

# AGENDA

A SPECIAL JOINT MEETING OF THE BOARD OF RETIREMENT

AND THE BOARD OF INVESTMENTS

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 NORTH LAKE AVENUE, SUITE 810, PASADENA, CALIFORNIA 91101

9:00 A.M., WEDNESDAY, AUGUST 1, 2018

*The Board may take action on any item on the agenda,  
and agenda items may be taken out of order.*

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF MINUTES
  - A. Approval of the Minutes of the Special Joint Meeting of the Board of Retirement of June 13, 2018
  - B. Approval of the Minutes of the Special Joint Meeting of the Board of Investments of June 13, 2018
- IV. PUBLIC COMMENT
- V. NON-CONSENT
  - A. Presentation regarding LACERA's Chief Executive Officer Search as submitted by Michael Kennedy, Senior Client Partner from Korn Ferry. (Presentation dated August 2018)
  - B. Recommendation as submitted by Johanna Fontenot, Senior Staff Counsel: That the Boards adopt the Chief Investment Officer Reporting and Performance Evaluation Policy. (Memo dated July 24, 2018)

August 1, 2018

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V. NON-CONSENT (Continued)

C. Discussion and possible action regarding Composition of Joint Board Committees requested by Chair Green and Chair Gray.

D. Discussion and possible action regarding Staff communication and assistance to Trustees and other Staff actions regarding Board motions requested by Chair Green and Chair Gray.

VI. REPORTS

A. For Information Only as submitted by the Ad Hoc Investigation Committee, regarding the Supplemental Report on the investigation. (Memo dated July 23, 2018)

VII. REPORT ON STAFF ACTION ITEMS

VIII. GOOD OF THE ORDER

IX. EXECUTIVE SESSION

A. Conference with Legal Counsel - Anticipated Litigation Initiation of Litigation (Pursuant to Paragraph (4) of Subdivision (d) of California Government Code Section 54956.9)

Number of Potential Cases: One

B. Public Employment (Pursuant to California Government Code Section 54957)

1. Title: Chief Executive Officer

X. ADJOURNMENT

***Documents subject to public disclosure that relate to an agenda item for an open session of the Board of Retirement that are distributed to members of the Board of Retirement less than 72 hours prior to the meeting will be available for public inspection at the time they are distributed to a majority of the Board of Retirement Members at LACERA's offices at 300 N. Lake Avenue, Suite 820, Pasadena, CA 91101, during normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.***

***Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling Cynthia Guider at (626) 564-6000, from 8:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence. Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.***

MINUTES OF THE BOARD OF RETIREMENT FROM  
A SPECIAL JOINT MEETING OF THE BOARD OF RETIREMENT  
AND THE BOARD OF INVESTMENTS  
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION  
300 NORTH LAKE AVENUE, SUITE 810, PASADENA, CALIFORNIA 91101  
9:00 A.M., WEDNESDAY, JUNE 13, 2018

PRESENT: Vivian H. Gray, Chair

Herman B. Santos, Vice Chair

Marvin Adams, Secretary

Alan Bernstein

Joseph Kelly

JP Harris

William Pryor (Left the Board meeting at 11:30 a.m.)

Les Robbins

Thomas Walsh

Gina Zapanta-Murphy

ABSENT: Shawn Kehoe

STAFF ADVISORS AND PARTICIPANTS

Rob Hill, Interim Chief Executive Officer

Steven P. Rice, Chief Counsel

Johanna Fontenot, Senior Staff Counsel

June 13, 2018

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STAFF ADVISORS AND PARTICIPANTS (Continued)

Harvey Leiderman, Reed Smith LLP, Outside Fiduciary Counsel

Michael Kennedy, Korn Ferry

Josh Tanenbaum, Korn Ferry

George Muhlsten, Latham & Watkins

Manny Abascal, Latham & Watkins

BOARD OF INVESTMENTS

PRESENT: David Green, Chair

Wayne Moore, Secretary

Joseph Kelly

David Muir

Ronald Okum

Herman B. Santos

Michael Schneider

ABSENT: Gina Sanchez

Shawn Kehoe, Vice Chair

I. CALL TO ORDER

The meeting was called to order by Ms. Gray at 9:00 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Muir led the Board Members and staff in reciting the Pledge of Allegiance.

