



San Joaquin County Employees Retirement Association

A G E N D A

ADMINISTRATIVE COMMITTEE MEETING SAN JOAQUIN COUNTY EMPLOYEES RETIREMENT ASSOCIATION BOARD OF RETIREMENT

FRIDAY, JUNE 7, 2024

IMMEDIATELY FOLLOWING BOARD MEETING

Location: SJCERA Board Room, 220 East Channel Street, Stockton, CA 95202

Persons who require disability-related accommodations should contact SJCERA at (209) 468-2166 or elainap@sjcera.org at least forty-eight (48) hours prior to the scheduled meeting time.

1.0 ROLL CALL

2.0 PUBLIC COMMENT

- 2.01** The public is welcome to address the Committee during this time on matters within the Committee's jurisdiction. Members of the public are encouraged to complete a Public Comment form, which can be found near the entry to the Board Room. Speakers are limited to three minutes, and are expected to be civil and courteous. Public comment on items listed on the agenda may be heard at this time, or when the item is called, at the discretion of the Chair.

Except as otherwise permitted by the Ralph M. Brown Act (California Government Code Sections 54950 et seq.), no deliberation, discussion or action may be taken by the Committee on items not listed on the agenda. Members of the Committee may, but are not required to: (1) briefly respond to statements made or questions posed by persons addressing the Committee; (2) ask a brief question for clarification; or (3) refer the matter to staff for further information.

3.0 CONSENT ITEMS

- | | |
|---|----|
| 3.01 Board Policies and Charters Requiring No Amendments or Non-substantive Amendments | 4 |
| 01 Age Verification Policy | |
| a Age Verification Policy - Mark-up | 7 |
| b Age Veification Policy - Clean | 10 |
| 02 Annual Additions Limit-IRC 415(c) Policy | |
| a Annual Additions Limit-IRC 415(c) Policy - Mark-up | 13 |
| b Annual Additions Limit-IRC 415(c) Policy - Clean | 19 |
| 03 Annual Benefits Limit-IRC 415(b) Policy | |
| a Annual Benefits Limit-IRC 415(b) Policy - Mark-up | 25 |
| b Annual Benefits Limit-IRC 415(b) Policy - Clean | 35 |
| 04 Audit Committee Charter | |

a	Audit Committee Charter - Mark-up	45
b	Audit Committee Charter - Clean	47
05	Computer Equipment Policy	
a	Computer Equipment Policy - Mark-up	49
b	Computer Equipment Policy - Clean	52
06	Correction of Errors or Omissions Policy	
a	Correction of Errors or Omissions Policy - Mark-up	55
b	Correction of Errors or Omissions Policy - Clean	58
07	Disability Retirement and Active Member Death Policy and Procedure	
a	Disability Retirement and Active Member Death Policy and Procedure - Mark-up	61
b	Disability Retirement and Active Member Death Policy and Procedure - Clean	77
08	Document and Data Retention Policy	
a	Document and Data Retention Policy - Mark-up	93
b	Document and Data Retention Policy - Clean	96
09	Electronic Signature Policy	
a	Electronic Signature Policy - Mark-up	99
b	Electronic Signature Policy - Clean	101
10	Normal Retirement Age-IRC 401(a) Policy	
a	Normal Retirement Age-IRC 401(a) Policy - Mark-up	103
b	Normal Retirement Age-IRC 401(a) Policy - Clean	105
3.02	Committee to review and formulate a recommendation to the full Board	
3.03	Statement of Economic Interest - Summary Report	107
01	Summary of Sources of Income on Statements of Economic Interest (Form 700) Report	108
02	Committee to receive and file report	
4.0	BOARD POLICIES AND CHARTERS REQUIRING SUBSTANTIVE AMENDMENTS	110
4.01	Compensation Earnable Annual Limit-IRC 401(a)(17) Policy	
01	Compensation Earnable Annual Limit-IRC 401(a)(17) Policy - Mark-up	111
02	Compensation Earnable Annual Limit-IRC 401(a)(17) Policy - Clean	116
4.02	Dissolution of Marriage or Registered Domestic Partnership Policy	
01	Dissolution of Marriage or Registered Domestic Partnership Policy - Mark-up	121
02	Dissolution of Marriage or Registered Domestic Partnership Policy - Clean	124
4.03	Final Compensation Review Policy	
01	Final Compensation Review Policy - Mark-up	126

4.04 Committee to review and formulate a recommendation to the full Board

5.0 COMMENTS

5.01 Comments from the Committee Members

6.0 ADJOURNMENT



Board of Retirement Administrative Committee
San Joaquin County Employees' Retirement Association

June 7, 2024

Agenda Item 3.01

SUBJECT: Board Policies Requiring No Amendments or Non-substantive Amendments

SUBMITTED FOR: X CONSENT ACTION INFORMATION

RECOMMENDATION

Staff recommends the Administrative Committee approve the proposed policy amendments and recommend adoption by the Board of Retirement.

PURPOSE

To amend the policies to ensure that they remain relevant, appropriate and in compliance, per Section III.C of the Administrative Committee Charter.

DISCUSSION

In accordance with the Board's requirement, staff typically review one-third of the policies annually. As part of our new in-house Chief Counsel onboarding, staff chose to review all of the policies this year. The proposed policies requiring no amendments are listed below.

- Administrative Committee Charter
- Bylaws
- Cash Management and Liquidity Policy
- CEO Performance Review Policy
- CEO Performance Review Committee Charter
- Communications Policy
- Conflict of Interest Policy
- Declining Employer Payroll Policy
- Employer Termination Policy
- Ex Parte Policy
- Investment Manager Monitoring and Retention Policy
- Investment Roles and Responsibilities Policy
- Member Contributions and Interest Posting Policy
- Placement Agency Information Disclosure Policy
- Proxy Voting Policy
- Required Minimum Distributions Policy – IRC 401(a)(9) Policy
- Retiree Medical Benefits Accounts – ITC 401(h) Policy
- Retirement-Eligible Compensation Policy

- Return to Work and Bona Fide Separation from Service – IRC 401(a) Policy
- Rollovers – IRC 401(a)(31) and 402(c)
- Staff Transportation and Travel Policy
- Statement of Funding Policy
- Statement of Reserve Policy
- Trustee Education Policy
- Trustee and Executive Staff Travel Policy
- Investment Manager Monitoring

The proposed policies requiring non-substantive amendments are listed below.

- Age Verification Policy – Clarified definition of severability section and amended alternative acceptable age verification documents
- Annual Additions Limit-IRC 415(c) Policy – Amended employer definition and other non-substantive changes
- Annual Benefits Limit-IRC 415(b) Policy – Amended employer definition and other non-substantive changes
- Audit Committee Charter – Added authority to have third-party auditor as committee member
- Computer Equipment Policy – Amended to align with Retention Policy and other non-substantive changes
- Correction of Errors or Omissions Policy – Non-substantive changes
- Disability Retirement and Active Member Death Policy and Procedure – Amended to clarify that applicant is allowed to have their hearing in open session instead of closed session
- Document and Data Retention Policy – Non-substantive change
- Electronic Signature Policy – Non-substantive change
- Normal Retirement Age – IRC 401(a) Policy – Updated normal retirement age to no later than 72 and other non-substantive changes

ATTACHMENTS

Proposed revisions to Age Verification Policy – Mark-up

Proposed revisions to Age Verification Policy – Clean

Proposed revisions to Annual Additions Limit-IRC(c) Policy – Mark-up

Proposed revisions to Annual Additions Limit-IRC(c) Policy – Clean

Proposed revisions to Annual Benefits Limit-IRC(b) Policy – Mark-up

Proposed revisions to Annual Benefits Limit-IRC(b) Policy – Clean

Proposed revisions to Audit Committee Charter – Mark-up

Proposed revisions to Audit Committee Charter – Clean

- Proposed revisions to Correction of Errors or Omissions Policy – Mark-up
- Proposed revisions to Correction of Errors or Omissions Policy – Clean
- Proposed revisions to Computer Equipment Policy – Mark-up
- Proposed revisions to Computer Equipment Policy – Clean
- Proposed revisions to Disability Retirement and Active Member Death Policy and Procedures – Mark-up
- Proposed revisions to Disability Retirement and Active Member Death Policy and Procedures – Clean
- Proposed revisions to Document and Data Retention Policy – Mark-up
- Proposed revisions to Document and Data Retention Policy – Clean
- Proposed revisions to Electronic Signature Policy – Mark-up
- Proposed revisions to Electronic Signature Policy – Clean
- Proposed revisions to Normal Retirement Age-IRC 401(a) Policy – Mark-up
- Proposed revisions to Normal Retirement Age-IRC 401(a) Policy – Clean



Renee Ostrander
Chief Executive Officer



Board Administration Policy

Age Verification

I. Purpose

- A. To establish guidelines for verifying the age of SJCERA's active and retired members, and their survivors, dependents, and beneficiaries.

II. Birth Certificate Requirement

- A. Upon appointment to a permanent full-time position or opt-in confirmation of elected officers, every employee who is eligible for membership in SJCERA shall submit a legible copy of the employee's birth certificate or, if unobtainable, other proof of age. This requirement shall be in addition to the Membership requirements set forth in the bylaws.
- B. Upon applying for a retirement benefit (including service, disability, or survivor), a legible copy of the birth certificate or, if unobtainable, other acceptable age verification documentation, as identified in Section III of this policy, shall be submitted for the following individuals, if the documentation is not already on file with SJCERA: the member, any survivors/beneficiaries named to receive a continuance, and any dependents named for health insurance coverage.
1. Benefit payments and health plan enrollment shall not be processed without proof of age.

III. Alternative Acceptable Age Verification Documents

- A. The following alternative documents will be acceptable:
1. Any one of the following:
 - a) A valid U.S. Passport or passport card issued within the last 10 years
 - b) Valid Real ID compliant driver's license or identification card
 - ~~e) Infant baptismal certificate;~~
 - ~~d)c) Elementary school age record~~
 - ~~e) Hospital birth record;~~
 - ~~f)d) Authenticated family record;~~ or
 2. Any two of the following:
 - a) Valid state-issued driver's license or identification card,
 - b) Marriage record, if age is shown;
 - c) Military record;
 - d) Child's birth certificate showing age of parent;
 - e) Naturalization certificates issued by the U.S. Citizenship and Immigration Services (USCIS).
 - f) Expired U.S. Passport
 - g) Valid non-U.S. Passport

- h) Valid Employment Authorization Document (EAD) Card (I-766) or valid/expired EAD Card with Notice of Action (I-797 C)

B. If the member is unable to provide satisfactory Age Verification documentation, as outlined in Sections II and III of this policy, the CEO is authorized to approve alternate documentation based on individual circumstances. In that instance, the CEO shall maintain a record describing the Age Verification procedure for the member and the reason for approval of alternate documentation.

IV. Corrections

- A. In the event acceptable age verification documentation is not available, the birth date provided by the employer will be accepted for actuarial valuation and contribution purposes.
- B. Upon receipt of acceptable age verification documentation, any discrepancy between the documentation received and the birth date reported by the employer, will be corrected by SJCERA.
 - 1. Any re-calculation and correction of over- or underpaid contributions will be processed pursuant to SJCERA's *Correction of Errors and Omissions Policy*.

V. Law Prevails Severability

A. In the event a conflict between any part of this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statute arises, only the conflicting portion and not this entire policy shall be inoperative. the law shall prevail.

VI. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

VII. History

03/01/2017	Bylaws Amended and Approved by the Board of Supervisors
12/08/2017	Bylaw Section 5.2.B.1. & 2, C & D Converted to Board Policy
06/29/2018	Reviewed, no content changes required; Staff updated format
04/12/2019	Policy Review section amended to at least once every three years
07/12/2019	Amended to allow copies of birth certificates, expand the types of acceptable documentation, grant the CEO discretion to allow exceptions, clarify procedures when no age documentation is on file or there are conflicting birth dates.
07/08/2022	Clarified language; amended alternative acceptable documents
<u>07/12/2024</u>	<u>Clarified Severability definition and amended verification documents</u>

Certification of Board Adoption

07/08~~12~~/2022~~2024~~

Clerk of the Board

Date

Related Statutes:

California Government Code Sections 31531 and 31526



Board Administration Policy

Age Verification

I. Purpose

- A. To establish guidelines for verifying the age of SJCERA's active and retired members, and their survivors, dependents, and beneficiaries.

II. Birth Certificate Requirement

- A. Upon appointment to a permanent full-time position or opt-in confirmation of elected officers, every employee who is eligible for membership in SJCERA shall submit a legible copy of the employee's birth certificate or, if unobtainable, other proof of age. This requirement shall be in addition to the Membership requirements set forth in the bylaws.
- B. Upon applying for a retirement benefit (including service, disability, or survivor), a legible copy of the birth certificate or, if unobtainable, other acceptable age verification documentation, as identified in Section III of this policy, shall be submitted for the following individuals, if the documentation is not already on file with SJCERA: the member, any survivors/beneficiaries named to receive a continuance, and any dependents named for health insurance coverage.
 - 1. Benefit payments and health plan enrollment shall not be processed without proof of age.

III. Alternative Acceptable Age Verification Documents

- A. The following alternative documents will be acceptable:
 - 1. Any one of the following:
 - a) A valid U.S. Passport or passport card issued within the last 10 years
 - b) Valid Real ID compliant driver's license or identification card
 - c) Elementary school age record
 - d) Hospital birth record; or
 - 2. Any two of the following:
 - a) Valid state-issued driver's license or identification card,
 - b) Marriage record, if age is shown;
 - c) Military record;
 - d) Child's birth certificate showing age of parent;
 - e) Naturalization certificates issued by the U.S. Citizenship and Immigration Services (USCIS).
 - f) Expired U.S. Passport
 - g) Valid non-U.S. Passport
 - h) Valid Employment Authorization Document (EAD) Card (I-766) or valid/expired EAD Card with Notice of Action (I-797 C)

- B. If the member is unable to provide satisfactory Age Verification documentation, as outlined in Sections II and III of this policy, the CEO is authorized to approve alternate documentation based on individual circumstances. In that instance, the CEO shall maintain a record describing the Age Verification procedure for the member and the reason for approval of alternate documentation.

IV. Corrections

- A. In the event acceptable age verification documentation is not available, the birth date provided by the employer will be accepted for actuarial valuation and contribution purposes.
- B. Upon receipt of acceptable age verification documentation, any discrepancy between the documentation received and the birth date reported by the employer, will be corrected by SJCERA.
 - 1. Any re-calculation and correction of over- or underpaid contributions will be processed pursuant to SJCERA's *Correction of Errors and Omissions Policy*.

V. Severability

- A. In the event a conflict between any part of this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statute arises, only the conflicting portion and not this entire policy shall be inoperative.

VI. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

VII. History

03/01/2017	Bylaws Amended and Approved by the Board of Supervisors
12/08/2017	Bylaw Section 5.2.B.1. & 2, C & D Converted to Board Policy
06/29/2018	Reviewed, no content changes required; Staff updated format
04/12/2019	Policy Review section amended to at least once every three years
07/12/2019	Amended to allow copies of birth certificates, expand the types of acceptable documentation, grant the CEO discretion to allow exceptions, clarify procedures when no age documentation is on file or there are conflicting birth dates.
07/08/2022	Clarified language; amended alternative acceptable documents
07/12/2024	Clarified Severability definition and amended verification documents

Certification of Board Adoption

07/12/2024

Clerk of the Board

Date

Related Statutes:

California Government Code Sections 31531 and 31526



Board Administration Policy

Annual Additions Limit - IRC 415(c)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to annual additions limits under Internal Revenue Code section 415(c) and Treasury regulations issued thereunder.

II. Definitions

A. **Solely for purposes of this policy, the following definitions shall apply:**

1. Account: "Account" means the separate Member account provided under the Association for benefits that are separate and apart from the retirement benefits (annuity and pension) otherwise provided under the County Employees Retirement Law.
2. Affiliate: Solely to the extent provided in the Code with respect to public agencies, the term "Affiliate" means all members of a controlled group of an Employer.
3. Aggregated Plan: "Aggregated Plan" means any defined contribution plan which is aggregated with the Association pursuant to part IV of this policy
4. Annual Additions: "Annual Additions" means the sum of the amounts described in Section 4, subsection a. credited to a Member's Account under the Association and any Aggregated Plans for the Limitation Year; and excludes the amounts described in subsection b. below:
 - a. The term "Annual Additions" includes:
 - i. Employer contributions allocated to the Member's Account that is separate and apart from any pension or annuity benefits provided under the CERL or PEPRA;
 - ii. Employee contributions (after-tax), including mandatory contributions (as defined in Code section 411(c)(2)(C) and Treasury regulations issued thereunder), as well as voluntary employee contributions used to purchase permissive service credit (as defined in Code section 415(n)(3)), to the extent such service credit purchase is not prohibited under the CERL or PEPRA, if those amounts are treated as Annual Additions in the year contributed pursuant to Code section 415(n)(1).
 - iii. Forfeitures;
 - iv. Amounts allocated to the Member's individual medical account (within the meaning of Code section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer or Affiliate, except that such amounts are not included in Annual Additions for purposes of applying the 100% of compensation limit.
 - b. The term "Annual Additions" excludes:

- i. Redeposits of withdrawals as described in Code section 415(k)(3) (for example, to purchase restoration of an accrued benefit that was lost when accumulated member contributions were previously withdrawn) for the limitation year(s) in which the redeposit occurs;
 - ii. Catch-up contributions made in accordance with Code section 414(v);
 - iii. Restorative payment described in Treasury regulations section 1.415(c)-1(b)(2)(ii)(C);
 - iv. Excess deferrals that are distributed in accordance with Treasury regulations section 1.402(g)-1(e)(2) or (3);
 - v. Rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d) and 457(e)(16));
 - vi. Loan repayments;
 - vii. Employee contributions to a qualified cost-of-living arrangement described in Code section 415(k)(2)(B);
 - viii. Make-up contributions attributable to a period of qualified military service, as defined in Code section 414(u), with respect to the year in which the contribution is made (but not with respect to the year to which the contribution relates);
 - ix. Employee contributions to purchase permissive service credit (as defined in Code section 415(n)(3)) to the extent such service credit purchase is allowed under the CERL and PEPRA and the accrued benefit derived from all such contributions is treated as an annual benefit subject to the limits of Code section 415(b); and
 - x. Contributions that are picked up by an Employer under Code section 414(h)(2).
5. Employer: “Employer” means the ~~governmental~~ entity that participates in the Association in accordance with the CERL and employs the Member.
 6. Limitation Year: “Limitation Year” means the calendar year.
 7. Maximum Permissible Amount: “Maximum Permissible Amount” means the lesser of:
 - a. IRC Annual Limit, as adjusted for increases in the cost-of-living under Code section 415(d); or
 - b. 100 percent of the Member’s Total Compensation for the Limitation Year.
 8. Severance From Employment: “Severance From Employment” means the Member ceases to be an employee of the Employer. A Member does not have a Severance From Employment if, in connection with a change of employment, the Member’s new employer maintains the Association with respect to the Member.

9. Total Compensation: “Total Compensation” means all items of remuneration described in subsection “a” of this section and excludes all items of remuneration described in subsection “b” of this section, below.
- a. Items Included: Total Compensation includes all of the following items of remuneration for services:
- i. A Member’s wages, salaries, fees for professional services, and other amounts received from the Employer (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer and any Affiliate to the extent that the amounts are includable in gross income (or to the extent that amounts would have been includable in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements, or other expense allowances under a non-accountable plan, as described in Treasury regulations section 1.62-2(c);
 - ii. Amounts described in Code section 104(a)(3), 105(a), or 105(h), but only to the extent that these amounts are includable in the gross income of the Member from the Employer;
 - iii. Amounts paid or reimbursed by the Employer or an Affiliate for moving expenses incurred by a Member, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are not deductible by the Member under Code section 217;
 - iv. The amount includable in the gross income of a Member upon making the election described in Code section 83(b);
 - v. Amounts that are includable in the gross income of a Member under the rules of Code section 409A or Code section 457(f)(1)(A), or because the amounts are constructively received by the Member; and
 - vi. An amount that is excludable under Code section 106 that is not available to a Member in cash in lieu of group health coverage because the Member is unable to certify that he or she has other health coverage; provided, however, that the Employer does not request or collect information regarding the Member’s other health coverage as part of the enrollment process for the health plan.
 - vii. Differential wage payments as defined in Internal Revenue Code section 3401(h)(2).
- b. Items Excluded: The following items are excluded from Total Compensation:
- i. Employer contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a deferred compensation plan (including a simplified employee pension described in Code section 408(k) or a simple retirement

account described in Code section 408(p), and whether or not qualified) to the extent such contributions are not includable in the Member's gross income for the taxable year in which contributed, and any distributions (whether or not includable in gross income when distributed) from a deferred compensation plan (whether or not qualified) other than amounts received during the year by a Member pursuant to a nonqualified unfunded deferred compensation plan to the extent includable in gross income;

- ii. Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are excludable from the gross income of the Member, and are not salary reduction amounts that are described in Code section 125);
- iii. Other items of remuneration that are similar to any of the items listed in paragraphs "i" and "ii", above.

c. Timing

- i. In order to be taken into account for a Limitation Year, Total Compensation must be paid or made available (or, if earlier, includable in the gross income of the Member) during the Limitation Year. For this purpose, compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election under Code section 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b)). The Association provides that Total Compensation for a Limitation Year includes amounts earned during the Limitation Year but not paid during the Limitation Year solely because of the timing of pay periods and pay dates if: (1) these amounts are paid during the first few weeks of the next Limitation Year; (2) the amounts are included on a uniform and consistent basis with respect to all similarly situated employees; and (3) no compensation is included in more than one Limitation Year.
- ii. In order to be taken into account for a Limitation Year, Total Compensation must be paid or treated as paid to the Member prior to the Member's Severance From Employment with the Employer; provided, however, that Total Compensation includes amounts paid to the Member by the later of 2½ months after Severance From Employment or the end of the Limitation Year if the amounts are regular compensation for services during the Member's regular working hours, compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation that absent a Severance From Employment would have been paid to the Member while the Member continued in employment with the Employer. The Association provides that the following amounts are includable in Total Compensation if paid by the later of 2½ months after severance from employment or the end of the Limitation Year if the amounts would have been included in Total Compensation if paid prior to Severance from Employment: (1) accrued bona fide sick, vacation or other leave is included in Total Compensation if the

Member would have been able to use the leave had employment continued, and (2) payment pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includable in gross income.

- iii. Total Compensation does not include amounts paid after Severance From Employment that are severance pay, unfunded nonqualified deferred compensation, or any other payment that is not described in the preceding paragraph, even if paid within 2½ months, except for:
 - 1. Payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service to the extent that these payments do not exceed the amounts that the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service; and
 - 2. Payments to a Member who is permanently and totally disabled; provided, however that salary continuation applies to all Members who are permanently and totally disabled for a fixed or determinable period. For this purpose, a Member is permanently and totally disabled only if the Member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months.
- d. Limit: A Member's Total Compensation shall not include compensation in excess of the limitation of Code section 401(a)(17) that is in effect for the calendar year in which such Limitation Year begins.

III. Annual Additions Limitation, In General

- A. Notwithstanding anything to the contrary contained in the Association, the total Annual Additions allocated to a Member's Account under the Association, when added to the Annual Additions allocated to the Member's accounts under all other Aggregated Plans maintained by the Employer or an Affiliate for any Limitation Year, shall not exceed the Maximum Permissible Amount; provided, however, that the limit described in Section II.A.7.b shall not apply to an individual medical benefit account (as defined in Code section 415(l)).

IV. Aggregation with Other Defined Contribution Plans

- A. All defined contribution plans (as defined in Treasury regulations section 1.415(c)-1(a)(2) and whether or not terminated) maintained by the Employer or an Affiliate shall be aggregated with the Association, and all plans so aggregated shall be considered as one plan in applying the limitations of this policy.

V. Coordination with Other Defined Contribution Plans

A. In the event that a Member participates in another defined contribution plan of the Employer or of an Affiliate that is a tax-qualified defined contribution plan, contributions or allocations that would otherwise be made on behalf of the Member to the Association shall be reduced to the extent necessary to avoid exceeding the limitations of this policy when contributions are aggregated as described above.

VI. Correction

A. Any excess Annual Additions shall be corrected using the methods specified in guidance promulgated by the Secretary of the Treasury describing the procedures for correcting excess Annual Additions under the Employee Plans Compliance Resolution System (“EPCRS”) or its successor.

VII. Code and Regulations Prevail

A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern. This policy shall not be invalidated in whole, only those portions which conflict with applicable law.

VIII. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

IX. History

- 01/01/2015 Effective Date of Bylaw Section 27
- 12/08/2017 Extracted from Bylaws
- 06/29/2018 Staff reviewed, no content changes; updated format and resulting section cross-references
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/09/2021 Minor edits/updates by tax counsel
- 07/12/2024 Amended employer definition and other non-substantive changes

Certification of Board Adoption

Clerk of the Board 07/09/2024
Date



Board Administration Policy

Annual Additions Limit - IRC 415(c)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to annual additions limits under Internal Revenue Code section 415(c) and Treasury regulations issued thereunder.

