

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

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

September 3, 2020

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 Board of Retirement will be held on Wednesday, September 9, 2020 at 8:30 a.m. via teleconference, pursuant to Executive Order N-25-20, issued by Governor Newsom on March 12, 2020, Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and Executive Order N-35-20, issued by Governor Newsom on March 21, 2020. 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 (888) 788-0099 or (877) 853-5247 U.S. Toll-free (Meeting ID 289-998-6429), or see www.kcera.org for instructions. If you have any questions or require additional service, please contact KCERA at (661) 381-7700, option 0, or send an email to administration@kcera.org.

Sincerely,



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, option 0, 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 –

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.

- *1. [Summary of proceedings of the following meetings:](#)
- August 12, 2020 Board of Retirement Meeting
 - August 24, 2020 Investment Committee
 - August 24, 2020 Special Board of Retirement Meeting

RECEIVE AND FILE

- *2. [Monthly report from the KCERA office on members retired from service – RATIFY](#)
- *3. [Monthly report from the KCERA office on deceased retirees – RECEIVE AND FILE](#)
- *4. [Monthly report of current disability retirement applications and appeals of KCERA Board decisions – RECEIVE AND FILE](#)
- *5. [Securities Lending Earnings Summary Report for the period July 1-31, 2020 from Deutsche Bank – RECEIVE AND FILE](#)
- *6. [KCERA asset allocation, budget status, cash flow position and investment fees status report for the month of July 2020 – RECEIVE AND FILE](#)

7. Public Comments:

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.

STAFF REPORTS

8. [Report from Executive Director](#)
9. [Report from Chief Investment Officer](#)
10. [Report from General Counsel](#)

INVESTMENT MATTERS

11. [Discussion and appropriate action on private market fund recommendation](#) presented by Andrea Auerbach, Investment Managing Director, Keirsten Lawton, Investment Managing Director, Kelly Jensen, Senior Investment Director, Cambridge Associates¹, Chief Investment Officer Daryn Miller, CFA, Retirement Investment Officer Brian Long, CFA, and the Investment Committee – APPROVE \$30MM COMMITMENT TO BRIGHTON PARK CAPITAL FUND I; AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW
12. [Discussion and appropriate action on hedge fund recommendation² presented by](#) Chief Investment Officer Daryn Miller, CFA, and Retirement Investment Officer Brian Long, CFA – APPROVE TERMINATION OF THE SYSTEMATICA TREND FOLLOWING FUND; AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

ADMINISTRATIVE MATTERS

13. [Trustee Education regarding Environmental, Social, and Corporate Governance](#) (ESG) presented by Tom Iannucci, Cortex Applied Research – RECEIVE EDUCATIONAL TRAINING (20 MINUTES TRUSTEE EDUCATION CREDIT)
14. [Discussion and appropriate action on whether to develop an Environmental, Social, and Corporate Governance \(ESG\) statement/guidelines](#) presented by Executive Director Dominic Brown – DIRECT STAFF TO PRESENT OPTIONS FOR AN ESG-TYPE STATEMENT TO ADMINISTRATIVE COMMITTEE FOR CONSIDERATION; TAKE OTHER ACTION, AS APPROPRIATE
15. [Trustee Education regarding Internal Revenue Service Requirements for Qualified Retirement Plans, the Exclusive Benefit Rule, and Plan Corrections](#) presented by Tax Counsel Robert L. Gauss, Partner, and Audra Ferguson-Allen, Partner, Ice Miller LLP – RECEIVE EDUCATIONAL TRAINING (45 MINUTES TRUSTEE EDUCATION CREDIT)

COMMITTEE REPORTS

16. Report from Committee Chairs:
 - a. Administrative Committee – Franey
 - b. Finance Committee – Gonzalez
 - c. Investment Committee – Dodgin
 - d. KCERA Property, Inc. Board – Kratt

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.

2 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.

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

17. On their own initiative, Board members may make a brief announcement or a brief report on their own activities.

Call for Public Comment on Executive Session Item(s)

Executive Session

18. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 based on facts and circumstances that might result in litigation against KCERA and that KCERA believes are known to a potential plaintiff, which facts and circumstances shall be publicly announced prior to the closed session. (Cal. Gov. Code section 54956.9(e)(2)). (Number of potential cases: numerous – specific number unknown at this time).

RECESS UNTIL 2:30 P.M. – All remaining agenda items to be heard at this time

Return to Public Session/Report of Executive Session Actions, if applicable

ADMINISTRATIVE MATTERS (continued)

19. [Discussion and appropriate action on proposed designation of Special Pays](#) presented by Executive Director Dominic Brown and General Counsel Jennifer Zahry – APPROVE; TAKE OTHER ACTION, AS APPROPRIATE
20. Adjournment

SUMMARY OF PROCEEDINGS

BOARD OF RETIREMENT – COUNTY OF KERN

11125 River Run Blvd.
Bakersfield, California

Teleconference Meeting – Board of Retirement Meeting August 12, 2020

8:34 a.m.

Board Members: Bradly Brandon (Alternate), Couch, Vice-Chair Dodgin, Franey, Gonzalez, Kaufman, Chair Kratt, Nunneley (Alternate), Robinson, Seibly (Alternate), Skidmore, Whitezell

Roll Call: Brandon, Dodgin, Franey, Gonzalez, Kaufman, Kratt, Seibly, Skidmore, Whitezell

Absent: Couch, Nunneley, Robinson

Moment of Silence

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

- *1. Proposed Decision and Findings of Fact submitted by Hearing Officer for Donald Barnett, FIRE (Safety) –

THIS ITEM WAS REMOVED FROM CONSENT

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

- June 10, 2020 Board of Retirement Meeting
- July 29, 2020 Finance Committee
- July 29, 2020 Investment Committee

RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *3. Monthly report from the KCERA office on members retired from service –
RATIFIED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *4. Monthly report from the KCERA office on deceased retirees – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *5. Monthly report of current disability retirement applications and appeals of KCERA Board decisions – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *6. Securities Lending Earnings Summary Report for the periods May 1-31 and June 1-30, 2020 from Deutsche Bank – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *7. KCERA asset allocation, budget status, cash flow position and investment fees status report for the months of May and June 2020 and budget status report for Fiscal Year Ended June 30, 2020 – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *8. KCERA Class Action Proceeds Report from April 1 through June 30, 2020 for the Northern Trust Company – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *9. Corrections in Benefit Payments Report for the period January through June 2020 – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *10. Corrections in Benefit Contributions Report for the period January through June 2020 – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *11. 2020 KCERA Retirement Benefit Statement and Cover Letter Sample – RECEIVED AND FILED; APPROVED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *12. Board of Retirement Semi-annual Trustee Education Report – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *13. KCERA Schedules of Employer Allocations and Pension Amounts by Employer and related notes including independent auditors' report as of and for the year ended June 30, 2019, and Segal's Governmental Accounting Standards (GAS) 68 Actuarial Valuation as of June 30, 2020 – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *14. Letter from Segal, dated July 13, 2020, regarding KCERA Tier 3 Supplemental Retiree Benefit Reserve Benefits for the period from July 1, 2020 through June 30, 2021 – APPROVED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

- *15. Final FY 2020-21 KCERA Operating Budget with recommended changes approved at the June 10, 2020 Board of Retirement Meeting – RECEIVED AND FILED

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

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

Whitezell-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

17. PUBLIC COMMENTS:

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 Chairman, 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

STAFF REPORTS

18. Report from Executive Director

EXECUTIVE DIRECTOR DOMINIC BROWN REPORTED THE FOLLOWING:

- SERVICE PURCHASE TOOL ADDED TO MEMBER PORTAL THAT ALLOWS MEMBERS TO CALCULATE THEIR BUYBACKS
- BEGINNING WORK TO REFRESH KCERA BRANDING AND NEWSLETTER
- UPDATE TO DISABILITY PROCESS WITH MMRO
- UPDATE ON BENEFITMALL TRANSITION
- SPECIAL BOARD MEETING SCHEDULED TO DISCUSS THE *ALAMEDA* CASE DECISION
- UPCOMING MEETINGS AND EVENTS

CHAIR RICK KRATT HEARD; TRUSTEE JORDAN KAUFMAN HEARD

TRUSTEE CHASE NUNNELEY ARRIVED AT 8:44 A.M.

19. Report from Chief Investment Officer

CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, SUBMITTED A REPORT ON THE FOLLOWING:

- MARKET AND PORTFOLIO UPDATE, INVESTMENT ACTIVITIES, INITIATIVES AND PORTFOLIO OPPORTUNITIES

20. Report from General Counsel

GENERAL COUNSEL JENNIFER ZAHRY SUBMITTED A REPORT ON THE FOLLOWING:

- UPDATE ON THE *ALAMEDA* CASE
- OVERVIEW OF LEGAL UNIT WORKFLOW AND METRICS

FINANCIAL MATTERS

21. Discussion and appropriate action on the Actuarial Experience Study for the period July 1, 2016 through June 30, 2019, presented by Paul Angelo, Segal, and the Finance Committee – PAUL ANGELO AND MOLLY CALCAGNO, SEGAL, HEARD; CHAIR RICK KRATT HEARD; VICE-CHAIR DUSTIN DODGIN HEARD; TRUSTEES JORDAN KAUFMAN AND TYLER WHITEZELL HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN, HEARD; GENERAL COUNSEL JENNIFER ZAHRY, HEARD

PUBLIC COMMENT: ELSA MARTINEZ, COUNTY ADMINISTRATIVE OFFICE, HEARD

TRUSTEE TYLER WHITEZELL MADE A REFERRAL TO STAFF TO WORK WITH ACTUARY ON PHASE-IN CALCULATION FOR COUNTY

ADOPTED THE ECONOMIC AND NON-ECONOMIC ASSUMPTIONS RECOMMENDED BY CONSULTANT AND STAFF

Franey-Kaufman – 7 Ayes

Trustee Bradley Brandon not called on during vote

INVESTMENT MATTERS

22. Discussion and appropriate action on private market fund recommendation presented by Andrea Auerbach, Kelly Jensen, Anelise Hohl, Cambridge Associates¹, Chief Investment Officer Daryn Miller, CFA, Retirement Investment Officer Brian Long, CFA, and the Investment Committee – ANELISE HOHL, CAMBRIDGE ASSOCIATES, HEARD; VICE-CHAIR DUSTIN DODGIN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD; RETIREMENT INVESTMENT OFFICER BRIAN LONG, CFA, HEARD

APPROVED \$30MM COMMITMENT TO COVENANT CAPITAL PARTNERS; AUTHORIZED EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

Dodgin-Gonzalez – 7 Ayes

Trustee Bradley Brandon not called on during vote

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.

ADMINISTRATIVE MATTERS

23. Presentation on Cancer Presumption presented by John T. Kennedy, Nossaman LLP – JOHN T. KENNEDY, NOSSAMAN LLP, HEARD; CHAIR RICK KRATT HEARD; VICE-CHAIR DUSTIN DODGIN HEARD; GENERAL COUNSEL JENNIFER ZAHRY, HEARD

RECEIVED EDUCATIONAL TRAINING (44 MINUTES TRUSTEE EDUCATION CREDIT)

COMMITTEE REPORTS

24. Report from Committee Chairs:
- a. Administrative Committee: FRANEY – MEETING TO BE SCHEDULED
 - b. Finance Committee: GONZALEZ – NO UPCOMING MEETINGS
 - c. Investment Committee: DODGIN – MEETING TO BEING SCHEDULED
 - d. KCERA Property, Inc.: KRATT – NONE

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

25. On their own initiative, Board members may make a brief announcement or a brief report on their own activities – NONE

Call for Public Comment on Executive Session Item(s) – NONE

Executive Session

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

BARNETT, Donald FIRE (Safety)

RECESS UNTIL 2:00 P.M.

BOARD OF RETIREMENT RECONVENED AT 2:01 P.M.

Return to Public Session/Report of Executive Session Actions, if applicable

ITEM 1 –

MOTION TO GRANT SERVICE-CONNECTED DISABILITY RETIREMENT

Dodgin-No second

MOTION FAILED

MOTION TO ADOPT HEARING OFFICER FINDINGS OF FACT AND RECOMMENDATION TO DENY SERVICE-CONNECTED DISABILITY RETIREMENT

Franey-Kaufman – 4 Ayes; 4 Noes (Brandon, Dodgin, Franey, Kratt)
Trustee Bradley Brandon voted in place of Trustee Edward Robinson

MOTION FAILED

DIRECTED STAFF TO DRAFT PROPOSED INSTRUCTIONS FOR HEARING OFFICER TO CLARIFY FINDINGS RELATED TO CADMIUM AND BRING PROPOSED INSTRUCTIONS BACK TO THE BOARD FOR CONSIDERATION BEFORE SENDING INSTRUCTIONS TO HEARING OFFICER

Dodgin-Franey – 5 Ayes; 3 Noes (Kaufman, Skidmore, Whitezell)
Trustee Bradley Brandon voted in place of Trustee Edward Robinson

INVESTMENT MATTERS (continued)

26. Discussion and appropriate action on midstream energy RFP and recommendation presented by Scott Whalen, CFA, Verus, Chief Investment Officer Daryn Miller, CFA, Retirement Investment Officer Brian Long, CFA, and the Investment Committee – SCOTT WHALEN, CFA, VERUS HEARD; TRUSTEE JORDAN KAUFMAN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

SELECTED BLACKSTONE AND PIMCO AS MIDSTREAM ENERGY INVESTMENT MANAGERS; WAIVED ON-SITE DUE DILIGENCE REQUIREMENT IN THE IPS; APPROVED INVESTMENT IN MIDSTREAM ENERGY; AUTHORIZED EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

Franey-Whitezell – 8 Ayes
Trustee Bradley Brandon voted in place of Trustee Edward Robinson

27. Presentation on the 2nd Quarter Investment Performance Review period ending June 30, 2020 by Scott Whalen, CFA, Verus – SCOTT WHALEN, CFA, VERUS HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

RECEIVED AND FILED

Franey-Gonzalez – 8 Ayes

Trustee Bradley Brandon voted in place of Trustee Edward Robinson

28. Presentation on the 2nd Quarter 2020 Portfolio Review presented by Spencer Edge, Albourne America² – SPENCER EDGE, ALBOURNE AMERICA, HEARD; VICE-CHAIR DUSTIN DODGIN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

RECEIVED AND FILED

Dodgin-Whitezell – 8 Ayes

Trustee Bradley Brandon voted in place of Trustee Edward Robinson

ADMINISTRATIVE MATTERS (continued)

29. Proposed slate of candidates for the State Association of County Retirement Systems (SACRS) Board of Director 2020-2021 Electronic Election – TRUSTEES PHIL FRANNEY AND JUAN GONZALEZ HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD

MOTION TO DIRECT VOTING DELEGATE TO ELECTRONICALLY VOTE FOR SLATE OF CANDIDATES AS RECOMMENDED BY THE SACRS NOMINATING COMMITTEE WITH ONE SUBSTITUTION, REPLACING DAVID MCDONALD WITH EDWARD ROBINSON

Gonzalez-No second

MOTION DIED

DIRECTED VOTING DELEGATE TO ELECTRONICALLY VOTE FOR SLATE OF CANDIDATES AS RECOMMENDED BY THE SACRS NOMINATING COMMITTEE

Franey-Kaufman – 7 Ayes; 1 No (Gonzalez)

Trustee Bradley Brandon voted in place of Trustee Edward Robinson

² 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.

30. Discussion and appropriate action on KCERA's voting delegation for the State Association of County Retirement Systems (SACRS) electronic election (in lieu of a Fall 2020 Conference), presented by Executive Director Dominic Brown – TRUSTEE JUAN GONZALEZ HEARD

APPOINTED EXECUTIVE DIRECTOR DOMINIC BROWN AS VOTING DELEGATE

Gonzalez-Brandon – 8 Ayes

Trustee Bradley Brandon voted in place of Trustee Edward Robinson

FINANCIAL MATTERS (continued)

31. Discussion and appropriate action on actuarial audit services RFP recommendation presented by Executive Director Dominic Brown, Assistant Executive Director Matt Henry and the Finance Committee – TRUSTEE JUAN GONZALEZ HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; ASSISTANT EXECUTIVE DIRECTOR MATT HENRY HEARD

SELECTED CHEIRON, INC. TO PROVIDE ACTUARIAL AUDIT SERVICES

Franey-Dodgin – 8 Ayes

Trustee Bradley Brandon voted in place of Trustee Edward Robinson

32. ADJOURNED – 2:56 P.M.

Secretary, Board of Retirement

Chair, Board of Retirement

SUMMARY OF PROCEEDINGS

BOARD OF RETIREMENT – COUNTY OF KERN

Teleconference Meeting – Investment Committee August 24, 2020

10:03 a.m.

Board Members: Couch, Chair Dodgin, Kaufman, Kratt
Alternate Gonzalez

Roll Call: Couch, Dodgin, Gonzalez, Kaufman, Kratt

Absent: None

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

1. Discussion and appropriate action on private market fund recommendation presented by Andrea Auerbach, Investment Managing Director, Keirsten Lawton, Investment Managing Director, Kelly Jensen, Senior Investment Director, Cambridge Associates¹, Chief Investment Officer Daryn Miller, CFA, and Retirement Investment Officer Brian Long, CFA – **KEIRSTEN LAWTON, CAMBRIDGE ASSOCIATES, HEARD; TRUSTEE JORDAN KAUFMAN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD; RETIREMENT INVESTMENT OFFICER, BRIAN LONG, CFA, HEARD**

RECOMMENDED THE FOLLOWING TO THE BOARD OF RETIREMENT:
A) APPROVE \$30MM COMMITMENT TO BRIGHTON PARK CAPITAL FUND I; B) AUTHORIZE EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

Kratt-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.

