

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY

DEPT: StanCERA

BOARD AGENDA:6.B.8  
AGENDA DATE: December 4, 2018

**SUBJECT:**

Approval of Amendments to the Stanislaus County Employees' Retirement Association (StanCERA) Bylaws

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2018-0584**

On motion of Supervisor Withrow \_\_\_\_\_, Seconded by Supervisor Chiesa \_\_\_\_\_ and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, and Chairman DeMartini \_\_\_\_\_

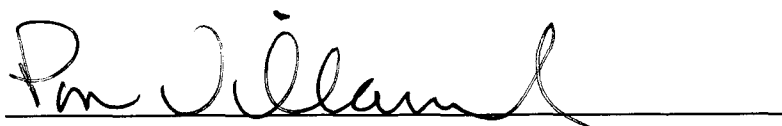
Noes: Supervisors: None \_\_\_\_\_

Excused or Absent: Supervisors: Olsen \_\_\_\_\_

Abstaining: Supervisor: None \_\_\_\_\_

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

**MOTION:**



ATTEST: PAM VILLARREAL, Assistant Clerk

File No. BD-36-B-1

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: StanCERA

BOARD AGENDA:6.B.8  
AGENDA DATE: December 4, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

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**SUBJECT:**

Approval of Amendments to the Stanislaus County Employees' Retirement Association (StanCERA) Bylaws

**STAFF RECOMMENDATION:**

1. Approve the biennial amendments to the Bylaws of the Stanislaus County Employees' Retirement Association (StanCERA) as approved by the Board of Retirement on April 24, 2018 and November 27, 2018.

**DISCUSSION:**

The Stanislaus County Employees' Retirement Association (StanCERA) is a California public pension plan that manages benefits and pension assets for approximately 9,750 members and beneficiaries, with eight participating employers. StanCERA is governed by its own board, the Board of Retirement, which acts as a fiduciary agent for the accounting and control of member and employer contributions and investment income. StanCERA currently has \$2.1 billion in assets (as of June 30, 2018) with an actuarial funding ratio of 74.3% (based on the June 30, 2017 actuarial valuation).

StanCERA is required to review and recommend any changes to its bylaws every two years. Staff from the Board of Retirements' Internal Governance Committee (IGC) studied how other systems administer their bylaws, noting the type of content that is included and excluded from such examples. The IGC concluded that some of the detail incorporated into the existing StanCERA bylaws could more appropriately be considered internal policies. This determination, along with requirements pursuant to the County Employees' Retirement Law (CERL), led the IGC to recommend several changes to the existing bylaws: to maintain Articles 1 (board administration), 2 (meetings), 3 (membership), 8 (amendments and repeals), 9 (claims for disability retirement), 10 (claims for benefits, rights, or privileges other than disability retirement), and 11 (subpoenas) and to remove and designate all other articles as StanCERA internal policies moving forward. This adjustment reassigned Articles 8 through 11 accordingly as Articles 4 through 7 (see Attachment 1).

There are two sections of the CERL that provide guidance and requirements for creating and administering system bylaws. Section 31526 requires the bylaws include provisions for trustee elections, collection of member documentation, and various other administrative procedures related to the Board of Retirement. Section 31527 provides that the bylaws may include various other procedures that relate to purchases of service, collection and refund provisions, use of electronic signatures, disability reexaminations, etc.

In addition to the recommendation that specific sections be maintained or removed, as noted above, the following adjustments were made to the bylaws:

- 1.3 Definitions – Refined the definition of Part-Time Employee
- 1.5 Officers – Clarified the rotation order
- 1.6 Retirement Board Member Election Procedures – Specified recipients of election materials and clarified election-related details
- 1.7 Committees – Defined the makeup of the Due Diligence Committee and limitations of membership in the Strategic Planning Objectives Committee
- 1.9 Independent Operations – Removed language more suited to internal policies
- 1.10 Administration of Executive Director Position, Investment Classification, and Other Executive Level Staff – Clarified classification range
- 2.1 Regular Meetings – Updated standard meeting dates and procedures  
2.4 Rules of Order – Clarified procedure regarding order of business and member requests
- 3.2 Provisions for Membership – Updated membership guidelines
- 3.3 Contracting Districts – Expanded rules for district appropriations
- 3.6 Enrollment Questionnaire and Proof of Birth – Modified requirements regarding the use of military records
- 3.8 Beneficiary Proof of Birth – Provided allowance for copy of proof of birth certification
- 3.11 Tier 3 and Safety Membership – Removed language no longer deemed necessary
- 4.1 Definitions – Added definition for Disability Counsel
- 4.3 Documents to be Completed and Furnished by Applicant – Clarified required documents
- 4.15 Hearing Procedures – Added content regarding “service” of a document or notice
- 7.1 Power to Issue Subpoenas – Clarified issuance of subpoenas
- 7.2 Parties Entitled to Issuance of Subpoenas – Added section describing entitled parties

After review with County Counsel, additional revisions were discussed with the intent of providing further clarification on the role of Disability Counsel as recently defined. The Retirement Board Director agreed to take the revisions back to the StanCERA Board for review and approval. The StanCERA Board discussed the changes and approved the revised bylaws at their November 27, 2018, meeting (Attachment 2).

StanCERA bylaws and Policies can be found online by accessing StanCERA through the Stanislaus County's main web page and at [www.stancera.org/aboutus/bylaws](http://www.stancera.org/aboutus/bylaws).

**POLICY ISSUE:**

Effective July 1, 1948, the Stanislaus County Board of Supervisors began offering retirement benefits to County employees pursuant to the County Employees Retirement Law (CERL) of 1937 (Government Code Section 31450, et seq). Additionally, Government Code 31525 states that the Retirement Board may make regulations consistent with the law which become effective when approved by the Board of Supervisors. Adoption of the amendments will enable the Board of Retirement and its staff to better serve the members of StanCERA and efficiently administer StanCERA retirement benefits. If the amendments are not approved, StanCERA will continue to administer the retirement system according to previously adopted regulations.

**FISCAL IMPACT:**

There is no fiscal impact associated with the approval of amendments to the bylaws.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Boards' priority of *Delivering Efficient Public Services and Community Infrastructure* by providing clear and current bylaws to support the administration of retirement benefits.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

**CONTACT PERSON:**

Natalie Elliott, Fiscal Services Manager, StanCERA (209) 525-6393

**ATTACHMENT(S):**

1. April 2018 Revision - Redline Version
2. November 2018 Revision - Redline Version
3. StanCERA Bylaws - Updated 2018



# Stanislaus County Employees' Retirement Association

## BYLAWS

Amended and Approved by the  
Board of Retirement ~~2/17/2016~~4/24  
/2018



## Stanislaus County Employees' Retirement Association

832 12th Street, Ste. 600, Modesto, CA 95354 · PO Box 3150, Modesto, CA 95353 · www.stancera.org · 209-525-6393 · 209-558-4976 Fax

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## ARTICLE 1 – ADMINISTRATION

### 1.1. NAME

The name of this association is "the "STANISLAUS COUNTY EMPLOYEES' RETIREMENT ASSOCIATION" (hereinafter "StanCERA").

**1.1. Amended 12/16/2015**

### 1.2. PURPOSE

StanCERA is established, in accordance with and subject to the County Employees' Retirement Law of 1937 (CERL), section 31450, et seq., of the California Government Code (hereinafter "the 1937 Act"). For the purpose of carrying out the provisions of said law within Stanislaus County, California, StanCERA is governed by the 1937 Act, California Public Employees' Pension Reform Act of 2013 (PEPRA) and other Government Code Sections applicable to CERL Systems as supplemented by these Bylaws.

