH	04/13/18	10/17/20	
Coletti, John	SHERIFF	01/30/18	04/07/20	
Houston, Jeffrey	SHERIFF	11/20/17	03/07/20	08/26/21

**KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 09/30/21**

NAME	DEPARTMENT	DATE FILED	MMRO ASSIGNED	MMRO RECEIVED
Tennison, Robyn (McClain)	BEHAVIORAL HEALTH & RECOVERY SERVICES	07/17/17	02/20/20	
Rodriquez, Ted	SHERIFF	06/22/17	02/20/20	
Hsu, Sue	BEHAVIORAL HEALTH & RECOVERY SERVICES	04/05/17	02/06/20	
Paxson, Kalae	SHERIFF	03/15/17	11/05/19	
Carvel, Scott	DISTRICT ATTORNEY	01/27/17	11/05/19	

Criteria for Contacting Applicants for Status Updates:

- 1) Following SDAG Meeting
- 2) Following Referral to Medical Advisor
- 3) Following 30-Day Notify Letter sent to Applicant to notify there will be a recommendation to deny the application and providing the opportunity to appeal
- 4) Following 60-Day Notice letter sent to applicant to notify they have 60 days to provide additional medical records
- 5) Every three months if no other activity on case

COMPLETED IN 2021

NAME	DEPARTMENT	FILED	DATE COMPLETED
Chandler, Ian (Melanie Chandler)	SHERIFF	01/06/20	09/08/21
Zdarstek, Derek-ADP	PROBATION	11/22/19	09/08/21
Milton, Dawn	BEHAVIORAL HEALTH & RECOVERY SERVICES	09/19/19	05/05/21
Weiting, Neil	SHERIFF	08/14/19	09/08/21
Day, Lester	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL	08/02/19	06/09/21
Ayon, Saul	SHERIFF	08/01/19	03/10/21
Avila, Andy	SHERIFF	07/05/19	04/14/21
Jefferson, Jill	AGRICULTURE & MEASUREMENT STANDARDS	04/02/19	05/05/21
Wimberly, Laura (Rodriguez)	PROBATION	02/01/19	03/10/21
Snyder, Zachary	FIRE	12/07/18	03/10/21
Ramsey, Denise	SHERIFF	08/13/18	02/10/21
Ashley, James	SHERIFF	07/10/18	02/10/21
Deacon, Pamela	CHILD SUPPORT SERVICES	04/13/18	02/10/21
Herman, Mark	DISTRICT ATTORNEY	04/04/18	09/08/21
Acosta, Timothy	SHERIFF	04/03/18	03/10/21
Gonzalez, Richard	FIRE	02/14/18	04/14/21
VanDoorn, Kimberly	SHERIFF	01/05/18	03/10/21
Rubio-Estaban, Maria	BEHAVIORAL HEALTH & RECOVERY SERVICES	06/21/17	01/21/21
Montoya-Cearley, Durinda	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL	05/23/17	03/10/21
Panero, Paul	KERN HOSPITAL AUTHORITY	05/17/17	01/20/21
Reed, Robert T	SHERIFF	03/22/17	04/14/21
Simmons, Amber	PROBATION	07/21/16	03/10/21

**KCERA
APPEALS PENDING
AS OF 09/30/21**

ADMINISTRATIVE HEARING	DEPARTMENT	DATE FILED	SDAG RECOMMENDATION	APPEAL RECEIVED	SENT TO COUNTY COUNSEL	HEARING OFFICER ASSIGNED	HEARING DATE
Winn, Jay M.	DISTRICT ATTORNEY	03/16/16	SDAG to deny SCD	05/28/20	06/02/20	06/25/20	11/09/20

WRIT OF MANDATE	DEPARTMENT	DATE FILED	BOARD DECISION
Blue, Michael	SHERIFF	06/14/13	Board denied SCD

COURT OF APPEAL	DEPARTMENT	DATE FILED	BOARD DECISION
Morgan, Gloria	SHERIFF	03/26/15	Board denied SCD

HEARINGS COMPLETED IN 2021			
NAME	DEPARTMENT	DATE FILED	DATE COMPLETED
Barnett, Donald	FIRE	08/23/11	02/10/21
Candler, Laura	SHERIFF	10/13/14	06/09/21
Ashley, Mark	SHERIFF	09/03/15	9/8/2021

SECURITIES LENDING

Summary Earnings Report

Run Time: 09-Sep-2021 08:47 EDT
Date Range: 01-AUG-2021 To 31-AUG-2021
Location: Not specified
Currency: USD
Client ID: Not Specified
Master Client: CAKERN
Grouping Type: None
Level: Individually

	Client ID	Average Contract Amount	Gross Earnings	DB Earnings	Client Earnings	Custody Account
New York						
USD						
KNCTY - Harvest Midstream	CAKE18	3,577,351.20	1,378.32	137.83	1,240.48	KNC15
KNCTY - PIMCO Midstream	CAKE19	8,075,849.13	2,923.42	292.34	2,631.08	KNC16
KNCTY PIMCO Core Plus	CAKE07	72,030,823.98	18,583.24	1,858.32	16,724.92	KNC11
KNCTY PIMCO EMD	CAKE08	2,843,735.81	938.65	93.86	844.78	KNC12
KNTCY - Alliance Bernstein	CAKE15	22,674,220.32	6,047.52	604.75	5,442.77	2664130
KNTCY - Geneva	CAKE16	19,504,359.96	5,191.71	519.17	4,672.54	2667336
KNTCY - Western Asset MGMT Co 01	CAKE03	30,149,524.89	8,070.87	807.09	7,263.79	KNC06
KNTCY - Western Asset MGMT Co 02	CAKE04	26,787,347.12	9,272.34	927.23	8,345.11	KNC08
	CCY Total USD:	185,643,212.40	52,406.06	5,240.61	47,165.46	
	Grand Total USD:		52,406.06	5,240.61	47,165.46	

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KCERA ASSET ALLOCATION*
8/31/2021

Manager Name	Type	\$(000)	Current Allocation	Target Percentage	Variance Over Target (Under Target)	Variance Over Target (Under Target) \$(000)
AllianceBernstein	Small Cap Value	97,556	1.8%			
Geneva Capital	Small Cap Growth	59,747	1.1%			
Mellon Capital Management EB DV	Large Cap Passive	384,337	7.0%			
PIMCO StockPlus	Large Cap Enhanced	147,917	2.7%			
Total Domestic Equity		\$689,557	12.6%	19.0%	(6.4%)	(\$349,977)
American Century	International Small	97,861	1.8%			
Cevian Capital II LP	International Large	34,730	0.6%			
Mellon Capital Management-EB DV	International Large Passive	573,564	10.5%			
Total International Developed Equity		\$706,155	12.9%	13.0%	(0.1%)	(\$5,105)
AB Emerging Markets Strategic Core	Emerging Markets	108,645	2.0%			
DFA Emerging Markets Value Portfolio	Emerging Markets	85,617	1.6%			
Mellon Emerging Markets	Emerging Markets	106,688	1.9%			
Total Emerging Market Equity		\$300,950	5.5%	5.0%	0.5%	\$27,388
TOTAL EQUITY		\$1,696,662	31.0%	37.0%	(6.0%)	(\$327,693)
Mellon Capital Management Ag Bond	Core	181,879	3.3%			
PIMCO	Core Plus	233,028	4.3%			
Western Asset Management	Core Plus	240,968	4.4%			
Total Core		\$655,875	12.0%	14.0%	(2.0%)	(\$110,097)
TCW Securitized Opportunities LP	Securitized Opportunities	131,952	2.4%			
Western Asset Management	High Yield	189,002	3.5%			
Total Credit		\$320,954	5.9%	6.0%	(0.1%)	(\$7,320)
PIMCO EM Beta	Emerging Markets	164,900	3.0%			
Stone Harbor Global Funds	Emerging Markets	111,130	2.0%			
Total Emerging Market Debt		\$276,030	5.0%	4.0%	1.0%	\$57,181
TOTAL FIXED INCOME		\$1,252,859	22.9%	24.0%	(1.1%)	(\$60,236)
Gresham Commodity Builder Fund	Active	91,636	1.7%			
Wellington Trust Company (WTC)	Active	195,788	3.6%			
TOTAL COMMODITIES		\$287,424	5.3%	4.0%	1.3%	\$68,575
Aristeia International Ltd	Hedge Fund - Direct	66,423	1.2%			
Brevan Howard Fund Limited	Hedge Fund - Direct	66,912	1.2%			
D. E. Shaw Composite Fund	Hedge Fund - Direct	54,408	1.0%			
HBK Multi-Strategy Fund	Hedge Fund - Direct	56,296	1.0%			
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	71,087	1.3%			
Indus Pacific Opportunities Fund	Hedge Fund - Direct	39,667	0.7%			
Magnetar Structured Credit Fund	Hedge Fund - Direct	10,379	0.2%			
Myriad Opportunities Offshore Fund	Hedge Fund - Direct	26,214	0.5%			
PIMCO Commodity Alpha Fund LLC	Hedge Fund - Direct	59,823	1.1%			
PMF LTD	Hedge Fund - Direct	65,589	1.2%			
River Birch International Ltd	Hedge Fund - Direct	837	0.0%			
Sculptor Enhanced LP (Formerly OZ Domestic)	Hedge Fund - Direct	55,064	1.0%			
TOTAL HEDGE FUND		\$572,699	10.5%	10.0%	0.5%	\$25,576
IASB Capital Management	Core	157,894	2.9%			
JPMCB Strategic Property Fund	Core	115,531	2.1%			
TOTAL CORE REAL ESTATE		\$273,425	5.0%	5.0%	(0.0%)	(\$137)
Davidson Kempner	Hedge Fund - Direct	54,115	1.0%			
HBK Multi-Strategy Fund	Hedge Fund - Direct	50,599	0.9%			
HBK Spac Fund	Hedge Fund - Direct	50,599	0.9%			
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	54,909	1.0%			
TOTAL CE ALPHA POOL		\$210,222	3.8%	5.0%	(1.2%)	(\$63,340)
Harvest Midstream	Midstream	137,580	2.5%			
PIMCO Midstream	Midstream	125,574	2.3%			
TOTAL MIDSTREAM ENERGY		\$263,154	4.8%	0.0%	4.8%	\$263,154
Aristeia Select Opportunities II LP	Opportunistic	48,989	0.9%			
DB Investor's Fund IV	Opportunistic	43,577	0.8%			
TSSP Adjacent Opportunities Partners (D)	Opportunistic	62,523	1.1%			
TOTAL OPPORTUNISTIC		\$155,089	2.8%	0.0%	2.8%	\$155,089
Abbott Capital Funds	Private Equity Fund of Funds	38,635	0.7%			
Brighton Park	Private Equity	14,400	0.3%			
LGT Crown Global	Private Equity	6,874	0.1%			
Pantheon Funds	Private Equity Fund of Funds	15,114	0.3%			
Peak Rock	Private Equity	794	0.0%			
Vista	Private Equity	9,102	0.2%			
Warren Equity Partners	Private Equity	6,020	0.1%			
TOTAL PRIVATE EQUITY		\$90,939	1.7%	5.0%	(3.3%)	(\$182,623)
Blue Torch Credit Opportunities	Private Credit	11,026	0.2%			
Brookfield Real Estate Finance Fund V	Private Credit	25,855	0.5%			
Colony Distressed Credit Fund	Private Credit	50,998	0.9%			
Fortress Credit Opportunities Fund V	Private Credit	6,435	0.1%			
Fortress Lending Fund II (A)	Private Credit	23,202	0.4%			
H.I.G Bayside Loan Opportunity Fund	Private Credit	33,295	0.6%			
Magnetar Constellation Fund V	Private Credit	44,628	0.8%			
TSSP Adjacent Opportunities Partners (B)	Private Credit	37,982	0.7%			
TOTAL PRIVATE CREDIT		\$233,421	4.3%	5.0%	(0.7%)	(\$40,141)
Covenant Apartment Fund	Private Real Estate	13,457	0.2%			
Invesco Real Estate Funds III & IV	Private Real Estate	23,701	0.4%			
KCERA Property	Private Real Estate	4,629	0.1%			
Landmark Real Estate Partners VIII	Private Real Estate	20,447	0.4%			
Long Wharf Real Estate Partners VI	Private Real Estate	13,096	0.2%			
TOTAL PRIVATE REAL ESTATE		\$75,330	1.4%	5.0%	(3.6%)	(\$198,231)
Northern Trust STIF	Short Term	53,862	1.0%			
Parametric	Overlay	291,891	5.3%			
Treasurers Pooled Cash	Short Term	12,839	0.2%			
Wells Fargo Bank	Short Term	886	0.0%			
TOTAL CASH AND OVERLAY		\$359,478	6.6%	0.0%	6.6%	\$359,478
Transition Accounts	Liquidation	529	0.0%			
Other		\$529	0.0%	0.0%	0.0%	\$529
As Allocated to Managers **		\$5,471,231	100.0%	100.0%	0.0%	(\$0)

*This report reflects the strategic asset allocation policy adopted by the Board of Retirement April 2020.

**Physical securities market value only. Does not include notional market values of the overlay or capital efficiency program

KCERA
Operating Expense Budget Status Report
For the Month Ended August 31, 2021

Expense Type	Budget FY 2021/22	Expenses	Over (Under)
Staffing			
Salaries	\$ 3,000,135	\$367,450	\$ (2,632,685)
Benefits	2,098,829	248,664	(1,850,165)
Temporary staff	100,000	9,451	(90,549)
Staffing Total	5,198,964	625,565	(4,573,399)
Staff Development			
Education & Professional Development	57,500	3,480	(54,020)
Staff Appreciation	2,500	-	-
Staff Development Total	60,000	3,480	(54,020)
Professional Fees			
Actuarial fees	190,000	21,769	(168,231)
Audit fees	49,000	2,812	(46,188)
Consultant fees	125,000	-	(125,000)
Legal fees	80,000	-	(80,000)
Professional Fees Total	444,000	24,581	(419,419)
Office Expenses			
Building expenses	72,000	10,607	(61,393)
Communications	33,100	4,352	(28,748)
Equipment lease	13,000	1,938	(11,062)
Equipment maintenance	2,000	0	(2,000)
Memberships	16,000	8,420	(7,580)
Office supplies & misc. admin.	54,540	2,977	(51,563)
Payroll & accounts payable fees	22,800	1,729	(21,071)
Other Services - Kern County	100,000	3,572	(96,428)
Postage	25,000	149	(24,851)
Subscriptions	13,500	360	(13,140)
Utilities	50,000	5,390	(44,610)
Office Expense Total	401,940	39,494	(362,446)
Insurance	138,385	140,616	2,231
Member Services			
Disability- legal fees	50,000	0	(50,000)
Disability – professional services	45,000	5,400	(39,600)
Disability- administration MMRO	130,800	0	(130,800)
Member communications	20,000	0	(20,000)
Member Services Total	245,800	5,400	(240,400)
Systems			
Audit – security & vulnerability scan	15,000	0	(15,000)
Business continuity expenses	14,700	0	(14,700)
Hardware	35,775	1,647	(34,128)
Licensing & support	138,415	80,865	(57,550)
Software	95,500	68,247	(27,253)
Website design & hosting	64,700	0	(64,700)
Systems Total	364,090	150,759	(213,331)
Board of Retirement			
Board compensation	12,000	944	(11,056)
Board conferences & training	30,000	1,500	(28,500)
Board elections	35,000	-	(35,000)
Board meetings	3,500	40	(3,460)
Board of Retirement Total	80,500	2,484	(78,016)
Depreciation / Amortization	646,908	106,826	(540,082)
Total Operating Expenses	\$ 7,578,087	\$ 1,099,206	\$ (6,478,881)

KCERA
CASH FLOW POSITION
August, 2021
TREASURERS POOLED CASH

Beginning Cash Balance:		\$ 12,626,787
Employer Contributions	22,141,965	
Employee Contributions	3,102,391	
Service Purchases	54,065	
Miscellaneous - Including erroneous deposit	28,873	
Total Receipts:		25,327,294
Operating Expenses	(560,130)	
Investment Expenses	(1,083,873)	
Transfers-out	(33,000,000)	
Total Disbursements:		<u>(34,644,003)</u>
Ending Cash Balance:		<u><u>\$ 3,310,079</u></u>

NORTHERN TRUST

Beginning Cash Balance:		6,819,894
Private Equity - Distributions	1,167,799	
Commingled Funds - Distributions	117,371	
Hedge Funds - Distributions	4,362,736	
Redemption Blackrock	265,415,439	
Redemption Mellon	58,071,387	
Class Action Proceeds	12,535	
Interest	1,097	
Securities Lending Earnings (NET)	55,685	
Total Receipts:		329,204,049
Capital Calls Vista Foundation	(2,483,750)	
Capital Calls Covenant	(2,400,000)	
Contribution PIMCO Midstream	(20,000,000)	
Contribution Mellon	(250,000,000)	
Other Expenses	(681)	
Transfers-out	-	
Total Disbursements:		<u>(274,884,431)</u>
Ending Cash Balance:		<u><u>\$ 61,139,513</u></u>

WELLS FARGO BANK

Beginning Cash balance:		\$ 682,432
Transfer-In	33,000,000	
Total Receipts:		33,000,000
Pension Payments	(32,127,576)	
Lump Sum Payments	(624,788)	
Bank Service Charges	(1,655)	
Cash Clearing (NET) *	(42,836)	
Total Disbursements:		<u>(32,796,855)</u>
Ending Cash Balance:		<u><u>\$ 885,577</u></u>

**KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
INVESTMENT FEES CASH FLOW REPORT
FOR THE MONTH ENDED AUGUST, 2021**

Description		July	August	Total
Investment Base Fees:				
Domestic Equity:				
406045	AllianceBernstein	\$ 221,668		\$ 221,668
406046	Henderson Geneva Capital		124,076	124,076
406035, 406029,	Mellon Capital	135,800		135,800
International Equity:				
406032	BlackRock			-
406034	Fidelity Institutional Asset Management			-
Fixed Income:				
406050	Mellon Capital (Ag Bond)	11,876		11,876
406019, 406022,	Pacific Investment Management Company		284,673	284,673
406021, 406018	Western Asset Management			-
Commodities:				
406101	Wellington Trust Company		364,698	364,698
Real Estate:				
406088	ASB Capital Management		242,926	242,926
Midstream Energy:				
406060	Harvest Midstream	187,309		187,309
Overlay				
406120	Parametric			
	Subtotal	556,653	1,016,373	1,573,027
Investment Professional Fees:				
Consulting:				
407009	Abel Noser			
407008	Albourne America LLC	33,333	33,333	66,667
407004	Cambridge Associates			-
407001	Glass, Lewis & Co.			-
407006	Verus	34,167	34,167	68,333
Custodial:				
407071	The Northern Trust Co.	228,542		228,542
Legal:				
406097	Foley & Lardner LLP			-
406097	Hanson Bridgett LLP			-
406097	Nossaman LLP	1,148		1,148
406098	Due Diligence / Investment-Related Travel:			-
	Subtotal	297,190	67,500	364,690
Total Investment Fees		\$ 853,843	\$ 1,083,873	\$ 1,937,716



Kern County Employees' Retirement Association
11125 River Run Boulevard
Bakersfield, CA 93311

Tel (661) 381-7700 • Fax (661) 381-7799
Toll Free (877) 733-6831
TTY Relay (800) 735-2929
www.kcera.org

BOARD OF RETIREMENT 2022 MEETING SCHEDULE

January 19 [†] Board of Retirement	July 13 <i>Dark – No meeting</i>
February 9 Board of Retirement	August 10..... Board of Retirement
March 9..... Board of Retirement	September 14 ... Board of Retirement
April 13 Board of Retirement	October 12 Board of Retirement
May 4* Board of Retirement	November 2* Board of Retirement
June 8..... Board of Retirement	December 14 Board of Retirement

Board of Retirement meetings are generally held on the second Wednesday of the month at 8:30 a.m. in the KCERA Board Room, located at 11125 River Run Boulevard, Bakersfield, California. The Administrative, Finance, and Investment Committees meet periodically throughout the year, as necessary.

ANY SCHEDULING CHANGES WILL BE NOTED ON AGENDAS

[†]*Scheduled third week of January due to Winter Recess schedule.*

** Scheduled first weeks of May and November due to SACRS Spring Conference held May 10-13 and SACRS Fall Conference held November 8-11.*

Executive Team

Dominic D. Brown, CPA, CFE
Executive Director

Daryn Miller, CFA
Chief Investment Officer

Jennifer Zahry, JD
General Counsel

Matthew Henry, CFE
Assistant Executive Director

**KERN COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION**



Board of Retirement

Juan Gonzalez, Chair
Tyler Whitezell, Vice-Chair
David Couch
Phil Franey
Joseph D. Hughes
Jordan Kaufman
Rick Kratt
Edward Robinson
Lauren Skidmore
Bradly Brandon, Alternate
Chase Nunneley, Alternate
Robb Seibly, Alternate

September 14, 2021

Via Electronic Mail

Mary B. Bedard, CPA
Kern County Auditor-Controller-County Clerk
1115 Truxtun Avenue, 1st Floor
Bakersfield, CA 93301
bedardm@kerncounty.com

Subject: KCERA Board of Retirement Special Election for Third Member

Dear Ms. Bedard:

A vacancy will occur in the Third member seat of the Board of Retirement for the Kern County Employees' Retirement Association (KCERA), due to the resignation of Edward Robinson, effective September 21, 2021. The term of that office is not set to expire until December 31, 2022. The Third member is a General member employee elected by the General members of KCERA. As a voting member, the Third member position is important for discussions and decision-making at both board and committee meetings. Additionally, that position may be essential to ensure a quorum.