II. Definitions

A. **Solely for purposes of this policy, the following definitions shall apply:**

1. Account: "Account" means the separate Member account provided under the Association for benefits that are separate and apart from the retirement benefits (annuity and pension) otherwise provided under the County Employees Retirement Law.
2. Affiliate: Solely to the extent provided in the Code with respect to public agencies, the term "Affiliate" means all members of a controlled group of an Employer.
3. Aggregated Plan: "Aggregated Plan" means any defined contribution plan which is aggregated with the Association pursuant to part IV of this policy
4. Annual Additions: "Annual Additions" means the sum of the amounts described in Section 4, subsection a. credited to a Member's Account under the Association and any Aggregated Plans for the Limitation Year; and excludes the amounts described in subsection b. below:
 - a. The term "Annual Additions" includes:
 - i. Employer contributions allocated to the Member's Account that is separate and apart from any pension or annuity benefits provided under the CERL or PEPRA;
 - ii. Employee contributions (after-tax), including mandatory contributions (as defined in Code section 411(c)(2)(C) and Treasury regulations issued thereunder), as well as voluntary employee contributions used to purchase permissive service credit (as defined in Code section 415(n)(3)), to the extent such service credit purchase is not prohibited under the CERL or PEPRA, if those amounts are treated as Annual Additions in the year contributed pursuant to Code section 415(n)(1).
 - iii. Forfeitures;
 - iv. Amounts allocated to the Member's individual medical account (within the meaning of Code section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer or Affiliate, except that such amounts are not included in Annual Additions for purposes of applying the 100% of compensation limit.
 - b. The term "Annual Additions" excludes:

- i. Redeposits of withdrawals as described in Code section 415(k)(3) (for example, to purchase restoration of an accrued benefit that was lost when accumulated member contributions were previously withdrawn) for the limitation year(s) in which the redeposit occurs;
 - ii. Catch-up contributions made in accordance with Code section 414(v);
 - iii. Restorative payment described in Treasury regulations section 1.415(c)-1(b)(2)(ii)(C);
 - iv. Excess deferrals that are distributed in accordance with Treasury regulations section 1.402(g)-1(e)(2) or (3);
 - v. Rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d) and 457(e)(16));
 - vi. Loan repayments;
 - vii. Employee contributions to a qualified cost-of-living arrangement described in Code section 415(k)(2)(B);
 - viii. Make-up contributions attributable to a period of qualified military service, as defined in Code section 414(u), with respect to the year in which the contribution is made (but not with respect to the year to which the contribution relates);
 - ix. Employee contributions to purchase permissive service credit (as defined in Code section 415(n)(3)) to the extent such service credit purchase is allowed under the CERL and PEPRA and the accrued benefit derived from all such contributions is treated as an annual benefit subject to the limits of Code section 415(b); and
 - x. Contributions that are picked up by an Employer under Code section 414(h)(2).
5. Employer: “Employer” means the entity that participates in the Association in accordance with the CERL and employs the Member.
6. Limitation Year: “Limitation Year” means the calendar year.
7. Maximum Permissible Amount: “Maximum Permissible Amount” means the lesser of:
- a. IRC Annual Limit, as adjusted for increases in the cost-of-living under Code section 415(d); or
 - b. 100 percent of the Member’s Total Compensation for the Limitation Year.
8. Severance From Employment: “Severance From Employment” means the Member ceases to be an employee of the Employer. A Member does not have a Severance From Employment if, in connection with a change of employment, the Member’s new employer maintains the Association with respect to the Member.

9. Total Compensation: “Total Compensation” means all items of remuneration described in subsection “a” of this section and excludes all items of remuneration described in subsection “b” of this section, below.
- a. Items Included: Total Compensation includes all of the following items of remuneration for services:
- i. A Member’s wages, salaries, fees for professional services, and other amounts received from the Employer (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer and any Affiliate to the extent that the amounts are includable in gross income (or to the extent that amounts would have been includable in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements, or other expense allowances under a non-accountable plan, as described in Treasury regulations section 1.62-2(c);
 - ii. Amounts described in Code section 104(a)(3), 105(a), or 105(h), but only to the extent that these amounts are includable in the gross income of the Member from the Employer;
 - iii. Amounts paid or reimbursed by the Employer or an Affiliate for moving expenses incurred by a Member, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are not deductible by the Member under Code section 217;
 - iv. The amount includable in the gross income of a Member upon making the election described in Code section 83(b);
 - v. Amounts that are includable in the gross income of a Member under the rules of Code section 409A or Code section 457(f)(1)(A), or because the amounts are constructively received by the Member; and
 - vi. An amount that is excludable under Code section 106 that is not available to a Member in cash in lieu of group health coverage because the Member is unable to certify that he or she has other health coverage; provided, however, that the Employer does not request or collect information regarding the Member’s other health coverage as part of the enrollment process for the health plan.
 - vii. Differential wage payments as defined in Internal Revenue Code section 3401(h)(2).
- b. Items Excluded: The following items are excluded from Total Compensation:
- i. Employer contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a deferred compensation plan (including a simplified employee pension described in Code section 408(k) or a simple retirement

account described in Code section 408(p), and whether or not qualified) to the extent such contributions are not includable in the Member's gross income for the taxable year in which contributed, and any distributions (whether or not includable in gross income when distributed) from a deferred compensation plan (whether or not qualified) other than amounts received during the year by a Member pursuant to a nonqualified unfunded deferred compensation plan to the extent includable in gross income;

- ii. Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are excludable from the gross income of the Member, and are not salary reduction amounts that are described in Code section 125);
- iii. Other items of remuneration that are similar to any of the items listed in paragraphs "i" and "ii", above.

c. Timing

- i. In order to be taken into account for a Limitation Year, Total Compensation must be paid or made available (or, if earlier, includable in the gross income of the Member) during the Limitation Year. For this purpose, compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election under Code section 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b)). The Association provides that Total Compensation for a Limitation Year includes amounts earned during the Limitation Year but not paid during the Limitation Year solely because of the timing of pay periods and pay dates if: (1) these amounts are paid during the first few weeks of the next Limitation Year; (2) the amounts are included on a uniform and consistent basis with respect to all similarly situated employees; and (3) no compensation is included in more than one Limitation Year.
- ii. In order to be taken into account for a Limitation Year, Total Compensation must be paid or treated as paid to the Member prior to the Member's Severance From Employment with the Employer; provided, however, that Total Compensation includes amounts paid to the Member by the later of 2½ months after Severance From Employment or the end of the Limitation Year if the amounts are regular compensation for services during the Member's regular working hours, compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation that absent a Severance From Employment would have been paid to the Member while the Member continued in employment with the Employer. The Association provides that the following amounts are includable in Total Compensation if paid by the later of 2½ months after severance from employment or the end of the Limitation Year if the amounts would have been included in Total Compensation if paid prior to Severance from Employment: (1) accrued bona fide sick, vacation or other leave is included in Total Compensation if the

Member would have been able to use the leave had employment continued, and (2) payment pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includable in gross income.

- iii. Total Compensation does not include amounts paid after Severance From Employment that are severance pay, unfunded nonqualified deferred compensation, or any other payment that is not described in the preceding paragraph, even if paid within 2½ months, except for:
 - 1. Payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service to the extent that these payments do not exceed the amounts that the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service; and
 - 2. Payments to a Member who is permanently and totally disabled; provided, however that salary continuation applies to all Members who are permanently and totally disabled for a fixed or determinable period. For this purpose, a Member is permanently and totally disabled only if the Member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months.
- d. Limit: A Member's Total Compensation shall not include compensation in excess of the limitation of Code section 401(a)(17) that is in effect for the calendar year in which such Limitation Year begins.

III. Annual Additions Limitation, In General

- A. Notwithstanding anything to the contrary contained in the Association, the total Annual Additions allocated to a Member's Account under the Association, when added to the Annual Additions allocated to the Member's accounts under all other Aggregated Plans maintained by the Employer or an Affiliate for any Limitation Year, shall not exceed the Maximum Permissible Amount; provided, however, that the limit described in Section II.A.7.b shall not apply to an individual medical benefit account (as defined in Code section 415(l)).

IV. Aggregation with Other Defined Contribution Plans

- A. All defined contribution plans (as defined in Treasury regulations section 1.415(c)-1(a)(2) and whether or not terminated) maintained by the Employer or an Affiliate shall be aggregated with the Association, and all plans so aggregated shall be considered as one plan in applying the limitations of this policy.

V. Coordination with Other Defined Contribution Plans

A. In the event that a Member participates in another defined contribution plan of the Employer or of an Affiliate that is a tax-qualified defined contribution plan, contributions or allocations that would otherwise be made on behalf of the Member to the Association shall be reduced to the extent necessary to avoid exceeding the limitations of this policy when contributions are aggregated as described above.

VI. Correction

A. Any excess Annual Additions shall be corrected using the methods specified in guidance promulgated by the Secretary of the Treasury describing the procedures for correcting excess Annual Additions under the Employee Plans Compliance Resolution System (“EPCRS”) or its successor.

VII. Code and Regulations Prevail

A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern. This policy shall not be invalidated in whole, only those portions which conflict with applicable law.

VIII. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

IX. History

01/01/2015	Effective Date of Bylaw Section 27
12/08/2017	Extracted from Bylaws
06/29/2018	Staff reviewed, no content changes; updated format and resulting section cross-references
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Minor edits/updates by tax counsel
07/12/2024	Amended employer definition and other non-substantive changes

Certification of Board Adoption

	07/12/2024
Clerk of the Board	Date



Board Administration Policy

Annual Benefit Limit - IRC 415(b)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the annual benefit limit applicable for the Association in accordance with Internal Revenue Code section 415(b) and Treasury regulations issued thereunder.

II. Definitions

- A. Annual Benefit: "Annual Benefit" means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided in Section III-A.5, where a benefit is payable in a form other than a Straight Life Annuity, the benefit shall be adjusted (solely for purposes of applying the limits of Code section 415 and of this policy) pursuant to Section III-A.7 to an actuarially equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month.
- B. Annual Benefit Limit: "Annual Benefit Limit" means the limit described in Section III-A.1.
- C. Annuity: "Annuity" for purposes of this policy does not mean "annuity" as defined in the County Employee Retirement Law but instead means a retirement benefit that is payable by the Association, as provided in Code section 415.
- D. Annuity Starting Date: "Annuity Starting Date" means the first day of the first period for which a retirement benefit is payable as an annuity or, in the case of a retirement benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Member to payment under the Association.
- E. Applicable Interest Rate: "Applicable Interest Rate" means the "applicable interest rate" defined in Code section 417(e)(3)(C) and shall be such rate of interest determined as of the third month preceding the stability period, which shall be the calendar year containing the Annuity Starting Date for the distribution and for which the Applicable Interest Rate shall remain constant.
- F. Applicable Mortality Table: "Applicable Mortality Table" means the "applicable mortality table" defined in Code section 417(e)(3)(B).
- G. Employer: "Employer" means the ~~governmental~~ entity that participates in the Association in accordance with the CERL and employs the Member. The term "Employer" also includes any Affiliated Employer. Solely to the extent provided in the Code with respect to public agencies, the term "Affiliated Employer" means all members of a controlled group of an Employer.
- H. Limitation Year: "Limitation Year" means the calendar year.
- I. Spouse: Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered

into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term “Spouse” does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

- J. Straight Life Annuity: “Straight Life Annuity” means an Annuity payable in equal installments for the life of the member and terminating on the Member’s death.

III. Annual Benefit Limit

A. Annual Benefit Limit, in General

1. Annual Limit

- a. Unless the alternative limit described in Section III applies, the Annual Benefit payable to a Member under the Association at any time shall not exceed the [Annual IRC Limit](#) specified under Code section 415(b)(1)(A) , automatically adjusted under Code section 415(d), effective January 1 of each year, as provided by the Internal Revenue Service.

2. Maximum Payment

- a. If the benefit the Member would otherwise be paid in a Limitation Year would be in excess of the limit in subsection A.1 above, the benefit shall be limited to a benefit that does not exceed the limit.

3. COLA Adjustment

- a. In the case of a Member who has had a severance from employment with the Employer, the Annual Benefit Limit applicable to the Member in any Limitation Year beginning after the date of severance shall be automatically adjusted under § 415(d) of the Code.

4. Multiple Annuity Starting Dates

- a. For a Member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this policy as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates.
- b. For this purpose, the determination of whether a new starting date has occurred shall be made in accordance with section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Treasury regulations.

5. Actuarial Adjustment for Forms of Benefit

- a. Except as provided in Section III-A.6, if the Member’s benefit is payable in a form other than a Straight Life Annuity, then solely for purposes of

applying the limits of Code section 415 and of this policy, the actuarially equivalent Straight Life Annuity shall be determined in accordance with paragraph a or b below, whichever is applicable.

- i. Annuities: If the Member's benefit is payable in the form of a non-decreasing life annuity or other form of benefit described in Treasury regulation section 1.417(e)-1(d)(6) (e.g., other than a lump sum, installments, a decreasing annuity or a term certain), then the actuarially equivalent Straight Life Annuity is determined using the greater of:
 1. The Straight Life Annuity (if any) payable to the Member under the Association commencing at the same annuity starting date as the form of benefit payable to the Member; or
 2. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using:
 - a. A 5% interest assumption; and
 - b. The applicable Mortality Table.

 - i. Lump Sums, Installments, etc.: If the Member's benefit is payable in the form of a lump sum, installments, a decreasing annuity, term certain or other form of benefit not described in Treasury regulations section 1.417(e)-1(d)(6), then the Straight Life Annuity that is actuarially equivalent to the Member's form of benefit is equal to the greatest of:
 1. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the interest rate and the mortality table specified in the Association for adjusting benefits in the same form;
 2. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using a 5.5 percent interest rate and the Applicable Mortality Table; or
 3. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the Applicable Interest Rate and the Applicable Mortality Table divided by 1.05.
6. No Actual Adjustment (or Limitation) Required for Certain Benefits
- a. In determining the Annual Benefit, no actuarial adjustment to the benefit shall be made for the following benefits of benefit forms:

- i. Qualified Joint And Survivor Annuity: Survivor benefits payable to a surviving Spouse under a joint and survivor annuity that would qualify as a qualified joint and survivor annuity defined in Code section 417(b). If benefits are paid partly in the form of a qualified joint and survivor annuity and partly in some other form (such as a single sum distribution), the rule of this paragraph applies only to the survivor annuity payments under the portion of the benefit that is paid in the form of a qualified joint and survivor annuity.
- ii. Benefits that are not "Retirement Benefits": Benefits that are not directly related to retirement benefits (such as pre-retirement qualified disability benefits, preretirement incidental death benefits, and postretirement medical benefits). Additionally, these benefits shall not be subject to the Annual Benefit Limit.
- iii. Certain Automatic Benefit Increases: Benefits that meet the following requirements: (a) the Association provides for automatic periodic increases such as a form of benefit that automatically increases the benefit paid according to a specified percentage or objective index (but not a benefit that is increased on an ad hoc basis or a basis that is separately determined by action of the Association's Board of Retirement or the County's Board of Supervisors) and (b) the form of benefit complies with Code section 415(b) without regard to the automatic benefit increase.

In no event shall the amount payable to the Member under the form of benefit in any Limitation Year be greater than the Annual Benefit Limit applicable at the Annuity Starting Date increased by the amounts provided in Code section 415(d). Also if the form of benefit without regard to the automatic benefit increase is not a Straight Life Annuity, then the Annual Benefit at the Annuity Starting Date is determined by converting the form of benefit to an actuarially equivalent Straight Life Annuity, as provided in Section III-B.1 herein.

7. Rules For Determining Annual Benefit

- a. Social Security Supplements, etc.: The determination of the Annual Benefit shall take into account social security supplements described in § 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to section 1.411(d)-4, Q&A-3(c), of the Treasury regulations.
- b. Member Contributions: The determination of the Annual Benefit shall disregard benefits attributable to Member contributions or rollover contributions. Benefits attributable to Member contributions do not include any benefits that are made on a pre-tax basis such as pickups under Code section 414(h)(2) or such as Member contributions that are actually paid by the Member's employer.
- c. Rollovers: The amount of any benefits attributable to Member contributions and to rollover contributions shall be determined in accordance with Code section 415.
- d. Voluntary Contributions: Member contributions that are defined as

“voluntary” contributions under Code section 415 (such as certain contribution under CERL section 31627) are not subject to the limits of this policy but are subject to the limits of Code section 415(c) concerning defined contribution plans.

B. Reduction for Less than 10 Years of Participation

1. Reduction

- a. If the Member has less than 10 Years of Participation in the Association, the Annual Benefit Limit shall be multiplied by a fraction -- (i) the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the Association, and (ii) the denominator of which is 10.

2. Counting Years of Participation

- a. The Member is credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:
 - i. The Member is credited with at least the number of hours of service or period of service for benefit accrual purposes, required under the terms of the Association in order to accrue a benefit for the accrual computation period, and
 - ii. The Member is included as a Member under the eligibility provisions of the Association for at least one day of the accrual computation period.
- b. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the portion of a year of benefit accrual service credited to the Member for such accrual computation period.
- c. A Member who is permanently and totally disabled within the meaning of §415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period.
- d. In no event shall more than one Year of Participation be credited for any 12-month period. For example, if under the Association, a Member receives 1/10 of a year of benefit accrual service for an accrual computation period for each 200 hours of service, and the Member is credited with 1,000 hours of service for the period, the Member is credited with 1/2 year of participation for purposes of this subsection.

3. Disability and Death Benefits

- a. The reduction described in paragraph 1 above shall not apply to disability benefits or death benefits as provided in the Code.

C. Reduction for Commencement before Age 62 for Certain Members

1. No Reduction for Certain Safety Members

- a. The adjustment described in this subsection shall not apply if the Member's benefit is based on at least 15 years as a full-time employee of any police or fire department of an Employer that maintains the Association or as a member of the armed forces of the United States. Such police or fire department must be organized to provide police protection, firefighting services or emergency medical services for any area within the jurisdiction of such Employer.

2. Reduction for Benefits Commencing before Age 62
 - a. If the Member's benefits commence before the Member attains age 62, the Annual Benefit Limit is equal to the lesser of:
 - i. The Annual Benefit Limit reduced in accordance with Code section 415(b) to its actuarial equivalent using:
 1. The Applicable Mortality Table; and
 2. A 5% interest rate; or
 - ii. The Annual Benefit Limit multiplied by the ratio of the immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the Straight Life Annuity under the Association commencing at age 62, both determined without applying the limitations of this policy.
3. Probability of Death
 - a. No adjustment will be made to the annual benefit limit to reflect the probability of death between the Annuity Starting Date and age 62 unless the Member's benefit is forfeited at death before the Annuity Starting Date.
4. Death and Disability
 - a. The adjustment described in paragraph 1 of this subsection shall not apply to disability benefits or death benefits as provided in the Code.

D. Increase for Commencement after Age 65

1. Increase for Commencement after 65: If the Member's benefits commence after the Member attains age 65, the Annual Benefit Limit is equal to the lesser of:
 - a. The Annual Benefit Limit increased in accordance with Code section 415(b) to its actuarial equivalent using:
 - i. The Applicable Mortality Table; and
 - ii. A 5% interest rate; or
 - b. The Annual Benefit Limit multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at age 65, both determined without applying the limitations of this policy. For this purpose, the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the Association at age 65 is the annual amount of such annuity that would be payable under the Association to a hypothetical Member who is age 65 and

has the same accrued benefit as the Member.

2. Probability of Death: No adjustment will be made to the Annual Benefit Limit to reflect the probability of death between age 65 and the Annuity Starting Date unless the Member's benefit is forfeited at death before the Annuity Starting Date.
- E. Minimum Benefit Permitted: The benefit otherwise accrued or payable to a Member under the Association is treated as not exceeding the Annual Benefit Limit if:
1. Minimum Benefit Limit Allowed
 - a. The sum of the retirement benefits payable under any form of benefit with respect to the Member for the Limitation Year or for any prior Limitation Year under the Association and all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Member's Employer does not exceed \$10,000 multiplied by a fraction – (i) the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the Member's Employer or an Affiliated Employer, and (ii) the denominator of which is 10; and
 2. Condition
 - a. The Member has never participated in any qualified defined contribution plan maintained by the Member's Employer or an Affiliated Employer.

IV. Participation in Multiple Defined Benefit Plans

A. Application of Limit to Aggregate Benefits

1. If the Member is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the Member's Employer, the sum of the participant's Annual Benefits from all such plans may not exceed the Annual Benefit Limit.

B. Multiple Plan Benefit Limit Coordination

1. Where the Member's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Annual Benefit Limit applicable at that age, the benefits accrued under all such other plans shall be reduced first in order to avoid exceeding the limit and shall be reduced under the Association, but if such other plan provides that it will be reduced, the reduction will be made in such other plan sufficient to avoid exceeding the limit.

V. Multiple Employer Plan

- A. Employer-provided benefits attributable to the Member for all of the Employers participating in the Association are taken into account for purposes of applying the Annual Benefit Limit.

VI. Grandfather Rules

- A. Annual Benefit Limit Equals Accrued Benefit

1. Notwithstanding anything herein to the contrary, the Annual Benefit Limit with respect to a Qualified Member shall not be less than the accrued benefit of the Qualified Member under the Association determined without regard to any amendment made after October 14, 1987.

B. Qualified Participant

1. For purposes of this section, the term "Qualified Member" means a Member who first became a Member in the Association before January 1, 1990.

C. Election

1. By the enactment of CERL section 31899 et. seq. the "grandfather" election under Code section 415(b)(10) was made for the Association and all retirement systems maintained under the CERL to have this Section VI. apply.

VII. Purchase of Permissive Service Credit

A. General Rule

1. To the extent a Member is not prohibited by the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), if a Member makes one or more contributions to the Association to purchase Permissive Service Credit under the Association, then the requirements of this policy will be treated as met only if:
 - a. The requirements of this policy are met, determined by treating the accrued benefit derived from all such contributions as an Annual Benefit for purposes of this policy; or
 - b. The requirements of SJCERA's Annual Benefit Limit policy governing the limits on annual additions IRC 415(c) applicable to defined contribution plans are met by treating all such contributions as annual additions.

B. Permissive Service Credit

1. Permissive Service Credit Defined: For purposes of this Section, "Permissive Service Credit" means credit:
 - a. Recognized by the Association for purposes of calculating a Member's benefit under the Association;
 - b. Which such Member has not received under the Association; and
 - c. Which the Member may receive only by making a voluntary additional contribution in an amount determined under the Association, which does not exceed the amount necessary to fund the benefit attributable to the service credit purchased.
 - d. Permissive Service Credit also includes service credit for periods for which there is no performance of service and, notwithstanding subparagraph b of this paragraph, may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the Association, but only to the extent permitted by

the statutes applicable to the Association and not prohibited by PEPRA.

2. Limitation on Nonqualified Service Credit: The Association will fail to satisfy the requirements of this policy if:
 - a. More than 5 years of Nonqualified Service Credit is taken into account for purposes of this Section; or
 - b. Any Nonqualified Service Credit is taken into account under this Section before the Member has at least 5 Years of Participation under the Association.
3. Nonqualified Service Credit: For purposes of paragraph 2 of this subsection, the term "Nonqualified Service Credit" means permissive service credit other than that allowed with respect to:
 - a. Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, a State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in paragraph c below;
 - b. Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (a) of this paragraph) of an educational organization described in Code section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
 - c. Service as an employee of an association of employees who are described in paragraph a above; or
 - d. Military service (other than qualified military service under Code section 414(u)) recognized by the Association.
 - e. In the case of service described in paragraphs a, b or c above, such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same period of service under more than one plan.
 - f. Even if any proposed service credit purchase meets the above requirements, to the extent such proposed service credit purchase is prohibited under the terms of PEPRA, the Association will not process such service credit purchase.
4. Trustee-To-Trustee Transfers
 - a. In the case of a trustee-to-trustee transfer to the Association to which Code section 403(b)(13)(A) or 457(e)(17)(A) applies, (without regard to whether the transfer is made from a plan that is maintained by the same Employer):
 - i. The limitations of Section VII-B.2 shall not apply in determining whether the transfer is for the purchase of Permissive Service Credit;

and

- ii. The distribution rules applicable under the Code to the Association shall apply to such amounts and any benefits attributable to such amounts.

C. Redeposit of Withdrawals.

- 1. In the case of any repayment of accumulated members contributions (including interest thereon) to the Association with respect to an amount previously withdrawn upon a forfeiture of service credit under the Association or under another governmental plan maintained by a state or local government employer with in the State of California, any such repayment shall not be taken into account for purposes of this policy.

VIII. The Code and Regulations Prevail

- A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable federal law will govern. Only the portions of this policy in conflict with the applicable law shall be invalidated, the remainder shall remain in force.

IX. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

X. History

01/01/2015	Effective Date of Bylaw Section 26
12/08/2017	Extracted from Bylaws
06/29/2018	Staff reviewed, no content changes; updated format.
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Minor edits by tax counsel
<u>07/12/2024</u>	<u>Amended employer definition and other non-substantive changes</u>

Certification of Board Adoption

Clerk of the Board	07/09/2024
	Date



Board Administration Policy

Annual Benefit Limit - IRC 415(b)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the annual benefit limit applicable for the Association in accordance with Internal Revenue Code section 415(b) and Treasury regulations issued thereunder.