**1.2. Amended 02/25/2014**

**1.2. Amended 12/16/2015**

### 1.3. DEFINITIONS

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, the Retirement Board, or StanCERA claiming benefits, rights, or privileges under the 1937 Act.
- C. "Retirement Board" means the StanCERA Board of Retirement.
- D. "Hearing Officer" means the person designated by the Retirement Board to conduct a hearing, and make recommendations pursuant to Government Code section 31533. .
- E. "Part-time employee" means an employee of Stanislaus County or a contracting district or other local government who is not employed in a permanent position as established by the Board of Supervisors or other governing body by budget or ordinance or who regularly works less than fifty-five percent ( 55%) of the normal workweek.
- F. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Member contributions" means as the actuarially determined rate as applied to the member's compensation earnable or pensionable compensation for each pay period.
- I. "It" means "non-person"
- J. "Shall" imposes a duty
- L. "May" creates discretionary authority or grants permission or power
- M. "Must" creates or recognizes a right; and

N. "May not" imposes a prohibition and is synonymous with shall not.

**1.3. Amended 02/25/2014**

**1.3. Amended 12/16/2015**

**1.3. Amended 4/24/2018**

#### **1.4. POLICY AND ADMINISTRATIVE**

Policy directives of the retirement system is vested in the Retirement Board. Day-to-day administration of the retirement system is delegated to the Executive Director. Appointment or election of members of the Retirement Board shall be as provided by Government Code Section 31520.1.

**1.4. Amended 02/25/2014**

**1.4. Amended 12/16/2015**

#### **1.5. OFFICERS**

At the first regular meeting in January, the positions of chair and vice chair will rotate in ascending order by

succession by the number assigned to the Retirement Board member and shall be held for a period of one (1) year. If a member has not served at least two (2) years on the Retirement Board, that member shall skip the normal rotation and the next successor shall be appointed to chair or vice-chair. Should any officer fail for any reason to complete his or her term, the normal successor shall perform the balance of the unexpired term. If the unexpired term is for less than nine (9) months, then the successor shall also hold office for their normal term immediately following the completion of the unexpired term. If the unexpired term is for nine (9) months or more, the successor shall only hold office for the completion of the unexpired term. The secretary of the Retirement Board shall be the Executive Director. The alternate safety member shall serve as provided in Government Code Section 31520.1 of the 1937 Act.

Pursuant to Government Code Section 31520.1, the alternate safety member shall sit in place of the seventh member during determinations of retirement benefits of a person from the same service as the alternate safety member.

**1.5. Amended 08/31/1999**

**1.5. Amended 10/31/2000**

**1.5. Amended 02/25/2014**

**1.5. Amended 12/16/2015**

**1.5. Amended 4/24/2018**

#### **1.6. RETIREMENT BOARD MEMBER ELECTION PROCEDURES**

RETIREMENT BOARD MEMBERS WHO ARE ELECTED by members of StanCERA of the same category of membership (Second and Third seats by General members, Seventh and Alternate seats by Safety members, and Eighth and Alternate Seats by Retired members) shall be elected according to the procedures set forth in this Section of the StanCERA Bylaws. In all cases where the word "Department" appears in this Section, the meaning shall be construed to include all Stanislaus County Departments, the City of Ceres and contracting Districts (all employers who use StanCERA for administration of retirement benefits). The Executive Director shall prepare a NOTICE OF ELECTION, which shall contain the deadlines for the submission of nomination papers, date of distribution of ballots, date of final receipt of ballots and the date for canvassing the ballots.

The distribution of the notice of election to active and/or retired members shall be made no more than sixty (60) days and no less than forty-five (45) days prior to the final date for receipt of ballots. The distribution of the notice of election will be distributed by U S postal services.

The Executive Director shall prepare a NOMINATION PAPER, which upon completion will contain the following information:

Name of candidate; candidate's Agency (if General or Safety member) or city and state of residence (if Retired member); a candidate's statement of not more than two hundred (200) words; signatures of the specific membership electorate in support of the candidate (General – at least twenty-five (25); Safety - at least ten (10); Retired - at least fifteen (15)). ~~if~~ If it is determined that 2 or more candidates for the same seat have duplicate membership electorate signatures, then the candidate that turned in their membership electorate document first shall be the only candidate that may count that signature towards fulfilling the signature requirement above); ~~a~~ prepared statement of willingness to serve on the Retirement Board; the Retirement Board seat number and category (General, Safety or Retired); and final date for filing the paper. Completed nomination papers must be submitted to the Executive Director by 5:00 p.m. on the date specified in the notice of election and on the nomination paper (no later than thirty (30) days before the final date for receipt of ballots). Candidates shall only be placed on the election ballot if the above nomination papers and procedures are completed. If only one (1) nomination paper is received by the Executive Director on or before the deadline specified for receipt, the Executive Director shall declare that the candidate is the new Retirement Board member of the seat for which the candidate sought election (pursuant to Government Code Section 31523) and shall prepare and distribute a declaration of election results showing a unanimous ballot for the candidate to all Departments.

If two (2) or more nomination papers are received by the Executive Director on or before the deadline for receipt, the Executive Director shall prepare ELECTION BALLOT MATERIALS, which shall consist of:

- A. A ballot with the candidates' names, Agency (if General or Safety member) or city and state of residence if Retired member), candidates' statements, final date for receipt of ballots and a listing of candidates' names in alphabetical order by last name with appropriate places to indicate the member's choice of a particular candidate;
- B. A "secret" envelope to hold the completed ballot;
- C. A "return to" envelope, which will have the Executive Director's address for receipt of ballots, space for the member's printed name, space for the member's signature, and prepaid return postage; and
- D. A "cover" envelope with the member's name and mailing address. The ballots must be received back in the Executive Director's office by 5:00 p.m. on the final date indicated on the ballot regardless of the method of delivery or postmark date (if applicable) or the ballot material will be voided. The date for final receipt of ballots shall be no less than twenty (20) days following the date of disbursement of the ballot material.

Ballot material may be REISSUED to members who file a notice of non-receipt of election material prepared and filed in the Executive Director's office. The Executive Director shall make a second and final attempt to send out any RETURNED BALLOT MATERIAL at a reasonable cost of staff time and money.

The ballots shall be CANVASSED on the business day following the final date for receipt of ballots by the Executive Director (or his/her designee), one (1) member of the Retirement Board, not associated with the election in any way, and any staff from the Executive Director's office, as may be necessary to expeditiously handle the canvassing of the ballots.

The candidate who receives the HIGHEST NUMBER OF VOTES of the ballots cast shall be declared the WINNER and ~~new~~ member of the Retirement Board to assume the seat for which the candidate ran at any Retirement Board meetings following the expiration of the term of the

incumbent. The new member will serve three (3) years or for the remaining period of time in which a seat may become vacant for any reason other than the expiration of the incumbent's term of office.

The Executive Director shall prepare a DECLARATION OF ELECTION RESULTS to include the seat of the Retirement Board, the final date of the receipt of ballots, and the name of all the candidates who ran with their corresponding number of votes received in the election. The declaration shall also state the winner of the election and the date on which the winner assumes the seat on the Retirement Board.

The Executive Director shall telephone or email each candidate with the results of the election and the declaration shall be posted in a conspicuous place in or near the Executive Director' office in the afternoon following the canvassing. Copies of the declaration shall be delivered to each candidate and each Agency/Department Director (if General member or Safety member election) or the Retired Employees of Stanislaus County Organization, Inc.(RESCO), (if a Retired Member election) with a message to retirees of the winner to appear on the next retiree payroll check following the canvassing.

