



San Bernardino County Employees'  
Retirement Association

# **BY-LAWS**

BOARD OF RETIREMENT

SAN BERNARDINO COUNTY EMPLOYEES'  
RETIREMENT ASSOCIATION

Amended, Revised and Approved  
Adopted by the Board of Retirement on June 3, 2021  
Adopted by the Board of Supervisors on \_\_\_\_\_

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BY-LAWS  
BOARD OF RETIREMENT  
SAN BERNARDINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
COUNTY OF SAN BERNARDINO  
STATE OF CALIFORNIA  
AS AMENDED, REVISED AND APPROVED  
BY THE BOARD OF RETIREMENT ON JUNE 3, 2021  
AND  
BY THE BOARD OF SUPERVISORS ON \_\_\_\_\_

## **ARTICLE I.           ADMINISTRATION**

### **(1)   Appointment of Chair and Vice Chair**

Annually at its first regular meeting in January the Board of Retirement ("Board") of the San Bernardino County Employees' Retirement Association ("SBCERA" or "the Association"), shall elect one of its members Chair and one of its members Vice Chair. The Chair and Vice Chair shall each hold office for a term of one year, but such term may be extended into the next succeeding term pending a successor being duly elected and qualified. If the Chair, for any reason, fails to complete the term, the Vice Chair shall succeed to the position of Chair for the remainder of the unexpired term and the Board shall elect a Successor Vice Chair for the balance of the unexpired term. In the case of the temporary incapacity or unavailability of the Chair, the Vice Chair shall have all of the powers of the Chair for the duration of the incapacity or unavailability. Either office may be filled by any Board member.

### **(2)   Chief Executive Officer**

A Chief Executive Officer ("CEO") shall be appointed by the Board in accordance with Government Code section 31522.1 and 31522.7, and any other statute that may become applicable. The CEO shall be the administrator of the Association and shall be responsible for the management of the retirement office including, but not limited to, the retirement fund, operating budget, appointment and management of personnel and the other day-to-day activities of the Association. The CEO shall serve as Secretary of the Board and shall assist the Board in its oversight of the Association. Pursuant to Government Code sections 31522.7 and 31590, and any other statute that may become applicable, the CEO as Secretary for the Board shall have authority on

behalf of the Board: to sign or authorize, with the concurrence of the Chief Financial Officer ("CFO") or other officer or employee whose duties are substantially similar, all checks and electronic fund transfers which are drawn on the retirement fund, and to sign all documents, including contracts, necessary to carry out any decision including investment decisions, made or approved by the Board; to sign checks or otherwise disburse petty cash in amounts not to exceed two thousand five hundred dollars (\$2,500.00) or to delegate to the CFO the authority to do the same; to hire, evaluate, and terminate employees to the extent provided for in an Employment Resolution or similar document approved by the Board; to negotiate and sign contracts with vendors, consultants, and payees of the Association as required by contract or applicable law, including conducting request for proposals, request for information, and bid processes and entering such contracts with vendors, consultants, and general service providers without Board approval where the explicit or anticipated total value of the contract does not exceed \$25,000.00; and take such actions as are appropriate to carry out any other decision made or approved by the CEO pursuant to a delegation of authority granted by the Board to the CEO for such decision. The CEO or designee shall serve as SBCERA's custodian of records. The CEO may delegate any of the duties or powers conferred by these By-Laws, except where these By-laws explicitly prohibit such delegation. In the event of a vacancy in the office of CEO, the Board may appoint an Interim CEO, or otherwise temporarily delegate the duties and powers of the CEO, as it determines appropriate, including but not limited to delegating to a member of the Board as Managing Trustee. In the event that the Board appoints a Managing Trustee to serve some or all of the functions of the CEO on a temporary basis while the office of

CEO is vacant, the Managing Trustee shall serve in such role without compensation, and shall not be considered “personnel” of the Association. The Board may also, in the alternative, appoint an Interim CEO who shall be a full-time employee and shall be “personnel” of the Association. The Managing Trustee may continue serving simultaneously as a member of the Board. “Vacancy” is defined in these By-Laws as the incumbent’s departure from office, or absence from office in excess of ninety days. An absence of less than ninety days shall not be treated as a vacancy, and an interim replacement for such absences may be designated by the CEO from a member of the current staff.

The CEO shall manage and oversee the offices of the Association, and in particular the building at 348 W. Hospitality Lane, in the City of San Bernardino, including but not limited to the use, tenancies, and upkeep of said building, its various suites, and the hiring of managers, security personnel, and agents.