II. Definitions

- A. Annual Benefit: "Annual Benefit" means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided in Section III-A.5, where a benefit is payable in a form other than a Straight Life Annuity, the benefit shall be adjusted (solely for purposes of applying the limits of Code section 415 and of this policy) pursuant to Section III-A.7 to an actuarially equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month.
- B. Annual Benefit Limit: "Annual Benefit Limit" means the limit described in Section III-A.1.
- C. Annuity: "Annuity" for purposes of this policy does not mean "annuity" as defined in the County Employee Retirement Law but instead means a retirement benefit that is payable by the Association, as provided in Code section 415.
- D. Annuity Starting Date: "Annuity Starting Date" means the first day of the first period for which a retirement benefit is payable as an annuity or, in the case of a retirement benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Member to payment under the Association.
- E. Applicable Interest Rate: "Applicable Interest Rate" means the "applicable interest rate" defined in Code section 417(e)(3)(C) and shall be such rate of interest determined as of the third month preceding the stability period, which shall be the calendar year containing the Annuity Starting Date for the distribution and for which the Applicable Interest Rate shall remain constant.
- F. Applicable Mortality Table: "Applicable Mortality Table" means the "applicable mortality table" defined in Code section 417(e)(3)(B).
- G. Employer: "Employer" means the entity that participates in the Association in accordance with the CERL and employs the Member. The term "Employer" also includes any Affiliated Employer. Solely to the extent provided in the Code with respect to public agencies, the term "Affiliated Employer" means all members of a controlled group of an Employer.
- H. Limitation Year: "Limitation Year" means the calendar year.
- I. Spouse: Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered

into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term “Spouse” does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

- J. Straight Life Annuity: “Straight Life Annuity” means an Annuity payable in equal installments for the life of the member and terminating on the Member’s death.

III. Annual Benefit Limit

A. Annual Benefit Limit, in General

1. Annual Limit

- a. Unless the alternative limit described in Section III applies, the Annual Benefit payable to a Member under the Association at any time shall not exceed the [Annual IRC Limit](#) specified under Code section 415(b)(1)(A) , automatically adjusted under Code section 415(d), effective January 1 of each year, as provided by the Internal Revenue Service.

2. Maximum Payment

- a. If the benefit the Member would otherwise be paid in a Limitation Year would be in excess of the limit in subsection A.1 above, the benefit shall be limited to a benefit that does not exceed the limit.

3. COLA Adjustment

- a. In the case of a Member who has had a severance from employment with the Employer, the Annual Benefit Limit applicable to the Member in any Limitation Year beginning after the date of severance shall be automatically adjusted under § 415(d) of the Code.

4. Multiple Annuity Starting Dates

- a. For a Member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this policy as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates.
- b. For this purpose, the determination of whether a new starting date has occurred shall be made in accordance with section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Treasury regulations.

5. Actuarial Adjustment for Forms of Benefit

- a. Except as provided in Section III-A.6, if the Member’s benefit is payable in a form other than a Straight Life Annuity, then solely for purposes of

applying the limits of Code section 415 and of this policy, the actuarially equivalent Straight Life Annuity shall be determined in accordance with paragraph a or b below, whichever is applicable.

- i. Annuities: If the Member's benefit is payable in the form of a non-decreasing life annuity or other form of benefit described in Treasury regulation section 1.417(e)-1(d)(6) (e.g., other than a lump sum, installments, a decreasing annuity or a term certain), then the actuarially equivalent Straight Life Annuity is determined using the greater of:
 1. The Straight Life Annuity (if any) payable to the Member under the Association commencing at the same annuity starting date as the form of benefit payable to the Member; or
 2. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using:
 - a. A 5% interest assumption; and
 - b. The applicable Mortality Table.

 - i. Lump Sums, Installments, etc.: If the Member's benefit is payable in the form of a lump sum, installments, a decreasing annuity, term certain or other form of benefit not described in Treasury regulations section 1.417(e)-1(d)(6), then the Straight Life Annuity that is actuarially equivalent to the Member's form of benefit is equal to the greatest of:
 1. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the interest rate and the mortality table specified in the Association for adjusting benefits in the same form;
 2. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using a 5.5 percent interest rate and the Applicable Mortality Table; or
 3. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the Applicable Interest Rate and the Applicable Mortality Table divided by 1.05.
6. No Actual Adjustment (or Limitation) Required for Certain Benefits
- a. In determining the Annual Benefit, no actuarial adjustment to the benefit shall be made for the following benefits of benefit forms:

- i. Qualified Joint And Survivor Annuity: Survivor benefits payable to a surviving Spouse under a joint and survivor annuity that would qualify as a qualified joint and survivor annuity defined in Code section 417(b). If benefits are paid partly in the form of a qualified joint and survivor annuity and partly in some other form (such as a single sum distribution), the rule of this paragraph applies only to the survivor annuity payments under the portion of the benefit that is paid in the form of a qualified joint and survivor annuity.
- ii. Benefits that are not "Retirement Benefits": Benefits that are not directly related to retirement benefits (such as pre-retirement qualified disability benefits, preretirement incidental death benefits, and postretirement medical benefits). Additionally, these benefits shall not be subject to the Annual Benefit Limit.
- iii. Certain Automatic Benefit Increases: Benefits that meet the following requirements: (a) the Association provides for automatic periodic increases such as a form of benefit that automatically increases the benefit paid according to a specified percentage or objective index (but not a benefit that is increased on an ad hoc basis or a basis that is separately determined by action of the Association's Board of Retirement or the County's Board of Supervisors) and (b) the form of benefit complies with Code section 415(b) without regard to the automatic benefit increase.

In no event shall the amount payable to the Member under the form of benefit in any Limitation Year be greater than the Annual Benefit Limit applicable at the Annuity Starting Date increased by the amounts provided in Code section 415(d). Also if the form of benefit without regard to the automatic benefit increase is not a Straight Life Annuity, then the Annual Benefit at the Annuity Starting Date is determined by converting the form of benefit to an actuarially equivalent Straight Life Annuity, as provided in Section III-B.1 herein.

7. Rules For Determining Annual Benefit

- a. Social Security Supplements, etc.: The determination of the Annual Benefit shall take into account social security supplements described in § 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to section 1.411(d)-4, Q&A-3(c), of the Treasury regulations.
- b. Member Contributions: The determination of the Annual Benefit shall disregard benefits attributable to Member contributions or rollover contributions. Benefits attributable to Member contributions do not include any benefits that are made on a pre-tax basis such as pickups under Code section 414(h)(2) or such as Member contributions that are actually paid by the Member's employer.
- c. Rollovers: The amount of any benefits attributable to Member contributions and to rollover contributions shall be determined in accordance with Code section 415.
- d. Voluntary Contributions: Member contributions that are defined as

“voluntary” contributions under Code section 415 (such as certain contribution under CERL section 31627) are not subject to the limits of this policy but are subject to the limits of Code section 415(c) concerning defined contribution plans.

B. Reduction for Less than 10 Years of Participation

1. Reduction

- a. If the Member has less than 10 Years of Participation in the Association, the Annual Benefit Limit shall be multiplied by a fraction -- (i) the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the Association, and (ii) the denominator of which is 10.

2. Counting Years of Participation

- a. The Member is credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:
 - i. The Member is credited with at least the number of hours of service or period of service for benefit accrual purposes, required under the terms of the Association in order to accrue a benefit for the accrual computation period, and
 - ii. The Member is included as a Member under the eligibility provisions of the Association for at least one day of the accrual computation period.
- b. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the portion of a year of benefit accrual service credited to the Member for such accrual computation period.
- c. A Member who is permanently and totally disabled within the meaning of §415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period.
- d. In no event shall more than one Year of Participation be credited for any 12-month period. For example, if under the Association, a Member receives 1/10 of a year of benefit accrual service for an accrual computation period for each 200 hours of service, and the Member is credited with 1,000 hours of service for the period, the Member is credited with 1/2 year of participation for purposes of this subsection.

3. Disability and Death Benefits

- a. The reduction described in paragraph 1 above shall not apply to disability benefits or death benefits as provided in the Code.

C. Reduction for Commencement before Age 62 for Certain Members

1. No Reduction for Certain Safety Members

- a. The adjustment described in this subsection shall not apply if the Member's benefit is based on at least 15 years as a full-time employee of any police or fire department of an Employer that maintains the Association or as a member of the armed forces of the United States. Such police or fire department must be organized to provide police protection, firefighting services or emergency medical services for any area within the jurisdiction of such Employer.

2. Reduction for Benefits Commencing before Age 62
 - a. If the Member's benefits commence before the Member attains age 62, the Annual Benefit Limit is equal to the lesser of:
 - i. The Annual Benefit Limit reduced in accordance with Code section 415(b) to its actuarial equivalent using:
 1. The Applicable Mortality Table; and
 2. A 5% interest rate; or
 - ii. The Annual Benefit Limit multiplied by the ratio of the immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the Straight Life Annuity under the Association commencing at age 62, both determined without applying the limitations of this policy.
3. Probability of Death
 - a. No adjustment will be made to the annual benefit limit to reflect the probability of death between the Annuity Starting Date and age 62 unless the Member's benefit is forfeited at death before the Annuity Starting Date.
4. Death and Disability
 - a. The adjustment described in paragraph 1 of this subsection shall not apply to disability benefits or death benefits as provided in the Code.

D. Increase for Commencement after Age 65

1. Increase for Commencement after 65: If the Member's benefits commence after the Member attains age 65, the Annual Benefit Limit is equal to the lesser of:
 - a. The Annual Benefit Limit increased in accordance with Code section 415(b) to its actuarial equivalent using:
 - i. The Applicable Mortality Table; and
 - ii. A 5% interest rate; or
 - b. The Annual Benefit Limit multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at age 65, both determined without applying the limitations of this policy. For this purpose, the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the Association at age 65 is the annual amount of such annuity that would be payable under the Association to a hypothetical Member who is age 65 and

has the same accrued benefit as the Member.

2. Probability of Death: No adjustment will be made to the Annual Benefit Limit to reflect the probability of death between age 65 and the Annuity Starting Date unless the Member's benefit is forfeited at death before the Annuity Starting Date.
- E. Minimum Benefit Permitted: The benefit otherwise accrued or payable to a Member under the Association is treated as not exceeding the Annual Benefit Limit if:
1. Minimum Benefit Limit Allowed
 - a. The sum of the retirement benefits payable under any form of benefit with respect to the Member for the Limitation Year or for any prior Limitation Year under the Association and all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Member's Employer does not exceed \$10,000 multiplied by a fraction – (i) the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the Member's Employer or an Affiliated Employer, and (ii) the denominator of which is 10; and
 2. Condition
 - a. The Member has never participated in any qualified defined contribution plan maintained by the Member's Employer or an Affiliated Employer.

IV. Participation in Multiple Defined Benefit Plans

A. Application of Limit to Aggregate Benefits

1. If the Member is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the Member's Employer, the sum of the participant's Annual Benefits from all such plans may not exceed the Annual Benefit Limit.

B. Multiple Plan Benefit Limit Coordination

1. Where the Member's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Annual Benefit Limit applicable at that age, the benefits accrued under all such other plans shall be reduced first in order to avoid exceeding the limit and shall be reduced under the Association, but if such other plan provides that it will be reduced, the reduction will be made in such other plan sufficient to avoid exceeding the limit.

V. Multiple Employer Plan

- A. Employer-provided benefits attributable to the Member for all of the Employers participating in the Association are taken into account for purposes of applying the Annual Benefit Limit.

VI. Grandfather Rules

- A. Annual Benefit Limit Equals Accrued Benefit

1. Notwithstanding anything herein to the contrary, the Annual Benefit Limit with respect to a Qualified Member shall not be less than the accrued benefit of the Qualified Member under the Association determined without regard to any amendment made after October 14, 1987.

B. Qualified Participant

1. For purposes of this section, the term "Qualified Member" means a Member who first became a Member in the Association before January 1, 1990.

C. Election

1. By the enactment of CERL section 31899 et. seq. the "grandfather" election under Code section 415(b)(10) was made for the Association and all retirement systems maintained under the CERL to have this Section VI. apply.

VII. Purchase of Permissive Service Credit

A. General Rule

1. To the extent a Member is not prohibited by the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), if a Member makes one or more contributions to the Association to purchase Permissive Service Credit under the Association, then the requirements of this policy will be treated as met only if:
 - a. The requirements of this policy are met, determined by treating the accrued benefit derived from all such contributions as an Annual Benefit for purposes of this policy; or
 - b. The requirements of SJCERA's Annual Benefit Limit policy governing the limits on annual additions IRC 415(c) applicable to defined contribution plans are met by treating all such contributions as annual additions.

B. Permissive Service Credit

1. Permissive Service Credit Defined: For purposes of this Section, "Permissive Service Credit" means credit:
 - a. Recognized by the Association for purposes of calculating a Member's benefit under the Association;
 - b. Which such Member has not received under the Association; and
 - c. Which the Member may receive only by making a voluntary additional contribution in an amount determined under the Association, which does not exceed the amount necessary to fund the benefit attributable to the service credit purchased.
 - d. Permissive Service Credit also includes service credit for periods for which there is no performance of service and, notwithstanding subparagraph b of this paragraph, may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the Association, but only to the extent permitted by

the statutes applicable to the Association and not prohibited by PEPRA.

2. Limitation on Nonqualified Service Credit: The Association will fail to satisfy the requirements of this policy if:
 - a. More than 5 years of Nonqualified Service Credit is taken into account for purposes of this Section; or
 - b. Any Nonqualified Service Credit is taken into account under this Section before the Member has at least 5 Years of Participation under the Association.
3. Nonqualified Service Credit: For purposes of paragraph 2 of this subsection, the term "Nonqualified Service Credit" means permissive service credit other than that allowed with respect to:
 - a. Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, a State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in paragraph c below;
 - b. Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (a) of this paragraph) of an educational organization described in Code section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
 - c. Service as an employee of an association of employees who are described in paragraph a above; or
 - d. Military service (other than qualified military service under Code section 414(u)) recognized by the Association.
 - e. In the case of service described in paragraphs a, b or c above, such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same period of service under more than one plan.
 - f. Even if any proposed service credit purchase meets the above requirements, to the extent such proposed service credit purchase is prohibited under the terms of PEPRA, the Association will not process such service credit purchase.
4. Trustee-To-Trustee Transfers
 - a. In the case of a trustee-to-trustee transfer to the Association to which Code section 403(b)(13)(A) or 457(e)(17)(A) applies, (without regard to whether the transfer is made from a plan that is maintained by the same Employer):
 - i. The limitations of Section VII-B.2 shall not apply in determining whether the transfer is for the purchase of Permissive Service Credit;

and

- ii. The distribution rules applicable under the Code to the Association shall apply to such amounts and any benefits attributable to such amounts.

C. Redeposit of Withdrawals.

- 1. In the case of any repayment of accumulated members contributions (including interest thereon) to the Association with respect to an amount previously withdrawn upon a forfeiture of service credit under the Association or under another governmental plan maintained by a state or local government employer with in the State of California, any such repayment shall not be taken into account for purposes of this policy.

VIII. The Code and Regulations Prevail

- A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable federal law will govern. Only the portions of this policy in conflict with the applicable law shall be invalidated, the remainder shall remain in force.

IX. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

X. History

01/01/2015	Effective Date of Bylaw Section 26
12/08/2017	Extracted from Bylaws
06/29/2018	Staff reviewed, no content changes; updated format.
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Minor edits by tax counsel
07/12/2024	Amended employer definition and other non-substantive changes

Certification of Board Adoption

Clerk of the Board	07/12/2024
	Date



Audit Committee Charter

I. Establishment

- A) The Board of Retirement has established an Audit Committee to assist in overseeing the audit function within SJCERA.

II. Membership

- A) The Committee will consist of at least three and no more than four members of the Board of Retirement. The Board Chair will appoint members to the Committee, in accordance with the SJCERA Bylaws and designate one member to serve as the Committee Chair.

B) To the extent possible, the Board Chair shall appoint members to the Committee that have expertise in accounting, auditing, financial reporting, and internal control. Although these desired traits are not mandatory, members should be sufficiently knowledgeable about these topics to make informed decisions with the assistance of a financial expert.

B)C) The Committee may also include a third-party auditor for review purposes or suggestions based on review and practice with SJCERA.

III. Meetings

- A) The Committee will meet at least twice yearly for the audit entrance and exit conferences, and may convene additional meetings as circumstances require. All meetings are subject to the Brown Act.

IV. Responsibilities

- A) The Committee generally oversees SJCERA's audits including financial and other audits (such as cybersecurity and actuarial audits).
 - 1) The Committee may delegate to staff the selection and oversight of non-financial auditors (as has been done with the Actuarial Audit), in consideration of staff's and SJCERA's experience with the type of audit, level of risk, and other factors.
- B) The Committee's areas of responsibility for the financial audit are:
 - 1) Overseeing the annual financial audit process including, but not limited to:
 - (a) Meeting with the Auditor to review the scope of the financial audit, including the responsibilities of the auditor, and the timing and estimated budget for the audit;
 - (b) Meeting with the auditor to review the audit findings;
 - (c) Meeting with SJCERA management to discuss management's response to the findings;

- (d) Reporting to the Board on the audit findings and management’s responses to the findings
- 2) Overseeing the process for hiring, retaining, evaluating and terminating the Auditor;
- 3) Ensuring the independence of the Auditor; and
- 4) Reviewing significant changes in accounting standards, policies, or practices that may impact SJCERA and report the results of that review to the Board.

V. Authority

- A) The Audit Committee is an advisory committee to the Board. All Committee actions must be ratified or approved by the Board.

VI. Charter Review

- A) The Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant, appropriate, and in compliance.

VII. History

June 7, 2019	Adopted by Board of Retirement
July 9, 2021	Clarified the Committee oversees both financial and non-financial audits and delegation authority
<u>July 12, 2024</u>	<u>Added authority to have third-party auditor as committee member</u>

Certification of Board Adoption:

Clerk of the Board 07/0912/20244
Date



Audit Committee Charter

I. Establishment

- A) The Board of Retirement has established an Audit Committee to assist in overseeing the audit function within SJCERA.

II. Membership

- A) The Committee will consist of at least three and no more than four members of the Board of Retirement. The Board Chair will appoint members to the Committee, in accordance with the SJCERA Bylaws and designate one member to serve as the Committee Chair.
- B) To the extent possible, the Board Chair shall appoint members to the Committee that have expertise in accounting, auditing, financial reporting, and internal control. Although these desired traits are not mandatory, members should be sufficiently knowledgeable about these topics to make informed decisions with the assistance of a financial expert.
- C) The Committee may also include a third-party auditor for review purposes or suggestions based on review and practice with SJCERA.

III. Meetings

- A) The Committee will meet at least twice yearly for the audit entrance and exit conferences, and may convene additional meetings as circumstances require. All meetings are subject to the Brown Act.

IV. Responsibilities

- A) The Committee generally oversees SJCERA's audits including financial and other audits (such as cybersecurity and actuarial audits).
 - 1) The Committee may delegate to staff the selection and oversight of non-financial auditors (as has been done with the Actuarial Audit), in consideration of staff's and SJCERA's experience with the type of audit, level of risk, and other factors.
- B) The Committee's areas of responsibility for the financial audit are:
 - 1) Overseeing the annual financial audit process including, but not limited to:
 - (a) Meeting with the Auditor to review the scope of the financial audit, including the responsibilities of the auditor, and the timing and estimated budget for the audit;
 - (b) Meeting with the auditor to review the audit findings;
 - (c) Meeting with SJCERA management to discuss management's response to the findings;

- (d) Reporting to the Board on the audit findings and management's responses to the findings
- 2) Overseeing the process for hiring, retaining, evaluating and terminating the Auditor;
- 3) Ensuring the independence of the Auditor; and
- 4) Reviewing significant changes in accounting standards, policies, or practices that may impact SJCERA and report the results of that review to the Board.

V. Authority

- A) The Audit Committee is an advisory committee to the Board. All Committee actions must be ratified or approved by the Board.

VI. Charter Review

- A) The Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant, appropriate, and in compliance.

VII. History

June 7, 2019	Adopted by Board of Retirement
July 9, 2021	Clarified the Committee oversees both financial and non-financial audits and delegation authority
July 12, 2024	Added authority to have third-party auditor as committee member

Certification of Board Adoption:

Clerk of the Board 07/12/2024
Date



Board Governance Policy

Computer Equipment Policy

I. Purpose

To establish guidelines regarding the provision and use of SJCERA computer hardware and software to Trustees and Staff in the conduct of business related to SJCERA.

II. Electronic Tablets and Data

- A. SJCERA will provide an electronic tablet with unlimited Cellular Data Service, and all applications needed to conduct Board business to trustees and designated staff members.
- B. SJCERA will not provide or reimburse the cost of other services or supplies such as Internet, telephone, paper, toner, etc.

III. Use of Equipment and Software

- A. Electronic devices provided by SJCERA are for SJCERA business use only and not for personal use.
 - 1. The devices are not to be used for personal reasons or by family members.
 - 2. The device should not be used as a hotspot for Internet activity, unless necessary to conduct SJCERA business.
- B. It is the user's responsibility to ensure the security of the device at all times.
- C. All information that is stored on the device is discoverable under law, except for that which is privileged or falls under certain statutory exemptions. There is no right to privacy with regard to the use of the device.
- D. Downloading or installing software onto the device is not allowed without prior authorization from SJCERA's CEO or Information Systems Manager.
- E. It is the user's responsibility to ensure the equipment provided under this policy is being used only for SJCERA business and not for any other purpose.
- F. Only retain six months' worth of downloaded meeting agenda, recurring reports, or similar data on the provided devices.

- G. SJCERA should immediately be notified if the device is lost or stolen and advise SJCERA staff of the contents on the device at that time, to the best of the user's ability.
- H. Confidential information ~~should be deleted from the device as soon as practicable~~should not be downloaded and permanently stored on SJCERA devices (Example: Agenda materials for a closed session of a Board or Committee meeting should be deleted as soon as possible following adjournment of the meeting during which the closed session was held.)

IV. Disposition of Electronic Tablet, Computer Equipment and Software

Pursuant to Resolution 2009-05-05 and the *Disposition of Equipment* procedure, the Board of Retirement authorizes the Chief Executive Officer to sell, donate, or dispose of surplus furniture and equipment.

When equipment provided by SJCERA pursuant to this policy is replaced with new equipment, or the user concludes his or her service to SJCERA, the user shall return the equipment to SJCERA for redeployment or disposition using either County surplus or replicating the County's policy of using a third-party public auction site for sale of all surplus equipment or furniture.

V. Devices Not Owned by SJCERA

A trustee or staff member may use an electronic tablet or other equipment not owned or provided by SJCERA in the conduct of business related SJCERA. When such device(s) is used, the trustee or staff member will acknowledge and abide by the *Guidelines for Use of Electronic Devices Not Owned by SJCERA*.

This policy shall apply to all trustees and to any staff member or counsel to whom equipment has been provided.

VI. Policy Review

Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

VII. History

01/14/2011	Adopted by Resolution 2011-01-01
06/08/2012	Amended by Resolution 2012-06-02
02/12/2016	Amended by Resolution 2016-02-01
04/13/2018	Amended by Resolution 2018-04-01
06/29/2018	Staff reviewed, no content changes required; updated format
04/12/2019	Policy Review section amended to at least once every three years
07/12/2019	Amended for technical adjustments
07/08/2022	Amended data usage and other minor edits

07/12/2024 Amended to align with Retention Policy and other non-substantive changes

Certification of Adoption:

07/12/2024

Clerk of the Board

Date

Related Statutes:

California Government Code Sections 8314 and 81000 *et seq.*



Board Governance Policy

Computer Equipment Policy

I. Purpose

To establish guidelines regarding the provision and use of SJCERA computer hardware and software to Trustees and Staff in the conduct of business related to SJCERA.

II. Electronic Tablets and Data

- A. SJCERA will provide an electronic tablet with unlimited Cellular Data Service, and all applications needed to conduct Board business to trustees and designated staff members.
- B. SJCERA will not provide or reimburse the cost of other services or supplies such as Internet, telephone, paper, toner, etc.

III. Use of Equipment and Software

- A. Electronic devices provided by SJCERA are for SJCERA business use only and not for personal use.
 - 1. The devices are not to be used for personal reasons or by family members.
 - 2. The device should not be used as a hotspot for Internet activity, unless necessary to conduct SJCERA business.
- B. It is the user's responsibility to ensure the security of the device at all times.
- C. All information that is stored on the device is discoverable under law, except for that which is privileged or falls under certain statutory exemptions. There is no right to privacy with regard to the use of the device.
- D. Downloading or installing software onto the device is not allowed without prior authorization from SJCERA's CEO or Information Systems Manager.
- E. It is the user's responsibility to ensure the equipment provided under this policy is being used only for SJCERA business and not for any other purpose.
- F. Only retain six months' worth of downloaded meeting agenda, recurring reports, or similar data on the provided devices.

- G. SJCERA should immediately be notified if the device is lost or stolen and advise SJCERA staff of the contents on the device at that time, to the best of the user's ability.
- H. Confidential information should not be downloaded and permanently stored on SJCERA devices (Example: Agenda materials for a closed session of a Board or Committee meeting should be deleted as soon as possible following adjournment of the meeting during which the closed session was held.)