If any of the specific electorate desires a RECOUNT of the ballots cast, the member must make a written petition to the Retirement Board for a recount and include a \$500.00 payment for costs incurred. The petition must be received by the Executive Director no later than fourteen (14) days following the original canvassing of the ballots. The Executive Director shall forward the petition on to the Chair of the Retirement Board who shall call a special meeting of the Retirement Board for a recount. The date of the recount shall be no later than thirty (30) days from the date of the original canvassing. The petitioner or designee must attend the recount, which shall be accomplished in the same manner as the original count. If the recount shows that a different candidate is the winner by receiving the highest number of votes, a DECLARATION OF REVISED ELECTION RESULTS shall be prepared and distributed in the same fashion as the original declaration of election results.

All member election material shall be DESTROYED thirty (30) days after the original canvassing of the ballots if there is no petition for a recount. Member election material shall be destroyed one (1) week following the completion of all procedures of a recount.

**1.6. Amended 02/25/2014**

**1.6. Amended 12/16/2015**

**1.6 Amended 4/24/2018**

## **1.7. COMMITTEES**

The Retirement Board has determined that the following are standing committees.

- A. Due Diligence Committee. This committee shall consist of the Vice-Chair as Chair, ~~two~~ **(21)** other Board members the Executive Director, the Investment Officer and one (1) staff member appointed by the Executive Director (or a designee of the Executive Director), to act as the recorder. This committee shall insure that Due Diligence visits are carried out and reports provided to the Retirement Board of investment manager and other vendor business reviews on a schedule as determined by these Bylaws and the committee.
- B. Internal Governance Committee. This committee shall consist of three (3) Retirement Board members. The Committee Chair may request administrative staff and/or legal counsel to attend Committee meetings as needed. At least one of the Retirement Board members of the committee shall have sufficient background in accounting, financial or managerial matters to understand, relate to and communicate accounting and organizational matters especially as they relate to audit reports. This committee shall have the responsibility for oversight of all financial audits (both external and internal),

compliance audits, Bylaw revisions, Policy revisions, Retirement Board member education and training (including ethics) and other internal governance matters.

- C. Strategic Planning Objectives Committee. This committee shall consist of no less than two (2) Retirement Board members. The committee may request input from administrative staff and attendance for staff at its meetings as the Committee so desires. The committee shall oversee and review staff reports related to the study and recommendations of Retirement Board approved strategic planning objectives. The committee shall have authority to survey, research, request actuarial and other studies as it deems necessary. The committee shall only make "final" reports to the Retirement Board or recommendations to the Retirement Board that require the Board's action. This committee meets at least once every three (3)

~~4~~ years,  
however, may  
not always  
have Board  
members  
assigned due  
to the cyclical  
nature of the  
needs required  
of this  
Committee.

- D. Performance Review and Compensation Committee (PRCC). This committee shall consist of current Chair, past Chair, and current Vice Chair. As needed, the PRCC will meet to discuss the performance and compensation of the position of Executive Director.

The Committee's evaluation process should include but not be limited to the following criteria:

*Goals:* Whether the subject position's stated goals at the beginning of the evaluation period were effectively and meaningfully carried out.

*Added Value:* Whether the subject position added value to the retirement process in all areas of administration. Added value can be measured in (but not limited to) areas such as financial, administrative efficiency, member services, internal and external communication, and enhanced investment governance.

*Strategic Plan:* Whether the subject position's actions are consistent with the Strategic Plan and whether the Strategic Plan is being meaningfully implemented.

After the Committee meets regarding performance review and compensation, the Committee will draft a memorandum with its recommendation regarding the disposition of the subject position to the full Board of Retirement for approval.

The Retirement Board Chair at his/her discretion may appoint Retirement Board members or staff to any standing or ad hoc committee as the Chair deems necessary.

**1.7. Amended 02/25/2014**

**1.7. Amended 12/16/2015**

**1.7. Amended 4/24/2018**

## **1.8. POLICY, PROCEDURE AND PRACTICE**

In governing administration matters the following hierarchy is established in order of priority.

- A. Federal Law
- B. State Law
- C. Local ordinances and resolutions when not in conflict with higher laws
- D. StanCERA Bylaws



E. Policies and procedures formally adopted by the Retirement Board

F. Informal policies and procedures

G. Practice

**1.8. Amended 12/16/2015**

**1.9. INDEPENDENT OPERATIONS**

StanCERA is a separate legal entity from Stanislaus County and is governed by the Retirement Board. California Constitution provides that the Retirement Board has the full responsibility and authority to invest StanCERA member retirement funds and provide necessary services in administering retirement benefits as provided in the 1937 Act, and as adopted in multiple employer-employee agreements. To fulfill the mission of StanCERA, the Retirement Board hires staff, contracts with investment managers, hires consultants, and adopts an administrative budget.

To save the time and effort of establishing its own set of Personnel Policies and tracking labor laws (and in accordance with California State law), the Retirement Board hires staff who are Stanislaus County employees. This means that in general and in most instances, these staff will be treated (hired, paid, promoted, demoted, retired or fired) the same as other Stanislaus County employees in like classifications. However, given that StanCERA staff provide services to a variety of public agencies and administer retirement benefits, staff are not subject to mandates from the Board of Supervisors or its agents that would interfere with or otherwise supersede the delivery of those services. To that end this Statement of Independent Operation acknowledges that from time to time, the Retirement Board may act to overrule or set aside a personnel decision or action that emanates from Stanislaus County personnel authority involving staff hired by the Retirement Board or its Executive Director. In matters of retirement benefit administration, the Retirement Board shall have final say in its handling of staff. The Retirement Board has and will continue to utilize Stanislaus County Personnel staff to handle recruitments and Stanislaus County payroll with its contingent of payroll-related items such as: extra help, Personal Services Contracts, leave time and termination cash out payments, retirement benefits, Social Security coverage, deferred compensation program, group health insurances, unemployment insurance, long term disability, workers compensation insurance, professional development, employee assistance program, cafeteria plan cash out, auto allowance and mileage reimbursement the same as other Stanislaus County employees.

The Retirement Board has used and will continue to use its hired investment consultant to aid in its decision on specific investment managers to hire, their performance and possible termination, as well as providing education on investments.

The Retirement Board has used and will continue to use a variety of special consultants and attorneys.

Since fiscal year 2003-2004, the administrative budget for StanCERA has been approved and monitored solely by the Retirement Board. While the budget includes costs for Stanislaus County services through the Stanislaus County's cost allocation plan (CAP), these services are approved for payment since they support the staff in its mission to provide the promised retirement benefits. ~~These costs include data processing services, staff payroll services, check processing services, postage and mail delivery services and other supportive services. The Retirement Board intends on continuing its use of Stanislaus County services as needed. These services may include, but are not limited to, banking, staff payroll, check writing, postage metering and handling, purchasing cards, general liability and workers compensation, telecommunications, some data processing services, some Purchasing services, and security, utilities and other building maintenance and service costs associated with the condominium space at the 12th Street office.~~ While StanCERA may not utilize Stanislaus County services 100%, like that of a Stanislaus County Department ~~(such as special or lower cost printing~~

~~obtainable from a private vendor~~, StanCERA intends on continuing its use of and payment for services obtained through the Stanislaus County's CAP as needed, ~~the above listed services~~. StanCERA will not pay for general Stanislaus County costs to the extent that it does not receive services for such costs.