2. Public Comments:

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. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Committee. Committee members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chairman, 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

3. Committee Member Announcements or Reports:

On their own initiative, Committee members may make a brief announcement or a brief report on their own activities – NONE

4. ADJOURNED – 10:23 A.M.

Secretary, Board of Retirement

Chair, Investment Committee

SUMMARY OF PROCEEDINGS

BOARD OF RETIREMENT – COUNTY OF KERN

11125 River Run Blvd.
Bakersfield, California

Teleconference Meeting – Special Board of Retirement Meeting August 24, 2020

1:01 p.m.

Board Members: Bradly Brandon (Alternate), Couch, Vice-Chair Dodgin, Franey, Gonzalez, Kaufman, Chair Kratt, Nunneley (Alternate), Robinson, Seibly (Alternate), Skidmore, Whitezell

Roll Call: Brandon, Couch, Dodgin, Gonzalez, Kaufman, Kratt, Nunneley, Robinson, Seibly, Whitezell

Absent: Franey, Skidmore

Moment of Silence

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

1. Trustee Education regarding the California Supreme Court's recent decision in *Alameda County Deputy Sheriff's Assoc. et al. v. Alameda County Employees' Retirement Assn. et al.* (2020) _P.3d_ (WL 4360051) (S247095) ("Alameda"), presented by Fiduciary Counsel Ashley Dunning, Partner, Nossaman LLP – ASHLEY DUNNING, NOSSAMAN, HEARD; TRUSTEES JUAN GONZALEZ AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

TRUSTEE LAUREN SKIDMORE ARRIVED AT 1:10 P.M.

PUBLIC COMMENT: RAY SCHILL HEARD; WILLIAM STIGER HEARD; WILLIAM LITTLE HEARD; TIM TALBOT HEARD; SEAN HEARD; FRANCES SCRIBBS HEARD; DANIEL SEABORN HEARD; BRUCE BELL HEARD; PHYLLIS NANCE HEARD; SUSAN WELLS HEARD

RECEIVED EDUCATIONAL TRAINING (41 MINUTES TRUSTEE EDUCATION CREDIT)

Call for Public Comment on Executive Session Item(s) – NONE

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 based on facts and circumstances that might result in litigation against KCERA and that KCERA believes are known to a potential plaintiff, which facts and circumstances shall be publicly announced prior to the closed session. (Cal. Gov. Code section 54956.9(e)(2)). (Number of potential cases: numerous – specific number unknown at this time).

Executive Session

TRUSTEE JORDAN KAUFMAN LEFT AT 3:02 P.M.

RECESS UNTIL 3:30 P.M.

BOARD OF RETIREMENT RECONVENED AT 3:31 P.M.

Return to Public Session/Report of Executive Session Actions, if applicable

ITEM 2 – NO REPORTABLE ACTION

TRUSTEES DAVID COUCH AND LAUREN SKIDMORE ARRIVED AT 3:32 P.M

3. Discussion and appropriate action on Resolution 2020-01 – ASHLEY DUNNING, NOSSAMAN, HEARD; CHAIR RICK KRATT HEARD; TRUSTEES DAVID COUCH, JUAN GONZALEZ AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

PUBLIC COMMENT: SUSAN WELLS HEARD; TIM TALBOT HEARD

APPROVED RESOLUTION 2020-01 AS RECOMMENDED BY STAFF AND FIDUCIARY COUNSEL

Couch-Whitezell – 8 Ayes; 1 No (Robinson)

Trustee Chase Nunneley voted in place of Trustee Jordan Kaufman

TRUSTEE EDWARD ROBINSON MADE A REFERRAL TO STAFF TO REVIEW THE ADMINISTRATION OF SPECIAL ALLOWANCES POLICY, SPECIFICALLY SECTION 2, TO DETERMINE IF ANY AMENDMENTS NEEDED

4. Public Comments:

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 –

BRUCE BELL HEARD; CHAIR RICK KRATT HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

5. Board Member Announcements or Reports:

On their own initiative, Board members may make a brief announcement or a brief report on their own activities:

TRUSTEE EDWARD ROBINSON HEARD

6. ADJOURNED – 4:15 P.M.

Secretary, Board of Retirement

Chair, Board of Retirement



PRUDENT INVESTMENT • QUALITY SERVICE

**Kern County Employees' Retirement Association
New Retirees- August 1, 2020 to August 31, 2020**

Employer Name: County Of Kern

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Cortez	Ruben	06/06/2020	General Tier II PEPRA	2210 - Sheriff
Hazzard	Bryan	07/07/2020	General Tier I	1610 - General Services Division
Hodge	Brian	07/16/2020	General Tier I	4113 - Environ Health Serv Dept
Jacquez	Jana	07/04/2020	General Tier I	2210 - Sheriff
Kaufman	Kristen	07/18/2020	General Tier II PEPRA	2180 - District Attorney
Keesey	Victor	07/10/2020	Safety Tier I	2210S - Sheriff
Leal	Anthony	07/04/2020	Safety Tier I	2210S - Sheriff
Maki	Glen	03/28/2020	Safety Tier I	2415S - Fire
Marin	Joaquin	07/18/2020	General Tier I	5120 - Depart Of Human Services
Oconnor	Judith	07/04/2020	General Tier I	8954 - Public Works-Public Ways
Olguin	Julie	07/21/2020	General Tier I	4120 - Behavioral Health & Reco
Saporetti	Heather	07/04/2020	General Tier I	4120 - Behavioral Health & Reco
Shannon	Marcie	07/04/2020	General Tier I	2210 - Sheriff
Stark	Edward	07/18/2020	General Tier I	6210 - Library
Zayas	Joey	05/01/2020	General Tier I	8997 - Kern Medical Center



PRUDENT INVESTMENT • QUALITY SERVICE

**Kern County Employees' Retirement Association
New Retirees- August 1, 2020 to August 31, 2020**

Employer Name: KC Superior Court

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Allen	Pamala	07/04/2020	General Tier I	9410 - Superior Court
Bergholdt	Joann	07/04/2020	General Tier I	9410 - Superior Court
Guzman	Arcenia	07/04/2020	General Tier I	9410 - Superior Court
Hagar	Cheryl	07/04/2020	General Tier I	9410 - Superior Court
Ramirez	Maria	07/04/2020	General Tier I	9410 - Superior Court
Ramirez	Patricia	07/04/2020	General Tier I	9410 - Superior Court
St Laurent	Marc	07/04/2020	General Tier I	9410 - Superior Court

Employer Name: Kern Mosquito & Vec Cntr

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Abbott Jr	Gene	07/18/2020	General Tier I	0952 - Kern Mosquito and Vec Cntr



PRUDENT INVESTMENT • QUALITY SERVICE

Kern County Employees' Retirement Association Decedents- August 1, 2020 to August 31, 2020

Pre-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Beggs	Michael	General	County Of Kern

Post-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Acord	James	General	County Of Kern
Duckett	Ronald	Safety	County Of Kern
Fader	Marcella	General	County Of Kern
Gott	Carol	General	County Of Kern
Jamgs	Beverly	General	County Of Kern
Mcmullen	Richard	General	County Of Kern
Nunez	Joe	General	County Of Kern
Roberts	John	Safety	County Of Kern
Swift	Linda	General	County Of Kern

**KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 08/31/2020**

NAME	DEPARTMENT	TYPE	DATE FILED	DATE OF LAST CONTACT	NUMBER OF DAYS
Diffenbaugh, Anthony	FIRE	SCD/SF	06/11/20	07/17/20	45
Haight, Anita	COURTS	SCD/GEN	05/14/20	08/28/20	3
Baker, Breanne	HUMAN SERVICES	SCD/GEN	04/02/20	07/30/20	32
Martinez de Moore, Brenda	KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES	SCD/GEN	12/10/18	07/01/20	61
Boren, Colleen	RISK MANAGEMENT	SCD/GEN	08/02/18	08/27/20	4
Alaniz, Maria D.	PUBLIC HEALTH	NSCD/GEN	04/13/18	08/28/20	3
NAME	DEPARTMENT	TYPE	DATE FILED	MMRO ASSIGNED	MMRO RECEIVED
Conner, James	SHERIFF	SCD/SF	05/14/20	08/31/20	
Burgess, Daniel	ANIMAL CONTROL	SCD/GEN	04/21/20	07/17/20	
Brown, Michael	SHERIFF	SCD/SF	04/14/20	08/31/20	
Chandler, Ian (Melanie Chandler)	SHERIFF	SCD/SF	01/06/20	08/28/20	
Zdarstek, Derek-ADP	PROBATION	SCD/SF	11/22/19	06/29/20	
Terry, Leann	SHERIFF	SCD/SF	10/17/19	06/30/20	
Milton, Dawn	KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES	NSCD/GEN	09/19/19	06/18/20	
Weiting, Neil	SHERIFF	SCD/SF	08/14/19	06/18/20	
Day, Lester	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL	SCD/GEN	08/02/19	06/15/20	
Ayon, Saul	SHERIFF	SCD/SF	08/01/19	06/19/20	
Avila, Andy	SHERIFF	SCD/SF	07/05/19	05/20/20	
Jefferson, Jill	AGRICULTURE AND MEASUREMENT STANDARDS	NSCD/GEN	04/02/19	07/17/20	
Rodriguez, Laura (Wimberly)	PROBATION	SCD/SF	02/01/19	05/19/20	
Snyder, Zachary	FIRE	SCD/SF	12/07/18	05/05/20	
Ramsey, Denise	SHERIFF	SCD/SF	08/13/18	05/05/20	
Ashley, James	SHERIFF	SCD/SF	07/10/18	04/29/20	
Champlin, Timothy	PROBATION	SCD/SF	04/25/18	04/30/20	
Hulsey, Jonathan	PROBATION	SCD/SF	04/18/18	04/22/20	
Deacon, Pamela	CHILD SUPPORT SERVICES	NSCD/GEN	04/13/18	04/21/20	
Herman, Mark	DISTRICT ATTORNEY	SCD/SF	04/04/18	04/21/20	
Acosta, Timothy	SHERIFF	SCD/SF	04/03/18	04/08/20	
Gonzalez, Richard	FIRE	SCD/SF	02/14/18	03/23/20	
Coletti, John	SHERIFF	SCD/SF	01/30/18	04/07/20	
Van Doorn, Kimberly	SHERIFF	SCD/SF	01/05/18	03/19/20	
Houston, Jeffrey	SHERIFF	SCD/SF	11/20/17	03/07/20	
Santana, Marion	HUMAN SERVICES	NSCD/GEN	11/10/17	02/20/20	06/16/20
Tennison, Robyn (McClain)	KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES	NSCD/GEN	07/17/17	02/20/20	
Rodriguez, Ted	SHERIFF	SCD/SF	06/22/17	02/20/20	
Rubio-Estaban, Maria	KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES	NSCD/GEN	06/20/17	01/27/20	05/29/20
Montoya-Cearley, Durinda	SJV AIR POLLUTION CONTROL	SCD/GEN	05/23/17	02/20/20	
Panero, Paul	KERN HOSPITAL AUTHORITY	SCD/GEN	05/17/17	01/28/20	06/16/20
Bullock, Paul	GENERAL SERVICES	SCD/GEN	04/24/17	01/08/20	05/29/20
Scoles, Samuel	FIRE	SCD/SF	04/17/17	01/08/20	05/28/20
Hsu, Sue	KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES	SCD/GEN	04/05/17	02/06/20	

**KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 08/31/2020**

NAME	DEPARTMENT	TYPE	DATE FILED	MMRO ASSIGNED	MMRO RECEIVED
Reed, Robert T	SHERIFF	SCD/SF	03/22/17	11/05/19	05/19/20
Paxson, Kalae	SHERIFF	SCD/SF	03/15/17	11/05/19	
Carvel, Scott	DISTRICT ATTORNEY	SCD/SF	01/27/17	11/05/19	

NAME	DEPARTMENT	TYPE	DATE FILED	MEDICAL ADVISOR ASSIGNED	MEDICAL ADVISOR RECEIVED	DATE OF LAST CONTACT	NUMBER OF DAYS
Johnston, Chevie	ANIMAL SERVICES	SCD/GEN	10/06/16	08/13/20		06/19/20	42
Simmons, Amber	PROBATION	SCD/SF	07/21/16	08/13/20		06/12/20	49
Santillan, Martin	SHERIFF	SCD/SF	04/11/16	05/29/20	07/28/20	08/20/20	11

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 2020

NAME	DEPARTMENT	TYPE	FILED	DATE COMPLETED
Ham, Nichelle	AGING & ADULT SERVICES	NSCD/GEN	08/08/16	02/12/20
Harris, Debbie	KERN HOSPITAL AUTHORITY	NSCD/GEN	07/17/20	Withdrawn 07/28/20

**KCERA
APPEALS PENDING
AS OF 08/31/2020**

ADMINISTRATIVE HEARING	DEPARTMENT	TYPE	DATE FILED	SDAG RECOMMENDATION	APPEAL RECEIVED	SENT TO COUNTY COUNSEL	HEARING OFFICER ASSIGNED	HEARING DATE
Barnett, Donald	FIRE	SCD/SF	08/23/11	SDAG to deny SCD	12/11/19	01/10/20	01/27/20	03/16/20
Musgrove, Terri	COURTS	NSCD/GEN	12/15/14	SDAG to deny NSCD	11/26/19	12/04/19	01/21/20	07/30/20
Ashley, Mark	SHERIFF	SCD/SF	09/03/15	SDAG to deny SCD but grant NSCD	05/06/20	08/20/20		
Tinoco, Gilbert	FIRE	SCD/SF	11/12/15	SDAG to deny SCD	05/19/20	05/21/20	06/16/20	02/04/21
Winn, Jay M.	DISTRICT ATTORNEY	SCD/SF	03/16/16	SDAG referred to HRO	05/28/20	06/02/20	06/25/20	11/09/20

WRIT OF MANDATE	DEPARTMENT	TYPE	DATE FILED	BOARD DECISION
Candler, Laura	SHERIFF	SCD/GEN	10/13/14	Board denied SCD
Morgan, Gloria	SHERIFF	SCD/GEN	03/26/15	Board denied SCD

COURT OF APPEAL	DEPARTMENT	TYPE	DATE FILED	BOARD DECISION
Blue, Michael	SHERIFF	SCD/SF	06/14/13	Board denied SCD

HEARINGS COMPLETED IN 2020				
NAME	DEPARTMENT	TYPE	DATE FILED	DATE COMPLETED

SECURITIES LENDING

Summary Earnings Report

Run Time: 10-Aug-2020 12:56 EDT
Date Range: 01-JUL-2020 To 31-JUL-2020
Location: New York
Currency: Not Specified
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						
KNTCY - Alliance Bernstein	CAKE15	22,089,833.88	6,776.00	677.60	6,098.40	2664130
KNTCY - Geneva	CAKE16	32,986,628.43	10,633.20	1,063.32	9,569.88	2667336
KNTCY - Gramercy	CAKE08	556,067.50	199.25	19.93	179.33	KNC12
KNTCY - Pimco	CAKE07	61,027,109.44	16,255.91	1,625.59	14,630.32	KNC11
KNTCY - Pyramis Select Intl Small	CAKE06	440,146.66	322.18	32.22	289.96	KNC10
KNTCY - Western Asset MGMT Co 01	CAKE03	13,796,760.89	5,563.44	556.34	5,007.10	KNC06
KNTCY - Western Asset MGMT Co 02	CAKE04	45,981,510.75	18,353.32	1,835.33	16,517.99	KNC08
CCY Total USD:		176,878,057.54	58,103.30	5,810.33	52,292.97	

This document is intended for discussion purposes only and does not create any legally binding obligations on the part of Deutsche Bank AG and/or its affiliates ("DB"). Without limitation, this document does not constitute a DB's view, an offer, an invitation to offer or a recommendation to enter into any transaction. DB is not acting as your financial advisor or in any other fiduciary capacity with respect to this document. The transaction(s) or product(s) mentioned herein may not be appropriate for all users and before entering into any transaction you should take steps to ensure that you fully understand the transaction and have made an independent assessment of the appropriateness of the transaction in the light of your own objectives and circumstances, including the possible risks and benefits of entering into such transaction. You should also consider seeking advice from your own advisers in making this assessment. If you decide to enter into a transaction with DB, you do so in reliance on your own judgment. The information contained in this document is based on material we believe to be reliable; however, we do not represent that it is accurate, current, complete, or error free. Any opinions expressed herein may differ from the opinions expressed by other DB departments. DB may engage in transactions in a manner inconsistent with the views discussed herein. DB trades or may trade as principal in the instruments (or related derivatives) discussed herein. The distribution of this document and availability of these products and services in certain jurisdictions may be restricted by law. You may not distribute this document, in whole or in part, without our express written permission. DB SPECIFICALLY DISCLAIMS ALL LIABILITY FOR ANY DIRECT INDIRECT, CONSEQUENTIAL OR OTHER LOSSES OR DAMAGES INCLUDING LOSS OF PROFITS INCURRED BY YOU OR ANY THIRD PARTY THAT MAY ARISE FROM ANY RELIANCE ON THIS DOCUMENT FOR THE RELIABILITY, ACCURACY, COMPLETENESS OR TIMELINESS THEREFORE. Deutsche Bank AG, including its subsidiaries and affiliates, does not provide legal, tax or accounting advice. The recipient of this communication should seek advice from an independent tax advisor regarding any tax matters addressed herein based on its particular circumstances. DB is authorized under German Banking Law (competent authority: BaFin - Federal Financial Supervising Authority). Copyright © 2019 Deutsche Bank AG. All rights reserved.