Pursuant to KCERA's Election Procedures Policy, a special election shall be called by the Board of Retirement within 30 days of the occurrence of the vacancy if a vacancy occurs for any reason during the term of office of an elected board member, other than alternate members. On August 24, 2021, the Board of Supervisors authorized the Elections Division to conduct an election for the Second (general), Seventh and Alternate Seventh (safety) seats of the Board of Retirement to be held on November 16, 2021. Rather than hold a special election to fill the Third member seat vacancy on a separate day, KCERA believes it would be more prudent and the most efficient use of resources to include the special election for this seat concurrently with the November 16, 2021 election, which will already canvass the general membership.

The Government Code provides that members of the Board of Retirement shall be elected for three-year terms in a manner to be determined by the Board of Supervisors. The Auditor-Controller-County Clerk has conducted previous elections upon direction from the Board of Supervisors and there is no fiscal impact as the Auditor-Controller-County Clerk is reimbursed by KCERA for all expenses incurred in conducting the election.

KCERA Board of Retirement Special Election for Third Member

September 14, 2021

Page 2

IT IS THEREFORE REQUESTED that you incorporate a special election to fill the vacancy of the Third member position of the Board of Retirement concurrently with the upcoming election scheduled for November 16, 2021.

Respectfully submitted,



Dominic D. Brown

Executive Director

cc: Mary B. Bedard, CPA, Auditor-Controller-County Clerk
Aimee Espinoza, Assistant Auditor-Controller-County Clerk
Laura Cantu, Division Chief, Elections Division
Jennifer Zahry, KCERA Chief Legal Officer
Trustees, Board of Retirement

Date: October 13, 2021
To: Trustees, Board of Retirement
From: Dominic D. Brown, Executive Director 
Subject: **SACRS Fall Conference**
Hollywood, California
November 9-12, 2021

In accordance with the Travel Policy approved by the Board of Retirement on August 11, 2021, I have attached information concerning the above-captioned conference, as follows:

- Agenda and supporting information on the pertinence and relevance of attendance to a fiduciary – Preliminary agenda is attached
- Specific information as to whether staff or members of the Board will serve as a speaker or panel participant – None
- Specific information concerning the estimated total travel cost involved, including the estimated costs to be borne by KCERA and those costs borne by the conference sponsor

The topic list is timely and relevant to the administration of the retirement system. Accordingly, I recommend that the Board approve the attendance of Trustees Bradly Brandon, Jordan Kaufman, Tyler Whitezell, Executive Director Dominic Brown and Assistant Executive Director Matthew Henry

Attachments

SACRS FALL CONFERENCE

LOEWS HOLLYWOOD HOTEL, HOLLYWOOD, CA

NOV. 9–12, 2021

PRELIMINARY AGENDA

TUESDAY, NOVEMBER 9

3:00 PM - 5:00 PM

ETHICS TRAINING FOR TRUSTEES AND STAFF

This two-hour mandatory bi-annual training for public officials covers conflict of interest rules, public meeting and record requirements, due process requirements and other significant rules for legal compliance by public officials, with a particular focus on how these rules apply to retirement board trustees and senior staff.

*This class is pending approval for MCLE credit.

SPEAKERS: Ashley Dunning, Nossaman LLP and Peter Nixon, Nossaman LLP

3:00 PM - 5:00 PM

SEXUAL HARASSMENT PREVENTION TRAINING FOR LOCAL AGENCY OFFICIALS (AB1661)

Nossaman LLP attorneys John Kennedy and Pavneet Mac will present "Sexual Harassment Prevention Training for Local Agency Officials (AB1661)". AB 1661 requires that if a local agency provides any type of compensation, salary, or stipend to its officials, then all local agency officials of the agency shall receive at least two hours of sexual harassment prevention and education training within the first six months of taking office or commencing employment and every two years thereafter. This interactive training session will meet the requirements under AB 1661 and AB 1825 (sexual harassment prevention training to employees who perform supervisory functions) and assist attendees in preventing and effectively responding to complaints of sexual harassment.

*This class pending approval for MCLE credit.

SPEAKERS: Pavneet Mac, Nossaman LLP and John Kennedy, Nossaman LLP

5:30 PM - 6:30 PM

SACRS NETWORKING RECEPTION

Build interactive collaborations, uncover new opportunities, and enjoy a great networking experience.

5:30 PM - 6:30 PM

SACRS LABOR MEET AND GREET NETWORKING

Represented Labor Members Meet & Greet Networking: Come join your labor member and allies for a meet and greet. All are welcome to network.

Continued 

PRELIMINARY AGENDA

WEDNESDAY, NOVEMBER 10

7:00 AM - 8:00 AM

SACRS WELLNESS SESSION – YOGA

Fitting in fitness when away from home is often difficult, but not during SACRS 2021 Fall Conference! We bring a yoga class onsite to start your day the right way. This class, led by a certified yoga instructor, is intended for everyone, beginner to expert. Yoga mats, water, and towels provided. Pre-registration is required to participate for conference attendees & guests and \$15 participation fee.

SPEAKER: Laurie Whetstone, Holistic Wellness Design

8:30 AM - 10:00 AM

WELCOME VIVIAN GRAY, SACRS PRESIDENT AND KEYNOTE SPEAKERS – Perseverance and Triumph

Even as we are seeing signs of recovery, the pandemic continues to massively impact our social, professional, and mental well-being. How do we build resilience and find inner strength in these difficult times? In this general session, SACRS is honored to present Richie Parker and Jessica Long who each share their life stories about how they have been able to overcome hurdles and navigate around roadblocks that would bring most of us to a complete standstill.

SPEAKERS: Jessica Long, 16x Paralympic Swimming Gold Medalist and Richie Parker, Manager of Special Government Projects, Hendrick Motorsports

10:00 AM - 10:30 AM

SACRS NETWORKING BREAK

10:30 AM - 11:30 AM

GENERAL SESSION – Los Angeles Institutional Investors - What Can We Learn From Each Other?

The last twenty-one months have been challenging for even the most disciplined long-term investors. Facing unique but similar challenges, the broader institutional investor community can lean on each other for investment ideas, best practices and lessons learned as they tackle today's unprecedented environment. Please join some of LA's brightest investment minds representing the public fund, endowment and insurance channels in a wide-ranging discussion on markets, governance and what we can learn from each other.

SPEAKERS: Ray Joseph, Los Angeles Fire and Police; Justin Barton, UCLA Investment Management Co.; and Ken Chilton, Farmers Insurance

11:30 AM - 12:30 PM

GENERAL SESSION – Best Team Ever: The Surprising Science of High-Performing Teams

In this persuasive and provocative keynote, David Burkus outlines how to build teams that bring out the best in everyone...no matter where they work from. Drawing on decades of research and diverse case studies, Burkus reveals what some of the most effective teams in the world do differently, and how you can start doing the same on your team.

SPEAKER: David Burkus

12:30 PM - 1:45 PM

SACRS LUNCH

2:00 PM - 4:30 PM | CONCURRENT SESSIONS

ADMINISTRATORS BREAKOUT

SPEAKER: Donald Kendig, Fresno CERA

AFFILIATE BREAKOUT

SPEAKER: Scott Draper, Algert Global

ATTORNEYS BREAKOUT

SPEAKER: Barbara Hannah, San Bernardino CERA

INTERNAL AUDITORS BREAKOUT

SPEAKER: Harsh Jadhav, Alameda CERA

INVESTMENT BREAKOUT - Closed Session

SPEAKER: Tim Price, Contra Costa CERA

PRELIMINARY AGENDA

WEDNESDAY, NOVEMBER 10 CONTINUED

OPERATIONS/BENEFITS BREAKOUT

SAFETY BREAKOUT

SPEAKER: Brian Williams, Sonoma CERA

TRUSTEE BREAKOUT – Building The Best Team Ever-Workshop

Building off his keynote session, David Burkus dives deeper into policies and practices that can help build your best team ever. Participants will leave with a clear and concise understanding of how the culture of their team affects its performance, and a simple and practical blueprint for how to build the best team ever.

SPEAKER: David Burkus

MODERATOR: Kathryn Cavness, Mendocino CERA

5:30 PM - 8:30 PM

SACRS ANNUAL WEDNESDAY NIGHT EVENT

THURSDAY, NOVEMBER 11

7:00 AM - 8:00 AM

SACRS FUN RUN

Your morning starts off with an additional opportunity for teambuilding and networking, while enjoying the early morning air. A SACRS tradition, the 5K (3.1 miles) Fun Run course is the perfect way to get energized for the conference day ahead. Designed for the walker, jogger, or runner, the course is flat and paved. Pre-registration is required and costs \$15 per person. Pocket maps, Fun Run T-shirts, water, and snack at the end of the course will be provided.

8:45 AM - 10:00 AM

GENERAL SESSION – Welcome, Recognitions & Volunteer Award, Keynote: NOT Your Standard Economic Update...The Big Questions of the Day Post COVID

As the global economy recovers, much will go back to “normal”. Many of the same questions that we asked before the COVID recession will still matter: where are we in the business cycle? Where will interest rates head next? How strong is the consumer? What about China? But the way we answer these questions isn’t the same, and we need a post-COVID lens to address them. From the Federal Reserve’s shifting mandate, to persistent supply chain disruptions, to ESG investing and beyond, new macroeconomics requires a forward-looking “twist” in order to get the outlook right. Merging old school and new school thinking, this session maps out where the global economy and markets are heading next.

SPEAKER: Francis Donald, Manulife

10:00 AM - 10:30 AM

SACRS NETWORKING BREAK

10:30 AM - 11:30 AM

GENERAL SESSION – Transitioning to a Low Carbon Economy

This interactive panel will explore the transition to a low carbon economy and its implications on industry and investment returns and risks. Over 100 countries have pledged to get to a net zero carbon emissions by 2050, and state sponsored projects have been mobilized globally, seeking solutions in energy, manufacturing, agriculture, and transportation. Private enterprise and corporate leadership are driving capital as they strive for sustainable solutions to remain competitive, and the result is a new wave of innovations being commercialized to meet lower carbon objectives. What are some of these exciting innovations? What are our fiduciary responsibilities? And what are the implications for how we manage our investment portfolios?

SPEAKERS: Steffen Reichold, Stone Harbor; John D’Agostino, DMS Governance; and Heidi Ridley, Radiant ESG Global Investors

11:30 AM - 12:30 PM

GENERAL SESSION – Mega Trends Impacting Urban Real Estate

From short term shock waves caused by COVID-19 to longer term trends in how humanity will live, work, play in Urban areas, we will dig deeper into the key drivers-affordability, ESG, transportation and resiliency - that give investors insights into potential opportunities as cities evolve.

SPEAKERS: Douglas Lawrence, Managing Principal & Co-Founder, 5 Stone Green Capital; Ben Blakney, President, Institutional Real Estate Direct, Mesirow Financial; and Steve Mastrovich, Founder & CEO, Redimere Advisors LLC

MODERATOR: David Sancewich, Managing Principal, Meketa Investment Group

Continued 

PRELIMINARY AGENDA

THURSDAY, NOVEMBER 11 CONTINUED

12:30 PM - 1:45 PM

SACRS LUNCH

2:00 PM - 3:00 PM

CONCURRENT SESSIONS

CONCURRENT SESSION A – The “B” Word; Institutional Considerations for Exploring Bitcoin & Cryptocurrency Adoption

This interactive panel will discuss the current state of cryptocurrency markets / blockchain technology and forward-looking expectations for institutional adoption. Along the way, industry thought leaders will opine on the pros and cons of investing in cryptocurrency, approaches to gaining exposure, and future applications of blockchain technology and decentralized ledgers more broadly. Regulatory considerations and potential ESG impacts will also be explored.

SPEAKERS: E. David Ellington, Frontier & Disruptive Technologies | Institutional Investing Advisor; Steve McCourt, Managing Principal / Co-CEO, Meketa Investment Group; and John D’Agostino, CEO, Dagger Consulting LLC, Senior Advisor for Strategic Partnerships at Coinbase Institutional

CONCURRENT SESSION B – Capitalizing on Controversy: Demystifying SPACs and PIPEs

SPACs are transforming how companies go public, but almost every SPAC requires PIPE capital to complete this process. Join us to learn more about the PIPE opportunity and how to capitalize on this inefficient market.

SPEAKER: Ronald Temple, Lazard

CONCURRENT SESSION C – Diversification VS Overconfidence

A decision to take on portfolio concentration requires investors to be both skilled in forecasting returns and in appraising their ability to forecast. If not they will likely take more risk than they should.

SPEAKER: Ralph Goldsticker, MBA, CFA, Chief Investment Officer, Alan Biller & Associates

3:00 PM - 3:30 PM

SACRS NETWORKING BREAK

3:30 PM - 4:30 PM

CONCURRENT SESSIONS

CONCURRENT SESSION A – Why Infrastructure Debt & Equity Investing Makes Sense for Public Pensions

Infrastructure investing offers solutions to plan sponsors seeking additional yield for their fixed income allocations or investments less economically sensitive and less correlated with equity returns.

SPEAKERS: Nick Moller, J.P. Morgan Asset Management and Paul David, Allianz Global Investors

CONCURRENT SESSION B – SACRS Legislative Update 2021

SACRS Annual Legislative Update 2021

SPEAKERS: Mike Robson, SACRS Lobbying Team; Trent Smith, SACRS Lobbying Team; and Bridgett McGowan, SACRS Lobbying Team

CONCURRENT SESSION C – Middle-Market Real Estate Mezzanine Lending

Learn about a differentiated approach to real estate private credit where investors benefit from reduced competition, higher yields and stronger covenants.

SPEAKER: Andy Rubin, Institutional Portfolio Manager, Fidelity Investments

4:30 PM - 5:30 PM

SACRS EDUCATION COMMITTEE MEETING

4:30 PM - 5:30 PM

SACRS NOMINATING COMMITTEE MEETING

5:30 PM - 6:30 PM

SACRS RECEPTION

PRELIMINARY AGENDA

FRIDAY, NOVEMBER 12

8:45 AM - 9:45 AM

GENERAL SESSION – SACRS Annual System Comparison

Annual Comparison of SACRS Systems RVK

SPEAKER: Becky Gratsinger, CFA, Chief Executive Officer, Senior Consultant, Principal, RVK and Spencer Hunter, Senior Consultant, Principal, RVK

9:45 AM - 10:00 AM

SACRS NETWORKING BREAK

10:00 AM - 11:30 AM

SACRS ANNUAL BUSINESS MEETING

SPEAKERS: SACRS Board of Directors

SACRS Fall Conference 2021 will be held in accordance with all CDC, WHO, and California state and local agencies COVID-19 guidelines and requirements. All attendees must agree to SACRS Event Health Safety Code of Conduct, Statement of Requirement for Attendance and a Waiver of Covid-19 Liability. Forms may be agreed to at the time of registration electronically. All forms can be found online at SACRS.org.

If the forms were accepted electronically during online registration, they do not need to be sent to SACRS. If you are registering on behalf of an attendee, you must provide them with the information and confirm that they agree to comply with the Code of Conduct.

UPCOMING CONFERENCE SCHEDULE

SPRING 2022

May 10-13

Omni Rancho Las Palmas Resort & Spa
Rancho Mirage, CA

SPRING 2023

May 9-12

Paradise Point Resort & Spa
San Diego, CA

FALL 2022

November 8-11

Hyatt Regency Long Beach
Long Beach, CA

FALL 2023

November 5-11

Omni Rancho Las Palmas Resort & Spa
Rancho Mirage, CA



Travel Subject SACRS Fall Conference
Sponsor SACRS
Date(s) November 9-12, 2021
Location Hollywood, CA
Proposed Attendee(s) Bradly Brandon, Jordan Kaufman, Tyler Whitezell, Dominic Brown, Matt Henry

Estimated Total Travel Cost \$6,213.01

Description	Computation	Brandon	Kaufman	Whitezell	Brown	Henry	Totals	Borne By	
								KCERA	Sponsor
Registration fees	\$120.00	= 120.00	120.00	120.00	120.00	120.00	600.00	600.00	
Lodging expense	3 nights @ \$ 281.55 /night	= 844.66	844.66	844.66	844.66	844.66	4,223.29	4,223.29	
Per diem meals reimbursement:	4 days @ \$ 74.00 /day	= 296.00	296.00	296.00	296.00	296.00			
Less meals provided by sponsor	3 Breakfast, 2 Lunch, 1 Dinner = \$126.54	= (\$126.54)	(\$126.54)	(\$126.54)	(\$126.54)	(\$126.54)			\$632.70
Total meals expense		=					1,480.00	847.30	
Shuttle/taxicab expense	Taxi Estimate	=					-	-	
Airfare	\$0.00	= \$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	-	
Vehicle-related expenses:		=	-	-	-	-	-	-	
Parking	3 days @ 18.00 /day	= 54.00	54.00	54.00	54.00	54.00	270.00	270.00	
Mileage	106 miles @ 0.330 /mile (Department Head)	=			34.98		34.98	34.98	
	106 miles @ 0.560 /mile (Staff, Trustee)	= 59.36	59.36	59.36		59.36	237.44	237.44	
Rental car		=	-	-	-	-	-	-	
Rental car gasoline		=	-	-	-	-	-	-	
Totals		=	1,247.48	1,247.48	1,247.48	1,223.10	\$ 6,845.71	\$ 6,213.01	\$ 632.70

ALTERNATIVE INVESTMENTS RECORDS

EXEMPT FROM PUBLIC DISCLOSURE

(CA Gov. Code §6254.26)

(CA Gov. Code §6255)

(CA Gov. Code §54957.5)

DO NOT REPRODUCE

DO NOT DISTRIBUTE



**KERN COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION**

GOVERNANCE REPORT FOR THE
FISCAL YEAR ENDING JUNE 30, 2021

PREPARED BY CORTEX APPLIED RESEARCH INC.

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Introduction

The Board of Trustees (the “Board”) of the Kern County Employees’ Retirement Association (“KCERA”) has established a comprehensive governance framework containing numerous charters and policies designed to guide the Board and the Executive Director in governing and managing KCERA. The charters identify the primary responsibilities of the Board, board officers, board committees, and the Executive Director; the governance policies provide guidance on how those parties are to carry out their duties.

As part of its Governance Support Services, Cortex provides the Board with an annual review of the extent to which board and staff practices are consistent with KCERA’s governance framework. The 2021 Governance Report (the “Report”) is focused on the implementation of the Board’s governance policies and charters between July 1, 2020 and June 30, 2021 (“the Review Period”).

Scope

The policies and charters covered in our review include the following:

<i>Policies</i>	<i>Charters</i>
1. Board Operations Policy	1. Board of Retirement
2. Board Communications Policy	2. Board Chair
3. Service Provider Evaluation Policy	3. Vice Chair
4. Evaluation Period Policy	4. Committee Chair
5. Monitoring and Reporting Policy	5. Administration Committee
6. Executive Director Performance Evaluation Policy	6. Finance Committee
7. Executive Director Succession Policy	7. Investment Committee
8. Trustee Education Policy	8. Executive Director
9. Trustee Travel Policy	9. Secretary to the Board
10. Due Diligence and Service Provider Selection Policy	
11. Code of Conduct	
12. Board Performance Evaluation	

KCERA’s governance policies and charters are required to be reviewed and amended, as necessary, at least every five years. Consistent with this requirement, the Board completed a comprehensive review of the above policies and charters in August 2021. A prior review was completed in 2016.

Structure of Report

The Governance Report combines the analysis of both policies and charters and is structured as follows:

Part I: Policies

For each of the above policies we have:

- a. Summarized key policy provisions to help remind Trustees of basic aspects of each policy (“Summary of Key Provisions”);^{1,2}
- b. Described relevant Board and management activities that took place during the Review Period (“Cortex Commentary”); and
- c. Highlighted any potential issues for consideration by the Board (“Issues for Consideration”). This section may identify issues that require a revision to the current policies and/or charters. The redlined policies and charters containing Cortex’s recommended revisions are provided in separate attachments for your review.

Part II: Charters

With respect to the governance charters, we highlight any potential issues for consideration that have not been addressed in *Part I: Policies*. The report does not provide summaries of the charters due to the fact that, by necessity, there is repetition among the charters. Trustees are encouraged, however, to review the charters for official guidelines.

Appendices

The Governance Report also contains the following appendices to support our commentary:

- Trustees’ attendance at Board and committee meetings (Appendix A);
- In-house education received by the Board and committees (Appendix B);

Limitations

The policies and charters collectively contain over 200 provisions, many of which are not readily verifiable. Nevertheless, general compliance with many provisions can be determined by a review of board and committee meeting minutes and board reports. This review is intended to provide a level of assurance that the governance framework of KCERA is generally being followed, and does not constitute an audit.

¹ For consistency with the Review Period, the Summaries of Key Provisions reflect the policies that were in effect during the period and do not reflect any changes that were approved by the Board in August 2021, as part of its comprehensive review.

² Throughout this report, Cortex has summarized the policies and, in the process, may have altered the wording somewhat. We believe however that we have retained the essence of the policy.

Part I – Policies

Board Operations Policy

Summary of Key Provisions

The Board Operations Policy summarizes key provisions from the Regulations (formerly Bylaws) and State law, in addition to requirements unique to the policy itself. All of the provisions relate to how the Board conducts itself.