**1.9. Amended 02/25/2014**

**1.9. Amended 12/16/2015**

**1.9 Amended 4/24/2018**

#### **1.10. ADMINISTRATION OF EXECUTIVE DIRECTOR POSITION, INVESTMENT CLASSIFICATION AND OTHER EXECUTIVE LEVEL STAFF**

Specifically regarding the position of Executive Director, the Investment Officer Series ~~future investment positions~~ and any other executive level classifications, the Board of Retirement shall have full control over the creation, assessment and disposition of these positions, including salary, and will administer and achieve this control using the processes currently in place at the County. It is understood that the processes used to achieve this control should not be limited to the administration of existing executive level County classifications, as StanCERA, from time to time, may need to create and administer other executive level classifications that do not currently exist. The Retirement Board will continue to work with County Personnel to ensure that any other County classifications used by StanCERA in the administration of the retirement plan are properly structured within the County's salary and position guidelines.

**1.10. Amended 02/25/2014**

**1.10. Amended 12/16/2015**

**1.10 Amended 4/24/2018**

**Article 1 Amended 07/13/2005**

**Article 1 Amended 12/04/2007**

**Article 1 Amended 03/25/2008**

**Article 1 Amended 11/23/2010**

**Article 1 Amended 02/25/2014**

**Article 1 Amended 12/16/2015**

**Article 1 Amended 4/24/2018**

## ARTICLE 2 – MEETINGS

### 2.1. REGULAR MEETINGS

Regular meetings of the Retirement Board shall be held on the ~~fourth Tuesday of each month beginning May 1, 2016~~~~third Wednesday of each month~~ ~~beginning January 1, 2016~~. This will be a combined meeting ~~with Investment and Finance items Administrative & Member Services items~~ being heard first, to be followed by ~~Administrative and Member and Employer items~~~~Investment and Finance items~~. ~~When appropriate, StanCERA staff or the Retirement Chair can alter this order if necessary~~. All regular meetings shall be held at 1:030 p.m. on the aforementioned day in the **Wesley W. Hall Board Room located on the sixth floor of 832 12th Street**, Modesto, California, unless changed by the chair and proper notice given by the Executive Director.

*2.1. Amended 02/25/2014*

*2.1. Amended 12/16/2015*

*2.1 Amended 2 4/20/2016*

*2.1 Amended 4/24/2016*

### 2.2. SPECIAL MEETINGS

Special meetings of the Retirement Board may be scheduled at any time by the Chair of the Retirement Board or any five (5) members of the Retirement Board. The Executive Director shall publicly post and give each Retirement Board member the minimum notice required by the Ralph M. Brown Act.

*2.2. Amended 02/25/2014*

*2.2. Amended 12/16/2015*

### 2.3. PERSONS ATTENDING MEETINGS

All meetings of the Retirement Board shall be open to the public, except closed sessions, permitted by law.

*2.3. Amended 12/16/2015*

### 2.4. RULES OF ORDER

ROBERT'S RULES OF ORDER shall guide the Retirement Board in its proceedings, except as otherwise provided herein or in the 1937 Act. The Chair shall have a vote on all questions and motions and shall not be required to relinquish the Chair in order to participate in discussions. The Chair shall not make or second a motion. The order of business shall include:

A. Roll Call

B. Announcements

C. Public Comment

D. Consent Items (e.g., Approval of minutes & retirements)

~~E. Investment Matters Executive Director~~  
~~Administrative~~

~~F. Administrative and Member and Employer Matters Investment Consultant~~



H. Closed Session  
~~Committee Reports and Recommendations~~

I. Members' Forum  
(Information and Future  
Agenda Requests Only)  
~~Closed Session~~

J. ~~Adjournment~~Members' Forum (Information and Future Agenda Requests Only)

~~K. Adjournment~~

The Retirement Board Chair may make changes in the above order at his / her discretion.

### **Requests for Staff Support by the Board**

The Board shall request any research, analyses and reports from staff as are necessary for the Board's effective oversight of StanCERA operations. Such requests will be agendaized and considered at regularly scheduled Board meetings. If approved, the Executive Director will be responsible for coordinating the completion of the approved project or report within a reasonable time or by the completion date specified in the Board action.

### **Requests by Individual Board Members for Staff or External Support**

Board members making individual requests for information will be advised to consider the request with the full Board during Member's Forum, place the item on the Board meeting agenda unless the information is readily available and the Executive Director determines that a response will not require any significant commitment of staff time or other external StanCERA resources.

~~Requests by Individual Trustees must be received by the Executive Director one hundred twenty (120) hours prior to any regularly scheduled Retirement Board meeting to appear on the Retirement Board agenda.~~

*2.4. Amended 02/25/2014*

*2.4. Amended 12/16/2015*

*2.4. Amended 4/24/2018*

### **2.5. QUORUM**

Five (5) members of the Retirement Board shall constitute a quorum. No business may be transacted without a quorum.

No motion may be passed without a majority of the quorum voting affirmatively.

### **2.6. CORRESPONDENCE**

All correspondence to the Retirement Board must be in writing and received by the Executive Director one hundred twenty (120) hours prior to any regularly scheduled Retirement Board meeting to appear on the Retirement Board agenda.

*2.6. Amended 02/25/2014*

*2.6. Amended 12/16/2015*

### **2.7. MINUTES**

The Executive Director shall cause to be recorded in the minutes the time and place of each meeting, the name of each Board member present, a summary of official actions taken by the

Retirement Board, and such other information that will concisely reflect each meeting's content. The minutes shall be presented for Retirement Board approval at its next regular meeting. Such minutes shall be signed by the Executive Director, approved as to form by general legal counsel, and shall become a part of the Retirement Board's permanent record. Meetings shall be audibly recorded and available on the StanCERA website.

***2.7. Amended 02/25/2014***

***2.7. Amended 12/16/2015***

## **2.8. COMPENSATION OF MEMBERS**

Pursuant to Government Code Sections 31520.5 and 31521, those members (appointed by the Board of Supervisors and the retiree representative) shall be eligible to receive the maximum allowance per meeting of the Retirement Board or meeting of a committee for not more than the maximum meetings allowed per month.

***Article 2 Amended 12/04/2007***

***Article 2 Amended 11/23/2010***

***Article 2 Amended 02/25/2014***

***Article 2 Amended 12/16/2015***

***Article 2 Amended 4/24/2018***

## ARTICLE 3 – MEMBERSHIP

### 3.1. MEMBERSHIP DEFINED

Membership shall be as defined by the 1937 Act as supplemented by these Bylaws.

***3.1. Amended 02/25/2014***

### 3.2. PROVISIONS FOR MEMBERSHIP

Every employee of Stanislaus County or of any district, municipality or local government -included in StanCERA, who is appointed to a permanent full-time position, as specified in the ordinances of Stanislaus County or of the included districts, municipalities or local governments shall become a member of StanCERA. Employees hired prior to October 1, 1988, became members on the first day of the calendar month after entrance into service. Employees hired on or after October 1, 1988, shall become members on the date of hire.

***3.2 Amended 4/24/2018***

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### 3.3. CONTRACTING DISTRICTS

Whenever any contracting district is required to make an additional appropriation pursuant to Government Code Section 31627.6, for the purpose of paying for a member's service with the district prior to the district's joining StanCERA, the district ~~may~~ shall make the additional appropriation by periodic payments (including interest at the current actuarial rate which shall remain in effect until the principal is exhausted) over a period of time not to exceed fifteen ( 15 ) years ~~or may~~ pay the entire balance to the System in one lump sum.