### III. APPROVAL OF MINUTES

- A. Approval of the Minutes of the Special Joint Meeting of the Board of Retirement of May 9, 2018

Mr. Santos made a motion, Mr. Walsh seconded, to approve the special minutes of the special meeting of May 9, 2018. The motion passed with Messrs. Kelly and Robbins abstaining.

- B. Approval of the Minutes of the Special Joint Meeting of the Board of Investments of May 9, 2018

No action was taken on this item by the Board of Retirement.

### IV. PUBLIC COMMENT

There were no requests from the public to speak.

### V. CONSENT (This Item was handled out of order after Item VI.)

- A. Recommendation as submitted by Johanna Fontenot, Senior Staff Counsel: That the Boards adopt the Chief Investment Officer Reporting and Performance Evaluation Policy. (Memo dated June 4, 2018)

Ms. Fontenot was present and answered questions from the Boards. The

Board members provided feedback to the Policy.

Mr. Santos made a motion, Ms. Gray seconded, that staff incorporate the Boards' changes and bring the Policy back to the Boards for final approval. The motion passed unanimously.

- B. Recommendation as submitted by Johanna Fontenot, Senior Staff Counsel: That the Boards approve the revised Sexual Harassment Prevention Training Policy for Board Members. (Memo dated June 1, 2018)

Ms. Fontenot was present and answered questions from the Boards.

V. CONSENT (Continued)

Mr. Kelly made a motion, Ms. Gray seconded, to approve staff's recommendation. The motion passed unanimously.

- C. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Boards approve the revised Fiduciary Counsel Policy.  
(Memo dated June 4, 2018)

Mr. Kelly made a motion, Mr. Bernstein seconded, to approve the Policy, with the Boards' changes. The motion passed unanimously.

VI. NON-CONSENT (This Item was handled out of order after Item X.)

- A. Presentation regarding LACERA's Chief Executive Officer Search as submitted by Michael Kennedy, Senior Client Partner, and Josh Tanenbaum, Senior Associate, of Korn Ferry.  
(Memo dated June 6, 2018)

Messrs. Kennedy and Tanenbaum provided a presentation and answered questions from the Board.

(Mr. Pryor left at 11:30 a.m.)

VII. REPORTS

- A. For Information Only as submitted by the Ad Hoc Investigation Committee, regarding the report on investigation.  
(Memo dated June 4, 2018)

Messrs. Bernstein and Adams requested that staff provide a more detailed report.

VIII. REPORT ON STAFF ACTION ITEMS

There was nothing to report at this time.

June 13, 2018

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IX. GOOD OF THE ORDER

There was nothing to report during Good of the Order.

X. EXECUTIVE SESSION (This Item was handled out of order after Item IV.)

- A. Conference with Legal Counsel - Anticipated Litigation  
Initiation of Litigation (Pursuant to Paragraph (4) of  
Subdivision (d) of California Government Code Section 54956.9)

Number of Potential Cases: One

The Board met in Executive Session pursuant to Paragraph (4) of Subdivision (d) of California Government Code Section 54956.9. It was reported that the Boards approved retention of the law firm of Latham & Watkins. There was nothing else to report on this item.

The Board met in Closed Session following a motion made by Mr. Santos, seconded by Mr. Pryor, to discuss a personnel issue related to the CEO search pursuant to Government Code Section 54957, having made the findings required by Government Code Section 54954.2(b)(2) that the matter may require immediate discussion and that the need came to the attention of the agency after the agenda for the meeting was posted. The motion to invoke Section 54954.2(b)(2) passed (roll call) with Messrs. Pryor, Adams, Kelly, Bernstein, Robbins, Ms. Zapanta-Murphy, and Ms. Gray voting yes; and Messrs. Santos and Walsh voting no. Following the closed session, there was nothing to report.



June 13, 2018

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XI. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 12:58 p.m.