The CEO shall have the authority on behalf of the Board to allow, deny, compromise, waive, or settle any claims, litigation, demands, actions, liabilities, losses, damages, injuries, and expenses (including, without limitation, attorneys' fees and defense costs) in any manner involving the Board, SBCERA, or its trustees, officers, or employees, provided that:

(a) The amount to be paid, received, or forgone pursuant to such claim, allowance, compromise or settlement does not exceed \$25,000.00. If the amount to be paid exceeds \$25,000.00, the allowance, compromise or settlement must be approved by the Board.

(b) The claim, allowance, compromise or settlement is with the

concurrence of the Chief Counsel; and

(c) The claim, allowance, compromise or settlement is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise or settle claims or actions within the scope of such policy.

Provisions of these By-Laws conferring authority upon the CEO shall be construed as also conferring the same authority upon staff members to whom the CEO may delegate such authority, except where these By-Laws explicitly or by necessary implication, or applicable law, dictate otherwise.

(3) Chief Counsel

(a) The Board shall appoint as a staff member a Chief Counsel pursuant to Government Code section 31529.9(a), who shall be an employee of SBCERA. Chief Counsel shall serve at the pleasure of the Board. Chief Counsel may hire, evaluate, and terminate subordinate attorneys and legal support staff to the extent provided for in an Employment Resolution or similar document approved by the Board.

(b) Chief Counsel shall be the chief legal advisor of, and attorney for SBCERA and all Departments and offices thereof in matters relating to their official powers and duties.

(c) The Board may, in consultation with the Chief Counsel and such other staff as it deems appropriate, engage the services of outside attorneys to provide additional legal advice, to defend against suits, claims, or other potential liabilities, to prosecute the same on SBCERA's behalf, and to provide such other additional legal services as the Board may determine to be appropriate. Chief Counsel shall direct and oversee the legal services provided by outside counsel pursuant to such engagement,

but shall not exercise the prerogatives of SBCERA as the client with respect to such outside attorneys unless so directed by the Board. In the absence of contrary direction by the Board, the CEO shall exercise such prerogatives in consultation with the Chief Counsel, to the extent necessary to effectively protect and advance SBCERA's interests, but shall consult with the Board at regular or special meetings regarding such matters.

(d) In the event of a vacancy in the position of Chief Counsel, the Board may appoint a staff attorney or an attorney in private practice as interim Board counsel, until a new Chief Counsel is appointed.

(4) Conflict of Interest and Disclosure Regulations

The Board shall establish and maintain a *Conflict of Interest Code* applicable to its Board members and designated employees. *Statements of Economic Interests* shall be filed with and maintained by the Secretary of the Board.

(5) Governance Principles and Ethics

Each member of the Board is bound by the Board's Statement of Governance Principles and Code of Ethics, which are incorporated herein by this reference.

(6) Subpoenas

(a) The Chair and Secretary of the Board are hereby authorized to issue and sign subpoenas for attendance at Board hearings on benefit applications upon request of the applicant or member, the applicant's or member's attorney, or the CEO.

(b) The Board hereby delegates the subpoena power to each hearing



officer appointed to hear a disability retirement application.

(c) Witnesses subpoenaed shall be provided a witness fee as follows:

(i) Non-Expert Witnesses - Non-Expert witnesses shall be paid fees and mileage as provided in Government Code section 68093.

(ii) Expert Witnesses - Expert witnesses shall be paid fees and mileage as provided in Government Code section 68092.5.

(iii) Medical Experts - Medical experts testifying in hearings on disability retirement applications shall be paid fees and mileage as provided in Government Code section 68092.5 and as further provided in the Procedures for SBCERA Disability Retirement Applications and Formal Hearings, which is incorporated herein by reference.

## **ARTICLE II. MEETINGS**

### **(1) Regular Meetings**

Regular meetings shall be held on the first Thursday of each month in the SBCERA offices, 348 W. Hospitality Lane, City of San Bernardino. Meetings shall begin at 9:00 a.m. unless the Chair determines that a different meeting start time is necessary to effectively conduct the Board's business, but in such event meetings shall start no earlier than 8:00 a.m. A regular meeting may be rescheduled for an earlier or later time or day by majority vote of members present at a regular meeting of the Board, amending the Board's regular meeting schedule.

### **(2) Special Meetings**

Special meetings may be called at any time on the request of the Chair or

any five members of the Board. Notice shall be provided as required by the RALPH M. BROWN ACT.