KCERA ASSET ALLOCATION*
7/31/2020

Manager Name	Type	(\$000)	Current Allocation	Target Percentage	Variance Over Target (Under Target)	Variance Over Target (Under Target) (\$000)
Mellon Capital Management EB DV	Large Cap Passive	465,190	10.3%			
Mellon Capital Management EB DV Tangent	Large Cap	155,182	3.4%			
PIMCO StockPlus	Large Cap Enhanced	154,188	3.4%			
AllianceBernstein	Small Cap Value	64,188	1.4%			
Henderson Geneva Capital	Small Cap Growth	63,735	1.4%			
Total Domestic Equity		\$902,483	19.9%	19.0%	0.9%	\$40,590
BlackRock International Alpha Tilts	International Large	261,068	5.8%			
Cevian Capital II LP	International Large	24,458	0.5%			
Mellon Capital Management-EB DV	International Large Passive	209,323	4.6%			
Fidelity- Pyramis	International Small	74,432	1.6%			
Total International Developed Equity		\$569,281	12.5%	8.0%	4.5%	\$206,379
AB Emerging Markets Strategic Core	Emerging Markets	94,066	2.1%			
DFA Emerging Markets Value Portfolio	Emerging Markets	85,405	1.9%			
Mellon Emerging Markets	Emerging Markets	54,234	1.2%			
Total Emerging Market Equity		\$233,705	5.2%	4.0%	1.2%	\$52,254
TOTAL EQUITY		\$1,705,469	37.6%	37.0%	0.6%	\$27,046
Mellon Capital Management Ag Bond	Core	234,122	5.1%			
PIMCO	Core Plus	272,380	6.0%			
Western Asset Management	Core Plus	270,819	6.0%			
Total Core		\$777,321	17.1%	14.0%	3.1%	\$142,242
TCW Securitized Opportunities LP	Securitized Opportunities	123,798	2.7%			
Western Asset Management	High Yield	256,473	5.7%			
Total Credit		\$380,271	8.4%	6.0%	2.4%	\$108,094
PIMCO EM Beta	Emerging Markets	97,891	2.2%			
Stone Harbor Global Funds	Emerging Markets	80,679	1.8%			
Total Emerging Market Debt		\$178,570	4.0%	4.0%	0.0%	\$1,655
TOTAL FIXED INCOME		\$1,336,162	29.6%	24.0%	5.6%	\$251,991
Gresham Commodity Builder Fund	Active	65,859	1.5%			
Wellington Trust Company (WTC)	Active	97,395	2.1%			
TOTAL COMMODITIES		\$163,254	3.6%	4.0%	(0.4%)	(\$18,197)
Aristeia International Ltd	Hedge Fund - Direct	54,296	1.2%			
Brevan Howard Fund Limited	Hedge Fund - Direct	48,590	1.1%			
D.E. Shaw Composite Fund	Hedge Fund - Direct	45,728	1.0%			
HBK Multi-Strategy Fund	Hedge Fund - Direct	48,986	1.1%			
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	79,855	1.8%			
Indus Pacific Opportunities Fund	Hedge Fund - Direct	30,823	0.7%			
Magnetar Structured Credit Fund	Hedge Fund - Direct	10,009	0.2%			
Myriad Opportunities Offshore Fund	Hedge Fund - Direct	51,695	1.1%			
PIMCO Commodity Alpha Fund LLC	Hedge Fund - Direct	67,998	1.5%			
PMF LTD	Hedge Fund - Direct	52,445	1.2%			
River Birch International Ltd	Hedge Fund - Direct	1,418	0.0%			
Systematica Blue Trend	Hedge Fund - Direct	12,415	0.3%			
Sculptor Enhanced LP (Formerly OZ Domestic)	Hedge Fund - Direct	51,480	1.1%			
TOTAL HEDGE FUND		\$555,738	12.3%	10.0%	2.3%	\$102,110
ASB Capital Management	Core	115,572	2.5%			
JPMCB Strategic Property Fund	Core	105,721	2.3%			
TOTAL CORE REAL ESTATE		\$221,293	4.8%	5.0%	(0.2%)	(\$10,057)
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	25,000	0.6%			
TOTAL CE ALPHA POOL		\$25,000	0.6%	0.0%	0.6%	\$25,000
DB Investor's Fund IV	Opportunistic	21,631	0.5%			
TSSP Adjacent Opportunities Partners (D)	Opportunistic	19,472	0.4%			
TOTAL OPPORTUNISTIC		\$41,103	0.9%	0.0%	0.9%	\$41,103
Abbott Capital Funds	Private Equity Fund of Funds	36,799	0.8%			
Pantheon Funds	Private Equity Fund of Funds	17,607	0.4%			
Vista	Private Equity	430	0.0%			
TOTAL PRIVATE EQUITY		\$54,836	1.2%	5.0%	(3.8%)	(\$171,978)
Colony Distressed Credit Fund	Private Credit	58,360	1.3%			
H.I.G Bayside Loan Opportunity Fund	Private Credit	6,457	0.1%			
Brookfield Real Estate Finance Fund V	Private Credit	23,192	0.5%			
Magnetar Constellation Fund V	Private Credit	54,494	1.2%			
TSSP Adjacent Opportunities Partners (B)	Private Credit	34,761	0.8%			
TOTAL PRIVATE CREDIT		\$177,264	3.9%	5.0%	(1.1%)	(\$49,550)
Invesco Real Estate Funds III & IV	Private Real Estate	27,990	0.6%			
Landmark Real Estate Partners VIII	Private Real Estate	19,376	0.4%			
Long Wharf Real Estate Partners VIII	Private Real Estate	5,582	0.1%			
KCERA Property	Private Real Estate	4,629	0.1%			
TOTAL PRIVATE REAL ESTATE		\$57,577	1.3%	5.0%	(3.7%)	(\$169,237)
Northern Trust STIF	Short Term	154,633	3.4%			
Parametric Overlay	**	30,000	0.7%			
Wells Fargo Bank	Short Term	289	0.0%			
Treasurers Pooled Cash	Short Term	13,657	0.3%			
Total Cash		\$198,579	4.4%	5.0%	(0.6%)	(\$28,235)
Transition Accounts	Liquidation	4	0.0%			
Other		\$4	0.0%	0.0%	0.0%	\$4
As Allocated to Managers		\$4,536,279	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 July 31, 2020

Expense Type	Budget FY 2020/21	Expenses	Over (Under)
Staffing			
Salaries	\$ 2,564,452	\$165,837	\$ (2,398,615)
Benefits	1,826,937	116,807	(1,710,130)
Temporary staff	27,000	-	(27,000)
Staffing Total	4,418,389	282,644	(4,135,745)
Staff Development	80,000	-	(80,000)
Professional Fees			
Actuarial fees	200,000	-	(200,000)
Audit fees	131,500	-	(131,500)
Consultant fees	75,000	-	(75,000)
Legal fees	60,000	-	(60,000)
Professional Fees Total	466,500	-	(466,500)
Office Expenses			
Building expenses	72,000	3,229	(68,771)
Communications	32,548	2,535	(30,013)
Equipment lease	13,000	742	(12,258)
Equipment maintenance	8,670	2,000	(6,670)
Memberships	14,000	4,712	(9,288)
Office supplies & misc. admin.	52,640	68	(52,572)
Payroll & accounts payable fees	8,000	-	(8,000)
Postage	25,000	-	(25,000)
Subscriptions	13,500	360	(13,140)
Utilities	50,000	-	(50,000)
Office Expense Total	289,358	13,646	(275,712)
Insurance	130,313	-	(130,313)
Member Services			
Benefit payment fees	5,220	-	(5,220)
Disability- legal fees	75,000	-	(75,000)
Disability- medical advisors	15,000	-	(15,000)
Disability – professional services	50,000	-	(50,000)
Disability- administration MMRO	170,000	-	(170,000)
Member communications	20,000	-	(20,000)
Member Services Total	335,220	-	(335,220)
Systems			
Audit – security & vulnerability scan	15,000	-	(15,000)
Business continuity expenses	24,500	-	(24,500)
Hardware	40,707	6,799	(33,908)
Licensing & support	155,297	70,988	(84,309)
Software	67,121	36,750	(30,371)
Website design	2,280	-	(2,280)
Systems Total	304,905	114,538	(190,368)
Board of Retirement			
Board compensation	12,000	-	(12,000)
Board conferences & training	58,000	-	(58,000)
Board elections	-	-	-
Board meetings	3,500	-	(3,500)
Board of Retirement Total	73,500	-	(73,500)
Depreciation / Amortization	656,101	54,332	(601,769)
Total Operating Expenses	\$ 6,754,286	\$ 465,160	\$ (6,289,126)

**KCERA
CASH FLOW POSITION
July, 2020**

TREASURERS POOLED CASH

Beginning Cash Balance:		\$ 11,229,593
Employer Contributions	22,909,454	
Employee Contributions	3,419,479	
Service Purchases	89,869	
Miscellaneous - Including erroneous deposit	18,586	
Total Receipts:		26,437,387
Operating Expenses	(650,854)	
Investment Expenses	(1,358,706)	
Transfers-out	(22,000,000)	
Other- Reversal of deposit	0	
Total Disbursements:		<u>(24,009,560)</u>
Ending Cash Balance		<u><u>\$ 13,657,420</u></u>

NORTHERN TRUST

Beginning Cash Balance:		\$ 111,165,088
Private Equity - Distributions	-	
Commingled Funds - Distributions	520,843	
Redemption PIMCO StockPlus	35,000,000	
Return of Funds MCM Canada	10,000,391	
Class Action Proceeds	5,575	
Interest	20,158	
Securities Lending Earnings (NET)	66,677	
Total Receipts:		45,613,645
Capital Calls Vista Foundation	(429,945)	
Contribution Parametric Overlay	(30,000,000)	
Contribution Hudson Bay	(25,000,000)	
Other Expenses	(4,298)	
Transfers-out	(8,000,000)	
Total Disbursements:		<u>(63,434,243)</u>
Ending Cash Balance		<u><u>\$ 93,344,489</u></u>

WELLS FARGO BANK

Beginning Cash balance:		\$ 1,131,993
Transfer-In	30,000,000	
Total Receipts:		30,000,000
Pension Payments	(30,578,195)	
Lump Sum Payments	(298,171)	
Bank Service Charges	(1,693)	
Cash Clearing (NET)	35,527	
Total Disbursements:		<u>(30,842,532)</u>
Ending Cash Balance		<u><u>\$ 289,461</u></u>

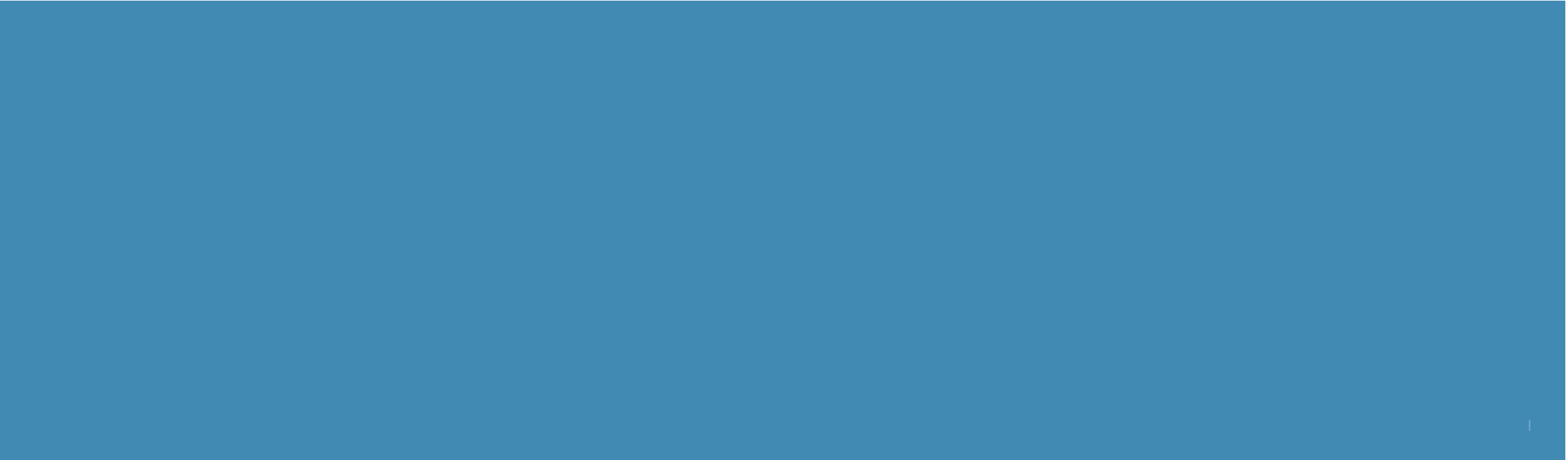
**KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
INVESTMENT FEES CASH FLOW REPORT
FOR THE MONTH ENDED JULY, 2020**

Description	July	Total
Investment Base Fees:		
Domestic Equity:		
AllianceBernstein	\$ 233,327	\$ 233,327
Henderson Geneva Capital		-
Mellon Capital		-
International Equity:		
BlackRock	63,279	63,279
Fidelity Institutional Asset Management	155,402	155,402
Sustainable Growth Advisers	140,678	140,678
Fixed Income:		
Gramercy Funds Management LLC		-
Mellon Capital		-
Pacific Investment Management Company	112,033	112,033
Western Asset Management	252,103	252,103
Commodities:		
BlackRock		-
Wellington Trust Company	162,944	162,944
Real Estate:		
ASB Capital Management		-
JP Morgan	246,309	-
Subtotal	1,119,766	1,119,766
Investment Performance Fees:		
International Equity:		
Fidelity Institutional Asset Management		-
Fixed Income:		
Pacific Investment Management Company		-
Subtotal	-	-
Investment Professional Fees:		
Consulting:		
Albourne America LLC	33,333	33,333
Cambridge Associates	150,000	150,000
Glass, Lewis & Co.		-
Verus	31,667	31,667
Custodial:		
The Northern Trust Co.		-
Legal:		
Foley & Lardner LLP		-
Hanson Bridgett LLP	2,700	2,700
Nossaman LLP		-
Due Diligence / Investment-Related Travel:		-
Subtotal	217,700	217,700
Total Investment Fees	\$ 1,337,466	\$ 1,337,466
Market Value of Investments \$(000)	\$ 4,536,279	



EXECUTIVE DIRECTOR REPORT

KCERA | DOMINIC D. BROWN | SEPTEMBER 2020



OFFICE UPDATE

- *Alameda Decision*
- New Phone System
- Whole office met via videoconference to discuss safety practices and data security in virtual environment.
- KCERA vendors are maintaining continuity of operations and providing KCERA with essential services.
- KCERA is currently closed to members, but appointments are available for any members that require in-person services. All staff are continuing to work primarily remotely, with a few spending time in the office each week.

OPERATIONS ACTIVITY

■ Member Services

- 23 new retirements and calculations
- 20 death benefit calculations
- 26 service-credit purchase calculations
- 63 retirement estimates
- 53 new active members
- 72 terminations with disposition packets
- 0 Appointments
- 0 Walk-ins
- 341 Phone calls
- 369 Emails

■ Accounting & Reporting

- Annual Financial Statement Audit is being conducted remotely.
- All monthly tasks are being maintained, including investment transactions.

■ Information Technology

- Changes were made to the Member Portal to assist members in identifying which special pay codes are in their FAC and pay history.
- Conducted successful Disaster Recovery test.

UPCOMING EVENTS

- Administrative Committee – Meeting will be scheduled later in September to discuss Board referral.
- Finance Committee – No meetings currently scheduled.
- Investment Committee – Meeting will be scheduled later in September to discuss Board referral.
- KCERA Property, Inc. – Annual Meeting will be scheduled later in September.
- Board of Retirement – Next regular monthly meeting will be on October 14.



CIO REPORT

INVESTMENT PROGRAM | SEPTEMBER 2020



REBALANCING REPORT

- Rebalancing transactions include:
 - \$12MM invested in commodities
 - \$50MM redeemed from US equities
 - Added \$70MM in Rates exposure with Parametric overlay
 - Reporting period covers 8/4 to 8/31/2020
 - Prior reporting period: 6/3 to 8/3/2020, August CIO Report

Note: Generally, Board-approved investment transactions are not included in the Rebalancing Report

POSITIONING

Asset Class	Target	Current Exposure	Difference
Equity	37%	39.2%	+2.2%
Fixed Income	24%	29.9%	+5.9%
Core	14%	17.7%	+3.7%
Credit	6%	8.2%	+2.2%
EM Debt	4%	4.0%	0.0%
Commodities	4%	4.0%	0.0%
Midstream	5%	0.0%	-5.0%
Hedge Funds	10%	12.6%	+2.6%
Alpha Pool	5%	0.5%	-4.5%
Core Real Estate	5%	4.7%	-0.3%
Opportunistic	0%	0.9%	+0.9%
Private Markets	15%	6.3%	-8.7%
Cash	-5%	1.8%	+6.8%

Estimates as of August 31, 2020.

Source: KCERA.