Board Officers

- a) The Board shall elect a Chair and Vice Chair at its December meeting to serve a one-year term.
- b) Any trustee may be elected Chair for up to two consecutive terms before vacating the position for at least one year.
- c) If the Chair is unable to complete his or her term, the Vice-Chair shall be the successor.
- d) If the Vice-Chair is unable to complete his or her term, the Board shall elect a new Vice-Chair for the balance of the term at the next regular board meeting.
- e) If both the Chair and Vice Chair are unavailable to chair a meeting, the most recent past Chair who is available and serving on the Board shall assume the role of the Chair for that meeting.

Board Committees

- f) The Board may approve the establishment of standing and ad hoc committees, in consultation with the Executive Director.
- g) The Board shall approve a charter for each standing committee.
- h) With the exception of the Nominating Committee:
 - i. Each standing committee shall consist of 4 members and 1 alternate member.
 - ii. Committee members, alternates, and chairs shall be appointed by the incoming Board Chair at the first regular meeting following the board officer elections.
- i) The Nominating Committee will consist of two members designated by the Board Chair and two members designated by the full Board. Committee members are designated annually at a regular meeting in October.
- j) In determining committee appointments, the Chair shall consider: a) trustees' area of expertise and experience; b) trustees' varying interests; and c) the need to rotate trustees such that trustees acquire exposure to various functions.
- k) The Board may assign or delegate to any committee the task of reviewing policies and decisions and providing recommendations for Board consideration. The Board reserves the option to adopt a decision or policy without considering committee analysis and recommendations if the Board determines that it is prudent and appropriate based on the circumstances.

Board Meetings

- l) The Board shall hold meetings on the second Wednesday of each month. Meetings may take place in different locations if authorized under Sections 54953 or 54954 of the Brown Act.
- m) The Executive Director, in coordination with the Chair, may reschedule a Board meeting if necessary.
- n) Special meetings may only be called, as provided in California Government Code Section 54956.
- o) If the Chair or Vice-Chair is unavailable to chair a meeting, the most recent past Chair who is available and serving on the Board will assume the role of the Chair for that meeting.

Summary of Key Provisions (cont'd)

Committee Meetings

- p) At its first meeting each year, standing committees shall establish a forward yearly schedule of meetings and agendas, and provide such schedules to the Board for review.
- q) The Administrative, Finance, and Investment Committees shall meet on a scheduled or ad hoc basis at the discretion of the Executive Director, Board Chair, the relevant committee, or Chair of the relevant committee.
- r) If the committee chair is unavailable to attend a meeting, the committee chair may designate another committee member to serve as committee chair in his or her absence, failing which the remaining committee members may appoint a committee chair from among themselves.

Agendas and Meeting Materials

- s) At least 5 days prior to a Board meeting, the Secretary to the Board shall provide Trustees with a written agenda and associated meeting materials.
- t) Committee meeting agendas shall be posted 72 hours prior to a committee meeting. Committee materials will generally be distributed no later than the day before the meeting.

Meeting Practices

- u) Board and committee meetings shall be governed by: the Board Operations policy, including the Simplified Rules of Order (Appendix A of policy), the Regulations, and open meeting laws and other applicable laws.
- v) Any question regarding the conduct of a meeting not addressed by u) above shall be determined by the Board Chair or applicable committee chair. Any determinations shall only apply to the meeting in question. A Board member may seek reconsideration of any decision that resulted from the original determination, consistent with Appendix A of this policy.
- w) The quorum required for a meeting of the Board shall consist of five trustees. Similarly, five concurring votes among trustees shall be necessary for a decision.
- x) Quorum for committee meetings shall consist of three appointed members of the committee. A committee alternate will attend a committee meeting to satisfy a quorum when necessary. Committee chairs may designate an additional temporary member to achieve quorum for a committee.
- y) Minutes shall be recorded for all Board and committee meetings, and presented for approval at the next regular meeting of the Board or committee.

Board Policies

- z) The Board shall abide by all board policies unless imprudent to do so. Material deviations in policy will be noted in the minutes along with the reasons for the deviation, and the Board may direct the Executive Director to review the policy in question. Minor deviations in procedures are not required to be noted in the minutes.

CORTEX COMMENTARY

1. Consistent with the policy:
 - a. The Board elected a Chair and Vice Chair on December 20, 2020 from the nominees put forward by the Nominating Committee. The 2021 committee assignments were approved at the next regular Board meeting in January 2021.
 - b. During the Review Period, a vacancy occurred in the Chair position. In June 2021, the Vice-Chair became the Chair's successor, and the Board selected a new Vice-Chair to serve for the remainder of the calendar year.
 - c. During the Review Period, the Administrative Committee Chair was absent for a meeting. The committee members appointed a committee chair from among themselves to chair the meeting.
 - d. The Board currently has four standing committees: the Administrative Committee, Finance Committee, Investment Committee, and Nominating Committee.
 - e. An annual schedule of Board meetings setting out meeting dates for the upcoming year (2021) was presented to the Board for approval in October 2021.
 - f. The scheduling of regular Board meetings has generally been consistent with the Policy, with four minor exceptions whereby a Board meeting was scheduled for a date outside the regular schedule set in the policy. These dates were approved by the Board as part of its annual schedule.
 - g. Meeting agendas were posted publicly on the KCERA website at least five days in advance of the regular meeting.
 - h. KCERA Administration confirmed that Board and committee members are provided with meeting agendas and associated materials sufficiently in advance of meetings, in compliance with legal requirements.
 - i. Quorum and voting rules were observed for all Board and committee meetings.
 - j. All meeting minutes were presented for approval to the Board/Committee at the next scheduled regular meeting.
 - k. A comprehensive review of the Board charters and policies was completed in 2021, consistent with the minimum five-year frequency.

Issues for Consideration

1. According to the policy, standing committees shall be composed of four regular members and one alternate. Our review indicates that in 2021, the Investment Committee had a vacancy in the alternate position. This was due to a vacancy on the Board.

Board Communications Policy

Summary of Key Provisions

General Guidelines

- a) Trustees shall:
 - i) Comply with all applicable open meeting legislation including the Brown Act;
 - ii) Communicate with all parties in a straightforward, respectful, and constructive manner;
 - iii) Share information of a fiduciary nature pertinent to KCERA's affairs with the Board and Management in a timely manner.
- b) Trustees are encouraged to provide advance notice to an individual regarding questions or concerns they intend to raise with that party at a board or committee meeting.

Communication with Staff

- c) Material communications between trustees and staff are expected to occur through the Executive Director, Assistant Executive Director, Chief Investment Officer, and/or General Counsel.
- d) Board or committee authorization is required prior to a trustee making a request of staff that requires a material expenditure of staff time or use of external resources.

Communication with Members

- e) Trustees shall not attempt to educate or counsel Plan Members about their personal benefit entitlements, and instead, shall direct Plan Members to the KCERA website or office, or directly to senior management of KCERA.
- f) Trustees shall not have ex-parte communications related to a quasi-adjudicative application made to the Board.

Communication with Service Providers

- g) Material communication by trustees with service providers should be limited to board or committee meetings, or arranged through Management. Any material communications between a trustee and a service provider outside of this contact should be disclosed to the chair and the ED.
- h) In communicating with service providers, trustees shall refrain from disclosing privileged information that may be perceived as granting special treatment or favoritism.
- i) Trustees shall refer investment opportunities received from service providers to the CIO and the ED.
- j) Press releases concerning the KCERA will generally be the responsibility of the Executive Director. Such releases will be shared beforehand with the Board or, if time does not permit, with the Chair.
- k) Trustees shall not communicate with specified service providers during Evaluation Periods.

Communication with the Media and Other External Parties

- l) Trustees shall not communicate on behalf of the Board unless authorized to do so, nor shall they make any commitments on behalf of the Board or KCERA, nor give the impression of doing so.
- m) Trustees communicating publicly about issues relating to KCERA are required to preface their statements with a disclaimer indicating they are expressing their own opinions and not those of KCERA.
- n) Trustees may not use KCERA resources to communicate their personal views to Stakeholders.

Summary of Key Provisions (cont'd)

- o) Trustees wishing to make a public presentation or distribute information about KCERA shall provide such materials to the Executive Director or General Counsel to be reviewed prior to presentation or distribution.

Spokesperson Guidelines

- p) The Executive Director shall serve as KCERA's spokesperson, and shall confer with the Chair prior to communicating about significant issues.
- q) In the absence of the Executive Director, the Assistant Executive director shall serve as spokesperson for KCERA. In the absence of the Assistant Executive director, General Counsel shall serve as the spokesperson.
- r) As determined by the Board, the Chair may serve as spokesperson in some situations (i.e., when it would be inappropriate for the Executive Director to communicate on KCERA's behalf).
- s) Spokespersons shall only communicate positions that have been decided on by the Board, or that reflect the Board's official views or policies.

CORTEX COMMENTARY

1. Given the nature of board communications, this policy does not readily lend itself to compliance monitoring. We nevertheless encourage Trustees to review the summary of provisions noted above and/or the policy itself.

Service Provider Evaluation Policy

Summary of Key Provisions

Background

- a) KCERA has identified the following parties as its “Key Service Providers”:
 - i. Consulting actuary
 - ii. Auditor
 - iii. Investment consultant
 - iv. Custodian

Guidelines

- b) A combination of subjective and objective methods of evaluation will be used to assess the performance of the Key Service Providers.
- c) Management shall determine the combination of methods to be used in evaluating Key Service Providers, and shall keep the Board informed of the process.

Subjective Evaluation Methods

- d) Key Service Providers shall be assessed relative to subjective criteria such as responsiveness, communications, quality of advice, and service quality.
- e) KCERA management shall evaluate a given service provider using surveys, discussion guides, or other appropriate tools. The Executive Director determines which staff members will participate in evaluating each service provider.

Objective Evaluations

- f) Management may undertake objective evaluations of Service Providers as appropriate (e.g., to address issues such as technical proficiency, accuracy, cost effectiveness and independence). Such evaluations may involve assistance from independent third-party experts.

Requests for Proposals for Current Service Providers

- g) Relationships with Key Service Providers will be formally reviewed from time-to-time to determine whether an RFP process should be initiated to confirm the suitability of the current relationship or to seek an alternative supplier.
- h) In the case of audit and actuarial services, KCERA should generally issue an RFP approximately every six years.

CORTEX COMMENTARY

1. All Key Service Provider relationships are required to be formally reviewed from “time-to-time” and should generally be performed every six years. Consistent with this policy, Key Service Provider relationships have been reviewed by KCERA recently. Details as to the timing of such reviews are as follows:

Key Service Provider	Last Formal Review (i.e. when the Board considered if an RFP should be issued)	Last RFP Issued*
Consulting Actuary	2021 (in progress)	2014
Auditor	2020	2020
Custodian	2017	2014
Investment Consultant	2020 (contract extension)	2011

* The policy also suggests that RFPs for an Auditor and Consulting Actuary should be issued every six years, or more often if deemed appropriate. An RFP for the Auditor was issued within the recommended timeframe. An RFP for the Consulting Actuary was postponed by staff due to multiple ongoing actuarial engagements including the Actuarial Audit and the implementation of the Alameda Decision. Staff is currently conducting a formal evaluation of the Consulting Actuary and will consider the need to issue a formal RFP later in 2021.

2. In February 2021, the Administrative Committee approved the revised Board Performance Assessment Survey, which included a new question to help KCERA Administration obtain input on the Board’s satisfaction with its key advisors (i.e., actuary, investment consultants, legal counsel, and tax counsel). Cortex provided a summary report of the results to KCERA Administration.
3. In April 2021, the Executive Director informed the Board that RFPs for the Custodian and Investment Consultant will be issued in 2021.

Issues for Consideration

Our review did not reveal any Issues for Consideration.

Evaluation Period Policy

Summary of Key Provisions

- a) The Board shall institute an “evaluation period” when:
 - i. A RFP has been issued by KCERA or a short list of candidate firms has been identified by KCERA, whichever occurs first; or
 - ii. The Board deems it to be in the interest of KCERA and its members to do so.
- b) Use of evaluation periods shall be limited to investment managers and partners, investment consultants, legal counsel, and actuarial firms.
- c) During evaluation periods:
 - i. Trustees shall not communicate with the specified service providers (except during board or committee meetings or KCERA-authorized due diligence visits) or accept gifts from the specified service providers (e.g. meals, travel, and hotel).
 - ii. Notwithstanding the above, trustees who need to communicate with such service providers for reasons unrelated to KCERA business shall disclose such need to the Board prior to such communications, or, when circumstances do not permit timely disclosure to the Board, the trustee shall provide disclosure of the intended communication to the Executive Director and to the Chair or Vice-Chair.
 - iii. KCERA staff may communicate with service providers only in context of normal due diligence. Face-to-face meetings between staff and the specified service providers shall take place in normal office settings.
- d) Evaluation periods shall cease when a service provider has been appointed by the Board, when the search process in question has ended, or when the evaluation period is otherwise ended by action of the Board.
- e) This policy shall be incorporated into RFPs and other similar documents.
- f) Service providers that breach this policy may be terminated or disqualified from the search process, while Trustees who breach this policy may be sanctioned.

CORTEX COMMENTARY

1. Consistent with the policy:
 - a. Evaluation periods were initiated for service providers when an RFP was issued, or a short list of candidate firms was identified for consideration. Service providers covered by the evaluation periods included hedge fund consultants, proxy voting advisors, trade cost analysis firms, and investment managers.

Issues for Consideration

1. The Board currently ratifies the establishment of evaluation periods. The Board however was unable to do so when the RFP for Actuarial Audit Services was issued in late June and a vendor was approved by the Board in August, given that the Board did not hold a regular meeting in July. KCERA Administration confirmed that it is developing an internal checklist and formal notification process to have the letters sent directly to Trustees upon issuance of an RFP.

Monitoring and Reporting Policy

Summary of Key Provisions

Principles & Assumptions

- a) Requests by trustees for additional routine reports shall require Board approval and an amendment to Appendix 1 of the Monitoring & Reporting Policy.

Guidelines

- b) The Board shall be provided with routine reports in the following key areas:
 - i. Governance;
 - ii. Investments and Funding; and
 - iii. Administration and Operations.
- c) A list of specific routine reporting requirements is contained in Appendix I of the Policy.

CORTEX COMMENTARY

1. Consistent with the policy, the Board received the following routine reports during the Review Period:
 - a. Governance:
 - i. Board Performance Evaluation;
 - ii. Executive Director (ED) Evaluation;
 - iii. Annual Governance Report; and
 - iv. Trustee Education Report.
 - b. Investments and Funding:
 - i. Monthly Investments and Quarterly Investment Performance Reports;
 - ii. Investment Manager Compliance Report;
 - iii. Report of the CIO;
 - iv. Proxy Voting;
 - v. Securities Lending;
 - vi. Class Action Securities Litigation and Proceeds Report;
 - vii. Actuarial Valuation; and
 - viii. Actuarial Experience Study
 - ix. Actuarial Audit
 - c. Administration and Operations:
 - i. Benefits & Activities Report;
 - ii. Strategic/Business Plan Status Report;
 - iii. Budget Variance;
 - iv. External Financial Audit;
 - v. Comprehensive Annual Financial Report (CAFR);
 - vi. Cost Effectiveness Report;
 - vii. Reports of the Executive Director and General Counsel;
 - viii. Corrections of Errors in Benefit Payments;
 - ix. Due Diligence Schedule;
 - x. Reports on Internal Controls; and
 - xi. Disabilities Reports.

2. During the Review Period, the Board did not receive a Due Diligence Report because on-site due diligence was not possible due to travel restrictions during the pandemic.

Issues for Consideration

Our review did not reveal any Issues for Consideration.

Executive Director Performance Evaluation Policy

Summary of Key Provisions

Roles and Responsibilities

- a) The Board is responsible for annually evaluating the Executive Director's performance. The Administrative Committee will coordinate the evaluation process.

Evaluation Criteria

- b) The Executive Director will meet with the Administrative Committee to review the performance criteria to be used in the upcoming evaluation period. All evaluation criteria shall be recommended for Board approval.
- c) The evaluation will be based on the following minimum criteria:
 - i. Board satisfaction with the Executive Director's general leadership, management, and administrative skills, as assessed by a survey administered to all trustees;
 - ii. Objective criteria established by the Board (e.g., service quality targets, implementation of specified initiatives);
 - iii. Any special, one-time criteria covering unique issues or circumstances.
- d) Evaluation criteria will generally be objective and measurable, and pertain only to outcomes over which the Executive Director has a high degree of control.

Evaluation Process

- e) The Executive Director will provide trustees with an Evaluation Package to assist in the Board's evaluation of the Executive Director's performance. This package will include:
 - i. All agreed-upon criteria;
 - ii. The Executive Director's own assessment of his or her performance; and
 - iii. The Executive Director Performance Evaluation survey
- f) The Administrative Committee has the authority to approve changes to the Executive Director Performance Evaluation survey.
- g) Trustees will complete the Executive Director Performance Evaluation survey, the results of which shall be tabulated by the Administrative Committee or a designated third-party.
- h) The Administrative Committee shall meet in executive session to review the results of the survey, and prepare a summary of results and recommendations.
- i) The Chair of the Administrative Committee will report to the Board on its evaluation. The meeting will be held in executive session and the Executive Director will be invited to attend. Following this meeting, the Executive Director may meet with individual trustees to discuss specific comments or concerns raised during the evaluation.

CORTEX COMMENTARY

1. Cortex issued the Evaluation Package and ED Evaluation Survey for 2020 on December 4, 2020. Nine Trustees completed the survey.
2. The ED Evaluation Survey addressed the following topic areas:
 - a. Leadership Skills;
 - b. Administration/Management;
 - c. Support to the Board;
 - d. Stakeholder Relations;
 - e. Communication Skills; and
 - f. Personal Skills/Knowledge/Professionalism.
3. Survey respondents had the opportunity to provide written comments throughout the ED Evaluation Survey.
4. The Board met in February 2021 to review the results of the 2020 ED Performance Evaluation survey.
5. The Administrative Committee also met in February 2021 to review the criteria and weights for the upcoming fiscal year for recommendation to the Board. The Board subsequently approved the criteria in March.

Issues for Consideration

No issues for consideration were identified.

Executive Director Succession Policy

Summary of Key Provisions

Acting Executive Director

- a) The Board has established the position of Assistant Executive Director to help ensure continuity in the position of Executive Director.
- b) The Executive Director shall develop a succession plan in the event of concurrent vacancies in the positions of Executive Director and Assistant Executive Director. The Executive Director shall periodically review this plan with the Chair of the Administrative Committee and provide annual verbal reports to the Administrative Committee.
- c) In the event of a *vacancy* in the Executive Director position:
 - i. The Assistant Executive Director shall serve as Acting Executive Director until the Board selects a successor or until the Board determines otherwise. In this case, the Acting Executive Director shall receive salary and benefits consistent with the County's out-of-class pay provisions for a vacancy in a County Department Head position. Alternatively, the Board may appoint the Assistant Executive Director to the position of Interim Executive Director, setting the salary for this interim position at a range similar to that of the Executive Director.
- d) In the event the Executive Director is *unable to carry out his/her duties* and is *unable to appoint an Acting Executive Director*:
 - i. The Assistant Executive Director will assume the position of Acting Executive Director until the Executive Director returns or the Board determines otherwise.

Guidelines

- e) In the event of a vacancy in the Executive Director position, or notice is received regarding his/her resignation or retirement, the Board must meet as soon as practical to determine if and how a search process should be conducted.
- f) Trustees cannot be considered for employment as Executive Director at KCERA unless they have been off the Board for at least one year.

CORTEX COMMENTARY

1. Consistent with the Policy:
 - a. In May 2021, as part of his regular Executive Director Report, the Executive Director provided the Board with an update on staff hiring.

Issues for Consideration

No issues for consideration were identified.

Trustee Education Policy

Summary of Key Provisions

Introduction

- a) Trustees will endeavor to attend:
 - i. One External Education Program (*annually*);
 - ii. One multi-day external education program of an academic nature (*every two years*);
 - iii. All In-house educational and planning initiatives organized by Management; and
 - iv. Education related to the mandates of trustees' assigned committees.
- b) Topics appropriate for trustee education may include, but are not limited to, the following:
 - i. Fiduciary responsibilities and ethics;
 - ii. Investments and investment program management;
 - iii. Actuarial and funding matters;
 - iv. Benefits administration including disability evaluation; and
 - v. Governance.

Orientation

- c) Within 45 days of joining the Board, new trustees shall receive orientation developed by the Executive Director.
- d) Within 6 months of joining the Board, the Executive Director shall hold a follow-up discussion with each new trustee to address any questions they may have.
- e) New trustees shall endeavor to:
 - i. Attend a Board/committee meeting as an observer prior to attending as a Trustee.
 - ii. Meet separately with Assistant Executive Director, CIO, and General Counsel to learn about their roles in KCERA.
 - iii. Attend CALAPRS' "Basic Principles of Pension Management" during the course of their first year on the Board.

Education Requirements

- f) Trustees are required to undergo a minimum of 24 hours of education within the first two years of assuming office and for every subsequent two-year period of service on the Board.
- g) Trustees may attend up to six External Education Programs every two years.

Qualifying Education

- h) "External Education Programs" shall include education sessions sponsored by third parties (e.g., conferences, workshops, seminars, courses, and other similar events).
- i) Management shall inform the Board of appropriate external education opportunities.
- j) Trustees shall seek Board approval prior to attending educational programming requiring the expenditure of KCERA funds.

Reporting and Disclosure

- k) Trustees shall complete an Education Program Attendance Report after attending an External Education Program.
- l) Management will maintain a record of trustee compliance with this policy and will report on a semi-annual basis to the Board about such compliance.