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MARVIN ADAMS, SECRETARY

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VIVIAN H. GRAY, CHAIR

MINUTES OF THE BOARD OF INVESTMENTS FROM  
A SPECIAL JOINT MEETING OF THE BOARD OF RETIREMENT  
AND THE BOARD OF INVESTMENTS  
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION  
300 NORTH LAKE AVENUE, SUITE 810, PASADENA, CALIFORNIA 91101  
9:00 A.M., WEDNESDAY, JUNE 13, 2018

PRESENT: David Green, Chair

Wayne Moore, Secretary

Joseph Kelly

David Muir

Ronald Okum

Herman B. Santos

Michael Schneider

ABSENT: Shawn Kehoe, Vice Chair

Gina Sanchez

STAFF ADVISORS AND PARTICIPANTS

Rob Hill, Interim Chief Executive Officer

Steven P. Rice, Chief Counsel

Johanna Fontenot, Senior Staff Counsel

Harvey Leiderman, Reed Smith LLP, Outside Fiduciary Counsel

Michael Kennedy, Korn Ferry

Josh Tanenbaum, Korn Ferry

June 13, 2018

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STAFF ADVISORS AND PARTICIPANTS (Continued)

George Mihalsten, Latham & Watkins

Manny Abascal, Latham & Watkins

BOARD OF RETIREMENT

PRESENT: Vivian H. Gray, Chair

Herman B. Santos, Vice Chair

Marvin Adams, Secretary

Alan Bernstein

Joseph Kelly

JP Harris

William Pryor

Les Robbins

Thomas Walsh

Gina Zapanta-Murphy

ABSENT: Shawn Kehoe

I. CALL TO ORDER

The meeting was called to order by Mr. Green at 9:00 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Muir led the Board Members and staff in reciting the Pledge of Allegiance.

### III. APPROVAL OF MINUTES

- A. Approval of the Minutes of the Special Joint Meeting of the Board of Retirement of May 9, 2018

No action was taken on this item by the Board of Investments.

- B. Approval of the Minutes of the Special Joint Meeting of the Board of Investments of May 9, 2018

Mr. Muir made a motion, Mr. Santos seconded, to approve the special minutes of the special meeting of May 9, 2018. The motion passed with Mr. Kelly abstaining.

### IV. PUBLIC COMMENT

There were no requests from the public to speak.

### V. CONSENT (This Item was handled out of order after Item VI.)

- A. Recommendation as submitted by Johanna Fontenot, Senior Staff Counsel: That the Boards adopt the Chief Investment Officer Reporting and Performance Evaluation Policy. (Memo dated June 4, 2018)

Ms. Fontenot was present and answered questions from the Boards. The Board members provided feedback to the Policy.

Mr. Santos made a motion, Mr. Moore seconded, that staff incorporate the Boards' changes and bring the Policy back to the Boards for final approval. The motion passed unanimously.

- B. Recommendation as submitted by Johanna Fontenot, Senior Staff Counsel: That the Boards approve the revised Sexual Harassment Prevention Training Policy for Board Members. (Memo dated June 1, 2018)

V. CONSENT (Continued)

Ms. Fontenot was present and answered questions from the Boards.

Mr. Kelly made a motion, Mr. Santos seconded, to approve staff's recommendation. The motion passed unanimously.

- C. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Boards approve the revised Fiduciary Counsel Policy.  
(Memo dated June 4, 2018)

Mr. Kelly made a motion, Mr. Moore seconded, to approve the Policy, with the Boards' changes. The motion passed unanimously.

VI. NON-CONSENT (This Item was handled out of order after Item X.)

- A. Presentation regarding LACERA's Chief Executive Officer Search as submitted by Michael Kennedy, Senior Client Partner, and Josh Tanenbaum, Senior Associate, of Korn Ferry.  
(Memo dated June 6, 2018)

Messrs. Kennedy and Tanenbaum provided a presentation and answered questions from the Board.

VII. REPORTS

- A. For Information Only as submitted by the Ad Hoc Investigation Committee, regarding the report on investigation.  
(Memo dated June 4, 2018)

This Item was received and filed.

VIII. REPORT ON STAFF ACTION ITEMS

There was nothing to report at this time.

IX. GOOD OF THE ORDER

There was nothing to report during Good of the Order.

X. EXECUTIVE SESSION

- A. Conference with Legal Counsel - Anticipated Litigation  
Initiation of Litigation (Pursuant to Paragraph (4) of  
Subdivision (d) of California Government Code Section 54956.9)

Number of Potential Cases: One

The Board met in Executive Session pursuant to Paragraph (4) of Subdivision (d) of California Government Code Section 54956.9. It was reported that the Boards approved retention of the law firm of Latham & Watkins. There was nothing else to report on this item.