UPDATE ON KEY PROJECTS

- Capital efficiency
 - Diligencing additional Alpha Pool strategies; new fund investments will be brought to the Investment Committee and Board for approval
 - Working with Verus to diligence enhanced cash strategies; will be brought to the Investment Committee and Board for approval
- Emerging Market Debt -- evaluating
- Midstream -- contracting
- Private markets
 - Including September Board meeting (assuming approved), 5 fund commitments, totaling \$130MM in capital commitments, covering all 3 private market verticals (private equity, private credit, and private real estate)

INVESTMENT COMMITTEE MEETINGS

- The last Investment Committee (IC) meeting was held on August 24th. Items discussed at that meeting include:
 - Private market fund recommendation
- The next IC meeting will likely be in mid-to-late September. Topics to include:
 - Alpha pool fund recommendation
 - Private market fund recommendation

September 2020 General Counsel Report

Jennifer Zahry, General Counsel
Maggie Peralta-Lee, Senior Paralegal
Irma Jimenez, Legal Secretary

Updates

- ▶ Amicus Brief filed - San Joaquin County Employees' Retirement Association ("SJCERA")
- ▶ Prior litigation - Final Distribution from Receiver

Projects

To be completed

- ▶ *Alameda* implementation
- ▶ Staff Legal Memos
- ▶ Paralegal Association Education
- ▶ Meeting w/ County Counsel
- ▶ Destruction of Documents policy

Recently Completed

- ▶ Alameda pay code review, correspondence, outreach, investigation
- ▶ MMRO report requirements
- ▶ Review and assist - Amicus
- ▶ CAO meeting
- ▶ Draft Legislation
- ▶ Education/Attorney Roundtables
- ▶ Implementation of Approved Investments

July 2020 Metrics

	Completed
Operational Contracts	1
RFP's	1
Investment Contracts/ Documents	3
GC Memos to Staff/Board	5
Staff and Board/Committee Meetings/Trainings	21
Community Property Matters Pending: legal review 12; to log in system 64; pending member action 122	16
Public Record Requests	4
Powers of Attorney	4
Post-Retirement Employment Certifications	6
GC Responses to inquiries/ Legal Review of Docs Disabilities/SDAG; Benefits/Plan Sponsors; Property divisions; Administrative; BOR/Agenda; Investments	200+

*New items included in pending count

August 2020 Metrics

	Completed
Operational Contracts	0
Investment Contracts/ Documents	1
GC Memos to Staff/Board	2
Staff and Board/Committee Meetings/Trainings	45
Community Property Matters Pending: legal review 8; to log in system 61; pending member action 126	9
Public Record Requests	3
Powers of Attorney	2
Post-Retirement Employment Certifications	0
GC Responses to inquiries/ Legal Review of Docs Disabilities/SDAG; Benefits/Plan Sponsors; Property divisions; Administrative; BOR/Agenda; Investments	205+

*New pending included in Total pending count

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

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

ESG & BOARD GOVERNANCE

Prepared by

Tom Iannucci, Cortex Applied Research

For:

KCERA

September 9, 2020

Growing Interest in ESG

- Institutional asset owners and investment managers
- Retail investors
- Regulators
- Investment consultants and other advisors/vendors

Today's Agenda

- ESG background/framework
- Industry practices
- Strategy for approaching ESG

Today's Messages

- ESG is not new but has grown significantly in prominence
- ESG comes in a range of options
- Many facets of ESG are still being debated
- Good governance requires that Boards have a thoughtful and defensible position on ESG

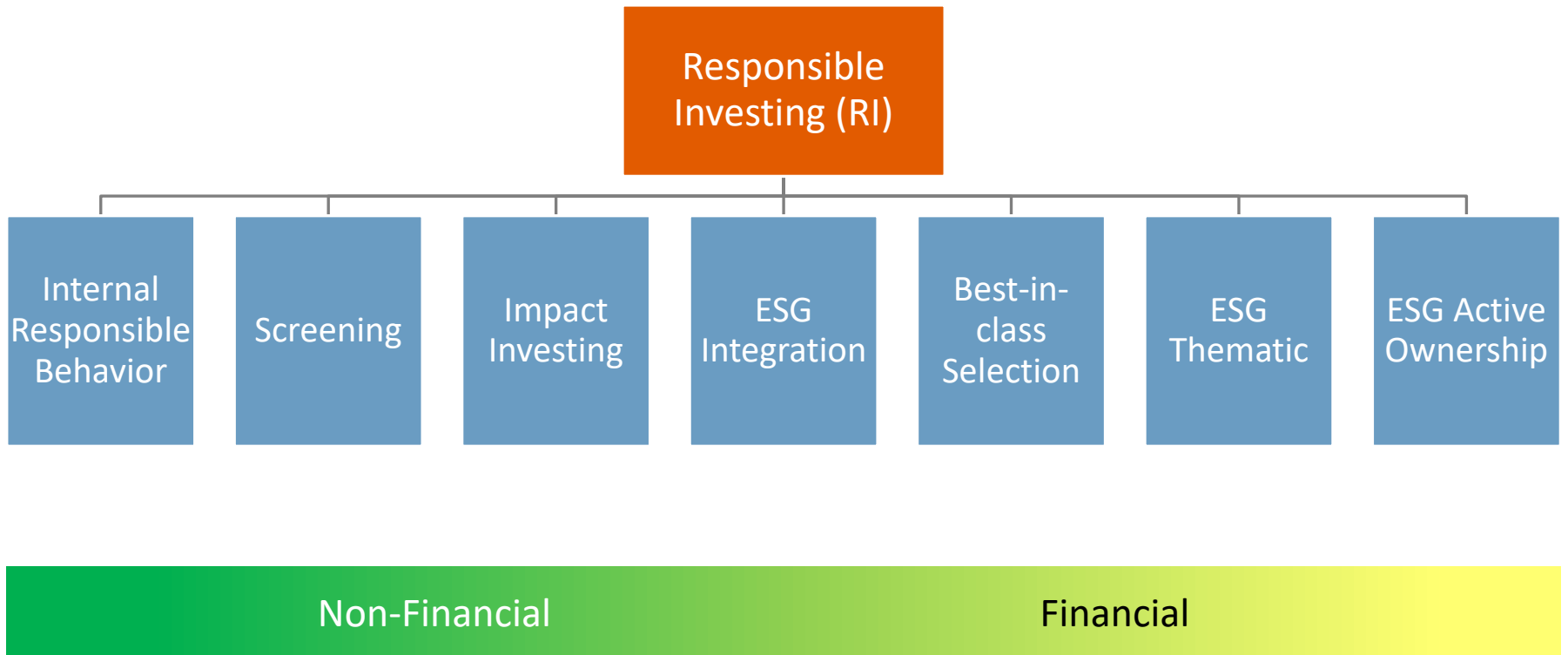
What is ESG?

Environment (Sample Issues)	Social (Sample Issues)	Governance (Sample Issues)
<ul style="list-style-type: none">• Climate change and carbon emissions• Air and water pollution• Biodiversity• Deforestation• Energy efficiency• Waste management• Water scarcity	<ul style="list-style-type: none">• Customer satisfaction• Data protection and privacy• Gender and diversity• Employee engagement• Community relations• Human rights• Labor standards	<ul style="list-style-type: none">• Board composition• Audit committee structure• Bribery and corruption• Executive compensation• Lobbying• Political contributions• Whistleblower schemes

Drivers of ESG Interest

- Non-financial (Values/Ethics)
- Financial (Controlling investment risk/improving performance)
- A combination of the above

Approaching ESG: A Framework



Internal Behavior

Improving an organization's own ESG profile, outside one's investment mandates:

- Gender balance
- Diversity of staff
- Health and well-being of their staff
- Governance and internal decision-making
- Environmental footprint

Screening

Certain assets are excluded from the portfolio (regardless of how attractive they may be from an investment perspective).

- More likely of interest to religious, public, or charitable entities
- Examples: Tobacco, firearms, fossil fuels
- Values-based vs. norms-based:
 - Values – entire industries are excluded
 - Norms – individual companies that do not meet prescribed standards are excluded
- Investors have different views on which assets are acceptable in a screened product:
 - Difficult to offer a single screened product that meets all clients' requirements
 - Separately managed accounts can provide a solution
- May increase returns from investing in excluded securities
- Problematic for public fund fiduciaries with a duty of loyalty

Externalities

- Consequences of business activities that are not reflected in their cost, but rather are borne by other parties; e.g. climate change.
- Competing views:
 - Some believe investors must deal with it if governments have not
 - Others question a) how investors can take responsibility for something they don't control and b) why would it fall under their fiduciary responsibilities?
 - Others argue, if you are a very large investor you must worry about externalities, because actions of one company regarding externalities affect the profits of other companies in the portfolio

Impact Investing

- Purposely investing to create measurable social or environmental goods and a financial return
- Most rigorous, least common form

ESG Integration

Investors account for ESG factors when making an investment or risk management decision:

- Probably the most common form of ESG investing
- Assumption is that it leads to better-informed decisions
- Generally done to limit undesired risk
- Can be done at asset or portfolio levels
- Does not require any ex-ante criteria for inclusion or exclusion

Underlying Premises

- ESG issues don't get enough consideration in investment decision making process:
 - Hard to assign monetary value to ESG information in quantitative analysis
 - Some ESG-related disclosures may be limited, unverified, and non-standardized
 - ESG issues tend to have long-term impact, while many investors are more focused on short term
- Some argue that, *in theory*, investors should not avoid:
 - Individual securities with poor ESG characteristics on risk-reward grounds, because any potential valuation downside is already reflected in the price; or
 - Whole sectors, such as tobacco or carbon, as this limits their ability to diversify.

Best-in-class Selection

- Preferring companies with better or improving ESG performance relative to sector peers
- Companies that score well on ESG:
 - Often more efficient with lower environmental costs; e.g., lower utility bills.
 - Expected to have empowered human capital, resulting in higher productivity and better relations with stakeholders.
 - A strong governance framework secures the legal position of a (minority) shareholder in many ways, which starts to matter in challenging times.

ESG Thematic Investing

Investing based on trends such as social, industrial, and demographic trends.

Examples:

- Clean technology
- Green real estate
- Sustainable forestry
- Agriculture
- Education
- Health

Active Ownership

- Entering into dialogue with companies on ESG issues and exercising ownership rights to effect change and influence ESG outcomes.
- Actions may include:
 - Attending annual meeting
 - Writing letter to the company
 - Meeting with company executives
 - Filing shareholder resolutions
 - Attempting to gain a seat on the board

Potential Challenges to ESG

- Cost
- Fiduciary considerations
- Perceived benefits

Cost

- In-house ESG staff
 - ESG research
 - ESG-related manager research
 - Active ownership efforts/costs
- Purchasing ESG data

Fiduciary Considerations

- Report based on an analysis of eight countries, (common and civil law) contends that “failing to consider long-term investment value drivers, which include ESG issues, in investment practice is a failure of fiduciary duty.” (“Fiduciary Duty in the 21st Century” Sullivan, Martindale, Feller, and Bordon, 2015, p. 9)
- US DOL confirmed fiduciaries may legitimately consider ESG factors if they have a bearing on financial analysis provided overall decision-making process is in line with existing standards, and has recognised that there has been an evolution in the data and methodologies that can be used in financial analysis. DOL guidance also applies to “Economically Targeted Investments” (i.e. investments whose purpose is not purely financial) *as long as the investment is otherwise appropriate for the plan and is financially and economically equivalent to competing investment choices.*

Perceived Benefits

- 2014 report (University of Oxford and Arabesque Partners) analyzed about 200 studies:
 - “88% of the research shows that solid ESG practices result in better operational performance of firms and 80% of the studies show that stock price performance of companies is positively influenced by good sustainability practices.” (Clark, Feiner, & Viehs, 2014)
- Meta-study of ESG data (Friede, Busch, & Bassen, 2015) considered over 2,000 empirical studies (1970-2015) and concluded:
 - “business case for ESG investing is empirically very well founded [and] roughly 90 % of studies find a non-negative ESG–corporate financial performance relation.”
- Not all research is positive:
 - Eccles and Serafeim (2013) suggest that there is a negative relationship between a firm’s ESG performance and its financial performance because of the costs of taking action such as voluntarily reducing emissions. They argue that the market will punish such activity and will only reward companies that prioritise the most material ESG factors and come up with innovative approaches to address them.
 - A number of surveys – especially those published between 2000 and 2010 – find that the data is inconclusive.

Industry Practices

- Percentage of investors for whom RI plays no role in investment decision-making*:
 - US 44%
 - Canada 29%
 - Cont. Europe 27%
 - U.K. 11%
- Only 16 of the 74 largest public pension plans in the US (\$4.5 trillion in AUM) mention ESG or responsible investing in their public documents. Only two out of 74 mention the Sustainable Development Goals of the United Nations.**

* “Global Perspectives on RI”, AON, 2019.

** Responsible Asset Allocator Initiative, 2019.

Governance Strategy for Approaching ESG

1. Continuing education
2. Establish consensus on the RI framework available to the Board (including status quo)
3. Agree on the Board's motivation
4. Confirm KCERA's current ESG approach:
 - Current manager ESG practices and current KCERA proxy voting policy and strategy
5. Agree on a preferred approach to ESG for KCERA
6. Update KCERA IPS
7. Agree on the strategy roll-out/timing (if applicable):
 - Laggard (watch and learn from peers)
 - Keep pace with peers (average/leaders?)
 - Be at the leading edge
 - Peer-agnostic

Today's Messages

- ESG is not new but has grown significantly in prominence
- ESG comes in a range of options
- Many facets of ESG are still being debated
- Good governance requires that Boards have a thoughtful and defensible position on ESG


Thank You ...

Questions & Discussion



KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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

Date: September 9, 2020
To: Trustees, Board of Retirement
From: Dominic D. Brown, Executive Director 
Subject: **Environmental, Social, and Corporate Governance (ESG) Discussion**

Environmental, Social, and Corporate Governance (ESG) is a relevant topic currently being considered and implemented by many organizations in both private and public sectors. The State Association of County Retirement Systems (SACRS) recently provided a session on ESG during its summer webinar series to discuss potential impacts to the investment landscape. Executive Director Dominic Brown was recently asked to provide education regarding ESG to your Board by Trustee Edward Robinson. As such, KCERA Governance consultant Tom Iannucci, Cortex Applied Research, has been asked to provide an educational session at the September 9, 2020 Board of Retirement meeting. One of our peer SACRS systems, Alameda, has developed and approved an ESG Mission Statement. It is attached for your reference.

Based on the information provided in the attached and the previous education provided by the Governance consultant, staff recommends your Board direct staff to present options for an ESG-type statement to the Administrative Committee for consideration.

Attachment

ACERA ESG Mission Statement

ACERA's Board members are fiduciaries and their legal duty remains, at all times, to promote the growth and sustainability of the Fund to provide timely retirement and related benefits to ACERA members and their beneficiaries. The Board's fiduciary duties require loyalty to ACERA's members and beneficiaries and prudence in all decisions made regarding ACERA's investments and administration. Within this context, the Board recognizes the need to mitigate risks that may have a negative impact on the Fund's long-term financial results while adhering to a diversified investment strategy designed to meet ACERA's desired return and risk objectives.

Risk mitigation includes the prudent consideration of Environmental, Social, and/or Governance (ESG) risk factors that may materially impact the Fund's long-term financial returns. ESG considerations will be evaluated, where applicable, with the goal of mitigating risk while maintaining or improving Plan returns over the long term. The Board shall analyze and consider ESG factors in its decision to approve investments when those factors are reasonably deemed by the Board, in consultation with its internal and external professional investment advisors, to be material to its financial returns.

ACERA's Board will develop and adopt an ESG policy statement which codifies its values, policies and procedures and will revisit and update this policy periodically.

Kern County Employees' Retirement Association

Audra Ferguson-Allen

Rob Gauss

September 9, 2020

Overview

- Qualified Retirement Plans
- Exclusive Benefit Rule
- Plan Corrections

QUALIFIED RETIREMENT PLANS

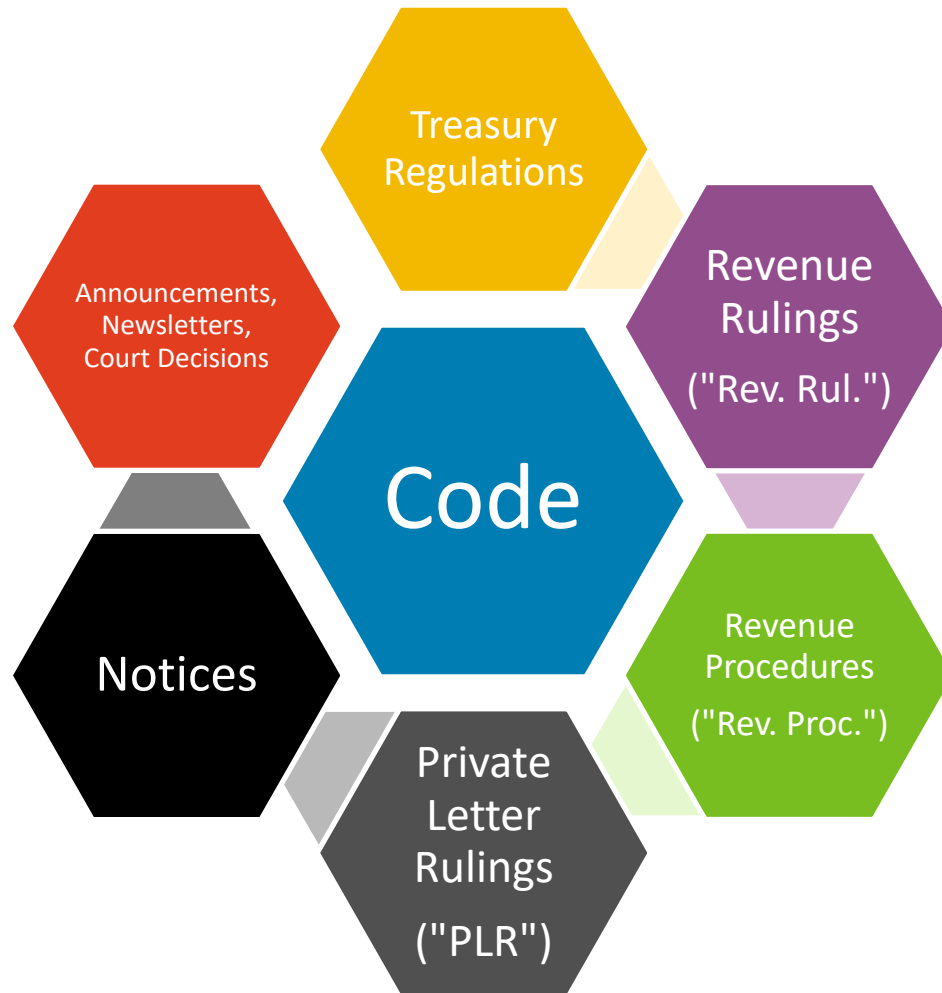
Qualified Retirement Plans

Most governmental retirement systems are established and maintained as qualified plans under key provisions of the Internal Revenue Code ("Code")

Code § 401(a)

- Provides requirements for tax-favored treatment

Additional Sources of Qualification Requirements



Importance of Qualification: Tax Advantage

Trust

- Earnings are not taxable
- Tax recapture is available in tax treaty countries

Employer

- No employment taxes on contributions

Member

- Employee/employer contributions are not currently taxable (as income) until distribution
- Favorable tax treatment upon distribution
- No employment taxes when contributions are made or benefits are paid

Is a Plan Qualified? How to Know

IRS issues determination letters to confirm the qualified status of a retirement plan.