CORTEX COMMENTARY

1. Consistent with the policy:

- a. In-house education events were organized for the Board and standing committees during meetings (see *Appendix B* for a complete list).
- b. During the Review Period, a new Trustee joined the Board. KCERA Administration confirmed that the new Trustee attended orientation sessions and follow-up discussions with the Executive Director after joining the Board. The new Trustees also met separately with the Assistant Executive Director, CIO, and General Counsel to learn about their respective roles at KCERA. New Trustees are reminded that they are encouraged, but not required, to attend the CALAPRS Principles of Pension Management for Trustees program within the first year on the Board.
- c. The Education Compliance Report (ended Dec. 31, 2020) indicates that:
 - i) Trustees have met the requirement of receiving at least 24 education hours for the two-year period (“Education Cycle”).
 - ii) Although recommended but not required, most Trustees have attended at least one External Education Program annually and one multi-day External Education Program every two years.

Trustees who have not completed the above have Education Cycles that extend beyond the end of the reporting period and therefore compliance cannot be confirmed. Trustees are nonetheless reminded to continue to work towards achieving the above.

Issues for Consideration

No issues for consideration were identified.

Trustee Travel Policy

Summary of Key Provisions

- a) Trustees shall only be reimbursed for expenses related to Board-approved travel.
- b) Whenever possible, trustees shall seek to obtain pre-approval by the Board for any travel to be undertaken.
- c) When deciding among closely similar External Education Programs or identical programs offered in different locations, KCERA trustees shall favor those programs that minimize travel, participation, and related expenses.
- d) The Executive Director shall recommend to the Board a travel policy for staff that is generally consistent with the provisions of the Trustee Travel Policy.

CORTEX COMMENTARY

1. While determining full compliance with this policy would require an audit of trustees' travel expenses, and is therefore beyond the scope of the Review, we were able to confirm the following:
 - a. Based on our review of the minutes, Trustees did not request education-related travel during the Review Period presumably due to the pandemic.

Issues for Consideration

Our review did not reveal any Issues for Consideration.

Due Diligence and Service Provider Selection Policy

Summary of Key Provisions

Guidelines

- a) The Board or its committees will play a relatively more active role in selecting service providers that:
 - i. Advise or work with the Board directly (e.g., the actuary, independent fiduciary counsel);
 - ii. Serve as an independent check on KCERA's operations (e.g., the financial auditor); or
 - iii. May have a material impact on KCERA's performance (e.g., investment managers).
- b) In the interest of organizational efficiency and effectiveness, the Executive Director shall have the autonomy and authority to select service providers that do not meet the criteria set out above (e.g., who support staff in coordinating KCERA's day-to-day operations).
- c) In cases where the Board or a committee appoints a service provider, staff will provide the Board or committee with a recommendation.
- d) When recommending service providers for appointment, staff will provide adequate background information and analysis. In the case of investment manager recommendations, trustees should be provided with a discussion of relevant drawbacks of finalist firms that are not recommended.

Due Diligence

- e) Staff or consultants will conduct follow-up on-site due diligence for key service providers according to the minimum frequencies set out in the policy.
- f) The Board will be provided with a three-year calendar of scheduled on-site due diligence visits.
- g) Every investment manager recommended to the Board must have undergone an on-site due diligence visit by the CIO and the Investment Consultant.
- h) Investment staff may also meet with current investment managers for oversight and monitoring purposes, or with prospective investment managers to learn about their products.
- i) Staff will develop procedures to be used in conducting investment manager due diligence, and will periodically review these procedures with the Investment Committee.
- j) Staff with authority to appoint a service provider must ensure all reasonable due diligence is performed.

CORTEX COMMENTARY

1. Consistent with the policy:
 - a. During the Review Period, the Board approved 17 investment funds and managers, an actuarial auditor, a hedge fund consultant, and a proxy voting service vendor according to the processes outlined in this Policy. In making such decisions, the Board considered staff analyses and committee recommendations.
 - b. KCERA Administration confirmed that on-site due diligence for investment managers is conducted by the investment consultants at least triennially. Videoconferencing has been used in place of on-site visits as an interim solution during the pandemic.
 - c. According to the Due Diligence Schedule presented to the Board during the Review Period, on-site due diligence for the general investment consultant is scheduled for 2021. Last year, staff confirmed that due diligence was initially scheduled for 2020, consistent with the minimum five-year frequency but was delayed due to the pandemic.

Issues for Consideration

Our review did not reveal any Issues for Consideration.

Code of Conduct

Summary of Key Provisions

General Expectations

- a) Trustees shall:
 - i. Act with decorum, integrity, and professionalism.
 - ii. Refrain from any behavior that may reflect poorly on the image of the Board or KCERA.
 - iii. Comply with the Board's policies and rules.
 - iv. Attempt to attend and participate constructively in all meetings of the Board and committees on which they serve.
 - v. Build and maintain the knowledge necessary to fulfill their fiduciary responsibilities.
- b) Should a trustee fail to attend 75% of the meetings they are expected to attend, the trustee's attendance may be reviewed and deemed to fall short of the general expectations.
- c) Any trustee who believes the conduct of a fellow trustee falls short of the above expectations should discuss the matter with the trustee in question, ask the Chair or Vice Chair to address the matter, or request that the matter be considered by the Board.
- d) If the Board determines that the conduct of a trustee falls short of the above expectations, it may take action, including, but not limited to:
 - i. Referring the matter to the Administrative Committee for further consideration;
 - ii. Removing the trustee from the position of Chair, Vice Chair, or committee chair, or from any committee on which they serve;
 - iii. Prohibiting the trustee from serving in the above positions for a specified period of time;
 - iv. Limiting the trustee's travel privileges, if the violation relates to travel;
 - v. Censuring the trustee; and/or
 - vi. Communicating the Board's concerns to any party by any means deemed appropriate.
- e) Trustees shall comply with all applicable federal, state, and local law including fiduciary standards.
- f) Trustees shall seek advice and clarification from the Executive Director or General Counsel regarding this code of conduct.

CORTEX COMMENTARY

1. It is not possible to confirm compliance by individual trustees with all provisions of the Code of Conduct. We therefore encourage Trustees to review the summary of provisions noted above and/or the policy itself.

Issues for Consideration

1. During the Review Period, three Trustees did not meet the 75% minimum attendance for Board meetings. However, all Trustees met the minimum attendance requirements for committee meetings. Please see *Appendix A* for a summary of Trustee attendance.

Board Performance Evaluation Policy

Summary of Key Provisions

Introduction

- a) The scope of the evaluation process should be strictly limited to the operations and decision-making practices of the Board itself.
- b) The Administrative Committee shall be responsible for coordinating the implementation of the policy.
- c) The Board's performance evaluation will be completed on an annual basis, unless extenuating circumstances arise.

Procedures

- d) The Board performance evaluation process will consist of a short survey followed by one-on-one interviews with each Trustee.
- e) A Report of Findings will be prepared by a third-party and distributed to the Administrative Committee.
- f) The Administrative Committee will present its findings and recommendations to the Board or direct a third-party to report the findings and recommendations to the Board. The Board will consider the Administrative Committee's findings and approve any resulting actions or initiatives.

CORTEX COMMENTARY

1. Consistent with the Policy:
 - a. In February 2021, the Administrative Committee reviewed and approved revisions to the Board performance evaluation survey.
 - b. The Board performance evaluation survey was administered on-line and was completed by 11 Trustees. It addressed the following topics:
 - i. Board Member Interactions & Decision Making
 - ii. Committee and Board Activities
 - iii. Board's Interactions with Management
 - iv. Communications & Goal-Setting
 - v. Individual Board Members
 - vi. Meetings & Time Distribution
 - vii. Key Vendors
 - c. Survey respondents were invited to participate in confidential one-on-one interviews.
 - d. The Report of Findings was presented to the Administrative Committee on April 7, 2021, and then presented to the full Board on April 14, 2021.

Issues for Consideration

Our review did not reveal any Issues for Consideration.

Part II – Charters

This section identifies potential Issues for Consideration and/or recommendations pertaining to the governance charters.

According to the Finance Committee Charter, *“The Finance Committee shall receive exception reports from Counsel regarding the filing of Statements of Economic Interests by trustees and shall advise the Board accordingly.”*

KCERA Administration confirmed that this task is typically handled by staff and exception reports are not provided to the committee. Such reports will be brought forward to the committee going forward.

Appendix A
Trustee Attendance Summary

Board Meetings - July 1, 2020 to June 30, 2021

Trustee	Total meetings	Total meetings attended	Total meetings missed
Brandon	15	11	4
Couch	15	13	2
Dodgin*	13	13	0
Franey	15	10	5
Gonzalez	15	15	0
Hughes	1	1	0
Kaufman	15	14	1
Kratt	15	15	0
Nunneley	15	14	1
Robinson	15	14	1
Seibly	15	15	0
Skidmore	15	11	4
Whitezell	15	15	0

* Left the Board in 2021.

Committee Meetings – July 1, 2020 to June 30, 2021

Trustee	Total meetings	Total meetings attended	Total meetings missed
Brandon	6	5	1
Couch	15	15	0
Dodgin*	15	14	2
Franey	11	10	2
Gonzalez	15	14	0
Kaufman	11	10	1
Kratt	10	9	0
Robinson	5	5	0
Seibly	5	5	0
Skidmore	5	4	1
Whitezell	5	5	0

* Left the Board in 2021.

Appendix B
In-House Education (updated)

Topic	Date	Education Hour Credit
Finance Committee		
1. Trustee Education regarding Supplemental Retiree Benefit Reserve (SRBR)	February 26, 2021	1.37 hour
Board		
2. Presentation on Cancer Presumption	August 12, 2020	0.73 hour
3. Trustee Education regarding the California Supreme Court's recent decision in <i>Alameda County Deputy Sheriff's Assoc. et al. v. Alameda County Employees' Retirement Assn. et al. (2020)</i>	August 24, 2020	0.68 hour
4. Trustee Education regarding Environmental, Social, and Corporate Governance (ESG)	September 9, 2020	0.70 hour
5. Trustee Education regarding Internal Revenue Service Requirements for Qualified Retirement Plans, the Exclusive Benefit Rule, and Plan Corrections	September 9, 2020	1.13 hour
6. Trustee Education regarding Asset Allocation	October 14, 2020	0.47 hour
7. Trustee Education regarding Disability Update	November 4, 2020	0.20 hour
8. Trustee Education regarding Board Governance: Open Meeting Law Compliance	November 4, 2020	0.60 hour
9. Trustee Education regarding Board Fiduciary Duty	April 21, 2021	1.08 hour

Kern County Employees' Retirement Association

Presentation Regarding
Aon Governance
Consulting Proposal



October 7, 2021

Jeanna Cullins, Partner

Julie Becker, Associate Partner

Topics for Today's Discussion

1 General Introduction—Who We Are

2 Representative Public Fund Client List

3 Discussion of Our Response to Your RFP

4 Why Aon?

5 Additional Questions and Open Discussion



General Introduction—Who We Are

Introduction to Aon: Proposed Governance Team for KCERS



Partner, Fiduciary Services Practice Leader

Over 35 years of industry experience

Worked with over 100 institutional investors, advising some of the largest public funds in the country

Former Executive Director and General Counsel of a public fund

Governance Fellow - National Association of Corporate Directors



Associate Partner, Fiduciary Service Practice Member

Over 20 years of industry experience

General Counsel for the Ohio Public Employees Retirement System for 16 years

Who We Are: Relevant Experience

The Team's relevant experience includes:

- Providing governance advice, reviewing existing policies and procedures, refining processes to increase effectiveness, and making customized recommendations based on the specific circumstances of each client
- Developing customized policies, monitoring procedures, and enforcement mechanisms, including policies related to board education, travel, strategic and annual business planning, monitoring and reporting, service provider selection, codes of conduct, risk management, and many others
- Assisting with the development of board and committee charters and statements of roles and responsibilities for the board and executive staff
- Facilitating Board self-evaluations, Executive Director and CIO evaluations, as well as consultant/service provider evaluations
- Creating new trustee orientation training in addition to assisting in the facilitation of such training
- Providing fiduciary and governance education
- Strategic Planning
- First-hand knowledge of CERL (37 Act) funds
- Serving as a trusted advisor on the practices of institutional investors



Representative List of Public Fund Clients

Fiduciary Services' Experience with Public Funds

Representative List of Public Fund Clients We Have Worked For

- CERL/'37 Act clients
 - Orange County
 - San Diego County
 - Sonoma County
 - Los Angeles
- Colorado Public Employees' Retirement Association
- Minnesota State Board of Investment
- New York State Teachers' Retirement System
- New York State Common Fund
- North Carolina Department of State Treasurer
- Pennsylvania Public School Employees' Retirement System
- State of Oregon
- State of Wisconsin Investment Board
- Teacher Retirement System of Texas
- Teachers' Retirement System of the State of Kentucky
- Tennessee Valley Authority Retirement System
- Vermont Pension Investment Committee

Representative Client list as of most recent quarter-end. Inclusion in this list does not represent a recommendation or endorsement of Firm's products and/or services, nor are they exclusively representative of the product(s) discussed herein. Clients included in this list are the institutional clients which have provided written consent to Firm to be named in marketing materials. It is not known whether all clients listed above approve or disapprove of Aon or the advisory services provided.



Discussion of Our Response to Your RFP

Methodology for Core Services

Core Board Governance Services

- Annual Governance Report
- Ongoing Governance policy review, analysis and development
- Board self-assessment survey
- Executive Director performance evaluation process
 - Including administration and preparation of Staff Climate Survey
- Board Educational Needs Assessment

Potential Special Project Scope Areas

- Fiduciary and Governance Education
- Strategic Planning
- New Trustee Training
- Fiduciary and Governance reviews
- Management review and organizational design
- Policy development and implementation advice
- Criteria and processes for evaluating outside service providers
- Advice on delegation and oversight methods
- Advice on “Hot Topics” – ESG, Cybersecurity, OCIO, etc.

Pricing



For the core services identified in the scope of work, we propose a total fee of \$55,000.



For special projects such as strategic planning and on-site meetings, we propose \$35,000.



Why Aon?

Why Aon?



Experience – Senior Level, Tenured Team

Deep Knowledge – Practitioners Lead Team; Understands Public Fund Issues and Solutions – What Works and What Might Not

Customized Approach – Ability to translate best practices from a wide-range of sources for the benefit of KCERA

Our Dedication – We care about you and your success



Additional Questions and Open Discussion

Legal Disclosures and Disclaimers

Consulting services provided by Aon Consulting, Inc. (“ACI”). The information contained herein is given as of the date hereof and does not purport to give information as of any other date. The delivery at any time shall not, under any circumstances, create any implication that there has been a change in the information set forth herein since the date hereof or any obligation to update or provide amendments hereto.

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Suite 700
Chicago, IL 60601

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Kern County Employees' Retirement Association

Proposal to Provide Governance Services

Presentation to the Administrative Committee

October 7, 2021



Introductions

- Rick Funston, CEO
 - Has led numerous public retirement system governance assignments with state, county and municipal systems over past 11 years.
 - Former National Practice Leader for Governance and Risk with Deloitte.
 - Significant experience with strategy and operations, organization and leadership development, performance management, program evaluation and survey research.
- Randy Miller, COO
 - Project manager for FAS governance and operations assignments.
 - Leads FAS public retirement systems benchmarking (InGov®).
 - Former Strategy and Operations partner with Deloitte Consulting.

Overview of Funston Advisory Services (FAS)

- One of the most knowledgeable and experienced public retirement system governance consulting firms.
- Extensive experience engaging with public retirement system fiduciary boards during self-evaluation processes and in assisting with executive director evaluations.
- An extensive toolset to support our consulting advice:
 - InGov® Public Pension Fund Leading Practices database includes information on over 300 factors.
 - National Public Pension Policy Repository (N3PR) contains charters and governance and investment policies from over 80 U.S. state, county, and municipal public retirement systems.
- Highly focused on trustee education, having written a trustee handbook and launching a trustee and executive online eLearning platform through an affiliate firm called Board Smart.
- Independent, focusing on governance, strategy, risk and operations advisory and trustee education to retirement systems, providing an unbiased perspective and recommendations.
- Team members have deep and diverse experience and expertise with retirement systems
- Our advice is practical.
- Strong track record of meeting our commitments and maintaining high professional standards.

FAS Service Offerings

- Our services to Public Retirement Systems generally fall into seven categories:
 1. Fiduciary Governance
 2. Investment Operations
 3. Benefits and Administration Operations
 4. Strategy and Risk Intelligence
 5. Stakeholder Relations and Communications
 6. Board Performance Evaluation and Education
 7. Executive Director Goal-Setting and Performance Evaluation
- However, each assignment is unique and typically includes services from multiple categories.

Our Clients and Assignments – Past Five Years

Client	Current AUM \$B	Timeframe	Nature of Engagement
Ohio Retirement Study Council – State Teachers Retirement System of Ohio	\$94.8	9/2021 – ongoing	Fiduciary Performance Audit
Ohio Retirement Study Council – Ohio Police and Fire Pension Fund	\$15.5	9/2021 – ongoing	Fiduciary Performance Audit
District of Columbia Retirement Board	\$10.9	9/2021 – ongoing	Fiduciary Performance Audit
Trust Fund for the People of the Federated States of Micronesia	\$1.0	6/2021 – ongoing	Fund Structure and Performance Review
California Public Employees’ Retirement System	\$376.9	5/2021 – ongoing	Board Governance Consulting and Benchmarking
Indiana Public Retirement System (INPRS)	\$30.7	5/2021 – ongoing	Board Governance Policy and Effectiveness Review
Pennsylvania State Employees’ Retirement System (SERS)	\$34.5	1/2021 – 6/2021	Board Self-Assessment and Fiduciary Review
Pennsylvania Public School Employees’ Retirement System (PSERS)	\$64.2	11/2020 – 7/2021	Board Governance Review
Fairfax County (VA) Retirement Systems	\$8.1	9/2020 – 6/2021	Investment Operations Improvement
MoDOT & Patrol Employees’ Retirement System (MO)	\$2.3	8/2020 – 11/2020	Board Governance Effectiveness Review
California Public Employees’ Retirement System	\$376.9	1/2020 – 9/2020	Improve Board and Committee Reporting
Milwaukee County Employees’ Retirement System	\$1.8	6/2019 – 12/2019	Board Charter and Policy Implementation
Employees’ Retirement System of the State of Hawaii	\$16.5	6/2019 – 10/2019	Governance Structure and Policy Review
South Carolina State Auditor – Public Employee Benefit Authority	\$38.5	5/2019 – 12/2019	Fiduciary Performance Audit
Delaware Public Employees’ Retirement System	\$10.1	4/2019 – 9/2019	Board Self-Assessment

Client	Current AUM \$B	Timeframe	Nature of Engagement
Wyoming Retirement System	\$9.1	10/2018 – 5/2019	Governance and Operational Review
Milwaukee County Employees’ Retirement System	\$1.7	7/2018 – 11/2018	Governance Review
California Public Employees’ Retirement System	\$376.9	6/2018 – 7/2019	Improving Executive Reporting to the Board
Maryland State Retirement and Pension System	\$52.4	6/2018 – 10/2018	Board Governance Policy Review
South Carolina State Auditor – Retirement System Investment Commission	\$38.5	5/2018 – 12/2018	Fiduciary Performance Audit
State Board of Administration of Florida	\$11.1	3/2018 – 5/2018	Defined Contribution Compliance Review
Montgomery County Public Schools	\$1.7	4/2018 – 9/2018	Investment Operations Review
Utah Retirement Systems	\$37.3	5/2018 – 9/2018	Investment Operations Review
State Board of Administration of Florida	\$174.7	9/2017 – 1/2018	Governance, Risk and Compliance Review
Maryland State Retirement and Pension System	\$52.4	6/2017 – 10/2017	Internal Asset Management Implementation Planning
San Francisco Employees’ Retirement System	\$29.3	1/2017 – 7/2017	Board Performance Evaluation
Texas State Auditor’s Office – Teacher Retirement System of Texas	\$153.1	9/2016 – 12/2016	Real Assets Investment Program Review
Ohio Retirement Study Council – School Employees Retirement System of Ohio	\$14.6	9/2016 – 2/2017	Fiduciary Performance Audit
Employees’ Retirement System of Rhode Island	\$9.5	4/2016 – 7/2016	Board Governance Policy Manual
Los Angeles County Employee Retirement Association (LACERA)	\$57.1	1/2016 – 7/2017	Board and Committee Charter Development; Strategic Planning

The FAS Network (examples)

Keith Johnson

- Reinhart Law Governance Advisor and Chair Emeritus of Institutional Investor Services
- Formerly General Counsel at the State of Wisconsin Investment Board (SWIB)
- Part of FAS network since 2010

Jon Lukomnik

- Managing partner of Sinclair Capital LLC
- Recognized and awarded corporate governance expert
- Former Deputy Comptroller and CIO for New York City
- Part of FAS network since 2010

Lisa Morris

- Former Executive Director of the School Employees' Retirement System of Ohio (SERS)
- Led significant change at SERS
- Part of FAS network since 2018

Tiffany Reeves

- Shareholder with Reinhart Law in the Employee Benefits and Institutional Investor Services practices
- Formerly Deputy Executive Director and Chief Legal Counsel at the Chicago Teachers' Pension Fund
- Part of FAS network since 2018

Steve Ross

- Founder and Executive Principal of Risk Masters International
- Specialist in the field of information systems security and control
- Former Director and global practice leader with Deloitte
- Part of FAS network since 2020

Mike Gold

- Former Senior Managing Director and head of Asset Management Services for TIAA-CREF (now TIAA)
- Specialist in investment operations, risk management, and compliance
- Implemented major operational reforms with New York City
- Part of FAS network since 2020

Our Experience Working with California Systems

We understand the California statutory environment and the specific governance requirements included in the County Employees Retirement Law (CERL).