The Board met in Closed Session following a motion made by Mr. Santos, seconded by Mr. Kelly, to discuss a personnel issue related to the CEO search pursuant to Government Code Section 54957, having made the findings required by Government Code Section 54954.2(b)(2) that the matter may require immediate discussion and that the need came to the attention of the agency after the agenda for the meeting was posted. The motion to invoke Section 54954.2(b)(2) passed (roll call) with Messrs. Schneider, Kelly, Moore, Muir, Okum, and Green voting yes; and Mr. Santos voting no. Following the closed session, there was nothing to report.

June 13, 2018

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XI. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 12:58 p.m.

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WAYNE MOORE, SECRETARY

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DAVID GREEN, CHAIR

# Los Angeles County Employees Retirement Association **Chief Executive Officer**

August 2018

 LA CERA



## Search Strategy

Public Pension  
Plans

Hospital Systems &  
Other Benefit  
Systems

Educational &  
Nonprofit  
Institutions

Other



### Key Focuses of National Search

Diversity candidates | Non-traditional candidates | Local candidates



# SEARCH UPDATE

## Key Metrics:

- Total Outreach: 200+
- Total Number of Initial Discussions: 76
- Total Formal Korn Ferry Interviews: 21
- Total Number of Active Candidates for Consideration: 11
  - Total Number of Active Diversity Candidates: 7
  - Total Number of Active Pension Candidates: 9
  - Total Number of Non-Pension Candidates: 3
  - Total Number of Local Candidates: 7



## Market Feedback

### Reception to the Role:

- Exciting opportunity to manage a substantially sized organization with a broader mandate than typical pension plans (investments, benefits, health care, and insurance)
- A meaningful opportunity to drive critical strategic initiatives
- For those in smaller organizations, this role represents an opportunity to take on more managerial responsibility and assets.
- For those from state plans, this role represents the opportunity to move away from state-level politics, and in some cases, a better funded organization.

### Reception to LACERA

- Positive reputation in the marketplace – admired in a variety of respects
- On two occasions, specific board members were cited as a reason for interest
- On two occasions the Chief Investment Officer was referenced as a reason for interest

### Principal Area of Pushback

- Location



# Tentative Timeline

July 30 / July 31	First Round Interviews
August 1	Joint BOR / BOI Meeting – Search Update
August (TBD)	Second Round Interviews



### **About Korn Ferry**

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July 24, 2018

TO: Each Member  
Board of Retirement

Each Member  
Board of Investments

FROM: Johanna M. Fontenot *JMF*  
Senior Staff Counsel

FOR: August 1, 2018 Joint Board of Retirement and Board of Investments  
Meeting

SUBJECT: **Chief Investment Officer Reporting and Performance Evaluation  
Policy**

Last month the Board of Retirement and the Board of Investments instructed staff to make certain revisions to the proposed Chief Investment Officer Reporting and Performance Evaluation Policy (the "Policy"). Staff made the approved revisions. Attached are a red-lined and clean copies of the Policy.

**IT IS THEREFORE RECOMMENDED** that the Board of Investments and the Board of Retirement approve the Chief Investment Officer Reporting and Performance Evaluation Policy.

Reviewed and Approved:

Steven P. Rice  
Chief Counsel

Attachment

c: Robert Hill  
James Brekk  
Jonathan Grabel  
John Popowich

## **CHIEF INVESTMENT OFFICER REPORTING AND PERFORMANCE EVALUATION POLICY**

### **I. PURPOSE**

The purpose of this Policy is to formalize the Chief Investment Officer (CIO) reporting and performance evaluation.

### **II. AUTHORITY**

Chief Executive Officer (CEO) is appointed by LACERA's Board of Retirement and Board of Investments (BOI) (the Boards) to act as retirement administrator pursuant to Government Code Section 31522.2. The Boards have delegated their appointing authority for other staff under Government Code Sections 31522.1 and 31522.4 to the CEO, except for the Chief, Internal Audit position as stated in the County of Los Angeles Salary Ordinance (Salary Ordinance).