- Rev. Proc. 2016-37 curtails determination letter program for individually designed retirement plans
 - Trying to encourage plans to use volume submitter (master-prototype plans)
 - Determination letters for individually designed plans (currently) only available if: (1) first application or (2) plan termination
 - **Expiration dates in current determination letters are no longer operative**

EXCLUSIVE BENEFIT RULE

Exclusive Benefit Rule: Code § 401(a)(2)

- Plan must be established and operated for the Exclusive Benefit of employees and their beneficiaries
- Plan must make it impossible ...for any of the corpus or income to be...used for, or diverted to, purposes other than for the exclusive benefit of employees or their beneficiaries

PLAN CORRECTIONS

Types of Failures that Can Be Corrected Under the Employee Plans Compliance Resolution System ("EPCRS"), Rev. Proc. 2019-19

Operational Failure

- Failure to follow plan terms

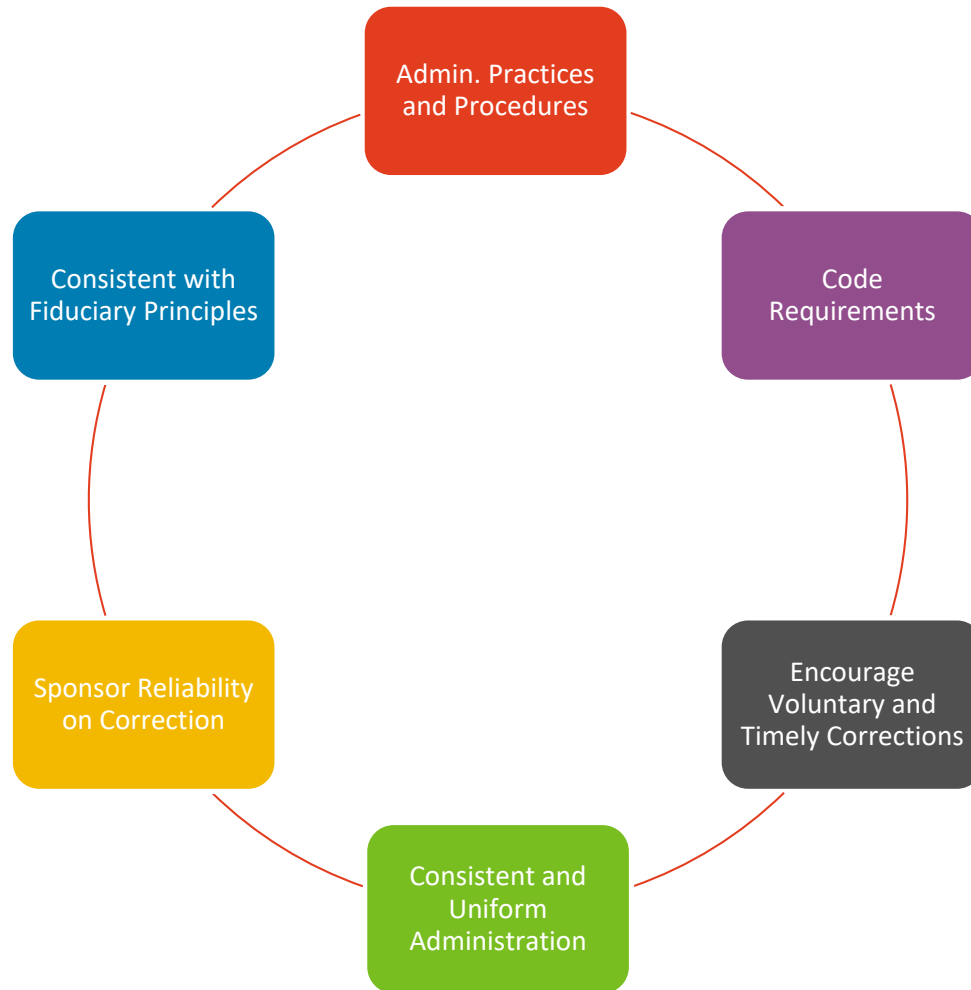
Plan Document Failure

- Failure of the Plan to be in compliance with the Code and Regulations

Employer Eligibility Failure

- The adoption of a plan by an employer that is not eligible for that type of plan.

General Principles Underlying EPCRS



Administrative Practices and Procedures



- Established Procedures
 - Allows for use of IRS self-correction procedure
- Consistent Application
 - Established procedures for correction encourage consistent corrections.

Rev. Proc. 2019-19, § 1.02.

Full, Reasonable and Appropriate Correction

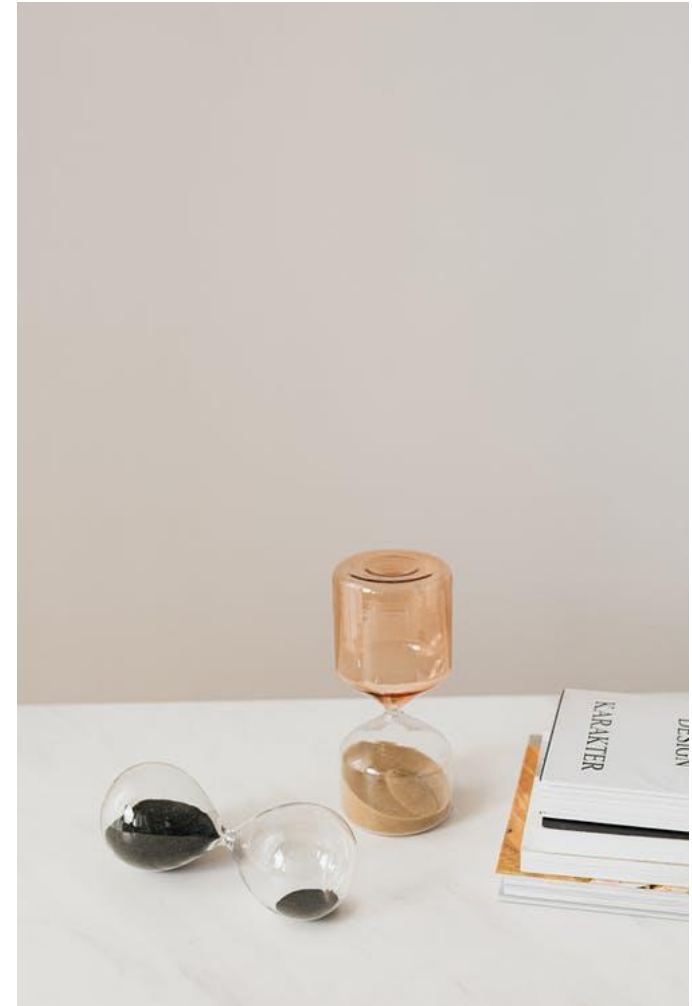
- The correction method should restore the plan to the position it would have been in had the failure not occurred.
- All years must be corrected.
- The correction method must be reasonable and appropriate and consistent with IRS guidelines.

Rev. Proc. 2019-19, § 6.02.

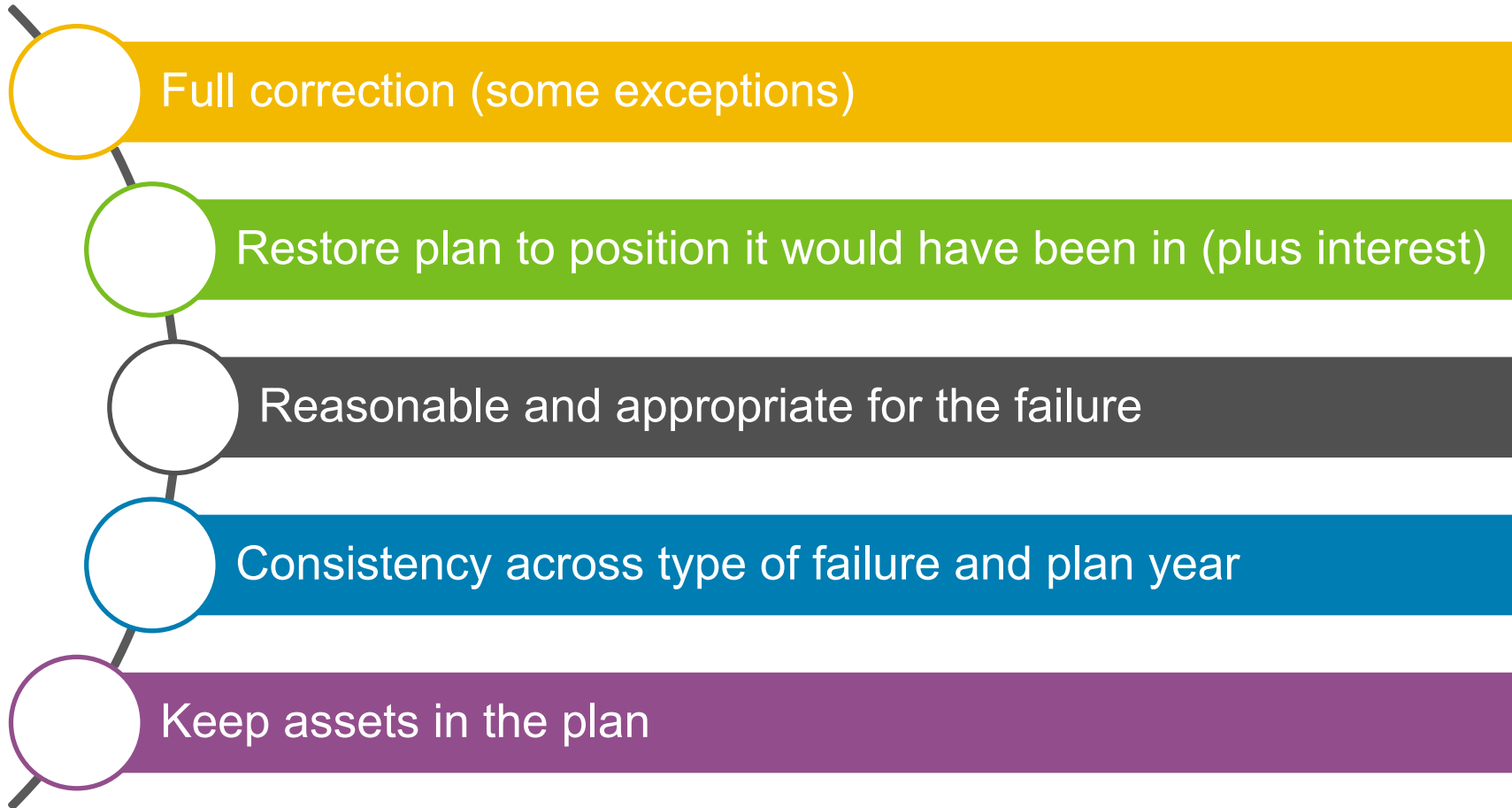
Timely Correction

- Sponsors and other administrators should make **voluntary and timely correction of any plan failures.**
- Timely and efficient correction protects participating employees by providing them with their expected retirement benefits, including favorable tax treatment.

Rev. Proc. 2019-19, § 1.02.



EPCRS Corrections Requirements



IRS Correction Program

- Common Issues for Correction
 - Erroneously excluded employees
 - Overpayments
 - § 415 Failures
 - Lost Participants
 - Hardship distributions and loans
 - Failure to operate the Plan in accordance with Plan terms
 - Failure to suspend deferrals
 - RMDs

Questions?




Audra Ferguson-Allen
317-236-2249
audra.ferguson-allen@icemiller.com



Robert L. Gauss
317-236-2133
gauss@icemiller.com



Date: September 9, 2020
To: Trustees, Board of Retirement
From: Dominic D. Brown, Executive Director 
Subject: **Implementation of *Alameda* Decision – Special Pay Codes**

The Public Employees' Pension Reform Act of 2013 and related pension reforms (generically referred to as "PEPRA") went into effect January 1, 2013. Following the 2013 legislative reforms, many public pension systems implemented the new legislation and excluded certain special pay types from pension calculations. The pension systems that implemented these PEPRA reforms for legacy members were sued by various employee groups. Other systems, like KCERA, decided not to take action on those pay types until the litigation resolved.

As the lawsuits made their way through the court system, KCERA recognized that a number of pay codes it has been including in both compensation earnable (for "legacy members") and pensionable compensation (for "PEPRA members") would potentially need to be excluded to comply with the PEPRA reforms.

On August 24, 2020 your Board held a Special Meeting and approved a Resolution to implement the Court's decision in the *Alameda* case. Staff has completed a comprehensive review and analysis of all pay codes (Exhibits A & B) for your review and approval. KCERA communications to Stakeholders (Exhibit C) and Stakeholder communications to KCERA (Exhibit D) are also provided for your reference. Based on the information provided in the attached, staff recommends your Board approve the designation of the following special pay codes.

Attachments

Kern County Employees' Retirement Association

Proposed Alameda Decision Pay Code Tracker

Last Updated: 9/8/20 10:30 A.M.

In an effort to provide members with information about the potential effects of the Alameda decision on their contributions and benefits, KCERA is providing the following list.

Legacy Member Definition: Membership date on or before December 31, 2012

PEPRA Member Definition: Membership date on or after January 1, 2013

Compensation Earnable Definition: Compensation eligible to be used in the determination of the pension formula for legacy members

Pensionable Compensation Definition: Compensation eligible to be used in the determination of the pension formula for PEPRA members

Highlighted cells indicate a change from previous treatment

The following codes may be impacted by the Alameda Decision		Legacy Member (Tier I & II) Compensation Earnable		PEPRA Member Pensionable Compensation	
		Pre-Alameda	Post-Alameda	Pre-Alameda	Post-Alameda
Pay Code	Pay Code Description				
AC	STANDBY - ANIMAL CTL OFF	Included	Excluded	Excluded	Excluded
BB	BOARD MEETING - MINUTES	Included	Excluded	Excluded	Excluded
CD	MH CALL COVERAGE-WEEKDAY	Included	Excluded	Excluded	Excluded
CE	MH CALL COVERAGE-WEEKEND	Included	Excluded	Excluded	Excluded
DB	PART-TIME DIST CAFETERIA	Included	Excluded	Excluded	Excluded
DC	DISTRICT CAFETERIA	Included	Excluded	Excluded	Excluded
DE	MANAGER DISTRICT CAFET	Included	Excluded	Excluded	Excluded
DF	EXECUTIVE DISTRICT CAFET	Included	Excluded	Excluded	Excluded
DI	MANAGEMENT CAFE-PART TIME	Included	Excluded	Excluded	Excluded
DJ	DIST CAFETERIA FOR EXEC, PART-TIME	Included	Excluded	Excluded	Excluded
DS	SUPERVISORY DISTRICT CAFE	Included	Excluded	Excluded	Excluded
EE	STANDBY - COURT	Included	Excluded	Excluded	Excluded
FA	ADMINISTRATIVE ASSIGNMENT PAY	Included	Included	Excluded	Included
GG	R.N. MED SPECIALTY	Included	Included	Included	Excluded
HT	HIGHER CLASS-OVERTIME PAY	Included	Excluded	Excluded	Excluded
KK	AVAILABILITY PAY	Included	Excluded	Included	Excluded
KN	AVAILABILITY PREMIUM 2.5%	Included	Excluded	Included	Excluded
KO	AVAILABILITY PAY - 5%	Included	Excluded	Included	Excluded
KP	AVAILABILITY PAY - 25%	Included	Excluded	Included	Excluded
LC	CANINE CARE	Included	Excluded	Excluded	Excluded
LD	PAGER PAY	Included	Excluded	Included	Excluded
LE	BOMB DETAIL	Included	Excluded	Included	Excluded
LF	FLD/DET TRAINING OFFICERS	Included	Included	Included	Excluded
LL	EXTENDED ON CALL DUTY PAY	Included	Excluded	Included	Excluded
MM	SWAT TEAM PHY.FIT.PAY	Included	Excluded	Included	Excluded
NC	NIGHT COURT	Included	Excluded	Excluded	Excluded
OC	ON-CALL PAY - SPEC.DIST.	Included	Excluded	Excluded	Excluded
PC	KMC-ON CALL PER CONTRACT	Included	Excluded	Excluded	Excluded
PF	PARAMEDIC PAY-FIREFIGHTER	Included	Included	Included	Excluded
PS	PCP-RC-COMMERCIAL RATING	Included	Included	Included	Excluded
PT	PCP-RC-MNTN TRANSITION	Included	Included	Included	Excluded
PU	PCP-RC-VERTICAL REF. CERT	Included	Included	Included	Excluded
PV	PCP-RC-HUEY COMMAND STATU	Included	Included	Included	Excluded
PW	PCP-FIXW-COMMERCIAL RATING	Included	Included	Included	Excluded
PX	PCP-FIXW-INSTRUMENT RTING	Included	Included	Included	Excluded
PY	PCP-FIXW-CERT FLIGHT INS.	Included	Included	Included	Excluded
RP	RETIREMENT PAY-SPEC.DIST.	Included	Excluded	Included	Excluded
SB	STANDBY - HOME HLTH CARE	Included	Excluded	Excluded	Excluded
SS	STANDBY - OTHER	Included	Excluded	Included	Excluded
ST	STANDBY TIME-SP.DIST	Included	Excluded	Included	Excluded
YY	KERN FLEX PLAN	Included	Included	Included	Excluded
ZA	SPECIAL DUTY NURSE	Included	Included	Included	Excluded

Kern County Employees' Retirement Association

Proposed Alameda Decision Pay Code Tracker

Last Updated: 9/8/20 10:30 A.M.