- ***CalPERS***

- 2010-11: Major governance reforms, new committee structure, new Board policies
- 2018-2020: New Board dashboard reporting approach and tool based upon exception reporting
- 2021: Governance benchmarking and advice

- ***San Francisco ERS***

- 2017: Independent Board evaluation, including a self-evaluation and policy review

- ***LACERA***

- 2015: Board workshop to address communications and staffing issues
- 2016-17: New Board of Retirement, new joint BOR/BOI Governance Committee, new committee charters

Our Proposal to KCERA

- FAS has experience in all areas included in the requested scope.
- Based upon the charters and policies we have seen, KCERA has a strong governance foundation, and we will approach this assignment as one of continuous improvement.
- Many of the services requested are inter-related and can be integrated or coordinated to more economically utilize trustee time and avoid redundant activities.
- Our approach for engaging the Board for the self-evaluation, Board education needs assessment, and the ED performance evaluation includes an initial survey, followed up by individual interviews for more in-depth input.
- We expect to build upon the questionnaires currently in use by KCERA for purposes of continuity but will suggest potential improvements where appropriate.
- For charter and policy reviews, we will utilize our National Public Pension Policy Repository (N3PR) to identify contents of peer charters and policies for comparisons.
- We offer to provide KCERA with an InGov[®] peer benchmarking report as additional input into the Board self-evaluation and for overall governance comparisons and considerations.

Other Potential Services to KCERA


- Strategic planning support
- Board reporting dashboard with exception-based reporting
- Incorporating ESG into investment policy
- Board Smart eLearning platform

Questions



Date: October 13, 2021

To: Trustees, Board of Retirement

From: Dominic D. Brown, Executive Director 

Subject: **Request for Quote – Governance Consulting Services**

On August 24, 2021, KCERA launched a Request for Quote (RFQ) for governance consulting services. KCERA received two qualifying bids that were evaluated by KCERA Staff. Based on initial review by Staff, the two firms were recommended to the Administrative Committee for review and recommendation to the Board of Retirement.

In a typical Request for Proposal (RFP), it would be customary for Staff to perform a full evaluation and bring a singular recommendation to the Committee. However, given the significant reliance that the Board places on the governance consultant, and the unique and trusting nature of the relationship, staff elected to launch an RFQ and bring multiple finalists to the Committee for consideration.

KCERA has been very satisfied with the past performance of its governance consultant, and its policies and charters reflect a high value on the importance of governance services. Unfortunately, the current provider is no longer providing services. Therefore, KCERA launched a search for a replacement vendor to perform this critically important advisory role.

In searching for our next governance consultant, Staff found very few firms that provide this kind of niche government pension governance consulting. One vendor communicated they had interest in responding to the RFQ, but was not able to take on additional clients at this time. Staff have had preliminary interactions with both consultants that did solicit bids, as well as other research in the firms' ability to provide the services defined in this RFQ.

The Administrative Committee evaluated both written proposals for governance consulting services and heard presentations from each firm at its October 7, 2021 meeting. Based on the merits of the finalists, the Committee unanimously voted to recommend both firms present to the full Board of Retirement at its regular meeting on October 13, 2021.

Staff recommends your Board evaluate the enclosed written proposals for governance consulting services, hear presentations, and approve the selection of one of the finalists as Governance Consultant.

PARTNERING for **SUCCESS**

Governance Consulting Services

**Aon Consulting Inc., NJ's Response to Proposal for
Kern County Employees' Retirement Association**

September 10, 2021

Contacts:

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AON
Empower Results®

September 10, 2021

Ms. Aimee Morton
Kern County Employees' Retirement Association
11125 River Run Boulevard
Bakersfield, CA 93311

Re: KCERA Request for Quote: Governance Consultant

Delivered via email to: aimee.morton@kcera.org

Dear Ms. Morton,

Aon Consulting Inc., NJ ("Aon") is pleased to submit this proposal to deliver Governance Consulting Services to Kern County Employees' Retirement Association's ("KCERA"). We believe that Aon has the right experience and capabilities necessary to be an outstanding long-term partner for KCERA's governance consulting needs. We would be honored to serve as a valued governance advisor to KCERA.

The firm's name, address, and telephone number

Aon
200 East Randolph Street, Suite 700
Chicago, IL 60601

The name, title or position, telephone number and e-mail address of the individual signing the cover letter.

David Testore, NA Chief Operating Officer
Aon
200 East Randolph Street, Suite 700
Chicago, IL 60601
t +1.312.381.1307
david.testore@aon.com

Aon's Fiduciary Services Practice Leader, Jeanna Cullins, is also signing this proposal.

Jeanna Cullins, Partner, Fiduciary Services Practice Leader
Aon
200 East Randolph Street, Suite 700
Chicago, IL 60601
+1.312.381.1241
jeanna.cullins@aon.com

A statement indicating that the signatory is authorized to bind the Respondent contractually.

Our proposal is being signed by our NA Chief Operating Officer, David Testore. David is authorized to submit and represent the information contained in this response on behalf of Aon. In accordance with our standard practice, this bid, and any award is subject to the final approval of Aon leadership and subsequent execution of a definitive agreement between us.

A statement to the effect that the quote is a firm and irrevocable offer good for three (3) months.

This quote is a firm and irrevocable offer good for three (3) months.

A statement expressing the Respondent's availability of staff and other required resources for performing all services and providing all deliverables specified within the quote.

Aon has the availability of staff and resources to perform all services and provide all deliverables specified within the quote.

A statement acknowledging that all documents submitted pursuant to the RFQ shall be subject to disclosure under the California Public Records Act.

Aon acknowledges that all documents submitted pursuant to the RFQ shall be subject to disclosure under the California Public Records Act.

Aon Consulting, Inc., NJ agrees to reimburse, indemnify, defend and hold harmless the Kern County Employees' Retirement Association, its Board members, officers, agents and employees from and against (a) any and all requests, claims, damages, losses, liabilities, suits, judgements, fines, penalties, costs and expenses of any nature, specifically including without limitation, attorneys' fees, expenses, and court costs (collectively "Claims") arising from or in any way involving any materials or information in this quote that Aon Consulting, Inc. has labeled as not subject to disclosure as a public record; and (b) any and all Claims arising from or relating to KCERA's public disclosure of any materials or information in this quote if KCERA deems disclosure to be required by law or if disclosure is required by court order.

Please contact us if there is any additional information you require or if we can make this proposal more responsive to your needs. We hope to have the opportunity to discuss our capabilities in more detail with you in person in the near future. Thank you again for your consideration.

Sincerely,



Jeanna M. Cullins
Partner, Practice Leader of Fiduciary Services



David Testore
North American Chief Operating Officer

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Response

We understand that the KCERA is requesting quotes for a consulting firm that has considerable experience and is qualified to provide ongoing governance consulting services. Aon's Fiduciary Services practice routinely provides advice, training, and related consulting services to the boards, executive directors, and other senior staff of comparable retirement systems regarding governance and fiduciary responsibilities. We have the experience and would welcome the opportunity to provide the following services to KCERA:

- Preparing an Annual Governance Report, including policy compliance, board member attendance, and board education activities.
- Ongoing review of the Governance Policy Manual.
- Administering the Executive Director Performance Evaluation process, including use of an on-line survey, conducting follow-up telephone interviews, tabulating results, and providing a summary report.
- Administering the Board Self-Evaluation process, including use of an on-line survey, conducting follow-up telephone interviews, tabulating results, and providing a Report of Findings.
- Administering Board educational needs assessment survey and providing report.
- Administering staff climate survey and providing report.
- Attending, presenting, and/or assisting at Board or committee meetings, as requested.
- Providing other related consulting services, as requested.

Aon has a long history of providing the services you seek. We understand public-sector pension programs and the policies and processes that are needed to govern them, because we work with them on a day-to-day basis. Beyond this, our client base gives us first-hand knowledge of the common and best practices of institutional investors such as corporate pension funds, endowments, foundations, and Taft Hartley funds. We consistently see and advise on "good governance" practices that are designed to reduce fiduciary, governance, and investment risks. We believe our exposure to a wide range of institutional investors makes us better-informed consultants, which will benefit KCERA because governance best practices can be found anywhere and, if properly translated, may be beneficially applied in different situations.

Aon's history assisting public funds goes back over 40 years through our legacy organizations. Our firm has been providing governance services to our clients since the firm's inception. In 2004 we invested time and resources into the formation of a distinct Fiduciary Services practice. Our dedicated, full-time, Fiduciary Services group has extensive experience providing all the services you seek to public funds, corporate pension funds, endowments, and foundations. This practice was launched because we saw the growing need for this type of specialized advice among our existing clients. It is a differentiator for Aon because we have a discrete practice that focuses on fiduciary and governance matters that also has the full resources of Aon available to it. With seasoned professionals focused solely on governance and fiduciary responsibilities, we take pride in our unique ability to advise those who must prudently and efficiently serve others.

Our Fiduciary Services practice has a deep understanding of real-world issues facing public pension funds. Our Fiduciary Services consultants are not only immersed in governance practices daily, but also have extensive backgrounds as trustees, legal counsel, and executives of public funds. They are well versed in the intricacies of the strict legal standards that apply to fiduciaries and the appropriate governance framework that assists the fiduciaries in meeting those standards. Our Fiduciary Services practice offers a full menu of fiduciary and governance services. These services include: policy development and implementation advice; development of board and committee charters; policy inventories and governance manuals; facilitation of board and committee self-evaluations; providing criteria and processes for evaluating executive staff and outside service providers; fiduciary training and education; new trustee orientations; fiduciary reviews; governance diagnostics; governance and committee structure advice; organizational and staffing reviews; strategic planning; advice on delegation and oversight frameworks; and succession planning.

The leader of our Fiduciary Services Practice, Jeanna Cullins, is the proposed lead for this project. Her extensive experience in government service, the administration of public funds, law, governance, investments, and management is stellar. She has observed public funds from the inside out by serving in a fiduciary capacity as pension fund staff and trusted advisor. She has worked with over 100 institutional investors, advising the leadership of some of the largest public funds in the county on how to fulfill their fiduciary responsibility and enhance their governance. The proposed co-lead for this project is Julie Becker. Julie also has first-hand knowledge of the ins and outs of the governance framework of one of the largest public funds in the country, having served as the general counsel of the Ohio Public Employees Retirement System for 16 years.

Annual Governance Report—Including Policy Compliance

Fiduciaries must comply with the duty of loyalty and prudence, and they must adhere to the law and their plan documents, which includes their approved policies. To do otherwise could be deemed a breach of fiduciary responsibility. Further, it is a well-recognized tenet that fiduciaries are judged by the prudence of their processes, so having well-documented processes which are diligently followed is critical.

The deliberative process which occurs during board and committee meetings, as evidenced by applicable minutes and meeting materials, is the best way to determine whether the basic fiduciary duties of prudence and loyalty are understood and followed and whether the Board is in compliance with their policies. We have reviewed hundreds of board meeting agendas, meeting materials, and minutes. We will review the current Governance Manual, policies and charters, prior Board Governance Reports, board and committee member attendance records, board member educational documentation, board and committee meeting minutes, materials, reports, and all relevant documentation. We will also utilize the interview process to complete this task. This approach would allow us to properly evaluate KCERA's compliance with its governance policies and determine whether policies and practices are aligned.

The deliverable for this task area will be a written Annual Board Governance Report which identifies our findings regarding compliance with the current governance policies, including the Trustee Education Policy and board member meeting attendance.

Ongoing Review of the Governance Policy Manual

In order to gain an understanding of KCERA's current governance framework, we would review all of the Board's governance policies to assess how the content of current policies compare to best practices and provide recommendations for improvements where appropriate.

Our Fiduciary Services group routinely advises numerous public funds on the development and enhancement of their governance policies. Our review process includes comparing a board's policies and practices to industry common and best practices. Based on our years of experience with other public pension funds and knowledge of industry practices, our Fiduciary Services group will present findings and recommendations based on informed, independent, objective judgment. Our focus will be on confirming that the KCERA governance framework is designed to:

- Mitigate fiduciary and governance risk;
- Clearly define and document roles, responsibilities, and reporting requirements;
- Facilitate procedural prudence;
- Foster effective and efficient implementation;
- Promote collaboration, oversight, and compliance; and
- Aid transparency and accountability.

For this task area, we would identify our findings regarding any recommended enhancements to the current Governance Policy Manual and associated documents.

Administration of Annual Executive Director Performance Evaluation Process

We would work with the Board Chair and Administrative Committee in administering the annual Executive Director Performance evaluation process, as outlined by the KCERA Executive Director Performance Evaluation Policy. We believe, as the KCERA Performance Evaluation Policy outlines, that it is critical that the performance criteria and process be defined and communicated in advance of the evaluation period and that the Executive Director be given the opportunity to document whether and how they have met the performance criteria (i.e., self-evaluation narrative, status of goals, achievements, challenges, and areas of focus during the performance year).

We would draft the performance evaluation survey tool containing criteria established by the Board and administer it as an on-line tool. We would collect individual board member ratings and comments, without attrition. We will follow up the survey with individual board member interviews and maintain their anonymity. We would provide a Summary Report and would be available to attend and facilitate the Administrative Committee and/or full Board's executive session discussions on the results. We believe it is important to collect a board consensus, "one-voice" opinion regarding the performance of the Executive Director and document the consensus regarding ratings and comments. If desired, we would independently document the board's consensus on ratings and message to the Executive Director in writing.

Tailored Survey Instrument: Administration of Annual Board Self-Evaluation Survey & Preparation of Findings

A board self-assessment is a recognized industry best practice. Notably, the New York Stock Exchange requires all listed companies to conduct an evaluation of their board and its committees on an annual basis. Engaging in an annual self-assessment demonstrates a board's commitment to accountability and governance best practices.

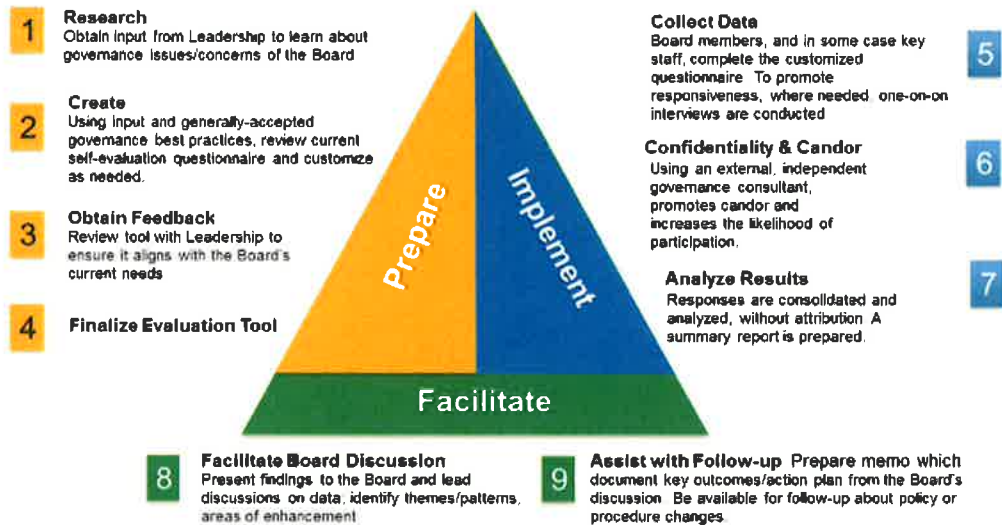
We have conducted self-evaluations for numerous public and corporate funds, as well as endowments and foundations. The self-assessment should be an organized process by which the board members examine their individual and collective performance in relation to the operation of the board as a whole and in relation to best practices. It provides a structure for identifying strengths and weaknesses, problem solving, fine-tuning, setting priorities, and creating a tangible action plan for enhancements where needed. The process encourages introspection, helping board members to reflect on their own performance and modify their actions as they see fit.

We tailor each self-assessment to each particular client. Evaluation criteria may include:

- Attendance and engagement at board and committee meetings
- Preparedness for discussions at meetings
- Ability to make sound decisions
- Interaction among board members
- Interactions with the staff
- Awareness of roles and responsibilities
- Policy compliance
- Oversight and monitoring activities
- Strategic thinking or planning

We propose to use the methodology identified in the illustration below to assess and facilitate KCERA's current Board Self-evaluation process. We find that the process set forth below produces meaningful, productive results. We note that our methodology fits within the current KCERA Board Performance Evaluation Policy. We would work with the Board Chair and Administrative Committee to ensure the process is in line with their desired expectations and current KCERA governance areas of interest.

Proposed Board Self-Evaluation Methodology



Administer Board Educational Needs Assessment Survey and Report

We would administer and report on the board member educational needs assessment survey to assist board members as they comply with their statutory and policy educational requirements. Education helps trustees understand governing laws, investment strategies, actuarial concepts, and pension benefits. Fundamentally, education helps board members to understand and fulfill their fiduciary responsibilities. We would also provide any additional recommended educational opportunities that would be relevant and meaningful to board members as they fulfill their duties as trustees of the System.

Administer Staff Climate Survey and Report

Conducting staff climate or engagement surveys is consistent with best practices. We would administer the staff climate survey with the following philosophy in mind. We do not believe that engagement scores in response to a survey measure whether employees are satisfied or happy at work. Rather, "employee engagement is defined as 'the level of an employee's psychological investment in their organization'".¹ Staff engagement can have real impact on recruitment, hiring, and retention of qualified professionals. Furthermore, we believe that an organization needs to utilize the results of the staff climate survey to develop actional goals in response to the feedback that can be seen and experienced by the staff, which further increases staff engagement.

Ad Hoc Governance Consulting Services

We routinely provide a comprehensive suite of services, such as development of new policies and charters, research on peer practices, and listing of recommended educational conference and training sessions. We would be happy to offer KCERA any of the following ad hoc services:

- Fiduciary training and education
- Fiduciary review
- Management review and organizational design
- Policy development and implementation advice

¹ Aon Hewitt, "2017 Trends in Global Employee Engagement: Global anxiety erodes employee engagement gains" (2017), 2.

- Assistance with drafting administrative rules and statutes
- Criteria and processes for evaluating outside service providers
- Strategic planning at the board, committee, and staff levels
- New trustee orientations and ongoing educational sessions
- Advice on delegation and oversight methods
- Policy review and development
- Statutory authority review

Whatever the governance consulting need, we work closely with our clients to develop an in-depth understanding of the internal workings and unique circumstances of the client's organization and to serve as partners and trusted governance advisors.

Current Client References

Reference #1	
Company Name	Tennessee Valley Authority Retirement System ("TVARS")
Contact Name	Mark Meigs
Contact Title	Executive Secretary
Phone Number	865.632.2644
Email	mnmeigs@tva.gov
Description of Services	Our Fiduciary Services group provides ongoing governance services to the TVARS Board. Our work has included the development of their Bylaws and eight (8) other governance policies (Board Education, Service Provider Evaluation and Interaction, Ethics and Code of Conduct, Confidentiality, Board Elections, Succession Planning, Board Self-Evaluation, and Executive Secretary Evaluation); administering and facilitating the annual board self-evaluation process; facilitating the annual evaluation of the Executive Secretary; conducting annual fiduciary training; and performing special governance projects, as needed.
Duration of Services	Our governance work for TVARS began in 2010 and continues as of current.

Reference #2	
Company Name	New York State Teachers' Retirement System ("NYSTRS")
Contact Name	Thomas Lee
Contact Title	Executive Director & Chief Investment Officer
Phone Number	518.447.2943
Email	thomas.lee@nystrs.org
Description of Services	Our Fiduciary Services group is on retainer as the governance consultant to the NYSTRS Board. Our work includes the annual board self-evaluation process, fiduciary and governance education, and governance advice. Governance services include development of a Board Member Expectation Statement, an Annual Work Plan, committee structure advice, assistance with succession planning, and fiduciary and governance training.
Duration of Services	Our governance work for NYSTRS began in 2010 and continues as of current.

Reference #3	
Company Name	State of Wisconsin Investment Board ("SWIB")
Contact Name	Sara Chandler
Contact Title	Chief Legal Counsel
Phone Number	608.266.8181

Reference #3

Email	sara.chandler@swib.state.wi.us
Description of Services	Our Fiduciary Services group has worked with SWIB on governance matters including annual board self-evaluations, Executive Director/Chief Investment Officer performance evaluations, fiduciary training, review of the governance policy and related documents that address succession planning, and other governance matters as needed.
Duration of Services	Our governance work for SWIB first began in 2006 and continues as of current.

Disclaimer: Inclusion in this list does not represent a recommendation or endorsement of Firm's products and/or services, nor are they exclusively representative of the product(s) discussed herein. Clients included in this list are the institutional clients which have provided written consent to Firm to be named in marketing materials. It is not known whether all clients listed above approve or disapprove of Aon or the advisory services provided.

Current Public Retirement System Clients

The firm, as a whole, currently has many retainer relationships with public retirement systems where we render advice on risk, setting asset allocations, investment managers, compliance, and performance. For many of these clients, we also provide governance consulting services. For example, we recently provided fiduciary and governance training for the Minnesota State Board of Investment, Sonoma County Employees' Retirement Association, and the investment staff of the Pennsylvania Public Employees' Retirement System. We also recently completed fiduciary and governance reviews of the Teacher Retirement System of Texas, Texas Hospital Association, and the Teachers' Retirement System of the State of Kentucky. We routinely assist our Aon investment consulting colleagues with fiduciary and governance related issues on behalf for their retainer clients.