### **III. CIO REPORTING AND EVALUATION**

On April 4, 2018, the Boards voted to formalize a process for the CEO to seek BOI input for the hiring, firing, evaluation and compensation of the CIO subject to preparation and approval of this CIO Reporting and Performance Evaluation Policy. In accordance with the Boards' April 4, 2018 action, the organizational structure of the CIO will have the following features:

- A. The CIO will continue to report to the CEO for administrative and functional purposes. The CEO will make final decisions as to the appointment, discipline, dismissal, performance evaluation, and compensation of the CIO.
- B. The CEO will seek BOI input regarding the appointment, discipline that is legally within the discretion of the CEO, dismissal, and removal of the CIO. The BOI's input concerning the appointment, discipline, dismissal, and removal of the CIO will be made in closed session under Government Code Section 54957(b).
- C. The CEO will seek the qualitative input of the BOI before setting the CIO's goals and completing the CIO's annual performance evaluation. The BOI's discussion regarding the CIO's performance evaluation will be made in closed session under Government Code Section 54957(b).
- D. After consulting with the BOI, the CEO will administer the CIO's annual salary adjustment, if any, using the ~~Boards~~ approved compensation structure as reflected in the LACERA's section of the Los Angeles County Code Section 6.127.040.

- E. BOI delegates specific investment authority and responsibility directly to the CIO. The CIO is authorized to interact with and communicate directly with the BOI in all investment related matters. The CEO shall not have any authority over any and all investment decisions that are delegated to the CIO.
- F. The CIO directs the implementation of investment policies and strategies within the goals established by the BOI. The CIO directs, plans, and supervises the activities of the Investments staff, through the chain of command as established pursuant to the Investment Division's organizational structure. All staff have the rights and obligations provided in the Salary Ordinance, to the extent applicable to their individual classification. Staff subject to civil service have the rights and obligations provided by the Civil Service Rules. Staff holding a job classification covered under collective bargaining shall also have rights and obligations provided under the operative Memorandum of Understanding.
- G. The CEO appoints all professional, technical and clerical staff and prescribes their duties, except for the Chief, Internal Audit. In the case of Investments staff, the CIO will select and recommend candidates for such positions to the CEO for formal appointment.
- H. The CEO and HR will report to the BOR on matters involving the CIO's compensation and performance that are within the BOR's authority.

Adopted: Board of Investments, ~~June August~~           , 2018  
, 2018  
Board of Retirement, ~~t, June August~~           , 2018, 2018



## **CHIEF INVESTMENT OFFICER REPORTING AND PERFORMANCE EVALUATION POLICY**

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### **II. AUTHORITY**

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- A. The CIO will continue to report to the CEO for administrative and functional purposes. The CEO will make final decisions as to the appointment, discipline, dismissal, performance evaluation, and compensation of the CIO.
- B. The CEO will seek BOI input regarding the appointment, discipline that is legally within the discretion of the CEO, dismissal, and removal of the CIO. The BOI's input concerning the appointment, discipline, dismissal, and removal of the CIO will be made in closed session under Government Code Section 54957(b).
- C. The CEO will seek the qualitative input of the BOI before setting the CIO's goals and completing the CIO's annual performance evaluation. The BOI's discussion regarding the CIO's performance evaluation will be made in closed session under Government Code Section 54957(b).
- D. After consulting with the BOI, the CEO will administer the CIO's annual salary adjustment, if any, using the Boards approved compensation structure as reflected in the Los Angeles County Code Section 6.127.040.
- E. BOI delegates specific investment authority and responsibility directly to the CIO. The CIO is authorized to interact with and communicate directly

with the BOI in all investment related matters. The CEO shall not have any authority over any and all investment decisions that are delegated to the CIO.

- F. The CIO directs the implementation of investment policies and strategies within the goals established by the BOI. The CIO directs, plans, and supervises the activities of the Investments staff, through the chain of command as established pursuant to the Investment Division's organizational structure. All staff have the rights and obligations provided in the Salary Ordinance, to the extent applicable to their individual classification. Staff subject to civil service have the rights and obligations provided by the Civil Service Rules. Staff holding a job classification covered under collective bargaining shall also have rights and obligations provided under the operative Memorandum of Understanding.
- G. The CEO appoints all professional, technical and clerical staff and prescribes their duties, except for the Chief, Internal Audit. In the case of Investments staff, the CIO will select and recommend candidates for such positions to the CEO for formal appointment.
- H. The CEO and HR will report to the BOR on matters involving the CIO's compensation and performance that are within the BOR's authority.