IV. Disposition of Electronic Tablet, Computer Equipment and Software

Pursuant to Resolution 2009-05-05 and the *Disposition of Equipment* procedure, the Board of Retirement authorizes the Chief Executive Officer to sell, donate, or dispose of surplus furniture and equipment.

When equipment provided by SJCERA pursuant to this policy is replaced with new equipment, or the user concludes his or her service to SJCERA, the user shall return the equipment to SJCERA for redeployment or disposition using either County surplus or replicating the County's policy of using a third-party public auction site for sale of all surplus equipment or furniture.

V. Devices Not Owned by SJCERA

A trustee or staff member may use an electronic tablet or other equipment not owned or provided by SJCERA in the conduct of business related SJCERA. When such device(s) is used, the trustee or staff member will acknowledge and abide by the *Guidelines for Use of Electronic Devices Not Owned by SJCERA*.

This policy shall apply to all trustees and to any staff member or counsel to whom equipment has been provided.

VI. Policy Review

Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

VII. History

- 01/14/2011 Adopted by Resolution 2011-01-01
- 06/08/2012 Amended by Resolution 2012-06-02
- 02/12/2016 Amended by Resolution 2016-02-01
- 04/13/2018 Amended by Resolution 2018-04-01
- 06/29/2018 Staff reviewed, no content changes required; updated format
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/12/2019 Amended for technical adjustments
- 07/08/2022 Amended data usage and other minor edits

07/12/2024 Amended to align with Retention Policy and other non-substantive changes

Certification of Adoption:

Clerk of the Board	07/12/2024 Date
--------------------	--------------------

Related Statutes:
California Government Code Sections 8314 and 81000 *et seq.*



Correction of Errors or Omissions

I. Purpose

- A. To establish standards and procedures for the resolution of errors or omissions with respect to the payment of member contributions or benefits. These standards and procedures are intended to ensure compliance with the Internal Revenue Code and Internal Revenue Service regulations and to meet the Board's fiduciary obligation to preserve SJCERA's financial integrity for the benefit of its members and their beneficiaries.

II. Objective

- A. Members and beneficiaries have a right to accurate pension benefit payments. No member or beneficiary ~~has the right to receive or retain, or shall be~~ deprived from receiving or retaining, retirement benefit payments to which he or she is entitled. Members and beneficiaries, however, are not entitled to receive or retain a retirement benefit which was disbursed in error. Subject to all applicable laws and SJCERA's policies and procedures, SJCERA shall make all reasonable efforts to recover or remit all errors in payment of contributions or benefits.

III. Guidelines

- A. The Chief Executive Officer ("CEO") shall ensure that errors are promptly and thoroughly investigated and that all appropriate corrective measures are taken.
- B. The CEO shall establish internal procedures to investigate, collect and resolve errors in the payment of benefits or contributions. The procedures will comply with applicable state and federal laws and regulations.
- C. The CEO shall have full authority to take whatever actions are necessary or appropriate to correct any errors in the payment of contributions or benefits unless circumstances exist that make it unreasonable or futile to do so.
- i. The CEO shall use reasonable efforts to resolve errors in payment of contributions or benefits, in consideration of the following factors:
- IRS guidelines for correction of Plan errors;
 - Input from the Plan sponsor, as appropriate;

- c. The total amount of the overpayment or underpayment, including interest;
 - d. The likelihood and anticipated cost of collection;
 - e. The verifiable financial circumstances of the member; and
 - f. The existence of fraud, or other culpability or responsibility for the error, whether by SJCERA, the member or a third party.
- D. Corrections should attempt to place SJCERA in the position it would have been had the erroneous payment not occurred and, wherever feasible, resolution of the error should result in immediate full payment of the entire amount, with interest.
 - i. Any negotiated repayment schedule shall not exceed the expected lifetime of the member. Should the member die before the full amount owed, including interest, is paid, SJCERA may recover the remaining amount from any benefit owed to a beneficiary.
- E. In certain circumstances, the CEO may agree to receive less than the full amount of repayment. Options for recovery in those instances include, but are not limited to, discounting interest rates, waiving interest and compromising the principal amount. In structuring any such resolution, the member shall bear the burden of establishing any claimed financial hardship to the satisfaction of the CEO.
- F. In the event that the member or beneficiary fails to respond to communications from SJCERA staff, the CEO may initiate an action for recovery of the unpaid amount, including reductions of future payments, not to exceed any state or federal limitations on such recovery. No involuntary collections may be imposed without notice to the member or beneficiary pursuant to Section IV.
- G. The CEO shall consult with counsel as needed with respect to any proposed correction. All legal remedies may be pursued to collect errors in benefits or contributions, including claims against estates or trusts.
- H. The CEO shall have discretion to refrain from collection of amounts identified by the IRS as small overpayments subject to exemption from full correction, or take such other action deemed reasonable and appropriate in consultation with counsel, as needed.
- I. Corrections shall not provide any party with a status, right or obligation not otherwise authorized by the County Employees' Retirement Law ("CERL").

IV. Due Process

- A. Collection of an overpayment does not constitute execution, garnishment, attachment or any other court process. Nevertheless, prior to the imposition of any resolution correcting an error or omission with respect to the payment of member contributions or benefits, SJCERA will give notice to the affected party of its intentions and provide an opportunity to appeal the decision to the Board.

V. Reporting

- A. The CEO shall report to the Board quarterly regarding corrections of errors or omissions under this policy. Minor errors, such as contribution errors remedied by way of one-time payroll adjustments, need not be included in the CEO's report to the Board under this section.

VI. Law Prevails

- A. In the event a conflict between this policy and the CERL, the Public Employees' Pension Reform Act, or other applicable state or federal law arises, the law shall prevail. The rights and remedies provided in this policy or the CERL are in addition to any other rights and remedies any party may have in equity or at law. Nothing shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this policy or the CERL.

VII. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. (*Ref.:* Cal. Gov. Code §31539, IRS Rev. Proc. 2016-51.)

VIII. History

- 03/01/2017 Bylaws Amended and Approved by the Board of Supervisors
- 12/08/2017 Bylaw Section 4.5 Converted to Policy
- 06/29/2018 Staff updated format
- 12/14/2018 Rewritten to authorize CEO to negotiate within guidelines, ensure due process and reporting
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/12/2019 Reviewed, no changes
- 07/08/2022 Reviewed, no changes
- 07/12/2024 [Non-substantive changes](#)

Certification of Board Adoption

	07/08/2024 2
Clerk of the Board	Date



Correction of Errors or Omissions

I. Purpose

- A. To establish standards and procedures for the resolution of errors or omissions with respect to the payment of member contributions or benefits. These standards and procedures are intended to ensure compliance with the Internal Revenue Code and Internal Revenue Service regulations and to meet the Board's fiduciary obligation to preserve SJCERA's financial integrity for the benefit of its members and their beneficiaries.

II. Objective

- A. Members and beneficiaries have a right to accurate pension benefit payments. No member or beneficiary shall be deprived from receiving or retaining, retirement benefit payments to which he or she is entitled. Members and beneficiaries, however, are not entitled to receive or retain a retirement benefit which was disbursed in error. Subject to all applicable laws and SJCERA's policies and procedures, SJCERA shall make all reasonable efforts to recover or remit all errors in payment of contributions or benefits.

III. Guidelines

- A. The Chief Executive Officer ("CEO") shall ensure that errors are promptly and thoroughly investigated and that all appropriate corrective measures are taken.
- B. The CEO shall establish internal procedures to investigate, collect and resolve errors in the payment of benefits or contributions. The procedures will comply with applicable state and federal laws and regulations.
- C. The CEO shall have full authority to take whatever actions are necessary or appropriate to correct any errors in the payment of contributions or benefits unless circumstances exist that make it unreasonable or futile to do so.
 - i. The CEO shall use reasonable efforts to resolve errors in payment of contributions or benefits, in consideration of the following factors:
 - a. IRS guidelines for correction of Plan errors;
 - b. Input from the Plan sponsor, as appropriate;

- c. The total amount of the overpayment or underpayment, including interest;
 - d. The likelihood and anticipated cost of collection;
 - e. The verifiable financial circumstances of the member; and
 - f. The existence of fraud, or other culpability or responsibility for the error, whether by SJCERA, the member or a third party.
- D. Corrections should attempt to place SJCERA in the position it would have been had the erroneous payment not occurred and, wherever feasible, resolution of the error should result in immediate full payment of the entire amount, with interest.
 - i. Any negotiated repayment schedule shall not exceed the expected lifetime of the member. Should the member die before the full amount owed, including interest, is paid, SJCERA may recover the remaining amount from any benefit owed to a beneficiary.
- E. In certain circumstances, the CEO may agree to receive less than the full amount of repayment. Options for recovery in those instances include, but are not limited to, discounting interest rates, waiving interest and compromising the principal amount. In structuring any such resolution, the member shall bear the burden of establishing any claimed financial hardship to the satisfaction of the CEO.
- F. In the event that the member or beneficiary fails to respond to communications from SJCERA staff, the CEO may initiate an action for recovery of the unpaid amount, including reductions of future payments, not to exceed any state or federal limitations on such recovery. No involuntary collections may be imposed without notice to the member or beneficiary pursuant to Section IV.
- G. The CEO shall consult with counsel as needed with respect to any proposed correction. All legal remedies may be pursued to collect errors in benefits or contributions, including claims against estates or trusts.
- H. The CEO shall have discretion to refrain from collection of amounts identified by the IRS as small overpayments subject to exemption from full correction, or take such other action deemed reasonable and appropriate in consultation with counsel, as needed.
- I. Corrections shall not provide any party with a status, right or obligation not otherwise authorized by the County Employees' Retirement Law ("CERL").

IV. Due Process

- A. Collection of an overpayment does not constitute execution, garnishment, attachment or any other court process. Nevertheless, prior to the imposition of any resolution correcting an error or omission with respect to the payment of member contributions or benefits, SJCERA will give notice to the affected party of its intentions and provide an opportunity to appeal the decision to the Board.

V. Reporting

- A. The CEO shall report to the Board quarterly regarding corrections of errors or omissions under this policy. Minor errors, such as contribution errors remedied by way of one-time payroll adjustments, need not be included in the CEO’s report to the Board under this section.

VI. Law Prevails

- A. In the event a conflict between this policy and the CERL, the Public Employees’ Pension Reform Act, or other applicable state or federal law arises, the law shall prevail. The rights and remedies provided in this policy or the CERL are in addition to any other rights and remedies any party may have in equity or at law. Nothing shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this policy or the CERL.

VII. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. (Ref.: Cal. Gov. Code §31539, IRS Rev. Proc. 2016-51.)

VIII. History

- 03/01/2017 Bylaws Amended and Approved by the Board of Supervisors
- 12/08/2017 Bylaw Section 4.5 Converted to Policy
- 06/29/2018 Staff updated format
- 12/14/2018 Rewritten to authorize CEO to negotiate within guidelines, ensure due process and reporting
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/12/2019 Reviewed, no changes
- 07/08/2022 Reviewed, no changes
- 07/12/2024 Non-substantive changes

Certification of Board Adoption

07/12/2024

Clerk of the Board Date



Board Administration Policy Disability Retirement and Active Member Death Policy and Procedure

I. Purpose

A. The purpose of this policy is to provide a procedure for acting upon applications to the Board for disability retirement and related rights, benefits and privileges inuring to Members of the San Joaquin County Employees' Retirement Association (SJCERA) and their designated beneficiaries. It is intended that applications be fairly and expeditiously processed, that the applicant and the Board have fair notice of any required hearing and consider sufficient facts to arrive at a true and fair decision on the application. For the purposes of a fair hearing, the Board shall act as an independent body, finding facts and applying law. Upon receipt of the recommendation from the SJCERA Chief Executive Officer (CEO), the Board may approve, dismiss, or deny the application, or take other appropriate action authorized by the California Employees Retirement Law of 1937 (CERL) and, if applicable, the Public Employees' Pension Reform Act of 2013 (PEPRA).

II. Definitions

- A. Unless the context otherwise requires, the definitions in this section shall govern the construction of this policy and procedures.
1. "Interested Party" means any person, including an Applicant, a Member to whom an Application pertains, the Fund, and any authorized representatives of each of them, disclosed by the records of SJCERA or by the Application to have a legal interest in the subject matter of the Application.
 2. "Applicant" means any person or entity that has filed an application for disability retirement benefits or a survivor allowance resulting from an active Member's death, which may include any Member of SJCERA, the head of the office or department in which the Member is or was last employed, the Board or its agents, or any other person claiming benefits, rights, or privileges under the CERL and, if applicable, PEPRA.
 3. "Application" means a claim for disability or active member death benefits, rights, or privileges under CERL and, if applicable PEPRA, submitted to SJCERA by an Applicant on a form authorized by SJCERA for that purpose.
 4. "Application Packet" means the documents that an Applicant is required to provide to SJCERA before an Application will be deemed submitted or filed for processing and evaluation. These documents include: a completed and signed application form, completed and signed questionnaires, signed authorizations for release of information, all relevant medical records and reports, and such other documents and information reasonably required by

SJCERA pursuant to this policy and procedure.

5. "Board" means the San Joaquin County Employees' Retirement Association's Board of Retirement.
6. "Board's Counsel" means an employed staff attorney, an attorney from the Office of County Counsel, or other independent counsel designated by the Board pursuant to Government Code Section 31529.9.
7. "The Fund" means the trust fund governed by the Board pursuant to Government Code Section 31588 and administered under the CERL solely for the overall best interest of Members and their beneficiaries. The Fund shall be a real Party in interest at all disability hearings conducted under this policy and independent Fund Counsel, who does not advise the Board with respect to such proceedings, shall represent the Fund in such hearings.
- ~~8.~~ "Disability Medical Provider" means medical, psychiatric, or other healthcare experts retained by SJCERA to examine Members and provide opinion evidence regarding permanent disability and causation issues.
- ~~8-9.~~ "Referee" means an outside hearing officer, administrative law judge, or another Retirement System organized under the 1937 County Employees' Retirement Law.
- ~~9-10.~~ _____ "Retirement Office" means the physical office of SJCERA at the address posted on www.sjcera.org.
- ~~10-11.~~ _____ "Member" means the SJCERA member who is the subject of the Application or on whose behalf the Application is filed.
- ~~11-12.~~ _____ "Fund Counsel" means the attorney retained by SJCERA to represent the interests of the Fund in investigating and evaluating Applications, providing recommendations to SJCERA, and representing the Fund before the Board.
- ~~12-13.~~ _____ References to written notice or any notice in writing from or by SJCERA mean that such notice may be delivered electronically, by first class mail or certified mail at the discretion of the CEO.

III. Representation by Counsel

- A. Any Interested Party, at that Party's expense, may hire and be represented by an attorney subject to the provisions of this section. No Applicant is required to have an attorney at any time. It is advised, however, that Applicants consider retaining an experienced attorney knowledgeable in CERL and disability retirement matters.
- B. If any Interested Party becomes represented by an attorney, either such Party or such attorney shall promptly file with the Retirement Office and serve upon all other Interested Parties written notice of such representation, including the

attorney's name, address, and telephone number. Unless appearing with an Interested Party at a hearing, an attorney shall not be deemed counsel of record until such notice of representation is duly filed and served. The Interested Party shall be deemed represented by said attorney until written notice of withdrawal or substitution of said attorney is filed with SJCERA and served on all other Interested Parties.

- C. The failure to retain an attorney or to provide written notice of representation by such attorney shall in no event be considered good cause, in and of itself, to delay any proceeding under this policy and procedure.

IV. Communication with Individual Board Members

- A. The Board is the decision-maker for all Applications. As such, communications concerning the merits or substance of an Application between any Board member and any Interested Party or their representatives, other than the CEO, are forbidden until the Board's decision is final and the time to appeal by writ or otherwise has expired. This prohibition shall remain in effect during the pendency of any writ, appeal, and rehearing. A copy of the *Ex Parte Communication Policy* can be found at www.sjcera.org.

V. Confidential Records

- A. All individual records of Members (including, but not limited to, reports, sworn statements, medical reports and records, applications, notices, orders, and findings and decision relating to an application for disability retirement) are confidential and shall not be disclosed by SJCERA to anyone except as set forth in these procedures, upon order of a court of competent jurisdiction, or upon written authorization by the Member.

VI. Application Process

- A. Applications may be filed by SJCERA Members, the head of the office or department in which the Member is or was last employed, the Board or its agents, any other person acting on a Member's behalf, or as authorized by CERL.

B. Claim

1. A claim for disability retirement or survivor allowance shall be made by filing a complete Application Packet with the Retirement Office. The Application shall not be deemed complete or filed until the Applicant has submitted all of the following to the Retirement Office:
 - a) An Application, on a form approved by SJCERA for that purpose, signed and complete with all requested information therein. The Application shall include a specific description of the injuries, conditions, and diagnoses that give rise to that alleged permanent

incapacity.

- b) Signed authorizations for release of medical and other information deemed by SJCERA relevant to a full and complete evaluation of the Application.
- c) A physician's statement dated no earlier than a year prior to the date of the Application, in a form approved by SJCERA for that purpose complete with all requested information therein, signed and dated by the physician, stating that the Member is permanently incapacitated.
- d) Copies of all medical/psychiatric reports and records relevant to the claims made in the Application.
- e) All other documents and information that support the granting of the Application.

C. Initial Review of the Application Packet

- 1. Within 30 days of receipt of an Application Packet for filing, SJCERA shall review the submitted Application Packet and determine whether the application is complete and acceptable for filing. If the Application is determined to be complete, SJCERA shall notify the Applicant electronically and/or by U.S. mail that the Application has been accepted for filing. A complete Application shall be deemed filed as of the date SJCERA received the Application.
- 2. If, during the 30-day review period in this section, the Application Packet is determined to be incomplete, SJCERA shall notify the Applicant of the deficiency(ies) and that the application has been rejected for filing as incomplete.

D. Further Information Required from Applicant

- 1. If at any time during the pendency of the Application, the Applicant changes, in any material way, the facts or claims set forth in the Application, the Applicant shall immediately file with the Retirement Office, and serve on all Parties, written notice of such change, including any changes in employment or accommodation and any medical evidence supporting such an amendment. The failure to do so, may, in the discretion of the Board, preclude the Applicant from asserting the facts so alleged or introducing evidence with respect thereto. Notice of any such amendment shall be given, in writing, to Retirement Office within ten (10) days of the date thereof, and in no event later than thirty (30) days prior to any proceeding before the Board or Referee.
- 2. At any time during the pendency of an Application or in connection with any re-evaluation of the Member's disability status permitted under CERL, the Board or SJCERA may, by written notice to the Applicant, require that the Applicant produce within 30 days any or all of the following items. Said items shall be accompanied by a declaration (on a form approved by SJCERA for

that purpose) signed by the Applicant under penalty of perjury affirming that the Applicant has made a diligent search and reasonable inquiry and that no other responsive items exist.

- a) Copies of records, reports, notes, statements, documents, photographs, or other writings, within the definition of Evidence Code Section 250.
 - b) A narrative report of the Member's current medical condition, and a list of the names and contact information for all of the Member's healthcare providers.
 - c) Written responses to written questions concerning any matter that is reasonably calculated to lead to the discovery of evidence that would be admissible at a hearing. Said written responses shall be accompanied by a declaration (on a form approved by SJCERA for that purpose) signed by the Applicant under penalty of perjury affirming the truthfulness and completeness of the responses.
3. Any Interested Party shall be entitled to notice and take oral depositions in the manner prescribed by the California Code of Civil Procedure, except that there shall be no distinction between the depositions of expert and non-expert witnesses, and the provisions of the California Code of Civil Procedure pertaining to the depositions of expert witnesses shall not apply. The Party noticing a deposition shall pay any and all deposition costs and the fees to which a witness may be entitled.

E. Investigation and Evaluation

1. Before an administrative recommendation is made to the Board or a hearing before a Referee is set, the following shall be completed:
 - a.) Within 90 days after an Application is accepted for filing, SJCERA will request any and all records that may be relevant to the determination of the Application. These may include, but are not necessarily limited to, the following: medical, psychiatric, psychological, chiropractic, physical therapy, and acupuncture records; radiology and ultrasound records; electrodiagnostic testing records; laboratory (blood, urine, pathology, etc.) testing records; psychological testing records; personnel and human resources records, incident and injury reports; reports prepared by any law enforcement agency; the Member's complete worker's compensation file pertaining to the subject claim and other potentially related claims including all medical records, reports, deposition transcripts, etc.; HIV and alcohol treatment/testing records in cases where these conditions are at issue.
 - b.) SJCERA shall require a written statement from the employer/department regarding employment status, job duties, work restrictions and accommodations, if any.

- c.) All reasonably pertinent records will be provided to the Disability Medical Provider and the Fund's Counsel.
- d.) The Fund's Counsel and/or the Disability Medical Provider will review and summarize the records. The Fund's Counsel will coordinate independent medical examination(s) as necessary and appropriate.
- e.) Additional records may be requested or subpoenaed of the Applicant or others.
- f.) All medical examinations required of the Member are completed and reports thereof have been submitted to SJCERA.
- g.) The Fund's Counsel will review medical findings and other evidence and make recommendations to the CEO.
- h.) Applicant is notified of pending action.
 - i. If the Fund's Counsel determines based upon findings and SJCERA procedures that the Applicant has met their burden of proof to show eligibility for a disability retirement benefit, staff will place the matter on the closed session consent calendar at a Board of Retirement meeting with a recommendation to grant the application.
 - ii. If the Fund's Counsel determines based upon findings and SJCERA procedures that the Applicant has not met their burden of proof to receive a disability retirement benefit, the CEO will be notified. The Applicant will be notified and given the option to request a hearing. (See below.)

F. Medical Examinations

1. Members may be required to undergo one or more medical or psychiatric examinations by a physician or physicians of SJCERA's choice as necessary to evaluate the conditions and diagnoses presented in the Application. Such examinations may be unnecessary in the following cases: (1) where the Member has already been examined by at least one qualified medical expert and there is overwhelming and undisputed medical evidence that the Member is permanently incapacitated, such that referring the Member to another examination would be futile; and (2) where the Applicant has not submitted substantial medical evidence that the Member is permanently incapacitated, such that referring the Member to an examination would be unjustified.
2. Members must cooperate during the medical or psychiatric examination process and, if requested, must promptly provide additional medical records and information, or submit to additional examinations.

3. SJCERA shall at least fifteen (15) days before the appointment date, serve the Member (and if the Applicant is not the Member, the Applicant) with written notice of the date, time and place of the medical or psychiatric examination. Notice may be served electronically and/or by first-class mail through the US Postal Service. If the Member is unable to keep the examination appointment, the Member or their attorney shall notify SJCERA or the Fund's Counsel in writing of such fact at least ten (10) calendar days before the scheduled examination. Failure to provide such notice and appear for the medical examination without good cause may result in the Board assessing medical cancellation fees against the Member and/or any other penalties for failure to comply with these Disability Retirement procedures.
4. The cost of such medical examinations shall be borne by SJCERA.
5. If the examination is at a facility located outside of San Joaquin County, Members may request SJCERA reimburse mileage costs incurred for travel between the examination address and either the San Joaquin County line or the Member's home address, whichever is less. SJCERA will not reimburse for out-of-state travel. Except as set forth in this paragraph, unless otherwise authorized by the Board, travel expenses that are incurred by Members or other Interested Parties relating to these procedures, including but not limited to appearances at hearings, Board meetings and medical examinations, are not eligible for reimbursement by SJCERA.

G. Penalties for Failure to Comply with Disability Retirement Procedures.

1. The failure of an Applicant to comply with the requirements set forth in these procedures may result in a recommendation to dismiss the Application. Upon the Board's own motion or a recommendation by the CEO, and 30 days' written notice to the Applicant without cure, the Board may:
 - a) Dismiss any Application in which the Board finds the Applicant to be non-compliant with these procedures. Failure to comply includes, but is not limited to: failure to submit to a duly noticed medical examination, failure to cooperate with any medical examination without good cause, failure, or refusal to comply with, any notice or demand made pursuant to this policy, failure to cooperate in the formal hearing process, and failure to comply with any order of the Board or the Referee.
 - b) Dismiss the Application with prejudice upon a finding of bad faith actions, dilatory or frivolous tactics causing undue delay in the proceedings, disobedience to a lawful order, and/or obstruction of the due course of a hearing proceeding.

H. CEO's Recommendation

1. The CEO may recommend to the Board that a Member be retired for service-connected or nonservice-connected disability retirement benefits. The recommendation shall be in writing and include:

- a) A determination of permanent physical or mental incapacity for the performance of the Member's duties;
- b) A determination whether the incapacity is the result of an injury or disease arising out of and in the course of the Member's employment and whether such employment contributed substantially to the incapacity;
- c) A summary of the evidence in support of the recommendation.