- Arkansas Teacher Retirement System
- City of Jacksonville Retirement System
- Colorado Public Employees' Retirement Association
- Commonwealth of Massachusetts
- Connecticut Retirement Plans and Trust Funds
- Employees' Retirement System of the State of Hawaii
- Michigan Department of Treasury
- Michigan State University
- Minnesota State Board of Investment
- Nebraska Investment Council
- Pennsylvania Public School Employees' Retirement System
- San Diego City Employees' Retirement System
- San Diego County Employees Retirement System
- Sonoma County Employees' Retirement Association
- State Board of Administration of Florida
- State of Oregon
- Teacher Retirement System of Texas
- Teachers' Retirement System of Louisiana
- Teachers' Retirement System of the State of Kentucky
- Texas Hospital Association
- Virginia Retirement System

We also have clients we work with on a retainer basis and those that we have provided services on a project basis within the last few years. This work primarily involves reviews of governance policies and practices and comparisons to common and best practices, fiduciary and governance training and education, Board self-assessments, Executive Director/Chief Investment Officer performance evaluations, and various governance and management review assignments. Our current Fiduciary Services retainer clients and recent project-based consulting clients include:

- Fort Worth Employees' Retirement Fund
- New York State Teachers Retirement System*
- North Carolina Department of State Treasurer
- Ohio Retirement Study Council
- State of Wisconsin Investment Board*
- Teachers' Retirement System of the State of Illinois
- Tennessee Valley Authority Retirement System*
- Vermont Pension Investment Committee

**Denotes current Fiduciary Services retainer clients*

Representative client list as of most recent quarter-end. Inclusion in this list does not represent a recommendation or endorsement of Firm's products and/or services, nor are they exclusively representative of the product(s) discussed herein. Clients included in this list are institutional clients which have provided written consent to Firm to be named in marketing materials. It is not known whether the listed clients approve or disapprove of Aon Investments or the investment advisory services provided.

▪ A dollar cost bid with a total not-to-exceed maximum price to provide the services listed in Exhibit “A” of the sample contract.

Services/Deliverables	Professional Fees
Core Services:	\$55,000
<ul style="list-style-type: none"> ▪ Annual governance report (including policy compliance, board member attendance, and board education activities). ▪ Ongoing review of the Governance Policy Manual. ▪ On-line administration of Executive Director performance evaluation survey, including follow-up telephone interviews, tabulate results, prepare summary report. ▪ Board self-evaluation (survey administration plus follow-up telephone interviews). ▪ Administer Board educational needs assessment survey and prepare report. ▪ Administer staff climate survey and prepare report. 	
Special Projects:	\$35,000
Examples:	
<ul style="list-style-type: none"> ▪ Strategic planning ▪ On-site meetings 	
Total Professional Fees not to exceed:	\$90,000

Appendix



Appendix A. Team Biographies

Jeanna M. Cullins

Partner, Leader of Fiduciary Services Practice

200 E Randolph
Chicago, IL 60601
Office +1.312.381.1241
Mobile +1.312.718.2413

Jeanna.Cullins@aon.com
(As of September 1, 2021)



Responsibilities

Jeanna leads the firm's Fiduciary Services practice. She has been in her current role since 2008. Jeanna's key areas of focus include: providing fiduciary and governance training; board self-evaluations; facilitating the board's evaluations of key fund leadership; conducting fiduciary reviews and governance diagnostics; assisting with strategic planning; policy and process development and implementation, reviewing compliance and risk controls, and other related issues. She is a frequent speaker at pension industry conferences on various topics, including institutional investor "best practices."

Experience

Prior to joining Aon in 2008, Jeanna served as Managing Director and Operational Review Practice Leader at Independent Fiduciary Services ("IFS"). During her 10-year tenure at IFS, Jeanna worked on more than 30 fiduciary/management reviews. She served as Executive Director to the District of Columbia Retirement Board from 1993 to 1997, and as the Board's General Counsel from 1985 to 1993.

Expertise

Jeanna is a recognized institutional investor industry expert with 33+ years of experience across a wide range of fiduciary, governance, and operational processes issues. Jeanna has worked with over 100 institutional investors, advising the leadership of some of the largest public funds in the country, corporate funds, endowments and foundations on how to develop effective, efficient, and practical ways to fulfill their fiduciary responsibilities and enhance their governance and investment operations.

Education

Jeanna earned a JD from Georgetown University Law Center and a B.A., cum laude, from Brooklyn College, City University of New York.

Julie Becker

Associate Partner, Fiduciary Services Practice

Virtual

Mobile +1.614.519.6320

julie.becker@aon.com

(As of September 1, 2021)



Responsibilities

Julie joined Aon's Fiduciary Services practice in 2017 and is responsible for providing fiduciary and governance advisory services to a wide variety of public, corporate, and endowment and foundation institutional decision-makers.

Experience

Julie was previously the General Counsel for the Ohio Public Employees Retirement System for 16 years.

Before joining OPERS, she served as an Assistant Ohio Attorney General representing OPERS for over three years, and an Assistant Summit County Prosecutor.

Julie has 25 years of legal experience, with 20 of those years focused on public pension funds. She currently serves on the Fiduciary and Plan Governance Steering Committee of the National Association of Public Pension Attorneys.

Expertise

As General Counsel, she was responsible for advising the Board and Staff on a myriad of fiduciary and governance issues related to the administration of OPERS' defined benefit and health care assets of over \$100 billion, serving one million members. Her 16 years as general counsel at OPERS offers Aon clients a wealth of experience regarding the fiduciary and governance issues attendant to the operations of multi-billion-dollar investment and benefits administration organizations.

Education

Julie earned a J.D., cum laude, from Cleveland-Marshall College of Law, and a B.A., summa cum laude, from Youngstown State University.

Appendix B. Separate letter regarding Proposed Agreement for Professional Services

September 10, 2021

Ms. Aimee Morton
Kern County Employees' Retirement Association
11125 River Run Boulevard
Bakersfield, California 93311

Re: Governance Consultant Services-Proposed Agreement for Professional Services

Delivered via email to: aimee.morton@kcera.org

Dear Ms. Morton,

On behalf of Aon Consulting, Inc., NJ ("Aon"), attached please find the proposed modifications regarding the KCERA Agreement for Professional Services. Aon is confident it can reach agreement with you on contractual provisions. Some of the contractual language you have proposed in the Agreement for Professional Services will require further discussion. Aon typically contracts with its own template because we have carefully tailored it to fit our services, which are highly specialized and regulated. We hope you would consider this, but we would be willing to start with your form if this is a priority for you. As stated above, there are terms in the sample contract that will require further discussion, but we're confident we can resolve them in a fair and efficient manner if we are chosen for this engagement. Some of the more significant open items are listed below:

- Liability provision
 - Aon would ask that its liability in any 12-month period be limited to the value of its fees in that 12-month period, except in cases such as breach of fiduciary duty. The liability limit would not apply to losses arising from fiduciary breach, intellectual property infringement and breaches of confidentiality.
 - Aon would ask that you indemnify Aon against claims by third parties arising due to no fault of Aon's.
- Confidentiality provision
 - Aon may use the Confidential Information in combination with other data, including the disclosure of such information to third parties, provided that no such Confidential Information is identifiable.
- Insurance provision
 - Aon would ask that the insurance provisions remain within Aon's constraints, as the proposed changes serve to ensure Aon's insurance policies are compliant.
 - Aon maintains insurance coverage with terms and levels appropriate for a Professional Services firm of its size, financial solvency, and worldwide operations.
 - Whether or not insurance coverage is or is not available to Aon will not absolve it from meeting any future agreed upon indemnification obligations owed to KCERA as a result of Aon' negligence.

Sincerely,



Jeanna M. Cullins
Partner, Practice Leader of Fiduciary Services

AGREEMENT FOR PROFESSIONAL SERVICES
(KCERA – [INSERT CONSULTANT NAME])

INDEPENDENT CONTRACTOR

THIS AGREEMENT is made and entered into this day of , 2021, by and between the **KERN COUNTY EMPLOYEES RETIREMENT ASSOCIATION** (hereinafter “KCERA”), a retirement system organized pursuant to the County Employees Retirement Law of 1937, with its principal location at 11125 River Run Boulevard, Bakersfield, California 93311 and _____, a [type of entity] with its principal location at (hereinafter “Consultant”);

WITNESSETH:

WHEREAS:

(a) KCERA is a multi-tier 401(a) defined benefit public retirement system administered by its Board of Retirement (hereinafter “Board”) in accordance with the County Employees Retirement Law of 1937 and related laws; and

(b) California Government Code section 31588.2 authorizes the KCERA Board of Retirement (“Board”) to expend assets of the retirement system for administrative purposes;

(c) KCERA desires to retain Consultant to assist the Board in monitoring compliance with the provisions of its charters and policies, including periodic reviews of such governance documents to ensure their continuing validity in changing environments;

(d) Consultant, by reason of its qualifications, experience, and facilities for doing the type of work herein contemplated, has offered to provide the required services on the terms set forth herein;

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows:

1. **Services to be Rendered.** Consultant shall provide the KCERA Board with ongoing consulting services, including the preparation of annual reports that review compliance with various governance documents and periodic reviews of such governance documents, necessary revisions thereto, as well as several special projects, all as more fully described in the Services and Fee Schedule for 2021-2024 (attached hereto as “Attachment A”) and incorporated herein by this reference. Consultant agrees to provide the Core Services described in Attachment “A” and perform any Special Projects requested by KCERA’s Executive Director as budgeted for in Attachment “A”.

2. **Compensation to Consultant.** KCERA agrees to compensate CONSULTANT for professional services performed in accordance with the terms and conditions of this AGREEMENT as outlined in Attachment A.

In addition to the fixed fees for the projects contemplated in Attachment “A”, KCERA shall reimburse Consultant for its necessary travel expenses incurred on behalf of KCERA at the travel and per diem rates applicable to Kern County employees, attached hereto as Attachment “B”, as amended from time to time. Consultant shall make every reasonable effort to control expenses and, when possible, will plan delivery of services to other clients to coincide with required travel to or for KCERA so that its clients can share travel costs. No additional compensation shall be paid for secretarial, clerical support staff, or any other overhead costs incurred by Consultant in the delivery of services pursuant to this Agreement.

3. **Reimbursement Policy and Billing Requirements.** Invoices for payment shall be submitted in a form approved by KCERA and shall contain an itemization of all costs and fees broken down and also stated as a cumulative total. Invoices shall be sent to KCERA for review and processing. Payment will be made to Consultant within thirty (30) days of receipt and approval of each invoice by KCERA.

4. **Term.** This Agreement shall commence as of the date first written above and shall remain in effect until June 30, 2024, unless sooner terminated as hereinafter provided.

5. **Representations.** Consultant makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement:

- a. Consultant has the expertise, support staff and facilities necessary to provide the services described in this Agreement and the attached Attachment “A”;
- b. Consultant does not have any actual or potential adverse interests to KCERA nor does Consultant represent a person or firm with an interest adverse to KCERA with reference to the subject of this Agreement; and
- c. Consultant shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions stated in this Agreement.

6. **Assignment.** Consultant shall not assign or transfer this Agreement, or any part hereof without the prior express and written approval of KCERA.

7. **Negation of Partnership.** In the performance of all services under this Agreement, Consultant shall be, and acknowledges that Consultant is, in fact and law, an independent contractor and not an agent or employee of KCERA. Consultant has and retains the right to exercise full supervision and control of the manner and methods of providing services to KCERA under this Agreement. Consultant retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Consultant in the provision of services under this Agreement. With respect to Consultant’s employees, if any, Consultant shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, of whatever nature, and compliance with any and all other laws regulating employment.

8. ~~**Indemnification.** Consultant agrees to indemnify, defend and hold harmless KCERA and KCERA’s agents, board members, elected and appointed officials and officers, Personal/Professional Services Agreement KCERA – Consultant Page 3 of 9 employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys’ fees, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any act or omission of Consultant or Consultant’s officers, agents, employees, independent consultants, sub-consultants of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include injury or death to any person or persons; damage to any property, regardless of where located, including the property of KCERA; and any workers’ compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of Consultant by any person or entity. Consultant will correct Consultant work product without additional charge if any errors or omissions occur in Consultant work. If KCERA suffers any losses, claims, demands, actions, damages, liabilities, or expenses of any nature (including reasonable attorneys’ fees and expenses) (collectively, a “Loss” or “Losses”) arising directly from Consultant material failure to comply with the terms and conditions hereunder with respect to services described in Attachment “A”, we will indemnify and hold KCERA harmless from and against such Losses incurred during each sequential 12-month period in which we provide services under such services (commencing on the commencement date of such services thereunder) in an amount not to exceed the total fees paid to us during such 12-month period under such services, but without regard to this limit for any Losses due to Consultant willful, fraudulent or criminal misconduct, or breach of Consultant confidentiality obligations. Consultant shall bear no liability for any Losses arising from communications Consultant reasonably believes to constitute KCERA’s instructions. Subject to Consultant indemnity obligations in the preceding paragraph, KCERA will indemnify, defend and hold Consultant harmless from and against any and all Losses of any nature caused by claims made by third parties, including, without limitation, KCERA’s employees, plan participants, affiliates and benefit plans, with respect to the services provided under this engagement. In no event will either party be liable to the other party for incidental, consequential, special, or punitive damages (including loss of profits, data, business or goodwill, or government fines, penalties, taxes, or filing fees), regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranty, failure of essential purpose or otherwise, and even if advised of the likelihood of such damages.~~

9. **Insurance.** ~~Consultant, in order to protect KCERA and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's actions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance have been filed with and approved by the Executive Director. Consultant shall pay any deductibles and self-insured retentions under all required insurance policies.~~ a. ~~Liability Insurance Requirements: (1) Consultant shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance: (a) Commercial General Liability insurance, including, but not limited to, Contractual Liability insurance (specifically concerning the indemnity provisions of this Agreement), Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of work under this Agreement. Said insurance coverage shall have minimum limits for Bodily Injury and Property Damage liability of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) in the aggregate. (b) Automobile Liability insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with minimum limits for Bodily Injury and Property Damage liability of One Million Dollars (\$1,000,000). Such insurance shall be provided by a business or commercial vehicle policy. (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate. Personal/Professional Services Agreement KCERA – Consultant Page 4 of 9 (2) If any of the insurance coverages required under this Agreement is written on a claims-made basis, the insurance policy shall provide an extended reporting period of not less than four (4) years following termination of this Agreement or completion of Consultant's work specified in this Agreement, whichever is later. b. Prior to Consultant commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to KCERA by Certificate of Insurance. Consultant shall maintain the above-stated insurance coverages until the completion of all Consultant's obligations under this Agreement. Such insurance coverages shall not be reduced, modified, or canceled without thirty (30) days prior written notice to KCERA. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy. c. All insurance shall be issued by a company or companies listed in the current "Best's Key Rating Guide" publication with a minimum of an "A-:VII" rating, or in special circumstances, be pre-approved by KCERA. d. All insurance afforded by Consultant pursuant to this Agreement shall be primary to and not contributing to any other insurance maintained by KCERA. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude KCERA from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law. e. Failure by Consultant to maintain all such insurance in effect at all time required by this Agreement shall be a material breach of this Agreement by Consultant. KCERA, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from such breach. Alternatively, KCERA may purchase such required insurance coverage, and without further notice to Consultant, KCERA shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by KCERA for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are not sufficient to reimburse KCERA for the premiums and any associated costs, Consultant agrees to reimburse KCERA for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by KCERA to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement. Consultant shall maintain, at all times during the term of this Agreement, the following minimum insurance coverages and limits:~~

- a. Workers' Compensation and related insurance as prescribed by the law of the state in which the Services are to be performed;
- b. General Liability in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
and
- c. Professional Liability with limits up to \$1,000,000 per claim and in the aggregate.

10. **Termination.** This Agreement may be terminated by written notice as follows: (a) by either party at any time for failure of the other party to comply with the terms and conditions of this Agreement through no fault

~~of the party initiating the termination; (b) by either party upon sixty (60) days prior written notice to the other party; or (c) upon mutual agreement of both parties. In the event of termination, the Consultant shall stop work immediately and shall be entitled to compensation for all satisfactory professional service fees performed prior to termination and for expense reimbursement submitted in accordance with the Agreement. Personal/Professional Services Agreement KCERA – Consultant Page 5 of 9 Any such compensation and/or reimbursement shall not exceed the applicable maximum dollar amount set forth in Attachment “A”. In the event this Agreement is terminated by either Consultant or KCERA, Consultant shall submit to the Executive Director all files, memoranda, documents, correspondence and other items generated in the course of performing this Agreement, within fifteen (15) days after the effective date of any written Notice of Termination. KCERA may terminate this Agreement for convenience at any time upon 30 days' prior written notice to us. Consultant may terminate this Agreement for cause upon 30 days' prior written notice to KCERA or for convenience upon 60 days' written notice to KCERA. Upon the effective date of termination, KCERA will pay Consultant for all fees and expenses due through the effective date of termination.~~

~~10.11. **Ownership of Documents.** All reports, documents and other items generated or gathered in the course of providing services to KCERA under this Agreement, with the exception of Consultant's proprietary survey tools and PowerPoint presentations, are and shall remain the property of KCERA, and shall be returned to KCERA upon full completion of all services by Consultant or termination of this Agreement, whichever occurs first.~~

~~11.12. **Notices.** All notices required or provided for in this Agreement shall be provided to the parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, or e-mail addressed as specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five (5) days after deposit. A party may change the address to which notice is to be given by giving notice as provided in this Section.~~

To KCERA: Kern County Employees' Retirement Association
Attn.: Dominic D. Brown, Executive Director
11125 River Run Boulevard
Bakersfield, California 93311

To Consultant: [Name]
[Vendor Name]
[Vendor Address]
[Vendor E-mail]

Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this Agreement by leaving such notice with the receptionist or other person if like capacity employed by Consultant or in KCERA's office.

~~12.13. **Conflict of Interest.** Consultant has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. Consultant agrees that they are unaware of any financial or economic interest of any public officer or employee of KCERA relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, KCERA may immediately terminate this Agreement by giving written notice thereof. Consultant shall comply with the requirements of Government Code section 87100 et seq. during the term of this Agreement.~~

~~13.14. **Sole Agreement.** This document, including Attachment “A”, contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.~~

~~14.15. **Authority to Bind KCERA.** It is understood that Consultant, in Consultant's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind KCERA to any agreements or undertakings.~~

~~15.16. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.~~

~~16.17. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of KCERA. Forbearance or indulgence by KCERA in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Consultant. KCERA shall be entitled to invoke any remedy available to KCERA under this Agreement or by law or in equity despite said forbearance or indulgence.~~

~~17.18. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.~~

~~18.19. **Confidentiality.** Consultant shall not, without the written consent of the Executive Director, or receipt of a validly issued subpoena or other process of law, communicate confidential information, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that they protect their own confidential information, but in any case no less than a reasonable degree of care. If Consultant receives notice that such disclosure is required in response to a validly issued subpoena or other process of law, Consultant shall (a) give KCERA immediate prior written notice in order to contest such requirement or order and, (b) provide full and complete cooperation with KCERA in seeking a protective order or other remedy to limit the disclosure of such Confidential Information to the extent required under this Agreement. a. Consultant acknowledges and agrees that KCERA is a public agency subject to state laws, including, without limitation, (A) the Ralph M. Brown Act (California Government Code Sections 54950 et seq.); which governs meetings for local legislative bodies; and (B) the California Public Records Act (California Government Code Sections 6250 et seq.) (the "Act"), which provides generally that all records relating to a public agency's business, including reports of transactions and proceedings, constitute "public records or files," and are open to public inspection, disclosure, and copying in the manner provided in the Act, unless specifically exempted under the Act; b. Consultant will not make any claim against KCERA if the KCERA makes available to the public any report, notice or other information it receives from VENDOR, which KCERA, in good faith, determines is not exempt from public disclosure under applicable law, including, without limitation, the Act. Personal/Professional Services Agreement KCERA – Consultant Page 7 of 9 c. Upon expiration or termination of this Agreement, the provisions of this Section 5 shall continue to survive. d. For purposes of this Agreement, "Confidential Information" shall mean any and all information (whether a trade secret or not; whether proprietary or not) disclosed by either party to the other that relates to the parties' proprietary information, technology, know-how, research and development, or business which is of value to such disclosing party, including, without limitation, processes, know-how, designs, software, flow charts, logic diagrams, business plans, negotiations and contracts with other companies, financial statements, cost and expense data, marketing strategies, KCERA lists, pricing, terms, personnel matters, licenses, licensees, and licensors; provided, however, that Confidential Information shall not include information which is (A) rightfully in possession of the receiving party prior to disclosure by the disclosing party provided that the source of such information was not known by the receiving party to be bound by a confidentiality agreement or other contractual, legal or fiduciary obligation of confidentiality to the disclosing party or any other party with respect to such information, (B) rightfully obtained from a third party authorized to make such disclosure, without breach of the terms and conditions of this Agreement, or otherwise, (C) independently developed by the receiving party as conclusively demonstrated by contemporaneous documents, (D) available to the public without restrictions, (E) approved for disclosure with the prior written approval of the disclosing party, or (F) disclosed by court order or as otherwise required by law, provided that the party required to disclose such information provides prompt advance notice to enable the other party to seek a protective order or otherwise prevent such disclosure. Furthermore, any contemplated transactions are considered ongoing, and the terms and substance of any related discussions, negotiations or investigations between the parties are deemed to be Confidential Information.~~

During the provision of Consultant services to KCERA, the parties may share confidential and proprietary information with each other. The party's respective signatures on this Agreement will confirm that each of the party's organizations will continue to retain all right, title and interest in and to a party's own proprietary information and that the parties will each maintain the confidentiality of each other's confidential information. Any analyses, reports or advice Consultant provides KCERA is for management use and decision-making only and is not to be shared with any third parties (other than your legal counsel or auditors, as necessary) or used in any communication to employees or other third parties without Consultant's written prior consent. Consultant may use or disclose to third parties KCERA's confidential information relating to plan investments in combination with other data, provided that such use or disclosure does not identify KCERA, KCERA's retirement plans covered by Consultant's services, or the participants in those plans.