(3) Rules of Order

The Chair shall preside at meetings. The Vice Chair shall preside in the absence or incapacity of the Chair. In the absence of both the Chair and Vice Chair, the Secretary shall preside for the sole purpose of facilitating the election of a presiding officer from among those members present, who shall preside only until the Chair or Vice Chair becomes available to do so. The order of business shall be determined by a policy adopted by the Board, and questions regarding the order of business shall be decided by the Chair. The meeting shall be conducted in accordance with Rosenberg's Rules of Order modified for and adopted by SBCERA.

(4) Decisions

Majority vote of those eligible to attend and vote shall govern the decisions of the Board, unless otherwise specifically provided herein or by law. The Chair shall have a vote on all questions to the extent permitted by law.

(5) Quorum

Five members of the Board who are eligible to vote at the same time shall constitute a quorum.

(6) Recording

The Secretary shall endeavor to cause audio or video recordings of meetings to be made and retained indefinitely.

(7) Communications and Requests

Communications and requests to the Board shall be made in writing

except as otherwise provided by law, and the substance of such requests and the action of the Board thereon shall be noted in the minutes.

(8) Minutes

The Secretary shall record in the minutes the time, date and place of each meeting of the Board, the names of Board members present, all official acts of the Board, the votes given by members of the Board, and when requested, a Board member's dissent or approval with the reasons, and shall cause the minutes to be written-up forthwith and presented for approval at the next regular Board meeting. The minutes or a true copy thereof, submitted by the Secretary and signed by the Secretary and the Chair, shall form a part of the permanent records of the Board. A copy of the minutes shall be given to each member of the Board.

(9) Public Meetings

Regular meetings and special meetings shall be open to the public as provided by the RALPH M. BROWN ACT. Meetings shall be closed when medical and personnel information or reports pertaining to disability retirement applicants are being discussed, or when otherwise deemed to be in the interest of the Association and its members and consistent with the RALPH M. BROWN ACT. Meeting agendas shall be posted conspicuously, in compliance with the RALPH M. BROWN ACT, in a case near the east entrance to 348 W. Hospitality Lane, San Bernardino, California.

(10) Committees

(a) The Chair shall appoint Board members to an investment committee ("Investment Committee") to advise the Board on investment matters, an audit committee ("Audit Committee"), which shall have at least one member with

financial expertise, to advise the Board on audit matters, and an administrative committee ("Administrative Committee"), to advise the Board on administrative matters, Each committee shall consist of no fewer than three and no more than four Board members and include at least one elected Board member and one appointed Board member. The Chair shall designate a committee chair for each committee from among the designated committee members. No Board member shall serve simultaneously on the Investment Committee and the Administrative Committee. The Chair of each committee shall appoint a Vice Chair, who shall preside in the absence or incapacity of the committee Chair. Committee meetings shall be called by the committee Chair or Board Chair. The Board Chair or the presiding Committee Chair may appoint Trustees who are not designated committee members to serve on committees on an ad hoc basis, if such ad hoc appointments are necessary to ensure that a committee meeting will be attended by a full complement of committee members.

(b) The Chair shall appoint ad hoc committees as deemed necessary. An ad hoc committee shall be comprised of at least two (2) and no more than four (4) members and the Board Chair shall designate a Chair.

(c) Executive Committee.

The Executive Committee shall be comprised of the current Board Chair and Vice Chair, and immediate past Board Chair to advise the Board on benefit and compensation of SBCERA Employees, legal matters, as well as administrative matters not presented to the Administrative Committee. Committee meetings shall be at the prerogative of the Board Chair. If all the officers of the Executive Committee are appointed members of the Board or, in the alternative, elected members of the Board,

then a fourth member shall be appointed to the Executive Committee, who shall be the immediate past chair or vice chair who is not of the same classification of the current three members. For purposes of this section, "classification" shall mean either appointed member, elected member or Ex Officio.

(11) Removal from the Board Room

(a) The Chair shall order removed from the Board Room any person who commits one or more of the following acts:

(i.) Disorderly, contemptuous or insolent behavior toward the Board, staff or any member thereof, tending to interrupt the due and orderly course of the meeting.

(ii.) Boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of the meeting.

(iii.) Any other unlawful interference with the due and orderly course of the meeting.

(b) Removal of a person from the Board Room shall be executed by the Sergeant-at-Arms, if the Board has appointed one, or by the Safety Board Member or Alternate Safety Board Member, upon being so directed by the Chair. Any person so removed shall be excluded from further attendance at the meeting from which he or she was removed, unless permission to attend is granted upon motion adopted by a majority vote of the Board.