In an effort to provide members with information about the potential effects of the Alameda decision on their contributions and benefits, KCERA is providing the following list.

Legacy Member Definition: Membership date on or before December 31, 2012

PEPRA Member Definition: Membership date on or after January 1, 2013

Compensation Earnable Definition: Compensation eligible to be used in the determination of the pension formula for legacy members

Pensionable Compensation Definition: Compensation eligible to be used in the determination of the pension formula for PEPRA members

Highlighted cells indicate a change from previous treatment

		Legacy Member (Tier I & II) Compensation Earnable		PEPRA Member Pensionable Compensation	
<i>The following codes are being designated for the first time.</i>					
Pay Code	Pay Code Description	Undesignated	Designated	Undesignated	Designated
CA	IN LIEU OF COURT STANDBY	Excluded	Excluded	Excluded	Excluded
CG	COMP TIME PREMIUM PAID	Excluded	Excluded	Excluded	Excluded
MA	MEAL ALLOWANCE-RESIDENT	Excluded	Excluded	Excluded	Excluded
OM	MANAGEMENT OVERTIME PAY	Excluded	Excluded	Excluded	Excluded
PZ	PHYSICIAN-OTHER PAY	Excluded	Excluded	Excluded	Excluded
RT	KMC RELATIVE VALUE UNIT	Excluded	Excluded	Excluded	Excluded
SG	SHIFT DIFFERENTIAL PAY	Included	Included	Excluded	Included
SL	UNNAMED (SPECIAL ASSIGNMENT 10%)	Excluded	Inactive	Excluded	Inactive
SM	PARAMEDIC PAY (POOL)-SPECIAL ASSIGNMENT 5%	Excluded	Excluded	Excluded	Excluded
SO	SAFE0-HA SAFETY OFFICER PREMIUM	Excluded	Included	Excluded	Included
SU	SEVERANCE PAY	Excluded	Excluded	Excluded	Excluded
TD	TECHNOLOGY REIMBURSEMENT	Excluded	Excluded	Excluded	Excluded
TO	TIME OFF REWARD PAYOFF	Excluded	Included	Excluded	Excluded
VC	COMP TIME PAYOFF	Excluded	Excluded	Excluded	Excluded
VK	VACATION PAYOUT	Included	Included	Excluded	Excluded
WY	FLSA RETRO	Excluded	Excluded	Excluded	Excluded
XX	EMT PAYMENT	Excluded	Inactive	Excluded	Inactive

The following codes are not likely to be impacted by the Alameda Decision

Pay Code	Pay Code Description	Pre-Alameda	Post-Alameda	Pre-Alameda	Post-Alameda
AA	UNIFORM ALLOWANCE	Included	Included	Excluded	Excluded
AL	ANNUAL LEAVE PAY - SP.DIS	Included	Included	Excluded	Excluded
AW	SUGGESTION & OTHER AWARDS	Excluded	Excluded	Excluded	Excluded
BA	BILINGUAL SJVAPCD	Included	Included	Excluded	Excluded
BL	BILINGUAL PAY - VERBAL	Included	Included	Included	Included
BM	BILINGUAL PAY - WRITTEN	Included	Included	Included	Included
BP	PREMIUM PAY 6%	Included	Included	Included	Included
BR	PREMIUM PAY 6% -RETRO	Excluded	Excluded	Excluded	Excluded
BS	BONUS INCENTIVE	Excluded	Excluded	Excluded	Excluded
BV	COURT BILINGUAL-VERBAL	Included	Included	Included	Included
BW	COURT BILINGUAL-WRITTEN	Included	Included	Included	Included
CC	CONTRACT EMPLOYEES	Excluded	Excluded	Excluded	Excluded
CF	COURT .5% CONTRIBUTION	Excluded	Excluded	Excluded	Excluded
CH	COURT INTERPRETER 3.2%	Excluded	Excluded	Excluded	Excluded
CI	CATASTROPHIC ILLNESS PAY	Included	Included	Included	Included
CL	COURT CELL ALLOWANCE STD	Included	Included	Excluded	Excluded
CM	COURT CELL ALLOWANCE TEXT	Included	Included	Excluded	Excluded
CN	COURT CELL ALLOWANCE PDA	Included	Included	Excluded	Excluded
CO	COURT INTERP - OVERTIME	Excluded	Excluded	Excluded	Excluded
CP	CELL PHONE ADJUSTMENT	Excluded	Excluded	Excluded	Excluded
CR	CHILD CARE REIMBURSEMENT	Excluded	Excluded	Excluded	Excluded
CS	CELLPHONE ALLOW-SPEC DIST	Included	Included	Excluded	Excluded
CT	CART - SUPERIOR COURT	Included	Included	Excluded	Excluded
CV	COURT'S VSIP	Excluded	Excluded	Excluded	Excluded
DD	AUTOMOBILE ALLOWANCE	Included	Included	Excluded	Excluded
DG	VOL HEALTH	Excluded	Excluded	Excluded	Excluded
DH	AUTO ALLOWANCE-CORR	Included	Included	Excluded	Excluded
DN	IN-LIEU HEALTH - EMPLR PD	Excluded	Excluded	Excluded	Excluded
DO	EMPLOYER PAID SDI	Excluded	Excluded	Excluded	Excluded
DP	DEFERRED COMP/EMPLOYER PD	Excluded	Excluded	Excluded	Excluded
DT	DISPATCHER TRAINING OFFICER	Included	Included	Excluded	Excluded
DV	DENIED VACATION PAY	Included	Included	Excluded	Excluded
EA	ENG CERTIFICATE - 8.0%	Included	Included	Excluded	Excluded
EB	EQUITY STIPEND - 2%	Inactive	Inactive	Inactive	Inactive
EC	EQUITY STIPEND - 1.5%	Inactive	Inactive	Inactive	Inactive
ED	EQUITY STIPEND - 1%	Excluded	Excluded	Excluded	Excluded
EF	OUT OF CO REIM CRT INTERP	Included	Included	Excluded	Excluded

Kern County Employees' Retirement Association

Proposed Alameda Decision Pay Code Tracker

Last Updated: 9/8/20 10:30 A.M.

In an effort to provide members with information about the potential effects of the Alameda decision on their contributions and benefits, KCERA is providing the following list.

Legacy Member Definition: Membership date on or before December 31, 2012

PEPRA Member Definition: Membership date on or after January 1, 2013

Compensation Earnable Definition: Compensation eligible to be used in the determination of the pension formula for legacy members

Pensionable Compensation Definition: Compensation eligible to be used in the determination of the pension formula for PEPRA members

Highlighted cells indicate a change from previous treatment

		Legacy Member (Tier I & II) Compensation Earnable		PEPRA Member Pensionable Compensation	
EL	ELECTION WORKER - EARNING	Excluded	Excluded	Excluded	Excluded
ET	ETR APPRENTICESHIP PAY	Included	Included	Excluded	Excluded
FF	RIDESHARE INCENTIVE PLAN	Included	Included	Excluded	Excluded
FI	FITNESS PROG-2% 11MET	Included	Included	Excluded	Excluded
FJ	FITNESS PROG-4% 12MET	Included	Included	Excluded	Excluded
FK	FITNESS PRO-2% 2YRS	Included	Included	Excluded	Excluded
FL	FITNESS PRO-4% 2YRS	Included	Included	Excluded	Excluded
FM	FIRE-FLSA SCHEDULED	Included	Included	Included	Included
FN	FIRE-FLSA UNSCHEDULED	Excluded	Excluded	Excluded	Excluded
FO	FIRE-FLSA SALARY ADJ	Excluded	Excluded	Excluded	Excluded
FP	FORECASTING PAY - SP.DIST	Excluded	Excluded	Excluded	Excluded
FR	415 REPLACEMENT PLAN	Excluded	Excluded	Excluded	Excluded
FS	FIRE FLSA SETTLEMENT	Excluded	Excluded	Excluded	Excluded
FW	415 REPLACE PLAN-KCWA	Excluded	Excluded	Excluded	Excluded
GH	PHARM-IN-CHARGE - 5%	Included	Included	Included	Included
GI	CLINICAL LADDER - 10%	Inactive	Inactive	Inactive	Inactive
HH	HIGHER CLASSIFICATION PAY	Included	Included	Included	Included
HM	HOLIDAY-NOT SCHEDULED (CTO MAX)	Excluded	Excluded	Excluded	Excluded
HO	HOLIDAY PAY-COUNTY	Included	Included	Excluded	Excluded
HP	HOLIDAY PAY - SPEC.DIST.	Included	Included	Included	Included
HS	HOLIDAY PAY-SHIFT	Included	Included	Excluded	Excluded
IA	ISAWS PROJ.1ST INSTLMT	Inactive	Inactive	Inactive	Inactive
IB	ISAWS PROJ	Inactive	Inactive	Inactive	Inactive
II	OB/GYN CALL BACK PAY	Excluded	Excluded	Excluded	Excluded
IT	ISAWS TAX ALLOWANCE	Inactive	Inactive	Inactive	Inactive
IX	ISAWS WAGE GROSS UP	Inactive	Inactive	Inactive	Inactive
JJ	HOLIDAY PAYOFF	Included	Included	Excluded	Excluded
JK	KCWA – HOLIDAY PAYOFF	Included	Included	Excluded	Excluded
JL	HOLIDAY PAY REG. OT	Excluded	Excluded	Excluded	Excluded
LA	LIVING ALLOWANCE-KMC	Excluded	Excluded	Excluded	Excluded
LG	REMOTE ASSIGNMENT	Included	Included	Excluded	Excluded
LM	SHERIFF'S BUILT IN O/T	Included	Included	Included	Included
LS	KLEA OT DIFF 7.5%	Excluded	Excluded	Excluded	Excluded
MD	MEDICAL DIRECTOR COMP	Included	Included	Included	Included
ME	MET TEAM FIELD RESPONDER	Included	Included	Excluded	Excluded
ML	MILITARY SUPPLEMENTAL PAY	Inactive	Inactive	Inactive	Inactive
MU	SWAT UNIFORM	Included	Included	Excluded	Excluded
MV	SWAT UNIFORM-CORR	Included	Included	Excluded	Excluded
NN	TOOL ALLOWANCE	Included	Included	Excluded	Excluded
NO	EXTRA HOURS – STRAIGHT TIME	Excluded	Excluded	Excluded	Excluded
NP	BHRS NURSE PRACTITIONER CERT PAY	Included	Included	Excluded	Excluded
NR	TOOL ALLOWANCE A	Included	Included	Excluded	Excluded
OO	OVERTIME PAYOFF	Excluded	Excluded	Excluded	Excluded
PA	POST SUPERVISORY CERTIFICATE	Included	Included	Excluded	Excluded
PB	POST MANAGEMENT CERTIFICATE	Included	Included	Excluded	Excluded
PD	KCPA PROFESSIONAL DEVELOPMENT	Included	Included	Excluded	Excluded
PE	PEC TEAM SUBACUTE NURSE PAY	Included	Included	Excluded	Excluded
PN	FAC.PRACT.PLN-INPATIENT	Excluded	Excluded	Excluded	Excluded
PO	FAC. PRACT.PLN-OUTPATIENT	Excluded	Excluded	Excluded	Excluded
PP	RES. PHY. SPEC. DUTY PAY	Excluded	Excluded	Excluded	Excluded
PR	FLSA PAYROLL CORRECTION	Excluded	Excluded	Excluded	Excluded
QQ	NON-CASH BENEFIT-AUTO	Excluded	Excluded	Excluded	Excluded
RA	REALTIME CERT 4%	Included	Included	Excluded	Excluded
RB	REALTIME DEL&CERT 7%	Included	Included	Excluded	Excluded
RC	REALTIME DELIVERY - 3%	Included	Included	Excluded	Excluded
RE	REFUND POST TAX	Excluded	Excluded	Excluded	Excluded
RN	RN AVAILABILITY PAY	Included	Inactive	Excluded	Excluded

Kern County Employees' Retirement Association

Proposed Alameda Decision Pay Code Tracker

Last Updated: 9/8/20 10:30 A.M.

In an effort to provide members with information about the potential effects of the Alameda decision on their contributions and benefits, KCERA is providing the following list.

Legacy Member Definition: Membership date on or before December 31, 2012

PEPRA Member Definition: Membership date on or after January 1, 2013

Compensation Earnable Definition: Compensation eligible to be used in the determination of the pension formula for legacy members

Pensionable Compensation Definition: Compensation eligible to be used in the determination of the pension formula for PEPRA members

Highlighted cells indicate a change from previous treatment

		Legacy Member (Tier I & II) Compensation Earnable		PEPRA Member Pensionable Compensation	
RR	SUBSTATION PAY	Included	Included	Excluded	Excluded
RU	KMC RELATIVE VALUE UNIT	Excluded	Excluded	Excluded	Excluded
RV	VAC-S/L PAYOFF (NO SDI)	Excluded	Excluded	Excluded	Excluded
RW	REMOTE WORK TECHNOLOGY STIPEND	Included	Included	Excluded	Excluded
SA	SALARY ADJUSTMENT-REGULAR	Included	Included	Included	Included
SC	SALARY ADJ.	Included	Included	Included	Included
SD	STATE DISABILITY ADJ.	Excluded	Excluded	Excluded	Excluded
SE	SALARY ADJ - SDI	Excluded	Excluded	Excluded	Excluded
SF	12HR SHIFT-6% SHIFT PAY	Included	Included	Included	Included
SH	SHIFT PAY-SPEC DISTRICT	Included	Included	Included	Included
SI	KMC RVU ADJUSTMENT	Excluded	Excluded	Excluded	Excluded
SJ	EXTRA SHIFT NURSE	Excluded	Excluded	Excluded	Excluded
SK	PARAMEDIC PAY % SP ASGMT	Included	Included	Excluded	Excluded
SP	SUPERVISORY PAY	Included	Included	Included	Included
SQ	ONS CERT PAY - HA	Included	Included	Excluded	Excluded
SR	SECURITY CLEARANCE - HA	Included	Included	Excluded	Excluded
SV	SEVERANCE PAY	Excluded	Excluded	Excluded	Excluded
SW	SEVERANCE PAY	Excluded	Excluded	Excluded	Excluded
SX	BH&R GEN PSYCH	Included	Included	Excluded	Excluded
SY	BH&R ADDICTION PSYCH	Included	Included	Excluded	Excluded
TA	TRAVEL ALLOW.-SPEC. DIST	Included	Included	Excluded	Excluded
TB	1-DAY TRAVEL REIMBURS	Excluded	Excluded	Excluded	Excluded
TC	PER DIEM TRAVEL PAYMENT	Excluded	Excluded	Excluded	Excluded
TF	NON TAXABLE 4850 WAGE ADJ	Included	Included	Included	Included
TJ	TUITION REIMBURSEMENT	Excluded	Excluded	Excluded	Excluded
TL	GROUP-TERM LIFE INSURANCE	Excluded	Excluded	Excluded	Excluded
TR	TRANSCRIPT FEES	Excluded	Excluded	Excluded	Excluded
TS	DEFERRED COMP REFUND	Excluded	Excluded	Excluded	Excluded
TT	MOVING ALLOWANCE	Excluded	Excluded	Excluded	Excluded
TU	MOVING REIMBURSEMENT	Excluded	Excluded	Excluded	Excluded
UA	THIRTY YEAR - 2%	Included	Included	Included	Included
UU	LONGEVITY PAY	Included	Included	Included	Included
UW	LONGEVITY PAY RETRO	Included	Included	Included	Included
VA	VEHICLE ALLOWANCE - KCWA	Included	Included	Excluded	Excluded
VB	SICK LEAVE BONUS	Included	Included	Excluded	Excluded
VP	VAC-S/L PAYOFF	Excluded	Excluded	Excluded	Excluded
VR	COURT INTERPRETERS 25% VRI STIPEND	Excluded	Excluded	Excluded	Excluded
VS	SICK LEAVE PAYOFF	Excluded	Excluded	Excluded	Excluded
VV	PAID OVERTIME - FLSA ADJ	Included	Included	Excluded	Excluded
VW	PAID OVERTIME - FLSA ADJ	Included	Included	Excluded	Excluded
VX	PAID OVERTIME- FLSA	Excluded	Excluded	Excluded	Excluded
WT	PAID OVERTIME RETRO	Excluded	Excluded	Excluded	Excluded
WU	PAID OVERTIME/RETRO PH 2	Excluded	Excluded	Excluded	Excluded
WV	RETROACTIVE PAY	Included	Included	Included	Included
WW	RETRO. SAL.INCREMENT	Included	Included	Included	Included
WX	RETRO PAY PHASE 2	Included	Included	Excluded	Excluded
YA	KERN FLEX ADJUSTMENT	Included	Included	Excluded	Excluded
YB	KERN FLEX RETRO - MOU	Included	Included	Excluded	Excluded
YC	KERN FLEX-DISTRICT-10%	Excluded	Excluded	Excluded	Excluded
ZB	SPEC PAY CORR	Excluded	Excluded	Excluded	Excluded
ZC	PAYROLL CORRECTION	Excluded	Excluded	Excluded	Excluded
ZM	SPEC PAY CORR-PENSIONABLE	Included	Included	Included	Included
ZN	PR CORRECTION-CURRENT	Included	Included	Included	Included
ZX	PR CORRECTION	Excluded	Excluded	Excluded	Excluded
ZY	OTHERS-NO RETIREMENT	Excluded	Excluded	Excluded	Excluded
ZZ	OTHER	Included	Included	Included	Included

SPECIAL PAY CODES

SEPTEMBER 9, 2020

Based on the recent California Supreme Court case (*Alameda*), KCERA staff recommends changes to the designation of the following pay codes. Some of these codes are undergoing further investigation with the plan sponsors and labor groups to ensure KCERA fully understands how the code is used in practice. KCERA staff will provide any updated information at the Regular meeting.