***3.3. Amended 12/16/2015***

***3.3 Amended 4/24/2018***

### 3.4. WAIVER BY EMPLOYEES OVER SIXTY (60)

An employee of Stanislaus County or of any district included in StanCERA, appointed to a permanent full-time position who is age sixty (60) or over at time of entry, may waive the StanCERA membership requirement pursuant to Government Code Section 31552.

### 3.5. EXCLUSIONS

Temporary, seasonal, intermittent part-time employees, and independent and personal service contractors are excluded from membership in StanCERA.

### 3.6. ENROLLMENT QUESTIONNAIRE AND PROOF OF BIRTH

Every member of StanCERA shall file a sworn enrollment questionnaire showing that member's date of birth, date of hire, position, classification (general or safety) and the compensation received. The questionnaire shall be in the form provided by StanCERA. Every member shall submit with the enrollment questionnaire proof of the member's date of birth within ninety (90) days of hire. If a proper questionnaire with proof of birth is not filed within ninety (90) days of hire, the rate of contribution shall be based on the highest age for the member's retirement tier and classification. When the questionnaire is filed or proof of age is submitted to the Executive Director, the normal age rates will be applied and excess contributions shall not be refunded to



the member. The following documents will be acceptable for proof of birth:

A. Any one (1) of the following:

1. Infant baptismal certificate
2. Census record
3. School age record
4. Naturalization certificate
5. A photocopy of a certified birth certificate
6. Passport

7. Alien registration card with photograph  
8. Military record (i.e. DD214, ID) if date of birth is shown

B. Any two (2) of the following:

1. Photocopy of certified Marriage Certificate if date of birth is shown

~~2. Military record (i.e. DD214, ID) if date of birth is shown~~

~~23.~~ Photocopy of Child's certified birth certificate, showing date of birth of member

~~43.~~ Affidavit by older relative, notarized

~~54.~~ Hospital birth record

**3.6. Amended 02/25/2014**

**3.6. Amended 12/16/2015**

**3.6. Amended 4/24/2018**

### **3.7. PROOF OF MARRIAGE**

A. Every member, at the time of retirement, shall submit a copy of a certified proof of marriage or registered domestic partnership certification and an affidavit that the marriage continues if a designated beneficiary is the spouse or registered domestic partner, and the option pursuant to Government Code Section 31760, et seq., is elected.

B. Every applicant for a spousal continuance based upon a death of a member may be required to submit an affidavit that the marriage continued up until the time of death of the member.

**3.7. Amended 02/25/2014**

**3.7. Amended 12/16/2015**

### **3.8. BENEFICIARY PROOF OF BIRTH**

Every member, at the time of retirement, shall submit a copy of proof of birth certification ~~certified proof of birth (see 3.6)~~ of ~~all~~ designated beneficiary or beneficiaries selected pursuant to the exercise of an option contained within Government Code Section 31760, et seq.,.

**3.8. Amended 02/25/2014**

**3.8. Amended 12/16/2015**

**3.8. Amended 4/24/2018**

**3.9. CORRECTION OF DATE OF BIRTH**

Repealed 12/16/2015 See [StanCERA](#)

[Internal Policies – Member Contributions Article 4](#)

**3.9. Amended 02/25/2014**

**3.9. Amended 4/24/2018**

**3. 10. PROOF OF DEATH**

Every applicant, at the time of application for a death benefit or continuance, shall submit a copy of a certified final death certificate or a court decree establishing the fact of death.

**3.10-. Amended 02/25/2014**

**3.10. Amended on 12/16/2015**

**3. 11. TIER 3 AND SAFETY MEMBERSHIP**

~~A. Any Tier III member who, at the time he / she elected to become a Tier III member, was Safety eligible, shall be entitled, at the member's option, to redeposit all contributions and interest which would have normally accrued without election to become a Tier III member. Upon full redepositing of contributions and interest in a single lump sum payment, said member shall be reinstated to a retirement plan/tier in accordance with applicable law and local agreements.~~

BA. Any Tier III member who transfers to a Safety eligible position shall be required to become a contributing member of the retirement system as of the date of the transfer to the Safety eligible position. Any Tier III member whose position becomes Safety eligible through law or collective bargaining process shall be required to become a contributing member of the retirement system as of the effective date of the legislation or negotiated agreement.

**3.11. Amended 02/25/2014**

**3.11. Amended on 12/16/2015**

**3.11. Amended on 4/24/2018**

**3.12. SPOUSE/REGISTERED DOMESTIC PARTNER**

Wherever in the Bylaws the term "spouse" is used, this term shall also include registered domestic partners.

**Article 3 Amended 12/04/2007**

**Article 3 Amended 11/23/2010**

**Article 3 Amended 02/25/2014**

**Article 3 Amended 12/16/2015**

## ~~ARTICLE 4 — MEMBERS' CONTRIBUTIONS —~~

### ~~4.1. CONTRIBUTIONS MADE IN ACCORDANCE WITH 1937 ACT —~~

~~Contributions shall be made in accordance with the 1937 Act and these Bylaws.~~

~~4.1. Amended 02/25/2014 —~~

### ~~4.2. CONTRIBUTIONS MADE ON REGULAR COMPENSATION —~~

~~Separate Normal and cost of living contributions shall be made on the compensation earnable of the employees in Tiers 1,2,4,5. A combined single rate contribution shall be made on the pensionable compensation of the employees in Tier 6.~~

~~4.2. Amended 12/16/2015 —~~

### ~~4.3. PARTIAL CONTRIBUTIONS PROHIBITED —~~

~~Partial contributions are prohibited.~~

### ~~4.4. WITHDRAWAL ON TERMINATION —~~

~~A member who is terminating membership may withdraw accumulated contributions pursuant to Government Code Section 31628. The Retirement Board, pursuant to Government Code Section 31628, hereby orders that payment may be withheld for a period not to exceed six (6) months after the date of separation. For the purposes of this section, "termination" means the member has not been paid for a minimum of two (2) full consecutive pay cycles immediately following termination and is not on StanCERA employers' payroll at the time of refund.~~

~~Pursuant to Government Code Section 31527 (d), members who receive a refund of the member's contributions can receive a lower amount than the full "regular interest" credited on the member's contributions due to a withdrawal charge up to the amount of the interest credited to the member's contributions after the effective date of this Bylaw.~~

~~4.4. Amended 02/25/2014 —~~

~~4.4. Amended 12/16/2015 —~~

### ~~4.5. REFUND TO DEFERRED MEMBERS —~~

~~A deferred member shall, upon written request, receive a refund of contributions pursuant to Government Code Section 31701, as follows:~~

~~A. If not covered under provisions of a reciprocal retirement system, upon receipt of completed distribution packet request.~~

~~B. If covered under provision of a reciprocal retirement system, upon receipt of completed distribution packet and certification of refund of contribution from subsequent reciprocal system, request will be processed with the next refund batch.~~

~~4.5. Amended 12/16/2015 —~~

~~**4.6. RATE OF INTEREST DECLARATIONS**~~

~~See Excess Earnings Policy.~~

~~**4.6. Amended 02/25/2014**~~

~~**4.7. MEMBER'S CONTRIBUTIONS REFUND POLICY**~~

~~The contributions, which a member pays to StanCERA, are non-refundable except as explicitly provided in the Government Code. No refund of any member's contributions shall be made while the member is employed with any StanCERA covered employer in any capacity, or while receiving a retirement allowance from StanCERA.~~