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### **ARTICLE III.**

### **MEMBERSHIP**

#### **(1) Sworn Statement**

Every employee of the County of San Bernardino, District, or Superior Court whose employees are made members of SBCERA shall, upon entry into SBCERA, fill out and properly execute a sworn statement showing the employee's date of birth, department or District, type of membership, date of appointment to regular position, social security number, and name, relationship and date of birth of beneficiary. In the alternative, the County, District, or Superior Court, in lieu of a sworn statement, may submit the same information required of the employee in a form determined by SBCERA.

#### **(2) Included in SBCERA Membership - Regular Members**

(a) Employees of the County, District, or Superior Court appointed to a Regular Position shall become members of SBCERA effective on the date of their appointment unless excluded from membership by the provisions of this article. A Regular Position is a position that is established by the County, District, or Superior Court, where such position's purpose is to render continuous employment under any appointment and includes employment by contract lasting for an indefinite duration (more than one year) or a fixed term, with the exception of section 3(a)(ii).

(b) Employees may delay the effective start date of their membership in SBCERA up to 12 weeks, after appointment, for the purpose of establishing reciprocity with another public retirement system as described in the 1937 Act. Members shall be designated as being "Tier 1" members if they do not meet the definition of a "New Member" as set forth in the Public Employees Pension Reform Act, or as "Tier 2"

members if they do meet that definition.

(3) Excluded from Membership - Temporary, Intermittent and Part-time Employees

Temporary, intermittent and part-time employees are excluded and exempt from membership in SBCERA.

(a) Temporary Employees shall be construed as being:

(i) Employees appointed to a nonregular position including extra help.

(ii) Any person who is employed by contract for a fixed term and such hire is solely for a specific project of limited duration, and employment is not intended to extend beyond the fixed term specified in the contract.

(iii) Employees appointed to a position which is intended to be on less than a year-round basis.

(b) Intermittent Employees are those whose service for the County of San Bernardino, District, or Superior Court is not regular in nature but periodic and recurrent on an on-call basis.

(c) Part-time Employees are those whose service for the County of San Bernardino, District, or Superior Court is less than fifty percent (50%) of the Full Standard of Hours required in the County of San Bernardino, District, or Superior Court service, as measured on a fiscal year basis. Full Standard Hours, as determined by the Board, shall be the hours of service rendered by an employee in a full-time permanent position as determined by the Board.

(4) Seasonal Employees

Seasonal Employees, for the purpose of these By-laws shall mean those whose service for the County of San Bernardino, District, or Superior Court is at certain specified periods each year or every second year. Seasonal employees are excluded and exempted from membership in SBCERA.

(5) Waiver of Membership

Pursuant to Government Code section 31552, each employee who attained the age of 60 prior to employment may waive membership in SBCERA within 90-days following initial appointment to a position that would include the employee in the field of membership of the Association.

(6) Termination of Membership

A person is no longer a member as defined in Government Code section 31470 effective with termination of employment with the County of San Bernardino or District, or withdrawal of the District if such withdrawal terminates membership, except when membership continues under section 31629.5 or Article 9 of the CERL or other governing law, as determined by the CEO or designee, in consultation with the Chief Counsel, if appropriate. When a member terminates employment and is appointed to the same or another regular position in County of San Bernardino, District, or Superior Court service in the same or next succeeding payroll period, membership shall be deemed continuous unless accumulated contributions have been refunded.

(7) Type of Membership

(a) "General." Includes all eligible County of San Bernardino, District,



and Superior Court employees except those identified as "Safety."

(b) "Safety." Eligible County of San Bernardino or District employees whose principal duties are described in Government Code sections 31470.2 and 31470.4.

(8) Retired Member

(a) Retirement of a member who has met the requirements for age and service shall be made by the Board. The Board authorizes the Chief Executive Officer to exercise the Board's power and perform its duty to retire members pursuant to Government Code section 31670. The Chief Executive Officer or designee shall report service retirements to the Board at a public meeting of the Board after the retirement.

(b) Upon retirement, a member of the Association shall be furnished:

(i) Completed copy of Application for Retirement.

(ii) Certification of Retirement authenticated by the CEO or designee. The Certification of Retirement shall indicate the effective date of retirement, the retirement allowance, and any other information that the CEO or designee determines is appropriate in the member's best interest.

The Certification of Retirement shall serve as an annuity certificate.

(9) Use of Electronic Signature

SBCERA may allow for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature provided that the document and signature are submitted using technology that the Board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to this provision shall be given the same force as a signed, valid original document.

#### **ARTICLE IV.       DISABILITY RETIREMENT**

(1) The Board shall promulgate rules to ensure the fair and efficient proceedings of disability cases. These rules shall be referred to as Procedures for SBCERA Disability Retirement Applications and Formal Hearings.

(2) “Gainful employment” is defined as the performance of any service for compensation with the exception of service as a juror or witness in a court proceeding or service as an election official.

