

RESOLUTION NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION APPROVING AMENDMENTS TO THE BOARD OF RETIREMENT REGULATIONS 2.1,2.2, 2.3 OF ARTICLE II BOARD OFFICERS AND CHIEF EXECUTIVE OFFICER; REGULATIONS 3.4 AND 3.9 OF ARTICLE III MEETINGS; REGULATIONS 4.8,4.16,4.18,4.22 OF ARTICLE IV ELECTION OF TRUSTEES; REGULATIONS 5.5, 5.7,5.10, 5.11, AND ADDING REGULATION 5.13 TO ARTICLE V MEMBERSHIP DUTIES & RIGHTS; REGULATIONS, 6.1,6.2,6.5 OF ARTICLE VI DISABILITY RETIREMENT AND REGULATION 8.8 OF ARTICLE VIII INTERNAL REVENUE COMPLIANCE

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Government Code section 31525 provides that the Board of Retirement (BOR), with the approval of the Board of Supervisors, may establish regulations that govern the operation of SamCERA that are not inconsistent with the California Employees' Retirement Law of 1937;

WHEREAS, the proposed amendments to the BOR's current regulations reaffirm and clarify the existing SamCERA practices and confirm that SamCERA's practices shall be in accordance with the California Employees' Retirement Law of 1937; and

WHEREAS, the proposed new regulation authorizes the acceptance of electronic signatures if the document and electronic signature are submitted using technology the BOR deems sufficient, as set forth in a policy to be adopted by the BOR, to ensure integrity, security, and authenticity; and

WHEREAS, the Board has reviewed proposed amendments and the addition to the regulations and desires to adopt such amendments;

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Regulations of the Board of Retirement are amended to read as set forth below; and

BE IT FURTHER RESOLVED that the amendments shall become effective after their approval by this Board of Supervisors and the amendments to Article VI Disability Retirement sections 6.1., 6.2, and 6.5 shall only apply to applications for disability retirement filed after the effective date of the amendment.

Regulation 2.1 of Article II is amended to read:

2.1 Election of Chair: At the regular meeting in July or August, the Board of Retirement shall elect one of its members chair for a term of one year or until his or her successor is duly elected and qualified. The Chair shall preside at all meetings of the Board, shall appoint all committees and shall perform all duties incidental to that office.

Regulation 2.2 of Article II is amended to read:

2.2 Election of Vice Chair: At the regular meeting in July or August, the Board of Retirement shall elect one of its members vice chair for a term of one year or until his or her successor is duly elected and qualified. In the Chair's absence or inability to act, the Vice Chair shall take the place and perform the duties of that office.

Regulation 2.3 of Article II is amended to read:

2.3 Election of Secretary: At the regular meeting in July or August, the Board of Retirement shall elect one of its member's secretary for a term of one year or until his or her successor is duly elected and qualified. The Secretary shall attest to Resolutions and other such documents for the Board. In the Chair's and Vice Chair's absence or inability to act, the Secretary shall take the place and perform the duties of the Chair.

Regulation 3.4 of Article III is amended to read:

3.4 Regular Meetings: Regular meetings of the Board shall be held on the Fourth Tuesday of each month. Meetings shall begin at 10:00 a.m. Meetings shall be held in SamCERA's offices. By resolution, the Board may add, cancel, and or change the date, time and/or location of meetings within the County, if the proposed change is included on the agenda of a regular meeting.

Regulation 3.9 of Article III is amended to read:

3.9 Meeting Minutes: The minutes of the Board's meetings shall reflect the time and place of each meeting of the Board, the names of trustees present, all official acts of the Board, the votes cast by trustees when by roll call vote, a trustee's dissent or approval and reasons when requested. The minutes will be presented for approval at the next regular meeting. The minutes as approved, signed by the Chair, shall form part of the permanent records of the Board.

Regulation 4.8 of Article IV is amended to read:

4.8 Fewer than Two Qualified Candidates: If the Elections Officer determines that there is one qualified candidate, the Board of Supervisors has delegated its authority to cancel the election to the Elections Officer who shall cancel the election and certify the single candidate elected. If there are no qualified candidates, the Elections Officer shall notify the Board of Retirement who shall reschedule the election. The Chief Executive Officer shall re-notice the Election. Any election that has been re-noticed shall be held in accordance with the provision for Special Elections.

Regulation 4.8 of Article IV is amended to read:

4.16 Alternate Safety Member: If there are two or more safety member candidates for the seventh member position, the candidate receiving the highest number of votes shall be elected to the seventh member position. The safety member candidate who is of a different safety membership group and who received the next highest number of votes, shall be elected to the Alternate Safety Member position per Government Code section 31520.1. If there is no eligible candidate who is of a different safety membership group, there will be a vacancy in the Alternate Safety Member seat effective the first day of the commencement of the new term.

Regulation 4.18 of Article IV is amended to read:

4.18 Receipt & Safekeeping of Ballots Cast and other Election Materials: The Elections Officer shall accept and provide for the safekeeping of all ballots cast. Ballots must be retained for 180 days after Election Day, and, in the absence of litigation, may be discarded thereafter. All other Election related materials and documents must be retained for 180 days after Election Day, and, in the absence of litigation, may be discarded thereafter.