I. Setting the Matter for Hearing

1. If, after investigation, the CEO determines that the Applicant has failed to meet their burden of proof regarding any element legally necessary for the granting of the Application, the Applicant will be notified of its decision in writing, giving the Applicant the following options, if applicable:
 - a) If the Applicant has met their burden of proof regarding permanent incapacity but not service connectedness:
 - i. The Applicant may amend the Application from service-connected to nonservice-connected disability retirement or death to permit SJCERA to recommend that the Board grant a nonservice-connected disability retirement or death without need for hearing; or
 - ii. The Applicant may request both of the following: a hearing on the issue of service-connection, and a request that the Board grant a nonservice-connected disability retirement or survivor allowance;
 - b) Stipulate to waive the right to hearing and withdraw the Application.
 - c) Request a hearing on all issues presented by the Application.
2. If a written response is not received from the Applicant within thirty (30) calendar days after issuing the written notice in section VI.I.1 above, SJCERA shall commence dismissal procedures under section VI.G for noncompliance.
3. In cases where, as set forth in section VI.I.1.a above, the Applicant has opted to amend the Application from service-connected to nonservice-connected disability retirement, or where the Applicant requests a nonservice-connected disability retirement or survivor benefit and a hearing on the issue of service-connection, SJCERA will recommend that the Board grant a nonservice-connected disability retirement or death benefit.
4. The Applicant may withdraw the Application at any time prior to the Board's final determination. Any withdrawal of an application prior to the assignment to a Referee shall be deemed a withdrawal without prejudice. A withdrawal without prejudice means that any re-submission of the withdrawn application will be considered a new application that must meet all filing requirements, including timely filing requirements. Any withdrawal of an

application after the assignment to a Referee will be deemed to be with prejudice. An application withdrawn with prejudice precludes subsequent submission of the withdrawn application based on the same disability, injury or disease in the absence of new evidence.

VII. Hearings Before A Referee

A. Referral to Referee

1. If the Applicant timely requests a hearing, the matter shall be referred for hearing de novo before a Board-appointed Referee. The Referee shall be provided by the Office of Administrative Hearings of the State of California or by a prescreened panel of acceptable Referees selected by SJCERA. Compensation for the Referee shall be determined by the CEO and shall be paid by SJCERA.

B. Notification of Referral to Referee and Statement of Issues; Certification of Issues, Documents and Witnesses

1. Before a hearing date is set, the following notifications and certifications shall be provided:
 - a) The Fund's Counsel shall notify the Applicant in writing that SJCERA has referred the matter to hearing before a Referee and that a Referee will be appointed and a hearing scheduled as soon as SJCERA receives the certification required by this section. The written notice will further advise that if SJCERA does not receive the required certification within 30 calendar days, SJCERA will commence dismissal procedures under section VI.G for noncompliance.
 - b) The written notice will include the following:
 - i. A list of issues to be determined at the hearing and the names and contact information of all witnesses that may be called by the Fund's Counsel to testify at the hearing.
 - ii. A copy of SJCERA's Disability Retirement Policy and Procedures.
 - iii. An electronic copy of all medical records, reports, and other nonprivileged documents in SJCERA's file that have been obtained as part of the disability retirement application process. If the Applicant is not the Member, such records shall not be disclosed to the Applicant unless authorized by the Member, the Referee or the Board of Retirement.
 - c) Notwithstanding anything in this subdivision, unless otherwise ordered by the Referee or the Board, SJCERA shall only furnish psychiatric and/or other mental health reports and records to the Member's attorney or a treating physician designated by the Member in writing.
 - d) Enclosed with the notice to the Applicant will be a form which will require

the Applicant to certify the following:

- i. That there are no additional documents to introduce as evidence at the hearing other than those provided to the Applicant in electronic form along with SJCERA's letter. If there are additional documents, the Applicant must provide them to SJCERA along with the signed certification form. Unless otherwise ordered by the Referee or by stipulation of the parties, any documents not produced with the certification will be barred from introduction as evidence at hearing.
- ii. Whether the Applicant will be represented by an attorney at the hearing and, if so, the name and contact information for the attorney.
- iii. List the names and contact information for any witnesses the Applicant intends to call to testify at the hearing. Unless otherwise ordered by the Referee or by stipulation of the parties, any witnesses not identified by the Applicant on the certification shall be barred from testifying at the hearing.

C. Setting the Hearing Date

1. Within 30 days of the timely receipt of the Applicant's certification of documents and witnesses, the Fund's Counsel shall contact the Applicant or their attorney to select a mutually agreeable hearing date. The hearing date selected must be no later than 90 days after the filing of the Applicant's certification of documents and witnesses. If an Applicant fails to respond to SJCERA's reasonable requests to set a hearing date, SJCERA may either schedule a hearing date or notify the Applicant in writing that continued failure to confer on a hearing date may result in dismissal of the Application for noncompliance. If the Interested Parties cannot agree on a hearing date, either Interested Party may request a prehearing conference with the Presiding Judge of the Office of Administrative Hearings to set the hearing date.

D. Time and Place of Hearings

1. Unless the parties and the Referee agree otherwise, all hearings shall take place at the Retirement Office. When the date and time of the hearing are selected, SJCERA shall notify the parties and the Referee of the time and place of the hearing.
2. Unless the parties and the Referee agree otherwise, all hearings are deemed set for one full day, beginning at 9:30 a.m. Unless the parties and the Referee agree otherwise, hearings which are not completed by the end of the day shall be continued to the next agreeable hearing date which shall be no more than 30 days from the initial hearing date.

E. Prehearing Conferences

1. At the request of any Interested Party, a prehearing conference may be

scheduled with the Referee for the purpose of resolving any evidentiary, discovery and/or other prehearing disputes or issues. Prehearing conferences may be conducted personally or telephonically. Following the prehearing conference, the Referee may issue any orders relating to briefing, discovery, and/or the conduct of the hearing, including the final exchange of documents and witnesses.

2. Unless otherwise stipulated by the parties, a prehearing conference is mandatory in all cases where the Applicant is unrepresented by counsel.

F. Determining Issues

1. The Referee shall determine all issues presented by the Application by a preponderance of the evidence, including the following, if applicable:
 - a) Whether the Member was employed prior to January 1, 1981, and was required as a condition to such employment to execute a waiver for the alleged disability under Government Code Section 31009;
 - b) Whether the Member is disabled, that is, whether there is a substantial mental or physical incapacity to perform the Member's normal and usual employment duties ("incapacity");
 - c) Whether the incapacity is permanent;
 - d) Whether, for nonservice-connected disability, the Member has completed five (5) years of service;
 - e) Whether for a service-connected disability:
 - i. the incapacity is a result of injury or disease
 - ii. the injury or disease arose out of and in the course of the Member's employment; and
 - iii. the employment contributed substantially to the incapacity.
 - f) Whether, for Members described in Government Code Sections 31720.5, 31720.6, 31720.7 or 31720.9 alleging heart trouble, cancer, blood-borne infectious disease, or illness due to exposure to biochemical substances:
 - i. the Member has completed five (5) years of safety service, if required;
 - ii. the Member has the condition alleged;
 - iii. the Member is permanently incapacitated due to the condition alleged;
 - iv. the condition developed while a qualified Member of SJCERA;
 - v. and whether the presumption of the relevant Government Code

Section has been rebutted

G. Conduct of Hearing

1. A stenographic reporter shall record the proceedings of all hearings authorized by the Board at SJCERA's cost. Any transcription and copies shall be charged to the requesting Party. The hearing shall be considered closed to the public unless applicant asks for it to be in open session. The Referee shall mark for identification only, and not as evidence, all exhibits submitted by the parties, which should include:
 - a) the completed Application Packet;
 - b) the notice of hearing, with proof of service on the Applicant;
 - c) other documents required to be submitted by this policy including, without limitation, relevant medical reports, medical records, employment records, worker's compensation records, etc.
2. Hearing Process.
 - a) Each Party may make an opening statement.
 - b) Each other Party then shall present evidence, in the order determined by the Referee in accordance with each Party's burden of proof and burden of presenting evidence to establish such proof.
 - c) Each Party may cross-examine witnesses.
 - d) Rebuttal evidence may be presented.
 - e) Each Party may make oral closing arguments.
 - f) Upon the conclusion of all closing arguments, the Referee shall determine if all parties are ready to submit the matter for decision, and if so, or if the Referee otherwise orders for good cause, the Referee shall close the hearing and declare the matter submitted for decision.

H. Stipulations

1. Nothing in these procedures may be construed as preventing the parties from stipulating to lesser time requirements than prescribed in these procedures. The Referee may, upon written notice and for good cause shown, lengthen or shorten the times specified in these procedures.

VIII. Rules of Evidence

A. Burden of Proof

1. The Applicant has the burden of proving by a preponderance of the evidence each affirmative issue on which the Application depends. In addition, if the Applicant seeks to assert one or more of the legislative

presumptions afforded by the Government Code then the Applicant first must establish their entitlement to invoke the asserted presumption by offering prima facie evidence of each foundational element required by the applicable Government Code section(s), and the presumption(s) so invoked shall be rebuttable as provided in the applicable section(s).

B. Evidence

1. Oral evidence shall be taken only on oath or affirmation. Unless expressly waived by an opposing Party, all written evidence shall be sworn to or given under penalty of perjury, subject to Subsection E, below.

C. Witnesses

1. Each Party may call and examine witnesses, introduce exhibits, and cross-examine and impeach any witness on any matter relevant to the issues. If the Applicant or any other Party does not testify on that Party's own behalf, that Party may be called and examined as if under cross-examination under Evidence Code Section 776.

D. Refusal of Witness

1. Refusal by an Applicant or other Party to submit to examination or to answer relevant questions shall be grounds for considering those questions to be answered unfavorably to the refusing Party for the purpose of that hearing, and for denying the relief or benefits sought by the refusing Party.

E. Hearing Conduct

1. The hearing need not be conducted according to the technical rules of law relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

F. Certified Copies

1. Certified copies of the reports and records of any governmental agency, division or bureau, will be accepted as evidence in lieu of the original thereof.

G. Deposition Transcripts/Video Recordings

1. Any Party may offer, and the Referee shall receive into evidence, any relevant deposition transcript and/or video recording thereof if: (1) the deposition was taken in the manner provided by law or by stipulation of the Parties; and (2) at least twenty (20) calendar days before the hearing the offering Party delivered a copy of the transcript and/or video recording of

the deposition to all Parties along with notice of intent to introduce same into evidence. Nothing herein shall require or permit receiving into evidence any deposition testimony to which objection is properly raised if such testimony would be inadmissible were the witness present and testifying at the hearing. Deposition transcripts/video recordings shall be admissible notwithstanding that the deponent is available to testify. Depositions of experts, including medical experts, may be introduced in lieu of live testimony pursuant to Code of Civil Procedure Section 2025.620(d)

H. Written Medical Reports As Evidence

1. A written medical report bearing the signature of the medical witness shall be admissible in evidence as the author's direct testimony. Such medical reports shall not be inadmissible on the basis that they constitute hearsay. Each Party has the right to cross-examine the authors of medical reports pursuant to a subpoena issued and served in compliance with these procedures.

I. Subpoena Powers and Witness Fees

1. Subpoena powers shall be vested in the Board officers, the CEO and the Referee in accordance with Government Code Section 31535. Subpoenas shall be requested through the Fund's Counsel who shall transmit the request to SJCERA. Subpoenas issued shall be transmitted to the Party requesting the subpoena. The requesting Party shall have the sole responsibility for serving and enforcing the subpoena and for paying all costs associated with the subpoena.
2. A written motion to quash a subpoena may be made to the Referee on one or more of the following grounds, which shall be clearly and fully stated in the motion and supported by declarations under penalty of perjury:
 - a) Compliance will be unduly burdensome or against public policy.
 - b) The things subpoenaed are privileged by law.
 - c) The things subpoenaed are irrelevant or unnecessary to the proceedings.
 - d) The things subpoenaed have not been described with sufficient clarity to enable the witness to comply. Before it commences or continues with the proceeding, the Referee shall wholly or partially grant or deny the motion to quash.
3. The Party calling a witness to testify (whether by subpoena or otherwise) shall be solely responsible for paying any expert or nonexpert witness fees, mileage charges, and other costs associated with the witness' testimony. Non-expert witness fees and mileage charges shall be calculated as provided by law.

J. Service of Proposed Findings of Fact and Recommended Decision

1. Within 30 days after closing the hearing, the Referee will prepare a summary of the evidence received, findings of fact, conclusions of law, and a recommended decision. In accordance with the provisions of Government Code Section 31533, the findings of fact and proposed recommendation of the Referee shall be served on the CEO, who in turn shall distribute a copy to all parties.
2. Either Party may submit written objections to the Referee's recommended decision to SJCERA within ten (10) calendar days from the date SJCERA distributes the notice to all parties. The non-objecting Party may submit their response to the objections 10 days after the filing of the objections. The written objections and response shall be incorporated into the record submitted to the Referee's consideration.

K. Board's Decision

1. Upon receipt and review of the recommended decision of the Referee and any filed objections and responses, the Board may:
 - a.) Approve and adopt the recommended decision of the Referee, or
 - b.) Refer the Application to the Referee for further hearing and/or consideration, or
 - c.) Require a written transcript or summary of all testimony plus all other evidence received by the Referee to be submitted by the CEO to the Board. Following its receipt and review of the transcript and evidence, the Board shall:
 - i. Take action as is appropriate to the evidence and the provisions of the CERL, or
 - ii. Refer the matter back to the Referee with or without instruction for further proceedings; or
 - iii. Set the matter for hearing de novo before itself. The Board shall hear and decide the matter as if it had not been referred to the Referee. Unless otherwise allowed by the Board, the hearing shall be confined to the evidence, witnesses, and issues set forth in the certification and statement required by this policy. All hearings before the Board shall require the attendance of at least the same seven (7) members throughout the hearing and shall be conducted as if it were a hearing held before a Referee in accordance with this policy.

IX. Final Decision

- A. The Board's decision shall become final upon notice of the decision on all parties, including the employer.
- B. Judicial Review. In those cases where a Party or Applicant is entitled to judicial review of the proceedings before the Board, any petition for writ of mandate

shall be filed with the superior court within ninety (90) days from the date the notice of this Board's decision is mailed to the Party or Applicant or is delivered to the Party or Applicant.

X. Law Prevails

A. In the event a conflict between this policy and CERL, PEPRA, or other applicable statutes arises, the law shall prevail.

XI. Policy Review

A. Staff shall review this policy every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must, be approved by the Board of Retirement in accordance with the bylaws. Effective upon adoption.

XII. History

- 3/1/2018 Bylaw Sections 8, 9, 10 & 11 Converted to Board Policy and Board of Supervisor approved Bylaws
- 06/28/2018 Staff updated format
- 08/10/2018 Modified the definitions of Applicant and Application to conform with SJCERA's adopted code sections
- 07/12/2019 Revised to include definitions, add requirements that an application must meet before being filed, allow the member to elect not to go to hearing, allow the use of depositions, clarify mileage reimbursement may be requested for out-of-county travel to SJCERA-scheduled examinations, and specify that SJCERA may determine an examination is not required in some cases.
- 7/10/2020 Amended to clarify the use of a Referee for hearings, the order of the prehearing and hearing process, subpoena options, and penalties for noncompliance.
- 07/14/2023 Updated to reflect current practices including non-Member Applicant role, travel reimbursement, deadline for Referee's recommended decision, and other minor clarifications.
- 01/12/2024 Updated to reflect new legislation adding additional presumptions.
- [07/12/2024 Amended to clarify applicant is allowed to have their hearing in open session instead of closed session.](#)

Certification of Board Adoption:

Clerk of the Board 47/12/2024
Date



Board Administration Policy Disability Retirement and Active Member Death Policy and Procedure

I. Purpose

A. The purpose of this policy is to provide a procedure for acting upon applications to the Board for disability retirement and related rights, benefits and privileges inuring to Members of the San Joaquin County Employees' Retirement Association (SJCERA) and their designated beneficiaries. It is intended that applications be fairly and expeditiously processed, that the applicant and the Board have fair notice of any required hearing and consider sufficient facts to arrive at a true and fair decision on the application. For the purposes of a fair hearing, the Board shall act as an independent body, finding facts and applying law. Upon receipt of the recommendation from the SJCERA Chief Executive Officer (CEO), the Board may approve, dismiss, or deny the application, or take other appropriate action authorized by the California Employees Retirement Law of 1937 (CERL) and, if applicable, the Public Employees' Pension Reform Act of 2013 (PEPRA).

II. Definitions

- A. Unless the context otherwise requires, the definitions in this section shall govern the construction of this policy and procedures.
1. "Interested Party" means any person, including an Applicant, a Member to whom an Application pertains, the Fund, and any authorized representatives of each of them, disclosed by the records of SJCERA or by the Application to have a legal interest in the subject matter of the Application.
 2. "Applicant" means any person or entity that has filed an application for disability retirement benefits or a survivor allowance resulting from an active Member's death, which may include any Member of SJCERA, the head of the office or department in which the Member is or was last employed, the Board or its agents, or any other person claiming benefits, rights, or privileges under the CERL and, if applicable, PEPRA.
 3. "Application" means a claim for disability or active member death benefits, rights, or privileges under CERL and, if applicable PEPRA, submitted to SJCERA by an Applicant on a form authorized by SJCERA for that purpose.
 4. "Application Packet" means the documents that an Applicant is required to provide to SJCERA before an Application will be deemed submitted or filed for processing and evaluation. These documents include: a completed and signed application form, completed and signed questionnaires, signed authorizations for release of information, all relevant medical records and reports, and such other documents and information reasonably required by

SJCERA pursuant to this policy and procedure.

5. "Board" means the San Joaquin County Employees' Retirement Association's Board of Retirement.
6. "Board's Counsel" means an employed staff attorney, an attorney from the Office of County Counsel, or other independent counsel designated by the Board pursuant to Government Code Section 31529.9.
7. "The Fund" means the trust fund governed by the Board pursuant to Government Code Section 31588 and administered under the CERL solely for the overall best interest of Members and their beneficiaries. The Fund shall be a real Party in interest at all disability hearings conducted under this policy and independent Fund Counsel, who does not advise the Board with respect to such proceedings, shall represent the Fund in such hearings.
8. "Disability Medical Provider" means medical, psychiatric, or other healthcare experts retained by SJCERA to examine Members and provide opinion evidence regarding permanent disability and causation issues.
9. "Referee" means an outside hearing officer, administrative law judge, or another Retirement System organized under the 1937 County Employees' Retirement Law.
10. "Retirement Office" means the physical office of SJCERA at the address posted on www.sjcera.org.
11. "Member" means the SJCERA member who is the subject of the Application or on whose behalf the Application is filed.
12. "Fund Counsel" means the attorney retained by SJCERA to represent the interests of the Fund in investigating and evaluating Applications, providing recommendations to SJCERA, and representing the Fund before the Board.
13. References to written notice or any notice in writing from or by SJCERA mean that such notice may be delivered electronically, by first class mail or certified mail at the discretion of the CEO.

III. Representation by Counsel

- A. Any Interested Party, at that Party's expense, may hire and be represented by an attorney subject to the provisions of this section. No Applicant is required to have an attorney at any time. It is advised, however, that Applicants consider retaining an experienced attorney knowledgeable in CERL and disability retirement matters.
- B. If any Interested Party becomes represented by an attorney, either such Party or such attorney shall promptly file with the Retirement Office and serve upon all other Interested Parties written notice of such representation, including the attorney's name, address, and telephone number. Unless appearing with an

Interested Party at a hearing, an attorney shall not be deemed counsel of record until such notice of representation is duly filed and served. The Interested Party shall be deemed represented by said attorney until written notice of withdrawal or substitution of said attorney is filed with SJCERA and served on all other Interested Parties.

- C. The failure to retain an attorney or to provide written notice of representation by such attorney shall in no event be considered good cause, in and of itself, to delay any proceeding under this policy and procedure.

IV. Communication with Individual Board Members

- A. The Board is the decision-maker for all Applications. As such, communications concerning the merits or substance of an Application between any Board member and any Interested Party or their representatives, other than the CEO, are forbidden until the Board's decision is final and the time to appeal by writ or otherwise has expired. This prohibition shall remain in effect during the pendency of any writ, appeal, and rehearing. A copy of the *Ex Parte Communication Policy* can be found at www.sjcera.org.

V. Confidential Records

- A. All individual records of Members (including, but not limited to, reports, sworn statements, medical reports and records, applications, notices, orders, and findings and decision relating to an application for disability retirement) are confidential and shall not be disclosed by SJCERA to anyone except as set forth in these procedures, upon order of a court of competent jurisdiction, or upon written authorization by the Member.

VI. Application Process

- A. Applications may be filed by SJCERA Members, the head of the office or department in which the Member is or was last employed, the Board or its agents, any other person acting on a Member's behalf, or as authorized by CERL.

B. Claim

1. A claim for disability retirement or survivor allowance shall be made by filing a complete Application Packet with the Retirement Office. The Application shall not be deemed complete or filed until the Applicant has submitted all of the following to the Retirement Office:
 - a) An Application, on a form approved by SJCERA for that purpose, signed and complete with all requested information therein. The Application shall include a specific description of the injuries, conditions, and diagnoses that give rise to that alleged permanent incapacity.

- b) Signed authorizations for release of medical and other information deemed by SJCERA relevant to a full and complete evaluation of the Application.
- c) A physician's statement dated no earlier than a year prior to the date of the Application, in a form approved by SJCERA for that purpose complete with all requested information therein, signed and dated by the physician, stating that the Member is permanently incapacitated.
- d) Copies of all medical/psychiatric reports and records relevant to the claims made in the Application.
- e) All other documents and information that support the granting of the Application.

C. Initial Review of the Application Packet

- 1. Within 30 days of receipt of an Application Packet for filing, SJCERA shall review the submitted Application Packet and determine whether the application is complete and acceptable for filing. If the Application is determined to be complete, SJCERA shall notify the Applicant electronically and/or by U.S. mail that the Application has been accepted for filing. A complete Application shall be deemed filed as of the date SJCERA received the Application.
- 2. If, during the 30-day review period in this section, the Application Packet is determined to be incomplete, SJCERA shall notify the Applicant of the deficiency(ies) and that the application has been rejected for filing as incomplete.

D. Further Information Required from Applicant

- 1. If at any time during the pendency of the Application, the Applicant changes, in any material way, the facts or claims set forth in the Application, the Applicant shall immediately file with the Retirement Office, and serve on all Parties, written notice of such change, including any changes in employment or accommodation and any medical evidence supporting such an amendment. The failure to do so, may, in the discretion of the Board, preclude the Applicant from asserting the facts so alleged or introducing evidence with respect thereto. Notice of any such amendment shall be given, in writing, to Retirement Office within ten (10) days of the date thereof, and in no event later than thirty (30) days prior to any proceeding before the Board or Referee.
- 2. At any time during the pendency of an Application or in connection with any re-evaluation of the Member's disability status permitted under CERL, the Board or SJCERA may, by written notice to the Applicant, require that the Applicant produce within 30 days any or all of the following items. Said items shall be accompanied by a declaration (on a form approved by SJCERA for that purpose) signed by the Applicant under penalty of perjury affirming that

the Applicant has made a diligent search and reasonable inquiry and that no other responsive items exist.

- a) Copies of records, reports, notes, statements, documents, photographs, or other writings, within the definition of Evidence Code Section 250.
 - b) A narrative report of the Member's current medical condition, and a list of the names and contact information for all of the Member's healthcare providers.
 - c) Written responses to written questions concerning any matter that is reasonably calculated to lead to the discovery of evidence that would be admissible at a hearing. Said written responses shall be accompanied by a declaration (on a form approved by SJCERA for that purpose) signed by the Applicant under penalty of perjury affirming the truthfulness and completeness of the responses.
3. Any Interested Party shall be entitled to notice and take oral depositions in the manner prescribed by the California Code of Civil Procedure, except that there shall be no distinction between the depositions of expert and non-expert witnesses, and the provisions of the California Code of Civil Procedure pertaining to the depositions of expert witnesses shall not apply. The Party noticing a deposition shall pay any and all deposition costs and the fees to which a witness may be entitled.

E. Investigation and Evaluation

1. Before an administrative recommendation is made to the Board or a hearing before a Referee is set, the following shall be completed:
 - a.) Within 90 days after an Application is accepted for filing, SJCERA will request any and all records that may be relevant to the determination of the Application. These may include, but are not necessarily limited to, the following: medical, psychiatric, psychological, chiropractic, physical therapy, and acupuncture records; radiology and ultrasound records; electrodiagnostic testing records; laboratory (blood, urine, pathology, etc.) testing records; psychological testing records; personnel and human resources records, incident and injury reports; reports prepared by any law enforcement agency; the Member's complete worker's compensation file pertaining to the subject claim and other potentially related claims including all medical records, reports, deposition transcripts, etc.; HIV and alcohol treatment/testing records in cases where these conditions are at issue.
 - b.) SJCERA shall require a written statement from the employer/department regarding employment status, job duties, work restrictions and accommodations, if any.

- c.) All reasonably pertinent records will be provided to the Disability Medical Provider and the Fund's Counsel.
- d.) The Fund's Counsel and/or the Disability Medical Provider will review and summarize the records. The Fund's Counsel will coordinate independent medical examination(s) as necessary and appropriate.
- e.) Additional records may be requested or subpoenaed of the Applicant or others.
- f.) All medical examinations required of the Member are completed and reports thereof have been submitted to SJCERA.
- g.) The Fund's Counsel will review medical findings and other evidence and make recommendations to the CEO.
- h.) Applicant is notified of pending action.
 - i. If the Fund's Counsel determines based upon findings and SJCERA procedures that the Applicant has met their burden of proof to show eligibility for a disability retirement benefit, staff will place the matter on the closed session consent calendar at a Board of Retirement meeting with a recommendation to grant the application.
 - ii. If the Fund's Counsel determines based upon findings and SJCERA procedures that the Applicant has not met their burden of proof to receive a disability retirement benefit, the CEO will be notified. The Applicant will be notified and given the option to request a hearing. (See below.)