~~**4.7. Amended 12/16/2015**~~

~~**4.8. BUY BACKS AND REDEPOSITS**~~

~~A. A member may pay for a buy back in installments on a "period for period" basis, or double the number of pay periods being purchased, but not to exceed five (5) years and all buy backs must be completed prior to retirement, pursuant to Government Code Section 31641.2.~~

~~B. For purposes of Article 4, a benefit enhancement or allowable conversion of service time will be treated the same as a buy back.~~

~~C. In the event of the death of a member prior to retirement, but before completing an existing buy back, the member's designated beneficiary shall have 120 calendar days after the date of death of the member to complete the buy back. If the beneficiary wants to complete the buy back, the retirement benefit will be delayed until the buy back payments are completed. If beneficiary does not want to continue the payments, the buy back monies will be refunded.~~

~~D. In the event that a member terminates prior to completion of an open buy back, the member has thirty (30) days from the date of termination to pay the remaining balance in full. If member is unable to pay the remaining balance in full within thirty (30) days, any monies StanCERA has received to purchase the permissive service credits will be refunded to the member.~~

~~**4.8. Amended 02/25/2014**~~

~~**4.8. Amended 12/16/2015**~~

~~**4.9. ROLLOVERS AND TRUSTEE TO TRUSTEE TRANSFERS**~~

~~A member may use rollovers via direct trustee to trustee transfers to purchase permissive service credit.~~

~~A. Rollovers via direct trustee to trustee transfers of pre tax monies will be accepted from the following:~~

- ~~1. Traditional IRA's~~
- ~~2. Government 457 Deferred Compensation Plans, if a direct rollover via trustee to trustee transfer~~
- ~~3. Qualified 401(a) plans, if direct rollover via trustee to trustee transfer~~
- ~~4. Qualified 401(k) plans, if direct rollover via trustee to trustee transfer~~
- ~~5. Stanislaus County sponsored PARS plan, if direct rollover via trustee to trustee transfer~~
- ~~6. Qualified 403 (b) plans (pretax only)~~

~~B. The following types of rollovers via direct trustee to trustee transfers will NOT be allowed:-~~

- ~~1. Indirect Rollover from a 457 Governmental Plan~~
- ~~2. Indirect Rollover from a qualified 401(a) plan~~
- ~~3. Indirect Rollover from a qualified 401(k) plan~~
- ~~4. Keogh Plans~~
- ~~5. Roth IRA~~
- ~~6. Partial distributions from any account, which contains both pre tax and post tax monies~~
- ~~7. Any other type of rollover, either direct or indirect, via trustee to trustee transfer not specifically noted in 4.9(a) above~~

~~C. Non members are not eligible to rollover, transfer or buy back any amounts except as expressly authorized in the 1937 Act.~~

~~D. Verification Chart~~

~~(Chart to be removed)~~

## ROLLOVER CHART

1/23/2015

		Roll To							
		Roth IRA	Traditional IRA	SIMPLE IRA	SEP-IRA	Governmental 457(b)	Qualified Plan <sup>1</sup> (pre-tax)	403(b) (pre-tax)	Designated Roth Account (401(k), 403(b) or 457(b))
Roll From	<a href="#">Roth IRA</a>	YES <sup>2</sup>	NO	NO	NO	NO	NO	NO	NO
	<a href="#">Traditional IRA</a>	YES <sup>3</sup>	YES <sup>2</sup>	NO	YES <sup>2</sup>	YES <sup>4</sup>	YES	YES	NO
	<a href="#">SIMPLE IRA</a>	YES, <sup>3</sup> after two years	YES, <sup>2</sup> after two years	YES <sup>2</sup>	YES, <sup>2</sup> after two years	YES, <sup>4</sup> after two years	YES, after two years	YES, after two years	NO
	<a href="#">SEP-IRA</a>	YES <sup>3</sup>	YES <sup>2</sup>	NO	YES <sup>2</sup>	YES <sup>4</sup>	YES	YES	NO
	<a href="#">Governmental 457(b)</a>	YES <sup>3</sup>	YES	NO	YES	YES	YES	YES	YES <sup>3,5</sup>
	<a href="#">Qualified Plan<sup>1</sup> (pre-tax)</a>	YES <sup>3</sup>	YES	NO	YES	YES <sup>4</sup>	YES	YES	YES <sup>3,5</sup>
	<a href="#">403(b) (pre-tax)</a>	YES <sup>3</sup>	YES	NO	YES	YES <sup>4</sup>	YES	YES	YES <sup>3,5</sup>
	<a href="#">Designated Roth Account (401(k), 403(b) or 457(b))</a>	YES	NO	NO	NO	NO	NO	NO	YES <sup>5</sup>

<sup>1</sup> Qualified plans include, for example, profit-sharing, 401(k), money purchase and defined benefit plans

<sup>2</sup> Only one rollover in any 12-month period

<sup>3</sup> Must include in income

<sup>4</sup> Must have separate accounts

<sup>5</sup> Must be an in-plan rollover

<sup>6</sup> Any amounts distributed must be rolled over via direct (trustee-to-trustee) transfer to be excludable from income

For more information regarding retirement plans and [rollovers](#), visit [Tax Information for Retirement Plans](#).

~~4.9. Amended 02/25/2014~~

~~4.9. Amended 12/16/2015~~

~~4.10. DOCUMENTATION REQUIRED~~

~~It shall be incumbent upon the member to provide acceptable documentation on the suitability of any rollover or trustee to trustee transfer. The Executive Director shall have final determination on acceptable documentation.~~

~~4.10. Amended 02/25/2014~~

~~4.11. IRS LIMITATIONS~~

~~All rollovers, whether direct or indirect, or trustee to trustee transfers, shall be in accordance with appropriate IRS rules and limitations, including IRC 415 limitations on contributions, adjusted, Social Security wage base for Tier 6 members, salary and future benefits.~~

~~4.11. Amended 02/25/2014~~

~~4.11. Amended 12/16/2015~~

~~The Sections 4.12, 4.13 and 4.14 are for the administration of individual member, deferred member, retiree or beneficiary contributions or benefits only. These sections are not intended to~~

~~provide a remedy when retirement contributions and/or retirement benefits issues involve multiple members, deferred members, retirees, and/or their beneficiaries, or a class of members, deferred members, retirees, and/or their beneficiaries. When the remedying of retirement contributions and/or retirement benefits issues involve multiple members, deferred members, retirees, and/or their beneficiaries, or a class of members, deferred members, retirees, and/or their beneficiaries, nothing in these Bylaws shall preclude the rights of County of Stanislaus, or other employers whose retirement plans are with StanCERA, to recover retirement contributions, and interest, when applicable.~~

#### ~~4.12. REMEDIES FOR ERRORS AND OMISSIONS ON RETIREE PAYROLL~~

~~Pursuant to Government Code Sections 31525 and 31539, the Executive Director may take whatever action deemed necessary to correct any errors in a retiree monthly benefit, which violates Federal or State laws or IRS code rules and regulations or policy.~~

#### ~~OVERPAYMENTS OF BENEFIT PAID TO RETIREE/BENEFICIARY~~

~~StanCERA shall take all reasonable steps to recover the full amount of overpayments made to any retiree/beneficiary.~~

~~StanCERA will allow the following repayment methods:~~

- ~~1. Lump sum payment from retiree/beneficiary, or~~
- ~~2. Monthly reduction from the retiree/beneficiary benefit. It shall be collected per below methods (a) or (b), or a higher percentage amount, if requested by retiree/beneficiary.~~
  - ~~a. If StanCERA or the employer caused the error creating an overpayment in the monthly benefit, then StanCERA shall collect directly from the member's benefit a minimum of 5% of the gross monthly benefit until repayment is complete.~~
  - ~~b. If the retiree/beneficiary caused the error, due to lack of or inaccurate information, fraud or intentional misrepresentation, creating an overpayment in the monthly benefit, then StanCERA shall collect directly from the member's benefit (including appropriate interest), a minimum of 15% of the gross monthly benefit until repayment is complete.~~