19-20. Enforcement of Remedies. No right or remedy herein conferred on or reserved to KCERA is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

20-21. Severability. Should any part, term, portion or provision of this Agreement be decided finally to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

21-22. Compliance with Law. Consultant shall observe and comply with all applicable state and federal laws, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.

22-23. Captions and Interpretation. Paragraph headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

23-24. Time of Essence. Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement. It is agreed by and between the parties, however, that neither party shall be liable to the other for delays in performance that are caused in whole or in part by the other party, by third parties over which the parties hereto do not have the legal right to control, or by forces de majeure.

24-25. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

25-26. Non-discrimination. Neither Consultant, nor any officer, agent, employee, servant or sub-Consultant of Consultant shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, or sex, either directly, indirectly or through contractual or other arrangements.

26-27. Audit, Inspection and Retention of Records. Consultant agrees to maintain and make available to KCERA accurate books and records relative to all its activities under this Agreement. Consultant shall permit reasonable requests for KCERA to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, records of personnel or other data related to all other matters covered by this Agreement. Consultant shall maintain such data and records in an accessible location and condition for a period of not less than three (3) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon KCERA herein.

27-28. Non-Collusion Covenant. Consultant represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with KCERA.

~~Personal~~ Professional Services Agreement
KCERA – Consultant

Consultant has received from KCERA no incentive or special payments, nor considerations not related to the provision of services under this Agreement.

~~28-29.~~ **Signature Authority.** Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

~~29-30.~~ **Third Parties.** The KCERA and VENDOR are the only parties to this Agreement and are the only parties to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

IN WITNESS WHEREOF, each party to this Agreement has signed this Agreement upon the date indicated, and agrees, for itself, its employees, officers, partners and successors, to be fully bound by all terms and conditions of this Agreement.

APPROVED AS TO CONTENT:

**Kern County Employees'
Retirement Association
(KCERA)**

Consultant

By: _____
Dominic D. Brown,
Executive Director
KCERA

By: _____

Consultant

By: _____
Juan Gonzalez,
Chairman of the Board of
Retirement
KCERA

APPROVED AS TO FORM:

By: _____
Jennifer Esquivel Zahry,
General Counsel
KCERA

Attachment “A”

**CONSULTANT’S
 SERVICES AND FEE SCHEDULE 2021 - 2024**

<u>SERVICES/DELIVERABLES</u>	<u>PROFESSIONAL FEES</u>
Core Services: <ul style="list-style-type: none"> • Annual governance report (including policy compliance, board member attendance, and board education activities). • Ongoing review of the Governance Policy Manual. • On-line administration of Executive Director performance evaluation survey, including follow-up telephone interviews, tabulate results, prepare summary report. • Board self-evaluation (survey administration plus follow-up telephone interviews). • Administer Board education needs assessment survey and prepare report. • Administer staff climate survey and prepare report. 	\$ _____
Special Projects: Examples: <ul style="list-style-type: none"> • Strategic planning • On-site meetings 	\$ _____
Total Professional Fees not to exceed:	\$ _____

Attachment “B”

COMPENSATION AND REIMBURSEMENT OF EXPENSES SCHEDULE

All services to be provided by the Consultant will only be performed in response to specific written requests for service by KCERA and shall be provided in accordance with the terms and conditions of this Agreement.

The allowable reimbursement rates are updated on an annual basis¹. KCERA shall reimburse Consultant for its necessary and reasonable costs and travel expenses incurred on behalf of KCERA at the travel and per diem rates approved by the Kern County Board of Supervisors for that year without the need to amend this Agreement.

Expense Type	Per Diem Amount
Meals	\$61.00 per day
Mileage	\$0.56 per mile
Lodging	\$238.00 per night, including taxes
Common carrier	Actual fare for economy or coach class
Rental car	Actual cost (for reasonable and necessary vehicle class)

¹ The annual rates can be found on the Kern County website (www.kerncounty.com) by searching for “Annual Employee Travel Reimbursement Rates.”

About Aon

Aon plc (NYSE:AON) is the leading global provider of risk management, insurance and reinsurance brokerage, and human resources solutions. Through its more than 50,000 colleagues worldwide, Aon unites to empower results for clients in over 120 countries via innovative and effective risk and people solutions and through industry-leading global resources and technical expertise. Aon has been named repeatedly as the world's best broker, best insurance intermediary, best reinsurance intermediary, best captives manager, and best employee benefits consulting firm by multiple industry sources.

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The recipient agrees not to use, amend, translate, adapt, convert or exploit the contents of this proposal without Aon's written authorization nor allow Aon's competitors to have access to its said contents.

aon.com

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Kern County Employees' Retirement Association

Proposal to Provide Governance Services

Response to Request for Proposal

Submitted by:



6632 Telegraph Road #225, Bloomfield Hills, Michigan 48301

September 7, 2021



Cover Letter

Funston Advisory Services LLC (FAS) is pleased to submit this proposal for governance consulting services to the Kern County Employees' Retirement Association (KCERA).

Randy Miller, Chief Operating Officer of FAS, is authorized to bind the firm to all commitments included in this proposal. The FAS mailing address is 6632 Telegraph Road #225, Bloomfield Hills, Michigan 48301. His telephone number is (248) 250-1111 and email address is rmiller@funstonadv.com.

The offer and fee quote contained in this proposal is a firm and irrevocable offer valid for three (3) months.

The staff and other required resources for performing all services and providing all deliverables specified within this proposal will be made available to KCERA as indicated.

FAS acknowledges that all documents submitted pursuant to the RFQ shall be subject to disclosure under the California Public Records Act.

Funston Advisory Services LLC agrees to reimburse, indemnify, defend and hold harmless the Kern County Employees' Retirement Association, its Board members, officers, agents and employees from and against (a) any and all requests, claims, damages, losses, liabilities, suits, judgements, fines, penalties, costs and expenses of any nature, specifically including without limitation, attorneys' fees, expenses, and court costs (collectively "Claims") arising from or in any way involving any materials or information in this quote that Funston Advisory Services LLC has labeled as not subject to disclosure as a public record; and (b) any and all Claims arising from or relating to KCERA's public disclosure of any materials or information in this quote if KCERA deems disclosure to be required by law or if disclosure is required by court order.

The FAS total not-to-exceed maximum price to provide the Core Services listed in Exhibit "A" of the sample contract is \$36,000 annually. For Special Projects, the hourly rate for Rick Funston and Randy Miller will be \$500. We suggest that for any special projects, we mutually agree on a statement of work and a not-to-exceed budget in advance of initiating the work. These prices assume all work can be accomplished remotely and do not include any provisions for travel expenses.

As part of our preparation of this proposal, we quickly reviewed a number of the policies and charters posted on your website. Overall, we found these to be some of the best we have seen. We also recognize that nothing is perfect and there is always room for continuous improvement. We assume it is in this spirit that KCERA wishes to engage on-going governance consulting services.

We appreciate the opportunity to submit our proposal to KCERA for this consulting engagement and look forward to the opportunity to work with you.

Sincerely,

A handwritten signature in black ink that reads "Randy Miller".

Randy Miller
Chief Operating Officer
Funston Advisory Services

Proposal to KCERA to Provide Governance Services

Funston Advisory Services Background and Experience

Background

Funston Advisory Services LLC (FAS) was formed in 2010. We are differentiated by our team of experts, our proprietary tools and knowledgebases, and our unswerving commitment to your success.

FAS works with a network of about twenty public pension retirement system experts who operate as independent subcontractors to FAS, including specialized firms, such as Reinhart Law and Olson Remcho. Each team member is a highly-experienced professional, with decades of consulting, legal and/or pension industry experience. We have a more than decade-long track record of successfully delivering valuable advice to clients using this business model.

Nearly 100% of FAS revenue is related to governance and operational advice to public retirement systems or other government agencies. Although formal fiduciary audits are approximately half of our revenues, the other half of our revenues are closely-related governance, board self-assessment, and operations policy and practice improvement consulting. Our annual revenues typically range from \$2-4 million.

FAS has assisted a growing number of major public retirement systems in evaluating their fiduciary performance and identifying governance, regulatory, policy, and operational process improvement opportunities. We have also assisted funds in evaluating the requirements for establishing the capabilities for internal investment management. Our reviews typically result in a high level of acceptance of the results and extensive implementation of the recommendations.

FAS has worked with other public retirement systems in California, including CalPERS, San Francisco ERS, and LACERA. Consequently, we are licensed to do business in the State of California and also understand the local operating environment for public retirement systems.

Experience

Since 2011, we have had the privilege to work with many public retirement systems across the U.S. We have found that while public retirement systems have much in common, each system is also unique. Accordingly, our philosophy is “one size fits one.” Our clients include:

State Systems

- California Public Employees Retirement System
- Delaware Public Employees’ Retirement System
- State Board of Administration of Florida
- Employees’ Retirement System of the State of Hawaii
- Indiana Public Retirement System
- Maryland State Retirement and Pension System
- New York State Comptroller – Common Retirement Fund
- School Employees Retirement System of Ohio

Proposal to KCERA to Provide Governance Services

- Oregon Investment Council
- Pennsylvania Public School Employees' Retirement System
- Pennsylvania State Employees' Retirement System
- Employees' Retirement System of Rhode Island
- South Carolina Public Employee Benefit Authority
- South Carolina Retirement System Investment Commission
- Teachers Retirement System of Texas
- Utah Retirement Systems
- Wyoming Retirement System

County and Municipal Systems

- Fairfax County (VA) Retirement Systems
- Los Angeles County Employees Retirement Association
- Milwaukee County Employees' Retirement System
- Montgomery County (MD) Public Schools Retirement Trust
- New York City Comptroller – Bureau of Asset Management
- San Francisco Employees' Retirement System

Knowledgebase and Tools

FAS has developed and maintains a Public Retirement System Leading Practices database, called InGov[®], which compares governance structure, policies and practices across key areas, including:

- Statutory governance and authorities
- Board composition and policies
- Pension plan funding and actuarial processes
- Board operations
- Board committees
- Board delegations
- Board use of third-party service providers
- Strategic planning
- Investment strategies and policies
- Investment operations
- Legal support
- Pension administration
- Insurance administration
- Enterprise administration
- Enterprise risk management
- Independent reinsurance
- Compliance and controls

The InGov[®] reports are based upon responses to over 300 survey questions and provide insights into peer policies and practices and how your system compares.

Proposal to KCERA to Provide Governance Services

FAS also created a National Public Pension Policy Repository (N3PR) that contains governance and investment policies from over 80 U.S. state, county, and municipal public retirement systems. The policy repository is searchable and used to quickly identify existing policies at peer systems for comparison and identification of leading and prevailing practices.

FAS has developed an affiliated service called Board Smart, a self-directed and self-paced Governance eLearning Resource for public retirement system trustees and executives. It provides a Core Curriculum that currently includes nearly 40 “Talks” on subjects common to all public retirement systems that explains key concepts and provides practical examples, with links to curated materials and other resources. It also includes System-Specific links to each system’s legislation, bylaws, charters, and policies for fast and easy reference.

Numerous FAS team members contributed chapters to the handbook for trustees entitled “*One of a Kind! A Practical Guide for 21st Century Public Pension Trustees*,” that has been published by FAS. All areas of scope included in this RFQ are addressed in the handbook at a level of detail appropriate for trustees.

Our Proposed Engagement Team

We are proposing the following as core members of our KCERA engagement team. As appropriate, we would consider introducing additional members of the FAS network for special projects if appropriate. In the event of a team member becoming unavailable, we will present you with an alternative expert from our network and, with your agreement, make a substitution.

Rick Funston



Frederick (Rick) Funston is the Chief Executive Officer of Funston Advisory Services LLC, focusing on governance, strategy, operations, risk intelligence and education. In 2001, he created the concept of risk intelligence for both value creation and value protection. He is a frequent public speaker. Rick is the Principal Author of *Surviving and Thriving in Uncertainty: Creating the Risk Intelligent Enterprise*[®], published by John Wiley & Sons in April 2010. This book was specifically targeted to the governance and risk oversight needs of boards and executives in both public and private sectors. Most recently, he was the editor and a primary contributor to the recently-published *One of a Kind! A Practical Guide for 21st Century Public Pension Trustees*.

Rick has led most of the FAS reviews referenced in this proposal, including with the Pennsylvania Public School Employees’ Retirement System (PSERS), Hawaii ERS, the Wyoming Retirement System, the Florida SBA, the San Francisco Public Employees’ Retirement System, LACERA, Utah Retirement Systems, Indiana Public Retirement System, ERS of Rhode Island, Pennsylvania SERS, the New York City Bureau of Asset Management, South Carolina Retirement System Investment Commission, the New York State Common Retirement Fund, the Oregon Investment Council, and CalPERS.

Proposal to KCERA to Provide Governance Services

He has provided board and executive education for CalPERS, the State Universities Retirement System of Illinois, Iowa Public Employees Retirement System, Fairfax County Retirement System, Indiana Public Retirement System, Maryland State Retirement and Pension System, and the Washington State and State of Wisconsin Investment Boards.

Rick left Deloitte & Touche LLP in May 2010 and formed Funston Advisory Services LLC. Prior to his departure, he was the National Practice leader for Deloitte's Governance and Risk Oversight Services. In that capacity, he served many of Deloitte's largest domestic and global clients and was responsible for the thought leadership that has underpinned Deloitte's globally pre-eminent position in risk intelligence.

He has over forty years' experience in both not-for-profit and for-profit sectors. Before joining Deloitte, Rick was the CEO of Continuous Improvement Services Inc. He began his career in the public sector consulting on strategy and operations, organization and leadership development, performance management, program evaluation and survey research.

Rick has been a guest lecturer at the Yale School of Management and Princeton University. He also served on the Board of Visitors for the Oakland University School of Business Administration from 2009-2011 and was an Adjunct Professor for the executive MBA program. He was awarded a B.A. from York University in Ontario and an M.S.W. from Tulane University.

Randy Miller



Randall (Randy) W. Miller has been Chief Operating Officer of Funston Advisory Services LLC since its founding in 2010. He leads our InGov® public retirement system peer benchmarking practice. He has been a leader of our fiduciary and operations reviews and is an expert in public retirement system governance. He has co-authored a number of white papers on the topics of public pension fund governance, operations and risk and made contributions to *One of a Kind! A Practical Guide for 21st Century Public Pension Trustees*. He has extensive experience in planning and conducting complex reviews and improvement programs in large organizations.

Together with Rick Funston, Randy has co-led assignments with many major public retirement systems, including the Pennsylvania Public School Employees' Retirement System (PSERS), Hawaii ERS, the Wyoming Retirement System, Florida SBA, the San Francisco Public Employees' Retirement System, LACERA, Teachers Retirement System of Texas, Utah Retirement Systems, Indiana Public Retirement System, ERS of Rhode Island, Pennsylvania SERS, New York City Bureau of Asset Management, the South Carolina Public Employee Benefit Authority, the South Carolina Retirement System Investment Commission, SERS of Ohio, the New York State Common Retirement Fund, the Oregon Investment Council, and the California Public Employees' Retirement System (CalPERS). He has provided board and executive education for the Ohio Police & Fire Pension Fund and the Oregon College Saving Plan boards.

Randy was a consultant with Deloitte Consulting LLP from 1983 through February 2010, where he most recently led Mergers & Acquisitions Integration Services to manufacturing industry clients. He has significant international consulting experience, led Deloitte's Global Automotive Industry Consulting

Proposal to KCERA to Provide Governance Services

Practice, and was based in Germany with Deloitte from 1997-2003, where he led Deloitte Consulting DACH (Germany, Austria, and Switzerland) for two years. He specialized in planning and implementation of mergers, acquisitions and divestitures, market and supply chain strategy and cost reduction/operations improvements.

Randy has led a variety of benchmarking studies, including board governance, investment operations, overhead cost structure, information technology strategies, and business transformation strategies. Randy received an A.B. Degree from Dartmouth College with a major in Engineering Sciences. He also received a B.E. from the Thayer School of Engineering and an M.B.A. from the Amos Tuck School of Business, both also at Dartmouth.

Governance Consulting Services Approach

Overall Approach to KCERA's requirements

FAS has experience in all areas listed in the RFQ. Our recommended approach for each area is described below. To the extent KCERA has specific requirements not included in our approach, we are willing to discuss and adapt how we meet your requirements.

We note that many of the requirements in this RFQ are interrelated. As noted below, we have attempted to identify areas of overlap or opportunities to integrate activities to more economically utilize trustee time and avoid redundant activities.

The FAS total not-to-exceed maximum price to provide the Core Services listed below is \$36,000 annually.

Core Services

1. Annual governance report (including policy compliance, board member attendance, and board education activities).

FAS has completed numerous governance reviews with other public retirement systems. We understand a key objective of the KCERA Annual Governance Report is to ensure the Board is in compliance with its policies.

Proposed activities for the annual governance report include:

- Develop/update the Board compliance checklist based upon Board governance policies.
- Review the compliance checklist with the Executive Director and obtain information on Board education activities.
- Review Board meeting minutes and Board member attendance for the prior year.
- Identify areas of follow-up required to complete assessment.
- Prepare a governance compliance report that includes:

Proposal to KCERA to Provide Governance Services

- Board member attendance;
 - Individual trustee education reports;
 - Other areas of policy compliance in the checklist; and
 - Any areas of non-compliance and recommendations for curing deficiencies.
- Submit an annual governance report to the Board.

2. Ongoing review of the Governance Policy Manual.

Governance policies are designed to provide uniformity, clear guidelines, and guardrails to the board and staff as part of prudent governance. Although governance practices must take into consideration the unique characteristics of each pension fund and the fund's operations, peer practices can serve as a reference point in fulfilling the duty of prudence.

FAS has assisted other public pension funds in development of their Governance Policy Manual (GPM) or in reviewing and improving their existing GPM. We have a model governance manual that we use as a template for identifying potential charters and policies to include and the key provisions in each one.

We have also developed a National Public Pension Policy Repository (N3PR) that contains charters and governance and investment policies from over 80 U.S. state, county, and municipal public retirement systems. The repository is searchable and used to quickly identify existing charters or policies at peer systems for comparison and identification of leading and prevailing practices. We use this tool to efficiently gather peer charter and policy information.

We assume the scope of this ongoing review includes the Board Charters and the Board Policies listed on the KCERA website. We also assume that each charter and policy has been reviewed as required (e.g., every five years) and that each year we would review those that are due for review per the policy or that the Board wishes to revisit earlier than required.

Proposed activities for the ongoing review of the Governance Policy Manual include:

- Review/identify the calendar for charter and policy review based upon the last review and the review interval; based upon our review of the charters and policies:
 - Six of the nine charters are due for review during 2021
 - Six of the thirteen Board policies are due for review during 2021
- Using our model governance manual, identify potential gaps to consider whether new charters or policies should be considered.
- Prepare a list of current charters and policies for review and any potential new charters or policies to consider, review with the ED, and review with the Chair of the Administrative Committee.
- Identify potential improvement to consider for existing charters and policies under review and key provisions of any new charters or policies to consider.
- Review recommendations with the ED and refine, as appropriate.
- Review charter and policy recommendations with the Administrative Committee.

Proposal to KCERA to Provide Governance Services

3. On-line administration of Executive Director (ED) performance evaluation survey, including follow-up telephone interviews, tabulate results, prepare summary report.

The KCERA Executive Director Performance Evaluation Policy is well-designed and incorporates the leading practices of linking the process to an annual ED goal-setting process with the Board and of including specific goals related to initiatives in the strategic plan.

Proposed activities for the ED performance evaluation include:

- Work with the Administrative Committee to prepare the online performance evaluation survey (September-October).
- Administer the online survey and prepare a draft summary report for distribution to trustees ahead of individual videoconference interviews (October).
- Conduct trustee interviews to expand on and clarify responses and refine the draft report (October-November).
- Prepare a final summary report and provide to the Chair of the Administrative Committee (November).
- Brief the Chair of the Administrative Committee (November).
- Provide any additional support, as requested, e.g., consult on ED annual goal setting; provide advice on the ED performance evaluation framework; advise the ED on the Evaluation Package to be distributed; brief the Administrative Committee and/or Board on the final report.

4. Board self-evaluation (survey administration plus follow-up telephone interviews).

The Board Performance Evaluation Policy is also well designed. We would expect to build upon the Board's prior experience and add our perspective to the self-evaluation process. We believe it is important that the self-evaluation process result in tangible recommendations for the Board to implement in order to be effective.

Through numerous Board self-evaluations at other public retirement systems, we have developed an effective, efficient process to engage the Board to identify:

- What is working well?
- What can be improved?

We focus on identifying and fixing problems, not assigning blame. Our process develops buy-in for our recommendations from the Board and develops a roadmap for continuous improvement.

The self-evaluation survey will also include questions linked to the strategic and operational plans of the system, executive succession planning, and, assuming the timing can be supportive of the Executive Director performance evaluation, the Executive Director's goals and performance to understand the views of the trustees regarding his performance.