F. Medical Examinations

1. Members may be required to undergo one or more medical or psychiatric examinations by a physician or physicians of SJCERA's choice as necessary to evaluate the conditions and diagnoses presented in the Application. Such examinations may be unnecessary in the following cases: (1) where the Member has already been examined by at least one qualified medical expert and there is overwhelming and undisputed medical evidence that the Member is permanently incapacitated, such that referring the Member to another examination would be futile; and (2) where the Applicant has not submitted substantial medical evidence that the Member is permanently incapacitated, such that referring the Member to an examination would be unjustified.
2. Members must cooperate during the medical or psychiatric examination process and, if requested, must promptly provide additional medical records and information, or submit to additional examinations.
3. SJCERA shall at least fifteen (15) days before the appointment date, serve

the Member (and if the Applicant is not the Member, the Applicant) with written notice of the date, time and place of the medical or psychiatric examination. Notice may be served electronically and/or by first-class mail through the US Postal Service. If the Member is unable to keep the examination appointment, the Member or their attorney shall notify SJCERA or the Fund's Counsel in writing of such fact at least ten (10) calendar days before the scheduled examination. Failure to provide such notice and appear for the medical examination without good cause may result in the Board assessing medical cancellation fees against the Member and/or any other penalties for failure to comply with these Disability Retirement procedures.

4. The cost of such medical examinations shall be borne by SJCERA.
5. If the examination is at a facility located outside of San Joaquin County, Members may request SJCERA reimburse mileage costs incurred for travel between the examination address and either the San Joaquin County line or the Member's home address, whichever is less. SJCERA will not reimburse for out-of-state travel. Except as set forth in this paragraph, unless otherwise authorized by the Board, travel expenses that are incurred by Members or other Interested Parties relating to these procedures, including but not limited to appearances at hearings, Board meetings and medical examinations, are not eligible for reimbursement by SJCERA.

G. Penalties for Failure to Comply with Disability Retirement Procedures.

1. The failure of an Applicant to comply with the requirements set forth in these procedures may result in a recommendation to dismiss the Application. Upon the Board's own motion or a recommendation by the CEO, and 30 days' written notice to the Applicant without cure, the Board may:
 - a) Dismiss any Application in which the Board finds the Applicant to be non-compliant with these procedures. Failure to comply includes, but is not limited to: failure to submit to a duly noticed medical examination, failure to cooperate with any medical examination without good cause, failure, or refusal to comply with, any notice or demand made pursuant to this policy, failure to cooperate in the formal hearing process, and failure to comply with any order of the Board or the Referee.
 - b) Dismiss the Application with prejudice upon a finding of bad faith actions, dilatory or frivolous tactics causing undue delay in the proceedings, disobedience to a lawful order, and/or obstruction of the due course of a hearing proceeding.

H. CEO's Recommendation

1. The CEO may recommend to the Board that a Member be retired for service-connected or nonservice-connected disability retirement benefits. The recommendation shall be in writing and include:
 - a) A determination of permanent physical or mental incapacity for the

performance of the Member's duties;

- b) A determination whether the incapacity is the result of an injury or disease arising out of and in the course of the Member's employment and whether such employment contributed substantially to the incapacity;
- c) A summary of the evidence in support of the recommendation.

I. Setting the Matter for Hearing

1. If, after investigation, the CEO determines that the Applicant has failed to meet their burden of proof regarding any element legally necessary for the granting of the Application, the Applicant will be notified of its decision in writing, giving the Applicant the following options, if applicable:
 - a) If the Applicant has met their burden of proof regarding permanent incapacity but not service connectedness:
 - i. The Applicant may amend the Application from service-connected to nonservice-connected disability retirement or death to permit SJCERA to recommend that the Board grant a nonservice-connected disability retirement or death without need for hearing; or
 - ii. The Applicant may request both of the following: a hearing on the issue of service-connection, and a request that the Board grant a nonservice-connected disability retirement or survivor allowance;
 - b) Stipulate to waive the right to hearing and withdraw the Application.
 - c) Request a hearing on all issues presented by the Application.
2. If a written response is not received from the Applicant within thirty (30) calendar days after issuing the written notice in section VI.I.1 above, SJCERA shall commence dismissal procedures under section VI.G for noncompliance.
3. In cases where, as set forth in section VI.I.1.a above, the Applicant has opted to amend the Application from service-connected to nonservice-connected disability retirement, or where the Applicant requests a nonservice-connected disability retirement or survivor benefit and a hearing on the issue of service-connection, SJCERA will recommend that the Board grant a nonservice-connected disability retirement or death benefit.
4. The Applicant may withdraw the Application at any time prior to the Board's final determination. Any withdrawal of an application prior to the assignment to a Referee shall be deemed a withdrawal without prejudice. A withdrawal without prejudice means that any re-submission of the withdrawn application will be considered a new application that must meet all filing requirements, including timely filing requirements. Any withdrawal of an application after the assignment to a Referee will be deemed to be with

prejudice. An application withdrawn with prejudice precludes subsequent submission of the withdrawn application based on the same disability, injury or disease in the absence of new evidence.

VII. Hearings Before A Referee

A. Referral to Referee

1. If the Applicant timely requests a hearing, the matter shall be referred for hearing de novo before a Board-appointed Referee. The Referee shall be provided by the Office of Administrative Hearings of the State of California or by a prescreened panel of acceptable Referees selected by SJCERA. Compensation for the Referee shall be determined by the CEO and shall be paid by SJCERA.

B. Notification of Referral to Referee and Statement of Issues; Certification of Issues, Documents and Witnesses

1. Before a hearing date is set, the following notifications and certifications shall be provided:
 - a) The Fund's Counsel shall notify the Applicant in writing that SJCERA has referred the matter to hearing before a Referee and that a Referee will be appointed and a hearing scheduled as soon as SJCERA receives the certification required by this section. The written notice will further advise that if SJCERA does not receive the required certification within 30 calendar days, SJCERA will commence dismissal procedures under section VI.G for noncompliance.
 - b) The written notice will include the following:
 - i. A list of issues to be determined at the hearing and the names and contact information of all witnesses that may be called by the Fund's Counsel to testify at the hearing.
 - ii. A copy of SJCERA's Disability Retirement Policy and Procedures.
 - iii. An electronic copy of all medical records, reports, and other nonprivileged documents in SJCERA's file that have been obtained as part of the disability retirement application process. If the Applicant is not the Member, such records shall not be disclosed to the Applicant unless authorized by the Member, the Referee or the Board of Retirement.
 - c) Notwithstanding anything in this subdivision, unless otherwise ordered by the Referee or the Board, SJCERA shall only furnish psychiatric and/or other mental health reports and records to the Member's attorney or a treating physician designated by the Member in writing.
 - d) Enclosed with the notice to the Applicant will be a form which will require the Applicant to certify the following:

- i. That there are no additional documents to introduce as evidence at the hearing other than those provided to the Applicant in electronic form along with SJCERA's letter. If there are additional documents, the Applicant must provide them to SJCERA along with the signed certification form. Unless otherwise ordered by the Referee or by stipulation of the parties, any documents not produced with the certification will be barred from introduction as evidence at hearing.
- ii. Whether the Applicant will be represented by an attorney at the hearing and, if so, the name and contact information for the attorney.
- iii. List the names and contact information for any witnesses the Applicant intends to call to testify at the hearing. Unless otherwise ordered by the Referee or by stipulation of the parties, any witnesses not identified by the Applicant on the certification shall be barred from testifying at the hearing.

C. Setting the Hearing Date

1. Within 30 days of the timely receipt of the Applicant's certification of documents and witnesses, the Fund's Counsel shall contact the Applicant or their attorney to select a mutually agreeable hearing date. The hearing date selected must be no later than 90 days after the filing of the Applicant's certification of documents and witnesses. If an Applicant fails to respond to SJCERA's reasonable requests to set a hearing date, SJCERA may either schedule a hearing date or notify the Applicant in writing that continued failure to confer on a hearing date may result in dismissal of the Application for noncompliance. If the Interested Parties cannot agree on a hearing date, either Interested Party may request a prehearing conference with the Presiding Judge of the Office of Administrative Hearings to set the hearing date.

D. Time and Place of Hearings

1. Unless the parties and the Referee agree otherwise, all hearings shall take place at the Retirement Office. When the date and time of the hearing are selected, SJCERA shall notify the parties and the Referee of the time and place of the hearing.
2. Unless the parties and the Referee agree otherwise, all hearings are deemed set for one full day, beginning at 9:30 a.m. Unless the parties and the Referee agree otherwise, hearings which are not completed by the end of the day shall be continued to the next agreeable hearing date which shall be no more than 30 days from the initial hearing date.

E. Prehearing Conferences

1. At the request of any Interested Party, a prehearing conference may be scheduled with the Referee for the purpose of resolving any evidentiary,

discovery and/or other prehearing disputes or issues. Prehearing conferences may be conducted personally or telephonically. Following the prehearing conference, the Referee may issue any orders relating to briefing, discovery, and/or the conduct of the hearing, including the final exchange of documents and witnesses.

2. Unless otherwise stipulated by the parties, a prehearing conference is mandatory in all cases where the Applicant is unrepresented by counsel.

F. Determining Issues

1. The Referee shall determine all issues presented by the Application by a preponderance of the evidence, including the following, if applicable:
 - a) Whether the Member was employed prior to January 1, 1981, and was required as a condition to such employment to execute a waiver for the alleged disability under Government Code Section 31009;
 - b) Whether the Member is disabled, that is, whether there is a substantial mental or physical incapacity to perform the Member's normal and usual employment duties ("incapacity");
 - c) Whether the incapacity is permanent;
 - d) Whether, for nonservice-connected disability, the Member has completed five (5) years of service;
 - e) Whether for a service-connected disability:
 - i. the incapacity is a result of injury or disease
 - ii. the injury or disease arose out of and in the course of the Member's employment; and
 - iii. the employment contributed substantially to the incapacity.
 - f) Whether, for Members described in Government Code Sections 31720.5, 31720.6, 31720.7 or 31720.9 alleging heart trouble, cancer, blood-borne infectious disease, or illness due to exposure to biochemical substances:
 - i. the Member has completed five (5) years of safety service, if required;
 - ii. the Member has the condition alleged;
 - iii. the Member is permanently incapacitated due to the condition alleged;
 - iv. the condition developed while a qualified Member of SJCERA;
 - v. and whether the presumption of the relevant Government Code Section has been rebutted

G. Conduct of Hearing

1. A stenographic reporter shall record the proceedings of all hearings authorized by the Board at SJCERA's cost. Any transcription and copies shall be charged to the requesting Party. The hearing shall be considered closed to the public unless applicant asks for it to be in open session. The Referee shall mark for identification only, and not as evidence, all exhibits submitted by the parties, which should include:
 - a) the completed Application Packet;
 - b) the notice of hearing, with proof of service on the Applicant;
 - c) other documents required to be submitted by this policy including, without limitation, relevant medical reports, medical records, employment records, worker's compensation records, etc.
2. Hearing Process.
 - a) Each Party may make an opening statement.
 - b) Each other Party then shall present evidence, in the order determined by the Referee in accordance with each Party's burden of proof and burden of presenting evidence to establish such proof.
 - c) Each Party may cross-examine witnesses.
 - d) Rebuttal evidence may be presented.
 - e) Each Party may make oral closing arguments.
 - f) Upon the conclusion of all closing arguments, the Referee shall determine if all parties are ready to submit the matter for decision, and if so, or if the Referee otherwise orders for good cause, the Referee shall close the hearing and declare the matter submitted for decision.

H. Stipulations

1. Nothing in these procedures may be construed as preventing the parties from stipulating to lesser time requirements than prescribed in these procedures. The Referee may, upon written notice and for good cause shown, lengthen or shorten the times specified in these procedures.

VIII. Rules of Evidence

A. Burden of Proof

1. The Applicant has the burden of proving by a preponderance of the evidence each affirmative issue on which the Application depends. In addition, if the Applicant seeks to assert one or more of the legislative presumptions afforded by the Government Code then the Applicant first

must establish their entitlement to invoke the asserted presumption by offering prima facie evidence of each foundational element required by the applicable Government Code section(s), and the presumption(s) so invoked shall be rebuttable as provided in the applicable section(s).

B. Evidence

1. Oral evidence shall be taken only on oath or affirmation. Unless expressly waived by an opposing Party, all written evidence shall be sworn to or given under penalty of perjury, subject to Subsection E, below.

C. Witnesses

1. Each Party may call and examine witnesses, introduce exhibits, and cross-examine and impeach any witness on any matter relevant to the issues. If the Applicant or any other Party does not testify on that Party's own behalf, that Party may be called and examined as if under cross-examination under Evidence Code Section 776.

D. Refusal of Witness

1. Refusal by an Applicant or other Party to submit to examination or to answer relevant questions shall be grounds for considering those questions to be answered unfavorably to the refusing Party for the purpose of that hearing, and for denying the relief or benefits sought by the refusing Party.

E. Hearing Conduct

1. The hearing need not be conducted according to the technical rules of law relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

F. Certified Copies

1. Certified copies of the reports and records of any governmental agency, division or bureau, will be accepted as evidence in lieu of the original thereof.

G. Deposition Transcripts/Video Recordings

1. Any Party may offer, and the Referee shall receive into evidence, any relevant deposition transcript and/or video recording thereof if: (1) the deposition was taken in the manner provided by law or by stipulation of the Parties; and (2) at least twenty (20) calendar days before the hearing the offering Party delivered a copy of the transcript and/or video recording of the deposition to all Parties along with notice of intent to introduce same

into evidence. Nothing herein shall require or permit receiving into evidence any deposition testimony to which objection is properly raised if such testimony would be inadmissible were the witness present and testifying at the hearing. Deposition transcripts/video recordings shall be admissible notwithstanding that the deponent is available to testify. Depositions of experts, including medical experts, may be introduced in lieu of live testimony pursuant to Code of Civil Procedure Section 2025.620(d)

H. Written Medical Reports As Evidence

1. A written medical report bearing the signature of the medical witness shall be admissible in evidence as the author's direct testimony. Such medical reports shall not be inadmissible on the basis that they constitute hearsay. Each Party has the right to cross-examine the authors of medical reports pursuant to a subpoena issued and served in compliance with these procedures.

I. Subpoena Powers and Witness Fees

1. Subpoena powers shall be vested in the Board officers, the CEO and the Referee in accordance with Government Code Section 31535. Subpoenas shall be requested through the Fund's Counsel who shall transmit the request to SJCERA. Subpoenas issued shall be transmitted to the Party requesting the subpoena. The requesting Party shall have the sole responsibility for serving and enforcing the subpoena and for paying all costs associated with the subpoena.
2. A written motion to quash a subpoena may be made to the Referee on one or more of the following grounds, which shall be clearly and fully stated in the motion and supported by declarations under penalty of perjury:
 - a) Compliance will be unduly burdensome or against public policy.
 - b) The things subpoenaed are privileged by law.
 - c) The things subpoenaed are irrelevant or unnecessary to the proceedings.
 - d) The things subpoenaed have not been described with sufficient clarity to enable the witness to comply. Before it commences or continues with the proceeding, the Referee shall wholly or partially grant or deny the motion to quash.
3. The Party calling a witness to testify (whether by subpoena or otherwise) shall be solely responsible for paying any expert or nonexpert witness fees, mileage charges, and other costs associated with the witness' testimony. Non-expert witness fees and mileage charges shall be calculated as provided by law.

J. Service of Proposed Findings of Fact and Recommended Decision

1. Within 30 days after closing the hearing, the Referee will prepare a summary of the evidence received, findings of fact, conclusions of law, and a recommended decision. In accordance with the provisions of Government Code Section 31533, the findings of fact and proposed recommendation of the Referee shall be served on the CEO, who in turn shall distribute a copy to all parties.
2. Either Party may submit written objections to the Referee's recommended decision to SJCERA within ten (10) calendar days from the date SJCERA distributes the notice to all parties. The non-objecting Party may submit their response to the objections 10 days after the filing of the objections. The written objections and response shall be incorporated into the record submitted to the Referee's consideration.

K. Board's Decision

1. Upon receipt and review of the recommended decision of the Referee and any filed objections and responses, the Board may:
 - a.) Approve and adopt the recommended decision of the Referee, or
 - b.) Refer the Application to the Referee for further hearing and/or consideration, or
 - c.) Require a written transcript or summary of all testimony plus all other evidence received by the Referee to be submitted by the CEO to the Board. Following its receipt and review of the transcript and evidence, the Board shall:
 - i. Take action as is appropriate to the evidence and the provisions of the CERL, or
 - ii. Refer the matter back to the Referee with or without instruction for further proceedings; or
 - iii. Set the matter for hearing de novo before itself. The Board shall hear and decide the matter as if it had not been referred to the Referee. Unless otherwise allowed by the Board, the hearing shall be confined to the evidence, witnesses, and issues set forth in the certification and statement required by this policy. All hearings before the Board shall require the attendance of at least the same seven (7) members throughout the hearing and shall be conducted as if it were a hearing held before a Referee in accordance with this policy.

IX. Final Decision

- A. The Board's decision shall become final upon notice of the decision on all parties, including the employer.
- B. Judicial Review. In those cases where a Party or Applicant is entitled to judicial review of the proceedings before the Board, any petition for writ of mandate

shall be filed with the superior court within ninety (90) days from the date the notice of this Board's decision is mailed to the Party or Applicant or is delivered to the Party or Applicant.

X. Law Prevails

A. In the event a conflict between this policy and CERL, PEPRA, or other applicable statutes arises, the law shall prevail.

XI. Policy Review

A. Staff shall review this policy every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must, be approved by the Board of Retirement in accordance with the bylaws. Effective upon adoption.

XII. History

- 3/1/2018 Bylaw Sections 8, 9, 10 & 11 Converted to Board Policy and Board of Supervisor approved Bylaws
- 06/28/2018 Staff updated format
- 08/10/2018 Modified the definitions of Applicant and Application to conform with SJCERA's adopted code sections
- 07/12/2019 Revised to include definitions, add requirements that an application must meet before being filed, allow the member to elect not to go to hearing, allow the use of depositions, clarify mileage reimbursement may be requested for out-of-county travel to SJCERA-scheduled examinations, and specify that SJCERA may determine an examination is not required in some cases.
- 7/10/2020 Amended to clarify the use of a Referee for hearings, the order of the prehearing and hearing process, subpoena options, and penalties for noncompliance.
- 07/14/2023 Updated to reflect current practices including non-Member Applicant role, travel reimbursement, deadline for Referee's recommended decision, and other minor clarifications.
- 01/12/2024 Updated to reflect new legislation adding additional presumptions.
- 07/12/2024 Amended to clarify applicant is allowed to have their hearing in open session instead of closed session.

Certification of Board Adoption:

	7/12/2024
Clerk of the Board	Date



Board Administration Policy

Document and Data Retention Policy

I. Purpose

- A. To establish guidelines for the storage, maintenance, and destruction of documents and data owned, managed, or controlled by SJCERA in accordance with their administrative, legal, fiscal and historical value.

II. Authority

- A. This policy is written in accordance with California Government Code Section 31537 (retirement board may establish efficient records management procedures), Section 12236 (guidelines for local government records retention) and the Uniform Electronic Transaction Act, Civil Code section 1633.1, which provides requirements if electronic records are retained in lieu of paper records.

III. Guidelines

- A. Unless otherwise specified in the Document and Data Retention Schedule, once the information in electronic format has been verified, the records from which the electronic images were created should be destroyed. The information in the electronic format then becomes the copy of record (also known as the record or master copy) and must be retained as specified on the document retention schedule.
 - i. The CEO will be responsible for the creation and maintenance of the SJCERA Document and Data Retention Schedule. The CEO shall ensure compliance with all applicable laws and regulations.
 - ii. The minimum retention period of a record must be consistent with applicable laws, orders, rules or regulations. When no such criteria exist, a reasonable retention period will be established based on SJCERA's needs and the usefulness of the information.
 - iii. Once records have fulfilled their administrative, fiscal or legal function, they will be disposed of as soon as practical in accordance with the Document and Data Retention Schedule, unless they have enduring historical value as determined by the CEO.
 - iv. Board action is not required for the destruction of documents in accordance with Document and Data Retention Schedule.
 - v. Exceptions to the Document and Data Retention Policy may be made by the appropriate manager in consultation with the CEO. Exceptions should weigh the need for retaining the record against the cost to store and retrieve the record.

- vi. Retained information must be stored in a manner designed to ensure its accessibility, integrity, confidentiality, authenticity and legibility. No pages of any record shall be destroyed if any page cannot be reproduced with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.
 - vii. Preliminary drafts, and notes ~~and interagency or intra-agency correspondence~~ may be destroyed if they are no longer needed and there is no legal or policy requirement that they be retained.
 - viii. Imaged files or other electronic reproduction of records shall be deemed to be an “original” record of the paper record and the paper records may be destroyed, upon a determination by the CEO that:
 - a. The records were electronically imaged or recorded on a medium that is a trusted system and that does not permit additions, deletions or changes to the original document;
 - b. The device used to reproduce the record, paper or document on the medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images;
 - c. The imaged or reproduced records are used by SJCERA in the ordinary conduct of its business in lieu of the paper records and made as accessible for public reference as the paper records were; and
 - d. A true electronic or paper copy of archival quality shall be kept in a safe and separate place for security purposes. (See Section V.A of this policy)
 - e. No pages of any record shall be destroyed unless or until all pages can be legibly reproduced. Any unreproducible page(s) shall be preserved in a manner that will afford easy reference until or all legal and policy requirements are satisfied.
- B. In consultation with counsel, records pertinent to an administrative investigation, anticipated or pending litigation, or subject to an express litigation “hold,” shall be retained until final resolution of the investigation or litigation, or until expiration of the regular specified retention period, whichever is later.

IV. Email Correspondence

- A. Electronic communications, including e-mail, are considered transitory in nature and are not customarily kept or retained by SJCERA as the primary

means for preserving information for future reference. E-mail will be purged from the system per the Document and Data Retention Schedule.

V. Electronic Data Retention

A. All electronic data will be backed up on a predetermined schedule (daily or weekly) utilizing secure off-site storage platforms.

VI. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance with Government Code Sections 12236 and 31537. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with its bylaws.

VII. History

09/14/2007	Board adopted Policy
11/11/2017	Staff updated format
10/12/2018	Amended
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Updated statutory reference, storage platform, and aligned with existing processes
<u>07/12/2024</u>	<u>Non-substantive change</u>

Certification of Board Adoption:

Clerk of the Board	<u>07/0912/20244</u> Date
--------------------	------------------------------



Board Administration Policy

Document and Data Retention Policy

I. Purpose

- A. To establish guidelines for the storage, maintenance, and destruction of documents and data owned, managed, or controlled by SJCERA in accordance with their administrative, legal, fiscal and historical value.

II. Authority

- A. This policy is written in accordance with California Government Code Section 31537 (retirement board may establish efficient records management procedures), Section 12236 (guidelines for local government records retention) and the Uniform Electronic Transaction Act, Civil Code section 1633.1, which provides requirements if electronic records are retained in lieu of paper records.

III. Guidelines

- A. Unless otherwise specified in the Document and Data Retention Schedule, once the information in electronic format has been verified, the records from which the electronic images were created should be destroyed. The information in the electronic format then becomes the copy of record (also known as the record or master copy) and must be retained as specified on the document retention schedule.
 - i. The CEO will be responsible for the creation and maintenance of the SJCERA Document and Data Retention Schedule. The CEO shall ensure compliance with all applicable laws and regulations.
 - ii. The minimum retention period of a record must be consistent with applicable laws, orders, rules or regulations. When no such criteria exist, a reasonable retention period will be established based on SJCERA's needs and the usefulness of the information.
 - iii. Once records have fulfilled their administrative, fiscal or legal function, they will be disposed of as soon as practical in accordance with the Document and Data Retention Schedule, unless they have enduring historical value as determined by the CEO.
 - iv. Board action is not required for the destruction of documents in accordance with Document and Data Retention Schedule.
 - v. Exceptions to the Document and Data Retention Policy may be made by the appropriate manager in consultation with the CEO. Exceptions should weigh the need for retaining the record against the cost to store and retrieve the record.

- vi. Retained information must be stored in a manner designed to ensure its accessibility, integrity, confidentiality, authenticity and legibility. No pages of any record shall be destroyed if any page cannot be reproduced with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.
- vii. Preliminary drafts and notes may be destroyed if they are no longer needed and there is no legal or policy requirement that they be retained.
- viii. Imaged files or other electronic reproduction of records shall be deemed to be an "original" record of the paper record and the paper records may be destroyed, upon a determination by the CEO that:
 - a. The records were electronically imaged or recorded on a medium that is a trusted system and that does not permit additions, deletions or changes to the original document;
 - b. The device used to reproduce the record, paper or document on the medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images;
 - c. The imaged or reproduced records are used by SJCERA in the ordinary conduct of its business in lieu of the paper records and made as accessible for public reference as the paper records were; and
 - d. A true electronic or paper copy of archival quality shall be kept in a safe and separate place for security purposes. (See Section V.A of this policy)
 - e. No pages of any record shall be destroyed unless or until all pages can be legibly reproduced. Any unreproducible page(s) shall be preserved in a manner that will afford easy reference until or all legal and policy requirements are satisfied.
- B. In consultation with counsel, records pertinent to an administrative investigation, anticipated or pending litigation, or subject to an express litigation "hold," shall be retained until final resolution of the investigation or litigation, or until expiration of the regular specified retention period, whichever is later.