~~For overpayments less than \$50 (fifty), the Executive Director shall make no demand and write off the account.~~

~~In cases where there is no evidence that the overpayment resulted from fraud or dishonest conduct by the retiree/beneficiary, StanCERA will only seek recovery of amounts paid to the retiree/beneficiary for the four (4) years immediately before the error was corrected.~~

~~Considering all relevant factors (including collection issues and principles of equity), the Board finds that seeking only four (4) years of overpayments under those circumstances constitutes "reasonable steps" to recover the full amount of the overpayments.~~



~~In cases where there is evidence that the overpayment resulted from fraud or dishonest conduct or intentional misrepresentation by the retiree/beneficiary, the Board reserves all rights to seek all amounts overpaid, plus the maximum amount of recoverable interest under law. See *Government Code Section 31539*. The Board shall determine whether the member engaged in fraud or dishonest conduct based on all of the facts available to it.~~

~~The Board adopts the following procedures for accomplishing the recovery of overpaid benefits:~~

- ~~1. Upon discovery of an overpayment, StanCERA shall send a letter by certified mail, return receipt requested, to the retiree/beneficiary advising the retiree/beneficiary of the overpayment and proposing a repayment schedule, as follows:~~
  - ~~a. The letter will request payment to StanCERA of the amount overpaid, subject to the provisions of this Bylaw.~~
  - ~~b. The letter will include an agreement to repay overpayment and a consent form for the spouse or beneficiaries, if applicable.~~
  - ~~c. The letter and agreement to repay overpayment will include effective date and minimum amount of monthly benefit reduction from 2(a) and 2(b) to go into effect by default if a written response from the retiree/beneficiary is not received within 30 days following the date the letter was delivered.~~
- ~~2. StanCERA may pursue all legal remedies to collect overpayments.~~
- ~~3. StanCERA will maintain a permanent record of all amounts of overpayments and the repayment to StanCERA of those overpayments.~~

#### ~~**UNDERPAYMENTS OF BENEFIT PAID TO RETIREE/BENEFICIARY**~~

~~StanCERA shall take all reasonable steps to reimburse the full amount of underpayments made to any retiree/beneficiary. The underpayment shall be made as soon as is reasonably possible following the discovery of the underpayment.~~

~~If a retiree/beneficiary who was underpaid benefits has died prior to payment of the lump sum amount due, the following procedures will be followed:~~

##### ~~**1. Retiree/beneficiary With Designated Beneficiary**~~

- ~~- If the retiree/beneficiary has named a designated beneficiary, the payment will be made directly to the designated beneficiary. See *Government Code Section 31452.7*.~~

##### ~~**2. Retiree/beneficiary Without Designated Beneficiary**~~

- ~~- If there is an open estate (i.e., no order for final distribution yet), payment will be made to the estate (through the personal representative).~~

- ~~\* If final distribution of the estate has already been made, StanCERA will review the order for final distribution to determine how assets that were unknown at the time of final distribution are to be distributed under the order. Payment will then be made in compliance with the order for final distribution, if possible.~~
- ~~\* If an estate was not established, distribution will be made in accordance with any applicable and valid Affidavit for Payment of Personal Property on file with StanCERA. See Probate Code Section 13101.~~
- ~~\* StanCERA shall make reasonable efforts to locate the person(s) entitled to payment by sending a letter by certified mail, return receipt requested, to the last known address of each such person, or by other means of similar intended effect. The letter shall request written confirmation that the person entitled to payment still lives at that address and will accept payment. Upon receipt of such written confirmation, the payment will be mailed to that person at that address. See Government Code Section 31783.5(b).~~
- ~~\* If, after taking the above steps, StanCERA has not been able to locate the person entitled to payment, StanCERA shall hold the funds on behalf of that person for five (5) years. If the funds are not claimed within five (5) years, the funds may be transferred into the system's pension reserve fund. If someone later appears to claim the funds, the Board will consider such claims on a case by case basis. See Government Code Section 31783.5(c).~~
- ~~\* StanCERA will maintain a permanent record of all amounts of outstanding refunds of underpayments and any amounts that have been transferred into the pension reserve fund.~~
- ~~\* In cases where there is no designated beneficiary and the total amount of underpayment is less than \$50 (fifty), StanCERA need not take proactive measures to locate the person(s) entitled to such funds. All claims presented to StanCERA, however, will be considered regardless of size.~~

~~4.12. Amended 02/25/2014~~  
~~4.12. Amended 12/16/2015~~

#### ~~4.13. REMEDIES FOR MEMBER'S REGULAR PAYROLL CONTRIBUTION ERRORS~~

~~Whenever an error is found in a member's contribution amount from the regular payroll contributions, the Executive Director shall correct the error as soon as is reasonably possible following StanCERA's discovery of the error.~~

#### ~~OVERPAYMENT OF CONTRIBUTIONS BY MEMBER~~

~~StanCERA shall take all reasonable steps to reimburse the full amount of overpayments made by the member. The overpayment can be reimbursed to the member (and/or employer) via the employee payroll from their StanCERA participating employer, if possible, or by a check from StanCERA.~~

~~If a member, who overpaid contributions, has died prior to payment of the lump sum amount due to the member, the following procedures will be followed:~~

##### ~~1. Member With Designated Beneficiary~~

- ~~• If the member has named a designated beneficiary, the payment will be made directly to the designated beneficiary. See Government Code Section 31452.7.~~

##### ~~2. Member Without Designated Beneficiary~~

- ~~• If there is an open estate (i.e., no order for final distribution yet), payment will be made to the estate (through the personal representative).~~
- ~~• If final distribution of the estate has already been made, StanCERA will review the order for final distribution to determine how assets that were unknown at the time of final distribution are to be distributed under the order. Payment will then be made in compliance with the order for final distribution, if possible.~~
- ~~• If an estate was not established, distribution will be made in accordance with any applicable and valid Affidavit for Payment of Personal Property on file with StanCERA. See Probate Code Section 13101.~~
- ~~• StanCERA shall make reasonable efforts to locate the person(s) entitled to payment by sending a letter by certified mail, return receipt requested, to the last known address of each such person, or by other means of similar intended effect. The letter shall request written confirmation that the person entitled to payment still lives at that address and will accept payment. Upon receipt of such written confirmation, the payment will be mailed to that person at that address. See Government Code Section 31783.5(b).~~

~~~ If, after taking the above steps, StanCERA has not been able to locate the person entitled to payment, StanCERA shall hold the funds on behalf of that person for five (5) years. If the funds are not claimed within five (5) years, the funds may be transferred into the system's pension reserve fund. If someone later appears to claim the funds, the Board will consider such claims on a case by case basis. See Government Code Section 31783.5(c).~~~