SERVICE DURING NORMAL WORK HOURS PENSIONABLE FOR ALL ELIGIBLE MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
Fire/KCFFU	FA	Administrative Assignment Pay (5%)	<p>Administrative assignment designation in salary schedule removed, but 5% administrative assignment added as a special pay.</p> <ul style="list-style-type: none"> - KCFFU MOU 3/13/2015–9/30/2017, Article X.B - Special Pay Code Request form submitted by County 	<p><i>CERL Cal. Gov. Code §31461(a); PEPRA §7522.34(a); Alameda Decision (normal working hours, not ad hoc)</i></p>
KCSO/ KLEA	SG	Shift Differential Pay While on Admin Leave	<p>To ensure full pay for employees temporarily assigned to a different schedule and unit by internal affairs due to an investigation. POBAR (Peace Officers Bill of Rights).</p> <ul style="list-style-type: none"> -Special Pay Code Request form submitted by County 9/1/2020 	<p><i>CERL Cal. Gov. Code §31461(a); PEPRA §7522.34(a) ; Alameda Decision (normal work hours; not ad hoc)</i></p>

SERVICE DURING NORMAL WORK HOURS PENSIONABLE FOR ALL ELIGIBLE MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
HA/SEIU	SO	SAFEQ-HA Safety Officer Premium	“Premium received for performing the safety officer role.” -Special Pay Code Request form submitted by Kern Medical 8/22/2017	<i>CERL Cal. Gov. Code §31461(a); PEPRA §7522.34(a); Alameda Decision;</i>

SERVICE OUTSIDE NORMAL WORK HOURS NON-PENSIONABLE FOR ALL ELIGIBLE MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
	BB	Board Meeting - Minutes	Employees who serve on a Board or Commission in addition to their regular assignments. This pay is at various amounts from \$25 to \$100 -2012 KCERA Special Allowance Code Descriptions	<i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision</i>
KLEA	MM	SWAT Team Phy. Fit. Pay	This pay is for time spent in fitness training for of the SWAT team because the physical training will occur outside of and in addition to the normal work week. -2012 KCERA Special Allowance Code Descriptions	<i>PEPRA §7522.34(c)(7), (10), (12); Alameda Decision</i>

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU	AC	Standby – Animal Ctl Off	Employees shall be paid one-quarter of his/her hourly pay for the hours required to be available. - SEIU MOU 8/28/2017–10/31/2019, Article V, Section 4.A.2.	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision
KCSO/ KLEA	CA	In Lieu of Court Standby	Sheriff employees on call for Court on their day off receive this "standby" while they are working. -KLEA MOU 9/17/2019-6/30/2020, Article IV, Section 5.A.4.a.	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision
SEIU	EE	Standby - Court	Original standby pay used by the County – phased out 2000. -SEIU MOU 10/1/1998-3/31/2000, Article V, Section 5	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA/ SEIU	KK	Availability Pay	<p>All employees assigned to the designated work units will receive a flat rate special allowance in an amount equal to 5% of their individual base salary.</p> <p>-KLEA MOU 9/17/2019-6/30/2020, Article IV, Section 5.B -SEIU MOU 8/28/2017-10/31/2019, Article V, Section 4.B</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>
KCFFU/ Mgmt/ SEIU	KN	Availability Premium 2.5%	<p>“As compensation for being available as described in MOU, the Administrative employees, assigned by the Fire Chief to be on the rotational shall receive a flat rate special allowance in an amount equal to 2.5% of their individual base salary.”</p> <p>-KCFFU MOU 3/13/2015-9/30/2017, Section 5.2</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCDOA/ KCFFU/ KCSCA/ KLEA/ Mgmt/ SEIU/ SEIU- CJU	KO	Availability Pay – 5%	<p>Employees available for S.E.R.T. receive this pay.</p> <p>-KCDOA MOU 1/1/2018-9/30/2019, Article V, Section 6.B</p> <p>Employees shall receive this pay for being available.</p> <p>-SEIU MOU 8/28/2017-10/31/2019, Article V, Section 4.B.2.</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>
KCPMA/ Mgmt/ SEIU/ unrepresented	KP	Availability Pay – 25%	<p>This pay is for employees designated to be available to respond to emergency situations. Payment is 25% of hourly pay for hours required to be available.</p> <p>-2012 KCERA Special Allowance Code Descriptions</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCDOA/ KLEA/ SEIU	LD	Pager Pay	This pay is for employees expected to remain accessible by telephone or pager and be otherwise able to report to duty if called. -2012 KCERA Special Allowance Code Descriptions	<i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i>
KLEA	LL	Extended On Call Duty Pay	This pay is for those employees that are frequently required to respond to emergency or urgent situations during off-duty hours. -2012 KCERA Special Allowance Code Descriptions	<i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i>

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU-SJVAPCD	OC	On-Call Pay – Spec. Dist.	This pay is for employees who are required to be available for work after hours -2012 KCERA Special Allowance Code Descriptions	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision
SEIU	SB	Standby – Home Hlth Care	Used by HA home health services who are required to remain on standby -2012 KCERA Special Allowance Code Descriptions	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6); Alameda Decision

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCFFU	SM	Paramedic Pay (Pool)-Special Assignment 5%	<p>“Fire Chief can designate up to 10 paramedic firefighters to a pool to cover vacancies occurring in station 58.” Side letter covers two fiscal years (5% FY18-19, 10% FY19-20)</p> <p>-5/18/20 proposed side letter agreement attached to spec pay request form</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>
KCDOA/ KLEA/ SEIU/ SEIU-CJU	SS	Standby – Other	<p>Employee required by the dept head to be on stand-by duty.</p> <p>-2012 KCERA Special Allowance Code Descriptions</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>

ON CALL, STAND BY, AND AVAILABILITY PAYS NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU-KCWA	ST	Standby Time – Sp. Dist.	<p>“The Agency will provide pay equal to one-fourth (1/4) of the employee's hourly rate of pay for each hour the employee is required to be on standby.”</p> <p>-SEIU-KCWA GBU MOU 1/1/2018-12/31/2020, Article IV, Section 3</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>

PAY OUTS LIMITED BY 31461(B)(2) PENSIONABLE FOR LEGACY MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
County	TO	Time Off Reward Payoff	<p>Payment to essential workers who do not use the time off reward, can be paid a maximum of 40 hours upon termination.</p> <p>-Special Pay Code Request form submitted by County re BOS Resolution 2020-104</p>	<p><i>CERL Cal. Gov. Code §31461(b)(2); Alameda Decision</i></p>
KCWA	VK	Vacation Payout	<p>Payment occurs prior to termination; maximum allowed is 200 hours x current hourly rate not to exceed limits in 31461(b)(2).</p> <p>-Special Pay Code Request form submitted by KCWA</p>	<p><i>CERL Cal. Gov. Code §31461(b)(2); Alameda Decision</i></p>

PAY OUTS EXCLUDED UNDER 7522.34(C)(5) – NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
County	TO	Time Off Reward Payoff	<p>Essential workers who continued to provide essential services to our community during the pandemic emergency are entitled to a reward of additional paid time off. Any unused time off reward would be paid out at a maximum of 40 hours upon termination.</p> <p>-Special Pay Code Request form submitted by County re BOS Resolution 2020-104</p>	<p>PEPRA §7522.34(c)(5), (unused leave); PEPRA §7522.34(c)(10) bonus, PEPRA §7522.34(c)(12); Alameda Decision</p>
KCWA	VK	Vacation Payout	<p>Vacation Payouts that occur prior to termination, not to exceed what an employee may earn in the highest earning 12-month retirement benefit calculation period. The maximum allowed is 200 hours x current hourly rate. This special pay code is included as compensation earnable.</p> <p>-Special Pay Code Request form submitted by KCWA</p>	<p>PEPRA §7522.34(c)(5), (unused leave); PEPRA §7522.34(c)(10) bonus, PEPRA §7522.34(c)(12); Alameda Decision</p>

OVERTIME PAYS – NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCSO/ KCDOA/ KLEA	CG	Comp Time Premium Paid	<p>Paid to employees who reached their CTO max but credited for straight time as long as [84] hours paid. Paid at automatic at FLSA rate.</p> <p>-KCDOA MOU 1/1/2018-9/30/2019, Article V, Section 5</p> <p>-KLEA MOU 9/17/2019-6/30/2020, Article IV, Section 2</p>	<p><i>CERL Cal. Gov. Code §31461.6;</i> <i>PEPRA §7522.34(c)(8);</i> <i>Alameda Decision</i></p>
County	HT	Higher Class – Overtime Pay	<p>Overtime earnings when an employee is working out of class. The regular overtime calculation uses the employee’s official rate and this is used for additional amount.</p> <p>-KCERA staff</p>	<p><i>CERL Cal. Gov. Code §31461.6;</i> <i>PEPRA §7522.34(c)(8);</i> <i>Alameda Decision</i></p>

OVERTIME PAYS – NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCSCA/ KCSCA II/ Mgmt/ Sheriff Chiefs	OM	Management Overtime Pay	OT pay -KCERA staff	CERL Cal. Gov. Code §31461.6; PEPR §7522.34(c)(8);Alameda Decision
County/ Courts/ HA/ KCWA	VC	Comp Time Payoff	OT payoff; “Upon separation of employment any unused CTO will be paid out according to the FLSA and its implementing regulations.” -SEIU MOU Amendment #1 4/5/2018, to Article V, Section 3.D. -Special Pay Code Request forms submitted by plan sponsors	CERL Cal. Gov. Code §31461.6 PEPR §7522.34(c)(8)Alameda Decision
County	WY	FLSA Retro	FLSA Correction of Non-pensionable pay -Special Pay Code Request form submitted by County 9/1/2020 (applicable to any EE) re BOS 6/9/2015, item #22	CERL Cal. Gov. Code §31461.6 PEPR §7522.34(c)(8)Alameda Decision

ALAMEDA EXCLUSIONS – NOT COMPENSATION NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU-SJVAPCD/ unrepresented	DB	Part-time Dist Cafeteria	I25 Cafeteria plan – MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>
KCPMA/ SEIU/ SEIU-SJVAPCD/ unrepresented	DC	District Cafeteria	I25 Cafeteria plan – MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>
KCPMA/ SEIU- SJVAPCD	DE	Manager District Cafe	I25 Cafeteria plan – MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>
SEIU-SJVAPCD	DF	Executive District Cafet	I25 Cafeteria plan – MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>

ALAMEDA EXCLUSIONS – NOT COMPENSATION NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU-SJVAPCD	DI	Management Cafe-part Time	I25 Cafeteria plan – MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>
SEIU-SJVAPCD	DJ	Dist Cafeteria For Exec, Part-time	For purchase of health insurance benefits *Used from 6/29/2013 to 7/11/2014.	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>
SEIU-SJVAPCD	DS	Supervisory District Cafe	I25 Cafeteria plan, MOU, contract	<i>CERL Cal. Gov. Code §31460; Alameda Decision; In re Retirement Cases</i>

ALAMEDA EXCLUSIONS – NOT COMPENSATION NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU-SJVAPCD	RP	Retirement Pay – Spec. Dist.	<p>This pay is for those districts paying the employee’s portion of the retirement contributions.</p> <p>-2012 KCERA Special Allowance Code Descriptions; Member contract</p>	<p><i>CERL Cal. Gov. Code §31461(b)(2), (3), (4) [“Payment,” not “compensation”]; PEPR §7522.34(c)(7); Alameda Decision</i></p>

PHYSICIAN PAYS – NON-MEMBERS AND NOT APPLICABLE TO KCERA

Dept./BU	Code	Title	Details	Legal Authority
Hospital Authority	MA	Meal Allowance-Resident		
Contract Physicians	PC	KMC-On Call Per Contract		
SEIU	PZ	Physician-Other Pay		
Hospital Authority	RT	KMC Relative Value Unit		

ALLOWANCE/CERTIFICATION PAYS— NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
SEIU/ unrepresented	GG	R.N. Med Specialty	Registered Nurses certification pay – currently inactive -SEIU-HA MOU 9/19/2018-10/31/2020, Section 6.B.	<i>PEPRA §7522.34(c)(7), (10), (12); Alameda Decision</i>
KCFFU	PF	Paramedic Pay – Firefighter	Per diem payment to various certified paramedic firefighters working at Station 58 located at the Pine Mountain Club. -KCFFU MOU 3/13/2015-9/30/2017, Article XVIII, Section 6	<i>PEPRA §7522.34(c)(7), (10), (12); Alameda Decision</i>

ALLOWANCE/CERTIFICATION PAYS— NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA	PS	PCP-RC-Commercial Rating	Pilot Certificate Pay – Rotorcraft Certification – “Employees shall be entitled to ‘special certification pay’ of 5.5% of their base salary upon receipt of a Commercial Rating certificate for Rotorcraft aircraft.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.B.	PEPRA §7522.34(c)(7), (10), (12); Alameda Decision
KLEA	LE	Bomb Detail	“Employees assigned to the Bomb Detail will be compensated by ‘Special Allowance Pay’ at a bi-weekly rate equal to 5% of their bi-weekly base pay.” -KLEA MOU 9/17/2019-06/30/2020, Article IV, Section 9	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(7),(10); Alameda Decision

ALLOWANCE/CERTIFICATION PAYS— NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA	PT	PCP-RC-MNTN Transition	Pilot Certificate Pay – Rotorcraft Certification – “Employees shall be entitled to an additional 5% of their base salary upon receipt of the Mountain Transition certification.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.B.	<i>PEPRA §7522.34(c)(7), (10), (12); Alameda Decision</i>
KLEA	PU	PCP-RC-Vertical Ref. Cert	Pilot Certificate Pay – Rotorcraft Certification – “Employees shall be entitled to an additional 5% of their base salary upon receipt of the Vertical Reference certification.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.B.	<i>PEPRA §7522.34(c)(7), (10), (12); Alameda Decision</i>

ALLOWANCE/CERTIFICATION PAYS— NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA	PV	PCP-RC-HUEY Command Status	Pilot Certificate Pay – Rotorcraft Certification – “Employees shall be entitled to an additional 7% of their base salary upon receipt of the Huey Command Status certification.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.B.	PEPRA §7522.34(c)(7), (10), (12); Alameda Decision
KLEA	PW	PCP-FIXW-Commercial Rating	Pilot Certificate Pay – Fixed-Wing Certification – “Employees shall be entitled to Pilot Certificate Pay of 5.5% of base salary upon receipt of a Commercial Rating certificate for fixed-wing aircraft.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.C.	PEPRA §7522.34(c)(7), (10), (12); Alameda Decision

ALLOWANCE/CERTIFICATION PAYS— NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA	PX	PCP-FIXW-Instrument Rating	Pilot Certificate Pay – Fixed-Wing Certification – “Employees shall be entitled to an additional 5% of their base salary upon receipt of the Instrument Rating.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.C.	PEPRA §7522.34(c)(7), (10), (12); Alameda Decision
KLEA	PY	PCP-FIXW-Cert Flight Ins.	Pilot Certificate Pay– Fixed-Wing Certification – “Employees shall be entitled to an additional 5% of their base salary upon receipt of the Certificated Flight Instructor Instrument certification.” -KLEA MOU 9/17/2019-6/30-2020, Article IV, Section 13.C.	PEPRA §7522.34(c)(7), (10), (12); Alameda Decision

TERMINAL PAY – NON-PENSIONABLE FOR ALL MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
Mgmt	SU	Severance Pay	<p>This is the same as SW and SV. Our current payroll system cannot handle more than \$99,999 and duplicate code transactions more than that amount. The amount needs to be breakdown using different codes.</p> <p>-Special Pay Code Request form submitted by County 9/1/2020 (applicable to any EE)</p>	<p><i>CERL Cal. Gov. Code §31461(b)(1)(B), (C), or (b)(4); PEPPRA §7522.34(c)(3), (4); Alameda Decision</i></p>

MIXED USE PAY– NON-PENSIONABLE AS NOTED BELOW

Dept./BU	Code	Title	Details/Source	Legal Authority
KCSC (court)	NC	Night Court (only comp earnable affected Legacy members affected by change)	<p>“Four-hour sessions, beginning at the start time scheduled for night court.” For some, NC is part of their normal work hours. For others, it is work outside their normal work hours.</p> <p>-CFI Agreement 2/1/2020-1/31/2023, Article 6.01.c., 7.01.b.</p> <p>“8% premium on hours worked before 8:00 a.m. or after 5:00 p.m. where such hours are scheduled and not part of any flex program or other temporary schedule changes.”</p> <p>-SEIU MOU 10/1/2017-9/30/2020, Article V, Section 2</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPPRA §7522.34(c)(3),(6),(10); Alameda Decision</i></p>