IV. Email Correspondence

- A. Electronic communications, including e-mail, are considered transitory in nature and are not customarily kept or retained by SJCERA as the primary

means for preserving information for future reference. E-mail will be purged from the system per the Document and Data Retention Schedule.

V. Electronic Data Retention

- A. All electronic data will be backed up on a predetermined schedule (daily or weekly) utilizing secure off-site storage platforms.

VI. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance with Government Code Sections 12236 and 31537. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with its bylaws.

VII. History

09/14/2007	Board adopted Policy
11/11/2017	Staff updated format
10/12/2018	Amended
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Updated statutory reference, storage platform, and aligned with existing processes
07/12/2024	Non-substantive change

Certification of Board Adoption:

Clerk of the Board	07/12/2024
	Date



Board Administration Policy

Electronic Signature Policy

I. Purpose

To establish guidelines for accepting electronic signatures.

II. Scope

A. The use or acceptance of electronic signature shall be at the option of SJCERA and the member submitting the electronically signed document. Nothing in this Policy requires SJCERA to use or permit the use of electronic signature.

III. Definitions

- A. For the purposes of this policy, the following definitions apply:
- i. "Electronic signature" includes both software-captured electronic signatures and copies of original, handwritten signatures submitted electronically.
 - ii. "Member" includes member, nonmember former spouse, eligible survivor/beneficiary, or person with legal authority to act on their behalf.

IV. Electronic Signature Guidelines

- A. The use of electronic signatures is permitted and shall have the same force and effect as the use of a original, handwritten signature if all the following criteria are met:
1. The electronic signature is unique to the person using it.
 2. The electronic signature is capable of verification.
 3. The electronic signature is under the sole control of the person using it.
 - a. Email notifications requesting electronic signatures must not be forwarded.
 4. The electronic signature is linked to the data in such a manner that if the data is changed after the electronic signature is affixed, the electronic signature is invalidated.
- B. Electronically signed documents submitted with software programs that use technology sufficient to ensure the integrity, security, and authenticity of documents will have the same legal force as a signed, valid original document.
- C. SJCERA may contact persons who have submitted electronically signed documents at random at their own discretion in order to ensure verification compliance.

V. Electronic Signature Guidelines

- A. Documents that initiate or affect the distribution of payment or payment information generally require an original signature.
- B. The use of electronic signatures is permitted and shall have the same force and effect as the use of an original, handwritten signature if all the following criteria are met:
1. The member's identity has first been verified by staff following existing protocols.
 2. Staff has validated that the document was sent to SJCERA by the member.
 3. Signature on the document is consistent with other signature samples on file

at SJCERA.

VI. Retention

A. Any member documents received electronically will be stored in SJCERA's Electronic Document Imaging System according to the *Document and Data Retention* policy.

IV. Law Prevails

A. In the event a conflict between this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statute arises, the law shall prevail.

V. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with its bylaws.

VI. History

07/08/2022 Policy adopted by the Board of Retirement
[07/12/2024 Non-substantive change](#)

Certification of Board Adoption:

Clerk of the Board 07/08/20224
Date

Related Statutes:
California Government Code Section 31527(i)



Board Administration Policy

Electronic Signature Policy

I. Purpose

To establish guidelines for accepting electronic signatures.

II. Scope

A. The use or acceptance of electronic signature shall be at the option of SJCERA and the member submitting the electronically signed document. Nothing in this Policy requires SJCERA to use or permit the use of electronic signature.

III. Definitions

- A. For the purposes of this policy, the following definitions apply:
- i. "Electronic signature" includes both software-captured electronic signatures and copies of original, handwritten signatures submitted electronically.
 - ii. "Member" includes member, nonmember former spouse, eligible survivor/beneficiary, or person with legal authority to act on their behalf.

IV. Electronic Signature Guidelines

- A. The use of electronic signatures is permitted and shall have the same force and effect as the use of a original, handwritten signature if all the following criteria are met:
1. The electronic signature is unique to the person using it.
 2. The electronic signature is capable of verification.
 3. The electronic signature is under the sole control of the person using it.
 - a. Email notifications requesting electronic signatures must not be forwarded.
 4. The electronic signature is linked to the data in such a manner that if the data is changed after the electronic signature is affixed, the electronic signature is invalidated.
- B. Electronically signed documents submitted with software programs that use technology sufficient to ensure the integrity, security, and authenticity of documents will have the same legal force as a signed, valid original document.
- C. SJCERA may contact persons who have submitted electronically signed documents at their own discretion in order to ensure verification compliance.

V. Electronic Signature Guidelines

- A. Documents that initiate or affect the distribution of payment or payment information generally require an original signature.
- B. The use of electronic signatures is permitted and shall have the same force and effect as the use of an original, handwritten signature if all the following criteria are met:
1. The member's identity has first been verified by staff following existing protocols.
 2. Staff has validated that the document was sent to SJCERA by the member.
 3. Signature on the document is consistent with other signature samples on file at SJCERA.

VI. Retention

A. Any member documents received electronically will be stored in SJCERA's Electronic Document Imaging System according to the *Document and Data Retention* policy.

IV. Law Prevails

A. In the event a conflict between this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statute arises, the law shall prevail.

V. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with its bylaws.

VI. History

07/08/2022	Policy adopted by the Board of Retirement
07/12/2024	Non-substantive change

Certification of Board Adoption:

_____	07/12/2024
Clerk of the Board	Date

Related Statutes:
California Government Code Section 31527(i)



Board Administration Policy

Normal Retirement Age – IRC 401(a)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the normal retirement age applicable for the Association in accordance with Internal Revenue Code section 401(a) and Treasury regulations issued thereunder.

II. Normal Retirement Age

A. General Members

1. Normal Retirement Age for general members is age 59 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than ~~age-72~~ age-72 years of age.

B. Safety Members

1. Normal Retirement Age for safety members is ~~age-54~~ age-54 years of age, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than ~~age-72~~ age-72 years of age.
2. For purposes of this policy, “Safety member” shall mean a member who immediately prior to retirement was employed in a job classification in the Safety retirement category as designated by the CERL, or as determined by the Board, and who was eligible for a safety retirement allowance from SJCERA. “General member” shall mean all other SJCERA members.

C. Basis for Determining

1. These normal retirement ages are based on data provided by the Association's actuary finding that the most typical retirement age for general members of the Association is ~~age-59~~ age-59 years of age and the most typical retirement age for safety members of the Association is 54 years of age.

D. Adjustment

1. The Board of Retirement for the Association may change the normal retirement age determined herein to the extent required to comply with Code section 401(a) or for any other reasons determined by the Board. The normal retirement age determined herein does not create any “vested rights” under California or federal law including but not limited to the contracts clause of the California Constitution.

III. Code and Regulations Prevail

A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern.

IV. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the Bylaws.

V. History

01/01/2015	Effective Date of Bylaw Section 23
12/08/2017	Extracted from Bylaws into policy
06/29/2018	Staff reviewed, no content changes; updated format
04/12/2019	Policy Review section amended at least once every three years
07/09/2021	Staff reviewed, no content changes
<u>07/12/2024</u>	<u>Updated normal retirement age and other non-substantive changes</u>

Certification of Board Adoption:

Clerk of the Board	<u>07/0912/20214</u> Date
--------------------	------------------------------



Board Administration Policy

Normal Retirement Age – IRC 401(a)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the normal retirement age applicable for the Association in accordance with Internal Revenue Code section 401(a) and Treasury regulations issued thereunder.

II. Normal Retirement Age

A. General Members

1. Normal Retirement Age for general members is age 59 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than 72 years of age.

B. Safety Members

1. Normal Retirement Age for safety members is 54 years of age, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than 72 years of age.
2. For purposes of this policy, "Safety member" shall mean a member who immediately prior to retirement was employed in a job classification in the Safety retirement category as designated by the CERL, or as determined by the Board, and who was eligible for a safety retirement allowance from SJCERA. "General member" shall mean all other SJCERA members.

C. Basis for Determining

1. These normal retirement ages are based on data provided by the Association's actuary finding that the most typical retirement age for general members of the Association is 59 years of age and the most typical retirement age for safety members of the Association is 54 years of age.

D. Adjustment

1. The Board of Retirement for the Association may change the normal retirement age determined herein to the extent required to comply with Code section 401(a) or for any other reasons determined by the Board. The normal retirement age determined herein does not create any "vested rights" under California or federal law including but not limited to the contracts clause of the California Constitution.

III. Code and Regulations Prevail

A. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern.

IV. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the Bylaws.

V. History

01/01/2015	Effective Date of Bylaw Section 23
12/08/2017	Extracted from Bylaws into policy
06/29/2018	Staff reviewed, no content changes; updated format
04/12/2019	Policy Review section amended at least once every three years
07/09/2021	Staff reviewed, no content changes
07/12/2024	Updated normal retirement age and other non-substantive changes

Certification of Board Adoption:

	07/12/2024
Clerk of the Board	Date



Board of Retirement Administrative Committee
San Joaquin County Employees' Retirement Association

Agenda Item 3.03

June 7, 2024

SUBJECT: Statement of Economic Interest – Summary Report

SUBMITTED FOR: CONSENT ACTION X INFORMATION

PURPOSE

To comply with Section III of the *Conflict of Interest* policy requiring staff to prepare an annual summary report of the Statements of Economic Interest (Form 700) filed with SJCERA.

DISCUSSION

The *Conflict of Interest* policy and *Administrative Committee Charter* require staff to prepare, and submit to the Administrative Committee for receipt and filing, an annual summary report of the Statements of Economic Interests (Form 700) filed with SJCERA. The intent is for staff to review all Forms 700, identify whether any potential conflicts exist, and highlight any conflicts in the summary report. If any potential conflicts were identified, the CEO and/or Chief Counsel would discuss that with the individual before submitting the report.

Based on the information reported in the most recently submitted Statements of Economic Interests, no conflicts were identified requiring recusal of a trustee due to their sources of income and SJCERA's current financial interests.

ATTACHMENTS

Summary of Sources of Income on Statements of Economic Interest (Form 700) report

RENEE OSTRANDER
Chief Executive Officer

AARON ZAHEEN
Chief Counsel

SJCERA Summary of Sources of Income on Statements of Economic Interest (Form 700) Report - June 7, 2024

Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$2,000 - \$10,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$10,001 - \$100,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$100,001 - \$1,000,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) Over \$1,000,000	Schedule A-2 Investments, Income, and Assets of Business Entities/Trusts (Ownership Interest is 10% or Greater)	Schedule B Interest in Real Property (Including Rental Income)	Schedule C Income, Loans, & Property Positions (Other than Gifts and Travel Payments)	Schedule D Income - Gifts	Schedule E Income - Gifts Travel Payments, Advances, and Reimbursements
3M Company (T)	3M Company (T)	NNN Net Lease (T)		Four Sevyn Inc. (S)	2531 Jimenez Way, Stockton (S)	Cheiron (C)	Port of Stockton (T)	
Affirm (S)	Abbie (T)	Procter & Gamble (T)		Restuccia Enterprises (T)	1908 East St., Tracy (T)	Alta Bates Summit Medical Center (C)	LP Insurance Services (T)	
Annaly Cap Mgmt (T)	Air Products (T)	Waste Management (T)		Restuccia Family 1996 Trust (T)	204-212 3rd St., Ripon (T)	Meketa Investment Group (C)	Zeiter Eye (T)	
Cheiron (C)	Alphabet (T)			Woodbridge Crossing (T)	49 East 10th St., Tracy (T)	McCray Investment Management (T)	Cal Water (T)	
Gilead Sciences (C)	Annaly (T)			The Hair Mill (T)	623 Walnut Ave, Ripon (T)	SJCERA (T)	San Joaquin RTD (T)	
Global Foundries (T)	Apple (T)				633 Walnut Ave, Ripon (T)	CB Merchants (T)	Best Best & Krieger (T)	
Google (S)	Ballard Power Systems (T)				18939 N. Lower Sacramento Rd, Woodbridge (T)	Bank of Stockton and 1867 Financial Corp. (T)	Waste Management (T)	
HIVE Blockchain Technologies (T)	Bank of America (T)				18921 N. Lower Sacramento Rd, Woodbridge (T)	FCCU/Valley Strong (T)	None of the filers reported having received gifts in excess of \$590 during 2023	
Intel (S)	Best Buy (T)							
Lynas (T)	Cameco (T)							
MetLife (T)	Capstead (T)							
Northwestern Corp (T)	CBS Corp (T)							
Nvidia Corp. (S)	Chubb Limited (T)							
Olin Corp Par \$1 (T)	Cisco Systems (T)							
PayPal Inc. (S)	CME Group (T)							
Shopify Inc. (S)	Comerica Inc. (T)							
Sirius XM Holdings (T)	Corts Trust For Peco Energy (T)							
Smith & Wesson (T)	Credit-Enhanced Corts Trust (T)							
SoFi Technologies (T)	Cummins Inc (T)							
Sturm Ruger (T)	CVS Health (T)							
T. Rowe Price (T)	Darden Restaurants (T)							
TBill ETF (S)	Devon Energy (T)							
Tesla Inc. (S)	Dow Chemical (T)							
	Eaton Corp. PLC SHS (T)							
	First Trust Preferred Securities (T)							
	Fiserv Inc. (T)							
	Flaherty & Crumrine Dynamic (T)							
	Gaming & Leisure Properties (T)							
	General Electric (T)							
	General Motors (T)							
	Goldman Sachs (T)							
	HNDL (T)							
	Home Depot (T)							
	IBM (T)							
	Johnson & Johnson (T)							
	Johnson Controls (T)							
	JP Morgan Chase (T)							
	Kimberly-Clark Corp. (T)							
	Leggett & Platt (T)							
	M D C Holdings (T)							
	Marathon Petroleum (T)							
	Medtronic PLC SHS (T)							
	Merck & Co. (T)							
	Mondelez (T)							
	Motorola Solutions (T)							
	Nextera Energy (T)							
	NNN Net Lease (T)							
	NY Preferred (T)							
	Pfizer Inc. (T)							
	Philip Morris (T)							
	PLUG (T)							
	Price T Rowe (T)							
	Procter & Gamble (T)							
	Redwood Trust (T)							

SJCERA Summary of Sources of Income on Statements of Economic Interest (Form 700) Report - June 7, 2024

Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$2,000 - \$10,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$10,001 - \$100,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) \$100,001 - \$1,000,000	Schedule A-1 Investments Stocks, Bonds, and Other Interest (Ownership Interest is Less Than 10%) Over \$1,000,000	Schedule A-2 Investments, Income, and Assets of Business Entities/Trusts (Ownership Interest is 10% or Greater)	Schedule B Interest in Real Property (Including Rental Income)	Schedule C Income, Loans, & Property Positions (Other than Gifts and Travel Payments)	Schedule D Income - Gifts	Schedule E Income - Gifts Travel Payments, Advances, and Reimbursements
	Robert Half (T)							
	Southwest Airlines (T)							
	Uber Technologies (T)							
	UGI Corp (T)							
	US Bancorp (T)							
	Verizon Communications (T)							
	Walgreens Boots Alliance (T)							
	Walmart (T)							
	Westamerica Bancorporation (T)							
	Williams Co (T)							

TRUSTEES (T)

Chanda Bassett
 Steven Ding
 Michael Duffy
 Jennifer Goodman
 Phonxay Keokham
 Ray McCray
 Stephan Moore
 Emily Nicholas
 Michael Restuccia
 James Weydert

STAFF (S)

Paris Ba
 Adnan Khan
 Brian McKelvey
 Carmen Murillo
 Johanna Shick

CONSULTANTS (C)

David Sancewich
 Graham Schmidt

Highlight indicates financial interest that may require recusal of trustee with respect to that source of income, based on currently known information and current financial interests of SJCERA. (See, e.g., FPPC Informal Advice File No. I-17-093; see also Cal. Gov. Code Section 1090 et seq.) Notations are for informational purposes only and are subject to change, depending on changes in the financial interests of SJCERA and/or its Form 700 filers. The notations, as well as other comments in this summary, are not intended to be exhaustive or legally binding.



Board of Retirement Administrative Committee
San Joaquin County Employees' Retirement Association

June 7, 2024

Agenda Item 4.0

SUBJECT: Board Policies Requiring Substantive Amendments

SUBMITTED FOR: __ CONSENT X ACTION __ INFORMATION

RECOMMENDATION

Staff recommends the Administrative Committee approve the proposed policy amendments and recommend adoption by the Board of Retirement.

PURPOSE

To amend the policies to ensure that they remain relevant, appropriate and in compliance, per Section III.C of the Administrative Committee Charter.

DISCUSSION

In accordance with the Board's requirement, staff typically review one-third of the policies annually. As part of our new in-house Chief Counsel onboarding, staff chose to review all of the policies this year. The proposed policies requiring substantive amendments are below.

- Compensation Earnable Annual Limit – IRC 401(a)(17) Policy – Updated the example calculations
- Dissolution of Marriage or Registered Domestic Partnership Policy – Amended to delegate authority to consent to Domestic Relations Orders and related filings to Staff
- Final Compensation Review Policy – Amended gross compensation definition, formalized appeal process and other non-substantive changes

ATTACHMENTS

Proposed revisions to Compensation Earnable Annual Limit-IRC 401(a)(17) Policy – Mark-up
Proposed revisions to Compensation Earnable Annual Limit-IRC 401(a)(17) Policy – Clean
Proposed revisions to Dissolution of Marriage/Domestic Partnership Policy–Mark-up
Proposed revisions to Dissolution of Marriage/Domestic Partnership Policy – Clean
Proposed revisions to Final Compensation Review Policy – Mark-up
Proposed revisions to Final Compensation Review Policy – Clean

Renee Ostrander
Chief Executive Officer



Board Administration Policy

Compensation Earnable Annual Limit – IRC 401(a)(17)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the limit on annual compensation earnable under Internal Revenue Code section 401(a)(17) and Treasury regulations issued thereunder.

II. Limitation On Annual Compensation Earnable

A. In General

1. Annual Compensation Earnable Limit

The annual amount of compensation that is taken into account in determining all benefits provided by the Association to affected Members for any year, which is referred to in the CERL and in this policy as “Compensation Earnable”, shall in no event be greater than the amount allowed by Code section 401(a)(17) adjusted in accordance with the Code for increases in the cost of ~~living~~ living. This limit is called the Annual Compensation Earnable Limit in this policy. (Certain Members may also be subject to the limitation on Pensionable Compensation under PEPRRA section 7522.10(c) and (d) which would produce a lower limit than the limit under Code section 401(a)(17).)

2. Members Affected by the Annual Limit

a. Not Applicable to Pre-January 1, 1996 for Association Members

The Annual Compensation Earnable Limit does not apply to any individual who first became a Member of the Association prior to January 1, 1996.

b. Applies to New Members of the Association on and after January 1, 1996

In accordance with CERL section 31671, the Annual Compensation Earnable Limit shall apply to all individuals who first become Members of the Association on or after January 1, 1996.

c. Date First Becomes a Member

An individual first becomes a Member on the date that a Member first became a Member in the Association, regardless of whether the Member terminated and resumed participation in the Association at a later date.

B. Operation Rules, In General

This section applies to members who are not grandfathered under Section II.A.2.a.

1. Limited Compensation Earnable

All Compensation Earnable that would be taken into account for determining benefits provided by the Association without regard to this policy is subject

to the Annual Compensation Earnable Limit. Such Compensation Earnable is not limited to salary or to base salary.

2. Benefits Affected by the Limit

The Annual Compensation Earnable Limit applies to the determination of all benefits provided by the Association including pensions, annuities, retirement allowances, death benefits, disability benefits, refunds and withdrawals that are determined by member contributions (including such contributions that are or may have been in the past “picked up” by the employer) under Code 414(h)(2) and earnings thereon.

3. Compensation Earnable from More Than One Employer

If Compensation Earnable from more than one employer that participates in the Association is taken into account in determining a Member’s benefits, the Annual Compensation Earnable Limit shall apply separately to the Compensation Earnable from each employer. For example, if the Compensation Earnable Limit is ~~\$260,000~~\$345,000 for the year and the Member has Compensation Earnable of ~~\$22500~~,000 from one participating employer and ~~\$12000~~,000 from another participating employer, the unreduced total Compensation Earnable from each employer may be taken into account. The Annual Compensation Earnable Limit does not apply to the aggregate of Compensation Earnable earned from all employers that participate in the Association.

4. Proration for Short Plan Year

If a plan year consists of fewer than 12 months, the Annual Compensation Earnable Limit is an amount equal to the otherwise applicable Annual Compensation Earnable Limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12. No proration is required for participation of less than a full plan year.

5. Reciprocity and New Membership in the Association

An individual who becomes a Member of the Association on or after January 1, 1996, and who has reciprocity with another public sector retirement plan nevertheless is a new Member of the Association. Membership before January 1, 1996 in another retirement plan with which the Association has reciprocity does not create pre-January 1, 1996 Association membership for purposes of the Annual Compensation Earnable Limit.

6. Reciprocity and Prior Membership in the Association

A person who was a grandfathered Member of the Association prior to January 1, 1996 under Section II.A.2.a who terminated employment with an employer that participated in the Association, remains a Member of the Association prior to January 1, 1996. Therefore, if the Member established reciprocity between another public sector retirement plan and the Association, any higher Compensation Earnable that is earned under the other plan shall be taken into account by the Association in accordance with the rules of reciprocity and that Compensation Earnable shall not be limited by the Annual Compensation Earnable Limit.

7. Relationship between 415 Limit and Compensation Earnable Limit

The limits of Code section 415 and Code section 401(a)(17) are separate and independent. Each limit is operated according to its own rules and applies separately. Therefore, the Annual Compensation Earnable Limit may apply to a Member and the Code section 415 limit may not apply. Similarly, the Code section 415 limit may apply to a Member and the Annual Compensation Earnable Limit may not apply. Also, both of these limits may apply to the same Member.

8. Clarification Concerning Member Contributions

Because Member contributions are the basis for benefits provided by the Association, Member contributions shall not be made by taking into account Compensation Earnable in excess of the Annual Compensation Earnable Limit. To the extent the provisions of PEPRA, including section 7522.10(h), include greater limitations on the manner in which Member contributions may be calculated, such limits shall apply to the calculation of Member contributions.

9. General Plan Year Rule for Determining the Limit

If Compensation Earnable for any prior plan year is taken into account in determining a Member's benefits for the current plan year, the Compensation Earnable for such prior plan year is subject to the applicable Annual Compensation Earnable Limit in effect for that prior plan year. In addition, in determining benefits for plan years beginning on or after January 1, 2002, the Annual Compensation Earnable Limit in effect for plan years beginning before that date is \$200,000.

III. Plan Year and Cost of Living Adjustments

A. Annual Adjustment for Cost-of-Living Increases

The Annual Compensation Earnable Limit may be adjusted annually by the Internal Revenue Service for cost of living changes in accordance with the Code.

B. General Rule-Application of Limit to a Plan Year

In general, the Annual Compensation Earnable Limit is applied to the Compensation Earnable for the plan year on which accruals of benefits from the Association are based.

C. Plan Year Compensation Earnable

1. General Rule

To the extent that the Association determines Compensation Earnable for benefit accruals for a plan year based on Compensation Earnable for the plan year, then the Annual Compensation Earnable limit that applies for the plan year is the limit in effect for the calendar year in which the plan year begins.

Since the Association's plan year corresponds to the calendar year, the Compensation Earnable used to determine all benefit accruals for each plan year is limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year that coincides with that plan year.

2. Member Contributions

Since the Association's plan year corresponds to the calendar year, the Compensation Earnable used to determine Member contributions for each plan year shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year that coincides with the plan year.

D. Examples

1. Example – Retirement Allowance

The retirement allowance provided by the Association for certain Members is based on the highest 12 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was ~~\$330,000~~~~250,000~~ for the 20~~23~~~~12~~ calendar year and ~~\$345,255,000~~ for the 20~~24~~~~13~~ calendar year. A Member retires in May 20~~24~~~~13~~. The Member's highest 12 consecutive months of Compensation Earnable is for the period May 1, 20~~23~~~~12~~ through April 30, 20~~24~~~~13~~. The annual Compensation Earnable used for determining this Member's benefits for the 20~~24~~~~13~~ year is limited to ~~\$330,250,000~~, not ~~\$345,255,000~~, because this is the limit in effect for the calendar year in which the 12-consecutive month period began.