Adopted: Board of Investments, August \_\_, 2018  
Board of Retirement, August \_\_, 2018



July 25, 2018

**TO:** Each Member  
Board of Retirement  
Board of Investment

**SUBJECT:** Joint Board Meeting on August 1, 2018  
Non-Consent: Items V.C. and V.D

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There are currently no written materials pertaining to Items V.C. and V.D. If materials are available before the meeting, they will be provided separately to the Board members by the Board Secretaries.



July 25, 2018

**TO:** Each Member  
Board of Retirement  
Board of Investment

**SUBJECT:** Joint Board Meeting on August 1, 2018  
Non-Consent: Items V.C. and V.D

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There are currently no written materials pertaining to Items V.C. and V.D. If materials are available before the meeting, they will be provided separately to the Board members by the Board Secretaries.

**FOR INFORMATION ONLY**

July 23, 2018

TO: Each Member  
Board of Retirement  
Board of Investments

FROM: Ad Hoc Investigation Committee  
Vivian H. Gray, Chair, Board of Retirement  
Herman B. Santos, Vice Chair, Board of Retirement  
Shawn R. Kehoe, Vice Chair, Board of Investments  
David L. Muir, Member, Board of Investments

FOR: August 1, 2018 Joint Board of Retirement and Board of Investments Meeting

SUBJECT: Supplemental Report of Ad Hoc Investigation Committee

At the June 13, 2018 joint board meeting, the Ad Hoc Committee provided a brief report on its activities and conclusions. A copy of that prior report is attached. Trustee Bernstein requested a more complete explanation of the Committee's work and reasoning. The Committee believes that Mr. Bernstein's request is reasonable and therefore submits this supplemental report.

**BACKGROUND**

During the joint closed session on April 4, 2018, a trustee expressed concerns that confidential closed session information may have been disclosed to one or more unauthorized persons under the Brown Act.

Under the Act, confidential information disclosed in closed session cannot be made public "unless the legislative body authorizes disclosure of that confidential information." Cal. Gov't Code § 54963(a). "Confidential information" is defined in Section 54963(b) as "a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter." The basis for the April 4, 2018 closed session was related to potential initiation of litigation, which is a permissible reason under Section 54956.9(d)(4) of the Act. The statutory prohibition against public disclosure is relevant to this memo for two reasons.

First, the prohibition is the grounds for the potential Brown Act violation raised in the April 4, 2018 closed session and investigated by the Committee. The concerns raised in closed session were whether confidential closed session information had been shared with an unauthorized third party in violation of Section 54963(a).

Second, the prohibition is relevant to the information that can be disclosed in this memo, which is a public document. The details of the Brown Act concern raised in closed session were inextricably intertwined with the confidential closed session discussion related to potential litigation. If details were disclosed in this memo without authorization from both Boards, it would impair LACERA's interests in connection with the potential litigation and violate Section 54963(a). The nature of the alleged violation has previously been disclosed, and it is further discussed here, to the extent permitted at this time under the Brown Act unless the Boards take action to approve additional disclosure.

The legal analysis above has been approved by Chief Counsel, and reviewed by fiduciary counsel.

### **THE COMMITTEE'S INVESTIGATION**

The Committee held six telephonic meetings.

April 9, 2018 – The Committee, which was originally comprised of the Board Chairs and Vice Chairs, discussed whether it would be helpful to involve an outside law firm; the Committee decided to collect additional information as to availability and cost. The Committee directed Chief Counsel to email trustees on both Boards to seek information as to potential communications they made have had with third parties concerning confidential information provided in connection with the April 4, 2018 joint closed session. The Committee also directed staff, including the Interim Chief Executive Officer and Chief Counsel, to collect any additional information that may be available internally at LACERA.

April 10, 2018 – Mr. Hill recused himself from participation in Committee meetings; Mr. Brekk, as Interim Deputy Chief Executive Officer, represented the Executive Office. Chief Counsel and outside fiduciary counsel continued to participate. The Committee further discussed the availability and cost of retaining outside counsel.