Proposal to KCERA to Provide Governance Services

Proposed activities for the Board self-evaluation include:

- Work with the Chair of the Administrative Committee and the Executive Director to develop/revise the Board self-evaluation framework and survey questionnaire.
- Administer the online self-evaluation survey and prepare a draft report for distribution to trustees ahead of individual interviews.
- Conduct trustee interviews to expand on and clarify responses and refine the draft report.
- Prepare a final Board self-evaluation report and provide to the Chair of the Administrative Committee.
- Brief the Administrative Committee on the results of the Board self-evaluation.
- If desired, present the results of the Board self-evaluation to the Board.

5. Administer Board education needs assessment survey and prepare report.

The KCERA Trustee Education policy is one of the most comprehensive and prescriptive we have seen. It appears to provide a strong framework for trustee onboarding and continuing education.

We recommend integrating the Board education needs assessment survey into the Board self-evaluation. We believe leading practice is to utilize the Board self-evaluation process to identify potential areas of unmet education needs, and this aspect of the education needs assessment is best combined with the self-evaluation. This also makes more effective use of trustee time.

We also recommend development of individual trustee education plans that are linked to the annual trustee education reports.

Proposed activities for the Board education needs assessment survey include:

- As part of Board self-evaluation survey, include questions regarding onboarding (for newer trustees), continuing education, and unmet needs.
- Include results of onboarding and continuing education feedback in Board self-evaluation report and discuss during interviews.
- Prepare Board education needs assessment and include in Board self-evaluation report.
- Update the KCERA multi-year trustee education plan and identify additional training opportunities, as required.
- Develop/update individual trustee learning plans based upon individual feedback, the multi-year education plan, and completed education sessions.

Proposal to KCERA to Provide Governance Services

6. Administer staff climate survey and prepare report.

Governance includes proper oversight of management and the development of a supportive culture for professionals that must include accountability and consistently cultivate strong performance and healthy morale throughout the organization. Good governance requires mutual respect and adult conversations with full transparency.

The climate survey should be designed to support organizational development as a continuing process of learning and adaptation to constantly shifting circumstances. The survey should include addressing how the organization adapts; the Tone at the Top; alignment between policy priorities and organizational capabilities; level of morale; conflict resolution capabilities; training needs; and leadership and accountability.

We believe there should be a linkage between the staff climate survey and the Executive Director performance evaluation, as the results of the staff climate survey should be an input to the Board in assessing the Executive Director's performance. Consequently, the timing of the staff climate survey will be designed to support the ED performance evaluation cycle.

Proposed activities for the staff climate survey include:

- Discuss staff climate survey objectives and topics with the Executive Director.
- Prepare draft survey questionnaire and review and refine with the Executive Director.
- Administer the online staff climate survey and prepare a draft report.
- Review report with the Executive Director and finalize findings and recommendations.
- Prepare a summary staff climate report for the Board and present, if desired.

Special Projects

For Special Projects, we suggest that for any special projects, we mutually agree on a statement of work and a not-to-exceed budget in advance of initiating the work. The hourly rate for Rick Funston and Randy Miller will be \$500. Examples of other types of project that FAS is qualified to conduct could include:

7. Strategic planning

8. Other potential areas of assistance, e.g.:

- Potential changes to the Board committee structure.
- Board delegations and use of third party providers.
- Stakeholder communications strategy and plans.
- Investment operations.




KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Memorandum from the
Office of the Executive Director
Dominic D. Brown

Date: October 13, 2021

To: Trustees, Board of Retirement

From: Dominic D. Brown, Executive Director 

Subject: **SACRS 2021 Fall Conference Voting Delegate**

It is recommended that your Board appoint a voting delegate and alternate voting delegate to represent KCERA at the SACRS 2021 Fall Conference Business Meeting held on Friday, November 12, 2021. The following trustees have registered to attend the conference:

Bradly Brandon
Jordan Kaufman
Tyler Whitezell

Alternatively, the Board may appoint the Executive Director as the voting delegate to cast votes at the Business Meeting in accordance with the Board's directive.

Attachment



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 and submit electronically on behalf of the Retirement Board:

Signature: _____

Print Name: _____

Position: _____

Date: _____

Please send your system's voting proxy by October 15, 2021 to Sulema H. Peterson, SACRS Executive Director at Sulema@sacrs.org.



Date: October 13, 2021
To: Board of Retirement, Trustees
From: Jennifer Zahry, Chief Legal Officer 
Subject: SACRS Legislative Proposal September 2021

At the Business Meeting of the Fall SACRS conference, KCERA's voting delegate will be asked to vote on whether SACRS should sponsor legislation in 2022 to amend various sections of the CERL noted below and more completely described in the attached:

Recommendation – With one exception, Staff recommends the Board direct the voting delegate to vote in favor of moving forward with the "Clean-Up" Bill at this time. The proposed legislative changes are described by the SACRS Legislative Committee as non-controversial clean-up provisions; however, some proposed changes are substantive and will require a change in KCERA's current processes.

The proposed changes affecting KCERA processes are as follows:

<u>Section</u>	<u>Current Practice</u>	<u>Staff View of Proposed Change</u>
31452.7	Not allowed to name entity	Offers flexibility to member
31761-31764	Same as above	Same as above
31525	Send to BOS	More efficient for KCERA
31641.4	Time not eligible for purchase	N/A – legal preemption issue

Issue 5: 31646.XX - Furlough – Staff views this as a type of service purchase that should be decided/elected by a plan sponsor rather than being granted by the Board of Retirement.

Attachment:

- 1) 2022 CERL Clean-Up Bill matrix



September 20, 2021

RE: SACRS-Sponsored Legislation in 2022

Dear SACRS Board of Directors,

The SACRS Legislative Committee recommends that SACRS sponsor legislation in 2022 to amend various sections of the County Employees' Retirement Law of 1937 (CERL).

At its September 17, 2021 meeting, the Legislative Committee approved bill language for a CERL Omnibus Bill and recommended approval by the SACRS Board of Directors. If approved by the SACRS membership at the Fall Conference, the bill language can be introduced in January 2022 for consideration during the 2022 legislative session.

The enclosed language reflects the work of Legislative Committee members, in collaboration with system administrators, over the past year to develop non-controversial, technical, and clarifying amendments to the CERL.

A summary matrix and draft bill language are attached.

If you have questions or would like to provide additional feedback, please contact us at dnelsen@acera.org or sterne@saccounty.net.

Respectfully,

/s/

David Nelsen and Eric Stern
Co-Chairs, Legislative Committee

ATTACHMENTS

- Summary Matrix
- Draft Bill Language

2022 CERL Clean-Up Bill

Issue	Gov Code	Topic	Issue/Justification
1	31452.7	Beneficiaries - Designating Estate	This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.
2	31525	Board of Supervisor approval of Board of Retirement regulations	This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop.162 in 1992. Adoption of regulations is part of the BOR's duty to administer the system.
3	31641.4	Prior Service -- Military Reserve Service	This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in Cantwell v. San Mateo County, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.
4	31646	Service Purchase for FMLA Leave	This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.
5	31646.XX	Furloughs	This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.

6	31680.2	Post-Retirement Employment	This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.
7	31725.7 31760	Disability Retirement: Optional Allowances	This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.
8	31726 31726.5	Nonservice-connected disability	This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.
9	31730	Disability -- Reinstatement	This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.
10	31761 31762 31763 31764	Beneficiary Designation	This amendment would insert the word "natural" in front of the phrase "person having an insurable interest in his or her life" to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.
11	31781	Lump Sum Death Benefit	This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.

12	31838.5	Concurrent Retirement: Disability	<p>Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.</p>
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CERL Clean-Up Bill 2022: Draft Language

Issue 1: 31452.7 – Beneficiaries Designating Estate

This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.

Section 31452.7 of the Government Code is amended to read:

(a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member's designated beneficiary.

(b) Upon the death of any person receiving a survivor's allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

(c) For purposes of this section, "beneficiary" includes, but is not limited to, a corporation, a trust, or an estate.

Issue 2: 31525 – BOR Regulations

This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop. 162 in 1992. Adoption of regulations is part of the BOR's duty to administer the system.

Section 31525 of the Government Code is amended to read:

The board may make regulations not inconsistent with this chapter, **the Public Employees' Pension Reform Act of 2013, The California Pension Protection Act of 1992, and any other provisions of law applicable to county retirement systems.**

~~The regulations become effective when approved by the board of supervisors.~~

Issue 3: 31641.4 -- Prior Military Reserve Service

This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a

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*conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in *Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.*

Section 31641.4 of the Government Code is amended to read:

A member shall receive credit for employment in public service only for such service as he is not entitled to receive a pension or retirement allowance from such public agency. The service for which he elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of his employment in such public agency must be certified to by an officer of the public agency where he rendered such public service or must be established to the satisfaction of the board. **Nothing in this paragraph prohibits a member from receiving credit for a period of federal public service where federal law expressly permits such credit even though the member is already entitled to receive a pension or retirement allowance from that service (*Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980)).**

Issue 4: 31646 – Credit for Uncompensated Leave of Absence for Illness; Parental Leave; Conditions

This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.

Section 31646 of the Government Code is amended to read:

(a) A member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of the absence upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(b) (1) A member who returns to active service following an uncompensated leave of absence on account of parental leave may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, parental leave is defined as any time, up to one year, during which a member is granted an approved maternity or paternity leave and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is

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claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to parental leave that commences after the adoption by the board of supervisors.

(c) (1) A member who returns to active service following an uncompensated leave of absence on account of the serious illness of a family member when the absence is eligible for coverage under the Family Medical Leave Act, 29 U.S.C. section 2601 et. seq., or the California Family Rights Act, Government Code section 12945 et. seq., may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, leave on account of illness of a family member is defined as any time, up to one year, during which a member is granted an approved leave to care for a seriously ill family member and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to leave that commences after the adoption by the board of supervisors.

Issue 5: 31646.XX – Furloughs

This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.

Section 31646.XX of the Government Code is added to read:

The board may grant members who are subject to a temporary mandatory furlough the same service credit and “compensation earnable” or “pensionable compensation” to which the members would have been entitled in the absence of the temporary mandatory furlough. The board may condition such grant on the receipt of additional member and/or employer contributions that the board

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determines are necessary to fund any benefits granted under this section on an actuarially sound basis.

For the purposes of this section, a “temporary mandatory furlough” refers to time during which a member is directed to be absent from work without pay for up to one quarter of the member’s normal working hours, with such reduced working hours in place for no longer than two years.

Issue 6: 31680.20 – Postretirement Employment

This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.

Section 31680.20 of the Government Code is added to read:

A person who is retired under this chapter may serve without reinstatement from retirement or loss or interruption of benefits under this chapter or the Public Employees’ Pension Reform Act of 2013 provided the service is on a part-time state, county, city, district, or other political subdivision board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Part-time service is limited to less than 20 hours per week, and salary or stipend of the part-time service may not exceed \$60,000 annually.

Issue 7: 31725.7, 31760 – Disability Retirement: Optional Allowances

This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.

Section 31725.7 of the Government Code is amended to read:

(a) At any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of his or her entitlement to disability retirement. If he or she is found to be eligible for disability retirement, appropriate

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adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

(b) Notwithstanding subdivision (a), this section shall also apply to a member retired for service who subsequently files an application for disability retirement with the board. If he or she is found to be eligible for disability retirement, appropriate adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

~~(b)~~**(c)** This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits which the beneficiary would not otherwise have been entitled to receive under the type of retirement which the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement he or she shall not be entitled to return to his or her job as provided in Section 31725.

~~(c)~~**(d)** If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

~~(d)~~**(e)** Notwithstanding subdivision ~~(e)~~**(d)**, if the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary may be as selected by the member at the time of retirement for service, or as if the member had selected an unmodified allowance. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall not be binding as to the type of allowance the member receives if the member is awarded a disability retirement. A change to the optional or unmodified type of allowance shall be made only at the time a member is awarded a disability retirement and the change shall be retroactive to the service retirement date and benefits previously paid shall be adjusted. If a change to the optional or unmodified type of allowance is not made, the benefit shall be adjusted to reflect the differences in retirement benefits previously received. This paragraph shall only apply to members who retire on or after January 1, 1999.

Section 31760 of the Government Code is amended to read:

(a) Except as provided in subdivisions **(b) and (c)**, until the first payment of any retirement allowance is made, a member or retired member, in lieu of the retirement allowance for the member's life alone, may elect to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement

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allowance payable throughout life in accordance with one of the optional settlements specified in this article.

(b) Notwithstanding subdivision (a), a member who applies for disability and is subsequently granted a service retirement pending a determination of entitlement to disability may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

(c) Notwithstanding subdivision (a), a member retired for service who applies for and is subsequently granted a disability retirement may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

Issue 8: Sections 31726 and 31726.5: Nonservice-connected disability

This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.

Section 31726 of the Government Code is amended to read:

(a) Upon retirement for ~~non-service~~**nonservice**-connected disability a member who has attained age 65 shall receive his or her service retirement allowance.

(b) Every member under age 65 who is retired for ~~non-service~~**nonservice**-connected disability and who is not simultaneously retired as a member on deferred retirement of the ~~State~~**Public** Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of the following:

~~(a)~~**(1)** The sum to which he or she would be entitled as service retirement; **or**

~~(b)~~**(2)** A sum which shall consist of ~~any of the following~~:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district. This paragraph

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shall only apply to a person who becomes a member of the system on or after January 1, 1988.

Section 31726.5 of the Government Code is amended to read:

(a) Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive his or her service retirement allowance.

(b) Every safety member under age 55 who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of:

~~(a)~~**(1)** The sum to which he or she would be entitled to as service retirement; or

~~(b)~~**(2)** A sum which shall consist of:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district.

~~Paragraph 3~~**Subparagraph (C)** shall only apply to a person who becomes a member of the association on or after January 1, 1988.

Issue 9: 31730 – Disability Reinstatement

This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.

Section 31730 of the Government Code is amended to read as follows:

(a) If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be

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canceled forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

(b) If the board determines that the beneficiary is not incapacitated, and his or her employer does not offer to reinstate that beneficiary, notwithstanding any requirement of this chapter regarding eligibility therefor, his or her retirement allowance shall be reclassified to a service retirement in the same amount and subject to any applicable future cost of living adjustments. The optional or unmodified type of allowance selected by the beneficiary at the time of retirement for disability shall be binding as to the service retirement.

Issue 10: 31761, 31762, 31763, and 31764 – Optional Retirement Allowances:

This amendment would insert the word “natural” in front of the phrase “person having an insurable interest in his or her life” to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.

Sections 31761, 31762, 31763, and 31764 of the Government Code are amended to read:

31761 – Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her estate or to the **natural** person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board.

31762 – Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to him or her until his or her death, and thereafter to the **natural** person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31763 – Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to the **natural** person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31764 – Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the **natural** persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

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Issue 11: 31781 – Death Benefit; Elements

This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.

Section 31781 of the Government Code is amended to read:

The death benefit shall consist of:

- (a) The member's accumulated contributions.
- (b) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in [Section 7522.34](#), whichever is applicable, by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation. **The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.**

Issue 12: 31838.5 – Concurrent Retirement; Disability

Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.

Section 31838.5 of the Government Code is amended to read:

No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.

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In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public Employees' Retirement System, become employed by a second public entity on or after January 1, 1984.

Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis. **If, however, another entity does not reduce the amount it pays the member, an entity subject to this section shall reduce the allowance it pays the member by as much as necessary to ensure that the member does not receive a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.**

**No Material
to be Distributed**



EXECUTIVE DIRECTOR REPORT

KCERA | DOMINIC D. BROWN | OCTOBER 2021



OFFICE UPDATE

- *Alameda* Decision – KCERA has paid out over \$2.1 million in corrective contributions, appeals are in progress, and letters have been sent to members regarding the collection of under-collected contributions
- Elections – Election will be held on December 14
- Facilities – Security fencing has been installed and solar is in permitting phase
- Staffing – Recruitments ongoing for Deputy Chief Legal Officer, Retirement Services Analyst, and Accountant
 - Board-approved Reorganization is being implemented with County Human Resources
- Disability – KCERA is having monthly status meetings with MMRO to monitor progress of files and ensure priorities and workflow are aligned
- Service Purchases – 2019 (3 in progress), 2020 (7 in progress), 2021 (87 in backlog, 10 in progress)
 - 39 completed since August 2021, buyback estimator in KCERA Member Portal working exactly as intended
- SACRS – Registration is still open

OPERATIONS ACTIVITY

- Member Services
 - 26 new retirements and calculations
 - 47 death benefit calculations
 - 34 service-credit purchase calculations
 - 99 retirement estimates
 - 95 new active members
 - 92 terminations with disposition packets
 - 16 in-person appointments
 - 158 walk-ins
 - 822 phone calls
 - 113 emails
- Accounting & Reporting
 - Staff is working hard on the preparation of the Annual Comprehensive Financial Report and providing documents to the outside auditors
- Information Technology
 - Assisted with *Alameda* Decision implementation and generation of letters to affected members

UPCOMING EVENTS

- Finance Committee – Next meeting will be scheduled in January 2022 to continue SRBR discussions
- Administrative Committee – No meetings currently scheduled
- Investment Committee – No meetings currently scheduled
- KCERA Property, Inc. – Special Shareholders’ and Board of Directors meetings currently being scheduled
- Nominating Committee – TBD
- Board of Retirement – Next regular monthly meeting will be on November 3 (*early due to SACRS*)



CIO REPORT

INVESTMENT PROGRAM UPDATE | October 2021

Rebalancing

SEPTEMBER ACTIVITY

- Public Equities
 - -58MM Parametric S&P 500, overlay
 - -28MM PIMCO StocksPLUS
 - +25MM Parametric Russell 2000, overlay
 - +71MM Parametric S&P 500 Capital Efficiency beta
- Alpha Pool
 - +50MM Garda
- Cash
 - +100MM BlackRock Short Duration



Funded another Alpha Pool investment, bringing the Alpha Pool market value to 4.9% vs 5% target. This completes the initial phase of the Capital Efficiency Program.

Asset Class	Actual	Target	Difference
Public Equity	41.0%	37%	+4.0%
Fixed Income	23.2%	24%	-0.8%
Core	12.2%	14%	-1.8%
Credit	6.0%	6%	0.0%
Emerging Market Debt	5.0%	4%	+1.0%
Commodities	5.7%	4%	+1.7%
Midstream	5.1%	5%	+0.1%
Hedge Funds	10.8%	10%	+0.8%
Alpha Pool	4.9%	5%	-0.1%
Core Real Estate	5.1%	5%	+0.1%
Opportunistic	2.8%	0%	+2.8%
Private Markets	7.0%	15%	-8.0%
Cash	-5.6%	-5%	-0.6%

Positioning

ACTUAL VS POLICY TARGET

Public equity overweight declined due to market weakness.

Commodities, Midstream, and Hedge Funds overweights all increased due to solid performance.

Hedge Funds will move closer to target weight (10%) heading into calendar year-end, due to fund redemptions that will be paid out (Magnetar, Myriad, River Birch).

Private Markets continues to be a key focus; should reach 15% target around 2025.

Private Markets underweight continues to be reallocated to Public Equity and other asset classes where we see opportunity, including EM Debt, Commodities, and Opportunistic. *Historically, Private Credit and Private Real Estate underweights were allocated to Core Fixed Income.*

As of September 30, 2021. Source: KCERA.

Updates

- General Investment Consultant RFP will be released in the next few weeks
- PIMCO Emerging Market Debt manager benchmark will be updated

Key Initiatives



Enhancing return while managing risk

- Capital Efficiency
 - Analysis of multi-beta exposure
- Discretionary global macro as a portfolio diversifier
- Multi-asset and tactical asset allocation research
- Opportunistic investments
- Private Markets
 - Continued program build-out
- Tail hedge research

Next Meeting TBD

Investment Committee Meetings

The last IC meeting was held on September 22nd.





REPORT FROM CHIEF LEGAL OFFICER OCTOBER 2021

JENNIFER ZAHRY, CHIEF LEGAL OFFICER
MAGGIE PERALTA-LEE, SENIOR PARALEGAL
IRMA JIMENEZ, SENIOR LEGAL SECRETARY

ANTI-ALIENATION OF BENEFITS

What is an anti-alienation provision?

- Protective provision against assignment of interest to third party
- Prohibits divergence of plan assets to persons other than members
- Legal Authority – CERL Cal. Gov. Code section 31452; Exclusive Benefit Rule/tax qualified status implications

ANTI-ALIENATION PROVISION IN THE CERL

EXCEPT...

- Child support orders
- Spousal support orders
- Federal tax levies

ANTI-ALIENATION PROVISION IN THE CERL

What does the CERL allows KCERA to deduct from pension?

- Certain insurance premiums
- Certain charitable organizations approved by the Board
- Payments to REOKC or REOKC benefit programs
- Payments of Personal Income Taxes (federal and state)
- Payments to purchase U.S. Savings Bonds

CERL section 31452.5.

Q3 2021 METRICS

	Completed
Operational Contracts	6
Investment Contracts/ Documents	22
Board Documents	68
Community Property Matters	47
Public Record Requests	11
Powers of Attorney	13
Post-Retirement Employment Certifications	14
Disability Reports reviewed	6
Training for Staff	3
CLO Responses to inquiries/ Legal Review of Docs	100+

	Pending General Counsel Review
Operational Contracts	3
Investment/ Custodial Documents	6
Disability Matters	1
Community Property Matters	5
PRA Requests	0
Staff Inquiries	27
Administrative Appeals – prospective benefit adjustments	5
Administrative Appeals – collection of overpaid benefits	5
Board/Committee Meetings	2
Special Projects –	2
Trainings – SACRS	1

ON CALENDAR – OCTOBER