MIXED USE PAY– NON-PENSIONABLE AS NOTED BELOW

Dept./BU	Code	Title	Details/Source	Legal Authority
KCDOA/ KCPOA/ KLEA	LF	FLD/DET Training Officers (only pensionable comp – PEPRA members affected by change)	For some, LF is part of their normal work hours. For others, it is work outside their normal work hours (ad hoc) -KCDOA MOU 1/1/2018-9/30/2019, Article V, Section 7 -KLEA MOU 9/17/2019-6/30/2020, Article IV, Sections 8 & 12	CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(6),(10); Alameda Decision

MIXED USE PAY– NON-PENSIONABLE AS NOTED BELOW

Dept./BU	Code	Title	Details/Source	Legal Authority
<p>KCDOA/ KCPOA/ KLEA</p>	<p>LC</p>	<p>Canine Care</p>	<p>“Employees assigned to maintain [department’s] canines in their homes will receive additional pay equal to 5% of their base salary in full compensation for those hours spent in the home-care of their assigned animals.” -KLEA MOU 9/17/2019-6/30/2020, Article IV, Section 6 Additional for KCDOA/KCPOA – “Unsupervised and unrecorded hours of work relating to canine care which will occur outside of and in addition to the normal work week.” -KCDOA MOU 1/1/2018-9/30/2019, Article V, Section 11 -KCPOA MOU 7/27/2012-7/24/2015, Article V, Section 8</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(6), (7); Alameda Decision</i></p>

MIXED USE PAY– NON-PENSIONABLE FOR LEGACY

Dept./BU	Code	Title	Details/Source	Legal Authority
KLEA	LE	Bomb Detail*	<p>“Employees assigned to the Bomb Detail will be compensated by ‘Special Allowance Pay’ at a bi-weekly rate equal to 5% of their bi-weekly base pay.”</p> <p>-KLEA MOU 9/17/2019-06/30/2020, Article IV, Section 9</p>	<p><i>CERL Cal. Gov. Code §31461(b)(3); PEPRA §7522.34(c)(3),(7),(10); Alameda Decision</i></p>
		<p>*pending additional information on “special allowance”.</p>		

ALLOWANCE – NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
Hospital Authority	TD	Technology Reimbursement	<p>“This monthly \$50 technology reimbursement is meant to reimburse employees who are telecommuting full time and utilizing their own internet services.</p> <p>-Special Pay Code Request form submitted by KCHA</p>	<p><i>PEPRA §7522.34(c)(7); Alameda Decision</i></p>

ALLOWANCE – NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCPMA/ KCSCA/ Mgmt/ SEIU/ Sheriff Chiefs	YY	Kern Flex Plan	<p>Plan which includes flexible spending accounts for dependent care expenses, un-reimbursed medical expenses and a premium reduction component for specified insurance programs.</p> <p>Cash contributions to cafeteria plans will not be a component of KERN\$FLEX I.</p> <p>-KCPMA MOU 3/13/2012-3/13/2015, Article IX, Section 4</p> <p>KCSCA MOU 8/13/2019-6/30/2020, Article IX, Section 6</p> <p>-SEIU MOU 8/28/2017-10/31/2019, Article VI, Section 10</p>	<p><i>PEPRA §7522.34(c)(7); Alameda Decision</i></p>

AD HOC PAYS – NON-PENSIONABLE FOR PEPRA MEMBERS

Dept./BU	Code	Title	Details/Source	Legal Authority
KCPMA/ SEIU/ unrepresented	ZA	Special Duty Nurse	Employees who are officially assigned the role of “Charge” on any given shift or any position receive premium pay -2012 KCERA Special Allowance Code Descriptions	PEPRA §7522.34(c)(3); <i>Alameda Decision</i>



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

Subject: *Alameda* Decision – Special Pays

On August 24th, the Board of Retirement approved a Resolution to implement the recent California Supreme Court decision in the *Alameda* case. In preparation for and after that meeting, KCERA staff began assessing the impact of the decision on the special pay codes utilized by our plan sponsors. This Court case is significant and requires review and analysis of over 200 unique pay codes for two distinct types of members.

Potential Impact to You

KCERA staff has completed an initial assessment of all potentially impacted pay codes. Based upon a *preliminary* review of your pay code history, KCERA staff has identified the following special pay code(s) that are likely to reduce your bi-weekly retirement contributions and your current final average compensation (FAC):

- List special pay codes here

The list of affected pay codes is not official until the Board of Retirement approves the recommended designations. Specific financial impacts related to the above-mentioned code(s) are currently under review.

A comprehensive list of pay codes with the proposed designations is posted on our website and will be presented to the Board of Retirement for consideration at its Regular Meeting on September 9th. Once the pay codes are designated, KCERA staff hopes to bring a recommendation to the Board of Retirement to address potential corrections to past contributions at the October meeting.

The agenda for the virtual meeting will be posted on the KCERA website www.kcera.org with instructions on how to participate in the meeting. All members are encouraged to attend the virtual meeting. For more information, see the [Alameda Decision Resources](#) section of the website. Please direct any additional questions to administration@kcera.org. KCERA staff has placed an FAQ on its website and will update it as we receive new questions.

Thank you for your patience and understanding as we implement this impactful Court decision.



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

Subject: *Alameda* Decision – Special Pays

On August 24th, the Board of Retirement approved a Resolution to implement the recent California Supreme Court decision in the *Alameda* case. In preparation for and after that meeting, KCERA staff began assessing the impact of the decision on the special pay codes utilized by our plan sponsors. This Court case is significant and requires review and analysis of over 200 unique pay codes for two distinct types of retired members.

Potential Impact to You

KCERA staff has completed an initial assessment of all potentially impacted pay codes. Based upon a *preliminary* review of your pay code history, KCERA staff has identified the following special pay code(s) that are likely to adjust the final average compensation (FAC) you had at retirement and reduce your monthly retirement benefit:

- List special pay codes here

The list of affected pay codes is not official until the Board of Retirement approves the recommended designations. Specific financial impacts related to the above-mentioned code(s) are currently under review.

A comprehensive list of pay codes with the proposed designations is posted on our website and will be presented to the Board of Retirement for consideration at its Regular Meeting on September 9th. Once the pay codes are designated, KCERA staff hopes to bring a recommendation to the Board of Retirement to address potential corrections to overpaid pension benefits at the October meeting.

The agenda for the virtual meeting will be posted on the KCERA website www.kcera.org with instructions on how to participate in the meeting. All members are encouraged to attend the virtual meeting. For more information, see the [Alameda Decision Resources](#) section of the website. Please direct any additional questions to administration@kcera.org. KCERA staff has placed an FAQ on its website and will update it as we receive new questions.

Thank you for your patience and understanding as we implement this impactful Court decision.



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

Subject: *Alameda* Decision – Special Pays

Potential Impact to You

KCERA staff has completed an initial assessment of all potentially impacted pay codes. Based upon a *preliminary* review of your pay code history, KCERA staff does not anticipate you will be affected by the *Alameda* decision. However, the list of affected pay codes is not official until the Board of Retirement approves the recommended designations.

A comprehensive list of pay codes with the proposed designations is posted on our website and will be presented to the Board of Retirement for consideration at its Regular Meeting on September 9th. The agenda for the virtual meeting also will be posted on the KCERA website www.kcera.org with instructions on how to participate in the meeting. All members are encouraged to attend the virtual meeting. For more information, see the [Alameda Decision Resources](#) section of the website. Please direct any additional questions to administration@kcera.org. KCERA staff has placed an FAQ on its website and will update it as we receive new questions.

Thank you for your patience and understanding as we implement this impactful Court decision.

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



Exhibit C
Board of Retirement

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

September 3, 2020

VIA E-MAIL ONLY

KCERA Stakeholders

Re: KCERA Resources – *Alameda* Decision/Special Pays

Dear KCERA Stakeholder:

On August 24th the Board of Retirement approved a Resolution to implement the recent California Supreme Court decision in the *Alameda* case. In preparation for and after that meeting, KCERA staff began assessing the impact of the decision on the special pay codes utilized by our plan sponsors.

Board of Retirement Meeting

A comprehensive list of pay codes with the proposed designations is posted on our website and will be presented to the Board of Retirement for consideration at its Regular Meeting on September 9th. Once the pay codes are designated, KCERA staff hopes to bring a recommendation to the Board of Retirement to address potential corrections to past contributions at the October meeting. The agenda for the virtual meeting will be posted on the KCERA website www.kcera.org with instructions on how to participate in the meeting. All members and stakeholders are encouraged to attend the virtual meeting.

Potential Impact to Members

KCERA staff has completed an initial assessment of all potentially impacted pay codes. Preliminary communications are being sent out to members via the [KCERA Member Portal](#) informing them of potential impacts. This Court case is significant and requires review and analysis of over 200 unique pay codes for two distinct types of members. The list of affected pay codes is not official until the Board of Retirement approves the recommended designations. As information develops, staff will make contact with all affected members.

Alameda Decision Resources

For more information, see the [Alameda Decision Resources](#) section of the website. Please direct any additional questions to administration@kcera.org. KCERA staff has placed an FAQ on its website and will update it as new questions are received.

KCERA Resources – *Alameda* Decision/Special Pays

September 3, 2020

Page 2

Thank you for your patience and understanding as we implement this impactful Court decision.

Sincerely,

A handwritten signature in blue ink that reads "Dominic D. Brown". The signature is written in a cursive style with a large initial 'D'.

Dominic D. Brown
Executive Director

Online Benefit Estimator

Members can use KCERA's Online Benefit Estimator to estimate their monthly retirement benefit. This tool can be very useful when trying to choose the best retirement date for your unique situation and financial needs.

[GET STARTED](#)



KCERA NEWS

[More News >](#)

Alameda News Update August 26, 2020

On August 24th the Board of Retirement approved a Resolution to implement the Alameda decision. Educational resources related to this decision can be found here. KCERA staff is now working to determine the impact of the California Supreme Court decision on the special pay codes utilized by our plan sponsors. A comprehensive list of pay codes will be presented to the Board of Retirement on September 9. The agenda for the virtual meeting will be posted here with instructions for how to attend the meeting. All members and stakeholders are encouraged to attend the virtual meeting.



KCERA [Read More](#)

COMMITTED
TO PROVIDING THE
PROMISED
BENEFIT
TO OUR
MEMBERSHIP

[PLANNING FOR RETIREMENT](#)

ALAMEDA DECISION RESOURCES

Frequently Asked Questions

[Frequently Asked Questions \(FAQ\)](#)

Draft Pay Codes to be Presented to the Board of Retirement at the September 9, 2020 Board Meeting

[Pay Code Tracker](#)

Pay Codes as Approved by the Board of Retirement Before the *Alameda Decision*

[Legacy – Compensation Earnable](#)

[PEPRA – Pensionable Compensation](#)

KCERA Policies

[Administration of Special Allowances Initiated by KCERA Plan Sponsors](#)

[Overpayment and Underpayment of Member Benefits Policy](#)

[Overpayment and Underpayment of Member Contributions Policy](#)

August 24, 2020 Special Board of Retirement Meeting

[Special Board Meeting Agenda](#)

[Nossaman Alameda Presentation](#)

[Resolution 2020-01 Alameda Decision Implementation](#)

Board Recordings:

1:00 P.M. Session – [Part 1](#); [Part 2](#); [Part 3](#), [Part 4](#)

3:30 P.M. Session – [Part 1](#); [Part 2](#)

Contact KCERA: administration@kcera.org

COMMITTED
 TO PROVIDING THE
 PROMISED
 BENEFIT
 TO OUR
 MEMBERSHIP

PLANNING FOR RETIREMENT

There is a lot to consider before retiring. Let KCERA help you plan for that great day. [Click here](#) to get started.





September 2, 2020

Via Email: dominic.brown@kcera.org
Dominic D. Brown,
Executive Director
Kern County Employees' Retirement Association
11125 River Run Boulevard
Bakersfield, CA 93311

**Re: Comments on "Compensation Earnable"
Pursuant to Government Code § 31461**

Dear Mr. Brown:

Thank you for the opportunity in our meeting yesterday to discuss potential changes to the San Joaquin Valley Unified Air Pollution Control District's pay codes for members of KCERA who joined prior to December 31, 2012 ("legacy members") pursuant to the *Alameda* decision's interpretation of Government Code § 31461. It is the District's understanding that KCERA will consider a resolution at its September 9, 2020 Board Meeting defining "compensation earnable" under Government Code § 31461 for legacy members. The District respectfully requests that the KCERA Board consider the following information during its deliberations.

Cafeteria Pay Codes

During our September 1, 2020 discussion, the District emphasized the discretion inherent in the language of Government Code § 31461(b)(1), whereby certain compensation is not pensionable if it is "*determined* by the board to have been paid to enhance a member's retirement benefit under that system. That compensation *may include...*" those types of compensation enumerated in (A), (B) and (C) of § 31461(b)(1). The *Alameda* court explicitly acknowledged this discretionary language by recognizing that "compensation earnable now excludes any compensation *determined by the local retirement board* to have been paid to enhance a member's retirement benefit" (at p. 6) As discussed, the District believes that the plain language of this section indicates the types of compensations enumerated in (A) through (C) are excluded from "compensation earnable" *only if* the KCERA board makes the "determination" under § 31461(b)(1) that they have been paid to "enhance a member's retirement benefit." Absent such a "determination," the compensation should be pensionable.

Samir Sheikh

Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

A review of the *Alameda* decision, and the court's disapproval of footnote 6 of the *Guelfi v. Marin County Employees' Retirement Assn.* decision, does not suggest that the Court interpreted § 31461(b)(1) to read this discretion out of the statute *as amended since Guelfi was decided*. The court's disapproval of footnote 6 was in the context of plaintiffs' arguments that settlement agreements entered *prior to* the PEPRA amendments were permissible as § 31461 existed *at the time the agreements were executed*. Significantly, the pre-PEPRA version of § 31461 did not include the discretionary language that now is in subdivision (b)(1) of § 31461, and nowhere in the *Alameda* decision did the court discuss the impact that its disapproval of the *Guelfi* footnote 6 would have on interpretation of subdivision (b)(1) of § 31461.

The *Alameda* court recognized that "the duty of a county retirement board is to administer CERL as enacted by the Legislature; the boards have no authority to act inconsistently with CERL." Given the language in § 31461(b)(1), it is not inconsistent with CERL for the Board to "determine" whether or not a particular form of compensation is paid "to enhance a member's retirement benefit." If a particular compensation is not paid to enhance a member's retirement benefit, it is "compensation earnable" under CERL and properly pensionable. Only those exclusions found in (b)(2), (3) and (4) are mandatory.

With this statutory interpretation in mind, it is the District's opinion that cafeteria pay is not compensation paid "to enhance a member's retirement benefit." It is part of all employees' normal compensation package, which all employees within a given class receive equally. Furthermore, in general, employees cannot opt out of using cafeteria pay to go towards health insurance premiums. Employees must use their cafeteria pay to purchase a minimum level of health benefits. Though some employees are able to receive the remaining portion, if any, of the cafeteria allowance that is not spent on benefits, most employees spend the entirety of their cafeteria allowance on benefits. Significantly, no employee is able to "convert" the entirety of the cafeteria allowance in full to receive as a cash payment. As such, the purpose of cafeteria pay is to provide employees a means of paying for health insurance and other benefits that would otherwise be out of pocket. It is not for the purpose of enhancing their retirement benefits.

Retirement Pay-Spec. Dist. (RP)

According to the draft Pay Code Tracker posted on KCERA's website yesterday, and as briefly mentioned during our September 1 meeting, KCERA is considering the pensionability of the RP pay code. This compensation is provided to certain District executive staff as the employee's share of the pension normal cost rate to KCERA. Pursuant to § 31461(b)(1)(A), such an in kind payment is one paid "by the employer to a third party *other than the retirement system for the benefit of the member ...*" Given that this payment is paid into the retirement system, it does not meet the express language of (b)(1)(A), and should therefore be pensionable.

Rideshare Incentive Plan (FF)

As discussed and as reflected on the Pay Code Tracker, KCERA is also considering the pensionability of the FF pay code. The District's rideshare incentive plan, also referred to by the District as an "alternative transportation incentive," is a collectively-bargained for compensation designed to encourage employees to use a method of transportation other than a single occupancy gas vehicle – such as carpooling, electric vehicle, bicycling, public transportation, etc. – for commuting to and from work a minimum of 5 out of the 9 days in a pay period. As discussed during our meeting, the District is subject to its own *Rule 9410 – Employer Based Trip Reduction*, which requires certain employers with at least 100 employees at a worksite to adopt an Employer Trip Reduction Implementation Plan with strategies for reducing commuter vehicle miles traveled. Providing employees with monetary incentives to employees to use alternative transportation is one of the strategies which qualifies for an approvable Plan.

Such incentive meets the definition of "compensation" within Government Code § 31460, and does not consist of the monetary value of "board, lodging, fuel, laundry, or other advantages *furnished* to a member." It is also not compensation "paid to enhance a member's retirement benefit." As discussed, the primary purpose is to encourage cleaner forms of transportation while serving to meet the requirements of Rule 9410. It is not a one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class as specified in (b)(1)(B) of § 31461, because it *is* paid to all similarly situated members in the same grade or class who qualify for the incentive. Employees, however, elect on their own to qualify for the incentive if they choose to commute with an alternative form of transportation. Many employees choose not to. Finally, it is not a payment for "additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise." Indeed, it is not compensation in exchange for services provided to the District at all. It is simply an additional form of monetary compensation to incentivize alternative transportation among employees as necessary to comply with Rule 9410.

* * * * *

Thank you for your consideration on this matter.

Sincerely,

ANNETTE A. BALLATORE
District Counsel

By: Annette A. Ballatore
Annette A. Ballatore
District Counsel