April 13, 2018 – Mr. Green recused himself from the Committee. Thereafter, the remaining Committee members reviewed the responses received to date from other trustees in response to Chief Counsel's email described above. The responses consisted of communications from certain trustees; these communications did not provide evidence of any unauthorized disclosures. The Committee determined to reconvene after another BOI representative was appointed by Mr. Kehoe, BOI Vice Chair.

April 17, 2018 – Mr. Muir was appointed to the Committee as the second BOI representative. The Committee discussed that it was not necessary to incur the cost

and delay of outside counsel. The Committee discussed at length the need for a preponderance of evidence to support a recommendation that a Brown Act violation had been committed by any person and the need for due process. The Committee discussed that, based on the evidence to date, there was no direct evidence of a violation. The Committee discussed available remedies that could be recommended to the Boards if a violation was found. The Committee discussed that it should wait to make any further decisions to see if additional evidence was located.

April 25, 2018 – The Committee discussed that it was still not in a position to make a recommendation for action because no evidence had been located that supported a Brown Act violation.

May 22, 2018 – The Committee discussed additional written information provided by a trustee in response to Chief Counsel's email above. The Committee also discussed the results of an interview conducted by Mr. Brekk and Chief Counsel of the trustee who had expressed the original concern at the April 4, 2018 joint closed session. This trustee reported that, after further discussions with the third party that the trustee originally thought might have received confidential information, the trustee no longer had any concerns about a Brown Act violation; the trustee was satisfied that the third party relied only upon public information. The Committee discussed at great length the information from the two trustees referenced above. The Committee determined that it was not necessary to separately contact the third party because the interview of the trustee was thorough and complete and because an interview of the third party would be contrary to LACERA's interests in connection with the subject matter of the April 4, 2018 closed session. The Committee concluded that the available information did not support a finding of a Brown Act violation. The Committee unanimously agreed that there was no basis to continue the Committee's investigation. The Committee decided to report that conclusion to the Boards, with a recommendation that outside counsel provide the Boards with Brown Act training.

### **CONCLUSION AND RECOMMENDATION**

The Committee concludes there is insufficient evidence to establish that closed session information was disclosed improperly. The original trustee comment at the April 4, 2018 expressing concern about a possible violation was appropriately made by that trustee; trustees should be diligent in bringing such concerns forward. However, based on subsequent information from the original trustee and other trustees from whom the Committee received evidence, it is not possible to conclude there was an improper disclosure.

///

Each Member, Board of Retirement and Board of Investments  
Re: Supplemental Report of Ad Hoc Investigation Committee  
July 23, 2018  
Page 4

Nevertheless, the Committee believes the Boards will benefit from Brown Act training by outside counsel. The Committee recommends that such training be provided by outside counsel at upcoming meetings.

Attachment

c: James Brekk  
Steven P. Rice  
Harvey Leiderman



**FOR INFORMATION ONLY**

June 4, 2018

TO: Each Member  
Board of Retirement  
Board of Investments

FROM: Ad Hoc Investigation Committee  
Vivian H. Gray, Chair, Board of Retirement  
Herman B. Santos, Vice Chair, Board of Retirement  
Shawn R. Kehoe, Vice Chair, Board of Investments  
David L. Muir, Member, Board of Investments

FOR: June 13, 2018 Joint Board of Retirement and Board of Investments Meeting

SUBJECT: Report of Ad Hoc Investigation Committee

An Ad Hoc Committee was formed by the Board Chairs following the joint closed session on April 4, 2018 to investigate concerns that confidential closed session information may have been disclosed to one or more unauthorized persons under the Brown Act.

The Committee held six meetings. The Committee was aided in its investigation by LACERA staff and outside fiduciary counsel. The Committee collected information and documents provided by trustees and other persons, and received legal advice from counsel. The Committee discussed the available information at length.

The Committee concluded that there was insufficient evidence to establish that closed session information was disclosed improperly.

Accordingly, the Committee unanimously decided to close its investigation and to recommend that staff work with outside counsel to provide Brown Act training to the Boards at upcoming meetings.

c: James Brekk  
Steven P. Rice  
Harvey Leiderman



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**Documents not attached are exempt from disclosure under the California Public Records Act and other legal authority.**

**For further information, contact:  
LACERA  
Attention: Public Records Act Requests  
300 N. Lake Ave., Suite 620  
Pasadena, CA 91101**



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