For some Members of the Association, including Members subject to the requirements enacted under PEPRA, the retirement allowance provided by the Association is based on the highest 36 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was ~~\$285,245,000~~ for 20~~21~~, ~~\$290,500,000~~ for 20~~22~~, and ~~\$30,255,000~~ for 20~~23~~. A Member retires in May 20~~24~~. The Member has ~~\$43,500,000~~ per year (~~\$122,500~~ per month) of Compensation Earnable during the Member's highest 36 consecutive months of Compensation Earnable for the period May 1, 20~~21~~ through April 30, 20~~24~~. The Association may not base the Member's benefits for 20~~24~~ on annual Compensation Earnable in excess of ~~\$293,250,000~~, the average of the limits in effect for each of the three 12-consecutive month periods: the May 1, 20~~21~~ through April 30, 20~~22~~ period is capped at ~~\$28,450,000~~, the 20~~21~~ limit; the May 1, 20~~22~~ through April 30, 20~~23~~ is capped at ~~\$29,500,000~~, the 20~~22~~ limit; and the May 1, 20~~23~~ through April 30, 20~~24~~ is capped at ~~\$30,255,000~~, the 20~~23~~ limit. The average of these capped amounts, ~~\$29,350,000~~, is the Annual Compensation Earnable Limit for determining benefits for the 20~~24~~ plan year for a member who retires in May, 20~~24~~ because that is the average limit for the three calendar years in which the member's average 36 consecutive months of compensation earnable begins.

2. Example – Member Contributions

The refund or withdrawal benefits from Member contributions are accrued on an annual basis. The Annual Compensation Earnable Limit was ~~\$28,450,000~~ for the 20~~21~~ calendar year; ~~\$29,500,000~~ for the 20~~22~~ calendar year; and ~~\$30,255,000~~ for the 20~~23~~ calendar year.

Since the Association's plan year corresponds to the calendar year, the Annual Compensation Earnable Limit for Member contributions was \$~~28545~~,000 for the 20~~21~~ plan year; \$~~290250~~,000 for the 20~~22~~ plan year; and \$~~30255~~,000 for the 20~~23~~ plan year.

IV. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern.

V. Policy Review

Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance.

VI. History

01/01/2015	Effective Date of Bylaw Section 21
12/08/2017	Extracted from Bylaws into policy
07/06/2018	Staff reviewed, no content changes
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Staff deleted the cost of living adjustment of \$260,000 for 2014 referenced in II.A.1
07/12/2024	Updated the example calculations

Certification of Board Adoption

Clerk of the Board

07/~~09~~[12](#)/202~~14~~

Date



Board Administration Policy

Compensation Earnable Annual Limit – IRC 401(a)(17)

I. Purpose

- A. This policy reaffirms and clarifies the existing practices of the Association with respect to the limit on annual compensation earnable under Internal Revenue Code section 401(a)(17) and Treasury regulations issued thereunder.

II. Limitation On Annual Compensation Earnable

A. In General

1. Annual Compensation Earnable Limit

The annual amount of compensation that is taken into account in determining all benefits provided by the Association to affected Members for any year, which is referred to in the CERL and in this policy as “Compensation Earnable”, shall in no event be greater than the amount allowed by Code section 401(a)(17) adjusted in accordance with the Code for increases in the cost of living. This limit is called the Annual Compensation Earnable Limit in this policy. (Certain Members may also be subject to the limitation on Pensionable Compensation under PEPR section 7522.10(c) and (d) which would produce a lower limit than the limit under Code section 401(a)(17).)

2. Members Affected by the Annual Limit

a. Not Applicable to Pre-January 1, 1996 for Association Members

The Annual Compensation Earnable Limit does not apply to any individual who first became a Member of the Association prior to January 1, 1996.

b. Applies to New Members of the Association on and after January 1, 1996

In accordance with CERL section 31671, the Annual Compensation Earnable Limit shall apply to all individuals who first become Members of the Association on or after January 1, 1996.

c. Date First Becomes a Member

An individual first becomes a Member on the date that a Member first became a Member in the Association, regardless of whether the Member terminated and resumed participation in the Association at a later date.

B. Operation Rules, In General

This section applies to members who are not grandfathered under Section II.A.2.a.

1. Limited Compensation Earnable

All Compensation Earnable that would be taken into account for determining benefits provided by the Association without regard to this policy is subject

to the Annual Compensation Earnable Limit. Such Compensation Earnable is not limited to salary or to base salary.

2. Benefits Affected by the Limit

The Annual Compensation Earnable Limit applies to the determination of all benefits provided by the Association including pensions, annuities, retirement allowances, death benefits, disability benefits, refunds and withdrawals that are determined by member contributions (including such contributions that are or may have been in the past “picked up” by the employer) under Code 414(h)(2) and earnings thereon.

3. Compensation Earnable from More Than One Employer

If Compensation Earnable from more than one employer that participates in the Association is taken into account in determining a Member’s benefits, the Annual Compensation Earnable Limit shall apply separately to the Compensation Earnable from each employer. For example, if the Compensation Earnable Limit is \$345,000 for the year and the Member has Compensation Earnable of \$225,000 from one participating employer and \$120,000 from another participating employer, the unreduced total Compensation Earnable from each employer may be taken into account. The Annual Compensation Earnable Limit does not apply to the aggregate of Compensation Earnable earned from all employers that participate in the Association.

4. Proration for Short Plan Year

If a plan year consists of fewer than 12 months, the Annual Compensation Earnable Limit is an amount equal to the otherwise applicable Annual Compensation Earnable Limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12. No proration is required for participation of less than a full plan year.

5. Reciprocity and New Membership in the Association

An individual who becomes a Member of the Association on or after January 1, 1996, and who has reciprocity with another public sector retirement plan nevertheless is a new Member of the Association. Membership before January 1, 1996 in another retirement plan with which the Association has reciprocity does not create pre-January 1, 1996 Association membership for purposes of the Annual Compensation Earnable Limit.

6. Reciprocity and Prior Membership in the Association

A person who was a grandfathered Member of the Association prior to January 1, 1996 under Section II.A.2.a who terminated employment with an employer that participated in the Association, remains a Member of the Association prior to January 1, 1996. Therefore, if the Member established reciprocity between another public sector retirement plan and the Association, any higher Compensation Earnable that is earned under the other plan shall be taken into account by the Association in accordance with the rules of reciprocity and that Compensation Earnable shall not be limited by the Annual Compensation Earnable Limit.

7. Relationship between 415 Limit and Compensation Earnable Limit

The limits of Code section 415 and Code section 401(a)(17) are separate and independent. Each limit is operated according to its own rules and applies separately. Therefore, the Annual Compensation Earnable Limit may apply to a Member and the Code section 415 limit may not apply. Similarly, the Code section 415 limit may apply to a Member and the Annual Compensation Earnable Limit may not apply. Also, both of these limits may apply to the same Member.

8. Clarification Concerning Member Contributions

Because Member contributions are the basis for benefits provided by the Association, Member contributions shall not be made by taking into account Compensation Earnable in excess of the Annual Compensation Earnable Limit. To the extent the provisions of PEPRA, including section 7522.10(h), include greater limitations on the manner in which Member contributions may be calculated, such limits shall apply to the calculation of Member contributions.

9. General Plan Year Rule for Determining the Limit

If Compensation Earnable for any prior plan year is taken into account in determining a Member's benefits for the current plan year, the Compensation Earnable for such prior plan year is subject to the applicable Annual Compensation Earnable Limit in effect for that prior plan year. In addition, in determining benefits for plan years beginning on or after January 1, 2002, the Annual Compensation Earnable Limit in effect for plan years beginning before that date is \$200,000.

III. Plan Year and Cost of Living Adjustments

A. Annual Adjustment for Cost-of-Living Increases

The Annual Compensation Earnable Limit may be adjusted annually by the Internal Revenue Service for cost of living changes in accordance with the Code.

B. General Rule-Application of Limit to a Plan Year

In general, the Annual Compensation Earnable Limit is applied to the Compensation Earnable for the plan year on which accruals of benefits from the Association are based.

C. Plan Year Compensation Earnable

1. General Rule

To the extent that the Association determines Compensation Earnable for benefit accruals for a plan year based on Compensation Earnable for the plan year, then the Annual Compensation Earnable limit that applies for the plan year is the limit in effect for the calendar year in which the plan year begins.

Since the Association's plan year corresponds to the calendar year, the Compensation Earnable used to determine all benefit accruals for each plan year is limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year that coincides with that plan year.

2. Member Contributions

Since the Association's plan year corresponds to the calendar year, the Compensation Earnable used to determine Member contributions for each plan year shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year that coincides with the plan year.

D. Examples

1. Example – Retirement Allowance

The retirement allowance provided by the Association for certain Members is based on the highest 12 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$330,000 for the 2023 calendar year and \$345,000 for the 2024 calendar year. A Member retires in May 2024. The Member's highest 12 consecutive months of Compensation Earnable is for the period May 1, 2023 through April 30, 2024. The annual Compensation Earnable used for determining this Member's benefits for the 2024 year is limited to \$330,000, not \$345,000, because this is the limit in effect for the calendar year in which the 12-consecutive month period began.

For some Members of the Association, including Members subject to the requirements enacted under PEPRA, the retirement allowance provided by the Association is based on the highest 36 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$285,000 for 2021, \$290,000 for 2022, and \$305,000 for 2023. A Member retires in May 2024. The Member has \$450,000 per year (\$12,500 per month) of Compensation Earnable during the Member's highest 36 consecutive months of Compensation Earnable for the period May 1, 2021 through April 30, 2024. The Association may not base the Member's benefits for 2024 on annual Compensation Earnable in excess of \$293,000, the average of the limits in effect for each of the three 12-consecutive month periods: the May 1, 2021 through April 30, 2022 period is capped at \$285,000, the 2021 limit; the May 1, 2022 through April 30, 2023 is capped at \$290,000, the 2022 limit; and the May 1, 2023 through April 30, 2024 is capped at \$305,000, the 2023 limit. The average of these capped amounts, \$293,000, is the Annual Compensation Earnable Limit for determining benefits for the 2024 plan year for a member who retires in May, 2024 because that is the average limit for the three calendar years in which the member's average 36 consecutive months of compensation earnable begins.

2. Example – Member Contributions

The refund or withdrawal benefits from Member contributions are accrued on an annual basis. The Annual Compensation Earnable Limit was \$285,000 for the 2021 calendar year; \$290,000 for the 2022 calendar year; and \$305,000 for the 2023 calendar year.

Since the Association's plan year corresponds to the calendar year, the Annual Compensation Earnable Limit for Member contributions was \$285,000 for the 2021 plan year; \$290,000 for the 2022 plan year; and \$305,000 for the 2023 plan year.

IV. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable law will govern.

V. Policy Review

Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance.

VI. History

01/01/2015	Effective Date of Bylaw Section 21
12/08/2017	Extracted from Bylaws into policy
07/06/2018	Staff reviewed, no content changes
04/12/2019	Policy Review section amended to at least once every three years
07/09/2021	Staff deleted the cost of living adjustment of \$260,000 for 2014 referenced in II.A.1
07/12/2024	Updated the example calculations

Certification of Board Adoption

Clerk of the Board	07/12/2024
	Date



Board Administration Policy

Dissolution of Marriage or Registered Domestic Partnership

I. Purpose

- A. This policy governs the management and operation of the retirement system with respect to the Dissolution of Marriage or Registered Domestic Partnership (RDP) for the benefit of its membership, including its retired members and their survivors, dependents, and beneficiaries.

II. Community Property

- A. Effective August 1, 1997, pursuant to Resolution N. 97-474 of the Board of Supervisors of San Joaquin County, SJCERA shall accept orders pertaining to the division of the community property interest in a member's account only if such orders are issued (1) by a court of competent jurisdiction, (2) in conformance with the provisions of Family Code Section 2610 and (3) in conformance with the provisions of Article 8.4 of the CERL, commencing at Government Code Section 31685. SJCERA shall return orders which are not in conformance with these criteria to the parties for revision.

III. Nonmember Rights

- A. For the purposes of this policy, the former spouse/partner of the employee member is referred to as the nonmember.
- B. A nonmember who, pursuant to an appropriate court order, elects to establish a separate account, as authorized by Article 8.4 of the CERL, may exercise the rights of a member, except that (a) a nonmember is not eligible to apply for or receive a disability retirement allowance, (b) a nonmember's pre-retirement death benefits shall consist of return of the contributions and interest in the nonmember's account, and (c) a non-member is not eligible to participate in the election of Board members.
- C. Pursuant to Section 31685 (c), the nonmember is entitled to the following:
 - i. The right to a retirement allowance.
 - ii. The right to a refund of accumulated retirement contributions.
 - iii. The right to redeposit accumulated retirement contributions that are eligible for redeposit by the member.
 - iv. The right to purchase service credit that is eligible for purchase by the member.
 - v. The right to designate a beneficiary to receive his or her accumulated contributions payable at the time of the nonmember's death.
 - vi. The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

IV. Election of Optional Allowances

- A. A nonmember may retire pursuant to the provisions of the CERL and/or PEPRA and may elect any of the optional retirement allowances, set forth therein subject to the limitations thereof.

V. Actuarial Equivalency

- A. Benefits determined pursuant to this policy shall be determined on the basis of the actuarial economic and demographic assumptions and values prescribed by the Board of Retirement. Under no circumstances shall SJCERA be required to make payments in any manner that will result in an increase in the amount of benefits provided under the plan.

VI. Approval

- A. All joinders of SJCERA in dissolution of marriage proceedings and domestic relations orders resulting therefrom are subject to legal review and approval. ~~All applications for nonmember benefits submitted pursuant to this section shall be placed on the Board of Retirement agenda for ratification of staff's actions.~~

VII. Law Prevails

- A. In the event of a conflict between this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statutes arises, the law shall prevail.

VIII. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

IX. History

- 03/01/2017 Bylaws Amended and Approved by the Board of Supervisors
- 12/08/2017 Bylaw Section 12 Converted to Policy
- 06/28/2018 Reviewed, no changes required; Staff updated format
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/12/2019 Amended to define nonmember, align the approval process to current practice, and make other non-substantive changes.
- 07/08/2022 Reviewed, no changes
- 07/12/2024 Amended to delegate authority to consent to Domestic Relations Orders and related filings to Staff

Certification of Board Adoption:

07/~~08~~12/20224

Clerk of the Board

Date



Board Administration Policy

Dissolution of Marriage or Registered Domestic Partnership

I. Purpose

- A. This policy governs the management and operation of the retirement system with respect to the Dissolution of Marriage or Registered Domestic Partnership (RDP) for the benefit of its membership, including its retired members and their survivors, dependents, and beneficiaries.

II. Community Property

- A. Effective August 1, 1997, pursuant to Resolution N. 97-474 of the Board of Supervisors of San Joaquin County, SJCERA shall accept orders pertaining to the division of the community property interest in a member's account only if such orders are issued (1) by a court of competent jurisdiction, (2) in conformance with the provisions of Family Code Section 2610 and (3) in conformance with the provisions of Article 8.4 of the CERL, commencing at Government Code Section 31685. SJCERA shall return orders which are not in conformance with these criteria to the parties for revision.

III. Nonmember Rights

- A. For the purposes of this policy, the former spouse/partner of the employee member is referred to as the nonmember.
- B. A nonmember who, pursuant to an appropriate court order, elects to establish a separate account, as authorized by Article 8.4 of the CERL, may exercise the rights of a member, except that (a) a nonmember is not eligible to apply for or receive a disability retirement allowance, (b) a nonmember's pre-retirement death benefits shall consist of return of the contributions and interest in the nonmember's account, and (c) a non-member is not eligible to participate in the election of Board members.
- C. Pursuant to Section 31685 (c), the nonmember is entitled to the following:
 - i. The right to a retirement allowance.
 - ii. The right to a refund of accumulated retirement contributions.
 - iii. The right to redeposit accumulated retirement contributions that are eligible for redeposit by the member.
 - iv. The right to purchase service credit that is eligible for purchase by the member.
 - v. The right to designate a beneficiary to receive his or her accumulated contributions payable at the time of the nonmember's death.
 - vi. The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

IV. Election of Optional Allowances

- A. A nonmember may retire pursuant to the provisions of the CERL and/or PEPRA and may elect any of the optional retirement allowances, set forth therein subject to the limitations thereof.

V. Actuarial Equivalency

- A. Benefits determined pursuant to this policy shall be determined on the basis of the actuarial economic and demographic assumptions and values prescribed by the Board of Retirement. Under no circumstances shall SJCERA be required to make payments in any manner that will result in an increase in the amount of benefits provided under the plan.

VI. Approval

- A. All joinders of SJCERA in dissolution of marriage proceedings and domestic relations orders resulting therefrom are subject to legal review and approval..

VII. Law Prevails

- A. In the event of a conflict between this policy and the County Employees Retirement Law, the Public Employees' Pension Reform Act, or other applicable statutes arises, the law shall prevail.

VIII. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

IX. History

- 03/01/2017 Bylaws Amended and Approved by the Board of Supervisors
- 12/08/2017 Bylaw Section 12 Converted to Policy
- 06/28/2018 Reviewed, no changes required; Staff updated format
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/12/2019 Amended to define nonmember, align the approval process to current practice, and make other non-substantive changes.
- 07/08/2022 Reviewed, no changes
- 07/12/2024 Amended to delegate authority to consent to Domestic Relations Orders and related filings to Staff

Certification of Board Adoption:

	07/12/2024
Clerk of the Board	Date



Board Administration Policy

Final Compensation Review Policy

I. Statement of Purpose

- A. To establish fair and impartial guidelines to determine whether the pay elements in the final average compensation period qualify as “compensation earnable” or “pensionable compensation” as applicable, as required by Government Code Section 31542.

II. Staff Review, Assessment, and Determination

- A. Upon receipt of a retirement application, SJCERA staff will then compare the gross compensation in the final compensation period to the gross compensation in ~~similar periods of time~~ the prior year or comparable years at similarly situated acceptable pay, and then analyze the cause of the increase.
 1. SJCERA staff shall rely on the following ~~four~~ five principals ~~to guide its decision~~ in consideration of determination of final compensation:
 - a. Inconsistent use of special pay elements at or near the end of member’s career;
 - b. Frequent use of special pay elements over time, which appear to be random;
 - c. End of career pay increases that are routine and customary;
 - d. Special pay elements that are accumulated through work completed, voluntarily or employer directed.
 - e. Broad payroll events during the final compensation period.

SJCERA will evaluate each situation on a case-by-case basis, considering all facts.

2. Staff may consider any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member’s retirement benefit, and conduct such written and oral follow-up communication with the employer, member, others, as staff believes is appropriate in the exercise of reasonable diligence.
3. If the analysis indicates that specific elements of compensation were routinely paid during the review period(s) at or near the same frequency as found during the final average compensation period, the final average compensation will be used to determine the member’s retirement benefits.
4. If the analysis indicates than an element of compensation was paid to enhance the retirement benefit, the member or the employer shall be given the opportunity to present evidence to SJCERA that the

compensation was not paid for the purpose of enhancing the member's retirement benefit.

5. The Chief Executive Officer (CEO) will evaluate all evidence provided, and if in the opinion of the CEO, it appears an element of compensation was paid to enhance a member's benefit, the CEO will deny the use of the element(s) in calculating the final average compensation. If the member disagrees with the CEO's decision, the member may lodge an appeal directly to the Board of Retirement, through the CEO. Such appeal requests will be placed on the next practicable Board Agenda date for review; if the Chair of the Board of Retirement determines that the Board of Retirement is unwilling or unable to be the trier of fact in the matter, the matter shall be referred to a referee for an administrative hearing which the Board shall then contemplate pursuant to Government Code Sections 31533 and 31534 . the member may request the item be placed on the Board of Retirement agenda for review.

- B. If payment of the member's benefit would be delayed by seeking resolution through the administrative or judicial processes set forth herein, SJCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, SJCERA will adjust the benefit retroactive to the retirement effective date.
- C. A member or employer shall have 15 calendar days from the date of written notification of staff's determination within which to request reconsideration by the Board of Retirement, and provide any additional evidence to rebut staff's recommendation. Failure to exercise this option by the member or the employer shall constitute a waiver of further administrative ~~or judicial~~ review pursuant to section A(5) above or judicial review.

III. Board Review of Staff Determination

- A. Staff shall prepare a written report to the Board of Retirement describing the reasons for staff's determination that a pay element should be excluded from the member's final compensation. The report shall also include any evidence submitted by the member or employer to rebut staff's determination and support reconsideration by the Board of Retirement.
- B. The report shall be noticed and agendized for open session of a regular meeting of the Board. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no less than 5 business days before the meeting date.
- C. The Board will make a final determination at the meeting, as to whether the item of compensation was paid to enhance the member's retirement benefit. SJCERA will provide the member and employer written notice of the Board's final determination.

1. If the Board approves staff's recommendation, the written notice of the Board's final determination will inform the member and the employer of their right to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the date of mailing of that notice.
2. If the Board overturns staff's recommendation, staff will include the compensation in the determination of the member's final compensation, and adjust the member's benefit retroactively to the retirement effective date.

IV. Policy Review

- A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement, pursuant to the Bylaws.

V. History

- 08/09/2013 Adopted by Board of Retirement
06/29/2018 Staff updated format
04/12/2019 Policy Review section amended to at least once every three years
07/09/2021 Added the principals for review, clarified the administrative role and other non-substantive changes
[07/12/2024 Amended gross compensation definition, formalized appeal process and other non-substantive changes](#)

Certification of Board Adoption

Clerk of the Board	07/0912/20214 Date
--------------------	-----------------------



Board Administration Policy

Final Compensation Review Policy

I. Statement of Purpose

- A. To establish fair and impartial guidelines to determine whether the pay elements in the final average compensation period qualify as “compensation earnable” or “pensionable compensation” as applicable, as required by Government Code Section 31542.

II. Staff Review, Assessment, and Determination

- A. Upon receipt of a retirement application, SJCERA staff will then compare the gross compensation in the final compensation period to the gross compensation in the prior year or comparable years at similarly situated acceptable pay, and then analyze the cause of the increase.
 1. SJCERA staff shall rely on the following five principals in consideration of determination of final compensation:
 - a. Inconsistent use of special pay elements at or near the end of member’s career;
 - b. Frequent use of special pay elements over time, which appear to be random;
 - c. End of career pay increases that are routine and customary;
 - d. Special pay elements that are accumulated through work completed, voluntarily or employer directed.
 - e. Broad payroll events during the final compensation period.

SJCERA will evaluate each situation on a case-by-case basis, considering all facts.

2. Staff may consider any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member’s retirement benefit, and conduct such written and oral follow-up communication with the employer, member, others, as staff believes is appropriate in the exercise of reasonable diligence.
3. If the analysis indicates that specific elements of compensation were routinely paid during the review period(s) at or near the same frequency as found during the final average compensation period, the final average compensation will be used to determine the member’s retirement benefits.
4. If the analysis indicates than an element of compensation was paid to enhance the retirement benefit, the member or the employer shall be given the opportunity to present evidence to SJCERA that the

compensation was not paid for the purpose of enhancing the member's retirement benefit.

5. The Chief Executive Officer (CEO) will evaluate all evidence provided, and if in the opinion of the CEO, it appears an element of compensation was paid to enhance a member's benefit, the CEO will deny the use of the element(s) in calculating the final average compensation. If the member disagrees with the CEO's decision, the member may lodge an appeal directly to the Board of Retirement, through the CEO. Such appeal requests will be placed on the next practicable Board Agenda date for review; if the Chair of the Board of Retirement determines that the Board of Retirement is unwilling or unable to be the trier of fact in the matter, the matter shall be referred to a referee for an administrative hearing which the Board shall then contemplate pursuant to Government Code Sections 31533 and 31534 .
- B. If payment of the member's benefit would be delayed by seeking resolution through the administrative or judicial processes set forth herein, SJCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, SJCERA will adjust the benefit retroactive to the retirement effective date.
 - C. A member or employer shall have 15 calendar days from the date of written notification of staff's determination within which to request reconsideration by the Board of Retirement, and provide any additional evidence to rebut staff's recommendation. Failure to exercise this option by the member or the employer shall constitute a waiver of further administrative pursuant to section A(5) above or judicial review.

III. Board Review of Staff Determination

- A. Staff shall prepare a written report to the Board of Retirement describing the reasons for staff's determination that a pay element should be excluded from the member's final compensation. The report shall also include any evidence submitted by the member or employer to rebut staff's determination and support reconsideration by the Board of Retirement.
- B. The report shall be noticed and agendized for open session of a regular meeting of the Board. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no less than 5 business days before the meeting date.
- C. The Board will make a final determination at the meeting, as to whether the item of compensation was paid to enhance the member's retirement benefit. SJCERA will provide the member and employer written notice of the Board's final determination.
 1. If the Board approves staff's recommendation, the written notice of the Board's final determination will inform the member and the employer of their

right to seek judicial review of the Board’s action by filing a petition for writ of mandate within 30 days after the date of mailing of that notice.

2. If the Board overturns staff’s recommendation, staff will include the compensation in the determination of the member’s final compensation, and adjust the member’s benefit retroactively to the retirement effective date.

IV. Policy Review

A. Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement, pursuant to the Bylaws.

V. History

- 08/09/2013 Adopted by Board of Retirement
- 06/29/2018 Staff updated format
- 04/12/2019 Policy Review section amended to at least once every three years
- 07/09/2021 Added the principals for review, clarified the administrative role and other non-substantive changes
- 07/12/2024 Amended gross compensation definition, formalized appeal process and other non-substantive changes

Certification of Board Adoption

	07/12/2024
Clerk of the Board	Date