Regulation 4.22 of Article IV is amended to read:

4.22 Special Elections: The Chief Executive Officer shall advise the Board when a vacancy occurs. The Board has determined that the earliest possible date for the Special Election be not less than 60 nor more than 120 days from the effective date of the vacancy and shall call a Special Election to be held during that period. Special Elections shall be conducted in conformance with the provisions of Government Code section 31523 and this Article for Regular Elections, except that the schedule shall be adjusted by the Elections Officer to comply with the date of the Special Election set by the Board.

Regulation 5.5 (A) of Article V is amended to read:

5.5 Required Documents for Retirement: Prior to the effective date of retirement, in addition to the fully executed and completed application for retirement, each member shall provide to the retirement system the following documents:

A. Proof of birthdate of the member filed in one of the following manners: copy of a birth certificate, passport or passport card, Federal Compliant REAL ID driver license or Federal Compliant REAL ID card.

Regulation 5.7 of Article V is amended to read:

5.7 Effective Date of Retirement: The effective date of retirement shall be the later of the day following the member's last day on payroll or the day the member filed the retirement application with the Chief Executive Officer. For members retiring from a deferred status, the effective date of retirement shall be the later of the day the member elects on the application or the date the application is filed.

Regulation 5.10 of Article V is amended to read:

5.10 Statement of Retirement Allowance Time of Retirement: Prior to the ratification by the Board of an application for service retirement, the member shall be furnished with a statement that shall indicate the effective date of retirement, the retirement allowance, and any other information that the Chief Executive Officer or designee determines is appropriate and in the member's best interest. This statement shall serve as an annuity certificate provided for in Government Code section 31526.

Regulation 5.11 of Article V is amended to read:

5.11 Statement of Deferred Retirement: When a member leaves service and applies for and is granted deferred retirement, such member shall be furnished with a statement indicating that deferred retirement has been granted and setting forth the years of service credited to said member.

Regulation 5.13 is added to read as follows:

5.13 Electronic Signatures: The Board may use and accept a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the Board deems sufficient, as set forth in a policy adopted by the Board, to ensure its integrity, security, and authenticity. A document submitted pursuant to the Board-adopted policy shall be given the same force as a signed, valid original document.

Regulation 6.1 (A) and (D) of Article VI are amended to read:

- A. Submission of Completed Application:** Either the member or the employer, on behalf of the member, can apply for a disability retirement by filing with SamCERA: (1) a completed SamCERA application for disability retirement form reflecting the member's current mailing address to receive all notices provided for in this Article VI which the member shall update as applicable during the process and (2) authorizations signed by the member permitting SamCERA and its legal counsel to obtain all medical information relating to the applicant's physical or mental illness or injury and permitting access to records relating to applicant's current and prior employment. Applicant's employer shall complete forms provided by SamCERA and provide information as deemed necessary. All information received by SamCERA or its agents and counsel shall be treated as confidential and not released to anyone except insofar as may be necessary for the administration of the retirement system or upon an order of a court of competent jurisdiction, as provided by Government Code section 31532.
- D. Medical and Investigatory Services:** The Chief Executive Officer is authorized and directed to secure such medical, investigatory, and other services and advice in connection with applications for disability retirement as may be required in order to make a decision.

Regulation 6.2 (C) of Article VI is amended to read:

- C. Request for a Formal Hearing:** If the applicant or employer is dissatisfied with the Board's action, the applicant or employer may request a formal hearing. The request for a formal hearing must be made in writing, and filed with the Chief Executive Officer, if by the member, within 60 days of the date of the notice of the Board's action; if by the employer, within 30 days of the date of notice of the Board's action. If no request for a formal hearing is filed within the applicable period, the Board's action shall be deemed final and binding. If there is a failure to cooperate or any other act or omission by the member or applicant or their representative which prevents the hearing officer from being able to hear and make recommendations and findings on the application within one year of the request for a hearing, the hearing request shall be considered null and void by the Board and the Board's decision on the application shall be deemed final and binding. Before the Board determines whether to null and void a hearing request, the member or applicant or their representative shall be sent, at least 15 days prior, a written notice of the proposed action with the date and time of the Board meeting and shall be granted the opportunity to appear and address the Board regarding the proposed action.

Regulation 6.5 of Article VI is amended to read:

6.5 Grounds for Termination of an Application for Disability Retirement:

An application for disability retirement may be terminated and considered null and void by the Board for one or more of the following reasons:

- A. Failure of the member to submit to a requested medical examination; or
- B. Any failure to cooperate by the member or applicant or any other act or omission by the member or applicant or their representative which causes an unwarranted period of delay of 6 or more months and prevents staff's ability to submit the application to the Board for hearing and adjudicating because the review and/or investigation of the application cannot be completed.

Regulation 8.8.B.9(a) of Article VIII is amended by the addition of subsection "vii" which reads as follows within the quotations:

- a. Items Included. Total Compensation includes all of the following items of remuneration for services:

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"vii. Differential wage payments as defined in Internal Revenue Code section 3401(h)(2)."

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