(3) If at the time of retirement for disability, the Board finds the member is unable to be gainfully employed, the member shall sign a declaration stating that the member understands that supplemental disability retirement allowance will continue only so long as the member is incapable of gainful employment; that the member is under obligation to inform the Board immediately if engaged in any gainful employment; that the member shall be under obligation to refund to the Association any supplemental disability retirement allowance improperly received as a result of failure to notify the Board of gainful employment; and that the member shall be required to execute a declaration each six months in order to continue to qualify for supplemental disability retirement allowance, except that no declaration will be required of those retired members who reach full retirement age as defined by the Social Security Administration.

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## **ARTICLE V.            AMENDMENT OF BY-LAWS**

The By-laws may be amended from time to time by the Board, subject to the approval requirements of the CERL or other applicable law. Any ruling or other action holding any section of these By-laws invalid shall not affect the remaining sections.

### **BOARD OF RETIREMENT**

**BY:** \_\_\_\_\_  
          **Chair, Neal Waner**

**BY:** \_\_\_\_\_  
          **Secretary, Deborah S. Cherney**

### **BOARD OF SUPERVISORS**

**BY:** \_\_\_\_\_  
          **Chairman, Curt Hagman**

ATTACHMENT: SBCERA Conflict of Interest Code (approved by BOR 12/03/2020)

## **CONFLICT OF INTEREST CODE**

### **SAN BERNARDINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached APPENDIX in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the San Bernardino County Employees' Retirement Association.

The terms of the conflict of interest code amended or adopted and promulgated pursuant to Section 18730 are as follows:

#### **Section (2) Designated Employees.**

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests. Designated employees shall file statements of economic interests with Secretary of the Board who will make the statement available for public inspections and reproduction. (Government Code section 81008.) Statements for all designated employees will be retained by the Secretary of the Board.

#### **Section (3) Disclosure Categories**

All designated employees shall file pursuant to the disclosure categories set forth in the Appendix, which specify the kinds of economic interests that are reportable. Such a designated employee shall disclose in his or her statement of economic interest those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200.

## APPENDIX A – DESIGNATED EMPLOYEES

	DISCLOSURE CATEGORY
<b>I. BOARD OF TRUSTEES</b>	<b>5</b>
<b>II. EXECUTIVE / ADMINISTRATIVE GROUP</b>	
A. Chief Executive Officer	1
B. Chief Investment Officer	1
C. Chief Counsel	1
D. Chief of Member Services	1
E. Chief Financial Officer	1
F. Chief Information Officer	1
G. Executive Assistant	2
H. Director of Human Resources & Risk Management	1
<b>III. LEGAL SERVICES</b>	
A. Senior Staff Counsel	2
B. Staff Counsel	2
C. Disability Retirement Supervisor	2
<b>IV. FISCAL SERVICES</b>	
A. Accounting Manager	2
<b>V. INFORMATION SERVICES</b>	
A. Information Security Supervisor	2
B. Senior Business Systems Engineer	2
C. Information Systems Engineer	2
D. Information System Officer	2
<b>VI. INVESTMENT SERVICES</b>	
A. Senior Investment Officer	2
B. Investment Officer	2
<b>VII. MEMBER SERVICES</b>	
A. Retirement Benefits Officer	2
B. Communications & Stakeholder Relations Manager	2

## **APPENDIX B – DISCLOSURE CATEGORIES**

### **CATEGORY 1.**

Designated employees in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities. Designated employees in this category shall complete all schedules of Form 700, if applicable.

### **CATEGORY 2.**

Designated employees in this category shall disclose sources of income, investments, and business positions in business entities which provide services, supplies, materials, machinery or equipment of the type purchased or utilized by the department in which the designated employee is employed. Designated employees in this category shall complete all schedules of Form 700 except schedule C, if applicable.

### **CATEGORY 3.**

Designated employees in this category shall disclose all sources of income, investments, and business positions in business entities which engage in land development, construction, or the acquisition or sale of real property, and shall disclose all interests in real property. Designated employees in this category shall complete all schedules of Form 700, if applicable.

### **CATEGORY 4.**

Persons in this category shall disclose all investments, income, and business positions in business entities which are subject to the regulatory, permit, or licensing authority of the department in which the designated employee is employed. Designated employees in this category shall complete all schedules of Form 700 except schedule C, if applicable.

### **CATEGORY 5.**

Persons in this category are required to make disclosure pursuant to Government Code Sections 87200 and 87202. No additional disclosure obligations are imposed under this code. Designated employees in this category shall complete all schedules of Form 700, if applicable.