~~~ StanCERA will maintain a permanent record of all amounts of outstanding refunds of overpayments and any amounts that have been transferred into the pension reserve fund.~~~

~~~ In cases where there is no designated beneficiary and the total amount of overpayment is less than \$50 (fifty), StanCERA need not take proactive measures to locate the person(s) entitled to such funds. All claims presented to StanCERA, however, will be considered regardless of size.~~~

#### ~~**UNDERPAYMENT OF CONTRIBUTIONS BY MEMBER**~~

~~StanCERA shall take all reasonable steps to recover the full amount of underpayment of contributions by member.~~~

~~StanCERA will allow the following repayment methods:~~~

- ~~1. Lump sum payment from member.~~~
- ~~2. Monthly deduction collected in like manner and over the same time period the error occurred, or up to twice the amount of time period, not to exceed five (5) years, as the error occurred.~~~
- ~~3. Rollover or Trustee to Trustee transfer from a qualified pre-tax plan.~~~

~~In cases where there is no evidence that the underpayment resulted from fraud or dishonest conduct by the member, StanCERA will only seek recovery of amounts underpaid by the member for the four (4) years immediately before the error was corrected. Considering all relevant factors (including collection issues and principles of equity), the Board finds that seeking only four (4) years of underpayments under those circumstances constitutes "reasonable steps" to recover the full amount of the underpayments.~~~

~~In cases where there is evidence that the underpayment resulted from fraud or dishonest conduct by the member, the Board reserves all rights to seek all amounts underpaid, plus the maximum amount of recoverable interest under law. See Government Code Section 31539. The Board shall determine whether the member engaged in fraud or dishonest conduct based on all of the facts available to it.~~~

~~The Board adopts the following procedures for accomplishing the recovery of underpaid benefits:~~~

- ~~1. Upon discovery of an underpayment, StanCERA shall send a letter by certified mail, return receipt requested, to the member advising the member of the underpayment and proposing a repayment schedule, as follows:~~
  - ~~a. The letter will identify the circumstances of the underpayment and the fact that adjustments will be made to all future contribution amounts.~~
  - ~~b. The letter will request payment to StanCERA of the past amount underpaid, subject to the provision of these Bylaws.~~
  - ~~c. The letter will include an agreement to pay the amounts underpaid.~~
  - ~~d. The agreement to pay the amounts underpaid will provide two options, one of which may be selected by the member:~~
    - ~~- Option 1 — Monthly deductions taken from the member's pay (in addition to the contributions otherwise required of the member), in accordance with the allowable repayment methods. If the member's employment terminates during the payment period, the member shall be liable for all remaining unpaid amounts, which may be deducted from any amounts StanCERA owes the member, if the member does not make a lump sum payment.~~
    - ~~- Option 2 — lump sum payment to StanCERA for the full amount underpaid, during the underpayment period.~~
  - ~~e. The letter and agreement to repay underpayment will provide that Option 1 will go into effect by default if a written response from the member is not received within 30 days following the date the letter was delivered.~~
- ~~2. StanCERA may pursue all remedies to collect underpayments.~~
- ~~3. Upon the death of the member, before full repayment has been made, StanCERA shall pursue all remedies to collect underpayments.~~
- ~~4. StanCERA will maintain a permanent record of all amounts of underpayments and the repayment to StanCERA of those underpayments.~~

~~4.13. Amended 02/25/2014~~

~~4.13. Amended 12/16/2015~~

#### ~~4.14. REMEDIES FOR DEFERRED MEMBER CONTRIBUTION ERRORS~~

~~Whenever an error is found in a member's contribution amount from payroll contributions after the member has terminated their employment, the Executive Director shall correct the error as soon as is reasonable following StanCERA's discovery of the error.~~

## ~~OVERPAYMENT OF CONTRIBUTIONS BY MEMBER~~

~~StanCERA shall take all reasonable steps to reimburse the full amount of overpayments made by the member. The overpayment will be reimbursed to the member by a check from StanCERA.~~

~~If a member, who overpaid contributions, has died prior to payment of the lump sum amount due to the member, the following procedures will be followed:~~

### ~~1. Member With Designated Beneficiary~~

- ~~~ If the member has named a designated beneficiary, the payment will be made directly to the designated beneficiary. See Government Code Section 31452.7.~~

### ~~2. Member Without Designated Beneficiary~~

- ~~~ If there is an open estate (i.e., no order for final distribution yet), payment will be made to the estate (through the personal representative).~~
- ~~~ If final distribution of the estate has already been made, StanCERA will review the order for final distribution to determine how assets that were unknown at the time of final distribution are to be distributed under the order. Payment will then be made in compliance with the order for final distribution, if possible.~~
- ~~~ If an estate was not established, distribution will be made in accordance with any applicable and valid Affidavit for Payment of Personal Property on file with StanCERA. See Probate Code Section 13101.~~
- ~~~ StanCERA shall make reasonable efforts to locate the person(s) entitled to payment by sending a letter by certified mail, return receipt requested, to the last known address of each such person, or by other means of similar intended effect. The letter shall request written confirmation that the person entitled to payment still lives at that address and will accept payment. Upon receipt of such written confirmation, the payment will be mailed to that person at that address. See Government Code Section 31783.5(b).~~
- ~~~ If, after taking the above steps, StanCERA has not been able to locate the person entitled to payment, StanCERA shall hold the funds on behalf of that person for five (5) years. If the funds are not claimed within five (5) years, the funds may be transferred into the system's pension reserve fund. If someone later appears to claim the funds, the Board will consider such claims on a case-by-case basis. See Government Code Section 31783.5(c).~~
- ~~~ StanCERA will maintain a permanent record of all amounts of outstanding refunds of overpayments and any amounts that have been transferred into the pension reserve fund.~~
- ~~~ In cases where there is no designated beneficiary and the total amount of overpayment is less than \$50 (fifty), StanCERA need not take proactive measures to locate the person(s) entitled to such funds. All claims presented to StanCERA, however, will be considered regardless of size.~~

## ~~UNDERPAYMENT OF CONTRIBUTIONS BY MEMBER~~

~~StanCERA shall take all reasonable steps to recover the full amount of underpayment of contributions by member.~~

~~StanCERA will allow the following repayment methods:~~

- ~~1. Lump sum payment from member,~~
- ~~2. Monthly over the counter payments collected in like manner and over the same time period error occurred, or up to twice the amount of time period, not to exceed five (5) years, as the error occurred,~~
- ~~3. Rollover or Trustee to Trustee transfer from a qualified pre tax plan.~~

~~In cases where there is no evidence that the underpayment resulted from fraud or dishonest conduct by the member, StanCERA will only seek recovery of amounts underpaid by the member for the four (4) years immediately before the error was corrected. Considering all relevant factors (including collection issues and principles of equity), the Board finds that seeking only four (4) years of underpayments under those circumstances constitutes "reasonable steps" to recover the full amount of the underpayments. In cases where there is evidence that the underpayment resulted from fraud or dishonest conduct by the member, the Board reserves all rights to seek all amounts underpaid, plus the maximum amount of recoverable interest under law. See Government Code Section 31539. The Board shall determine whether the member engaged in fraud or dishonest conduct based on all of the facts available to it.~~

~~The Board adopts the following procedures for accomplishing the recovery of underpaid benefits:~~

- ~~1. Upon discovery of an underpayment, StanCERA shall send a letter by certified mail, return receipt requested, to the member advising the member of the underpayment and proposing a repayment schedule, as follows:~~
  - ~~a. The letter will identify the circumstances of the underpayment.~~
  - ~~b. The letter will request payment to StanCERA of the past amount underpaid, subject to the provision of these Bylaws.~~
  - ~~c. The letter will include an agreement to pay the amounts.~~
  - ~~d. The agreement to pay the amounts underpaid will provide two options, one of which may be selected by the member:~~
    - ~~-Option 1- Monthly payment to StanCERA, over the same length of time that the underpayments occurred not to exceed 5 years. If the member ceases the over the counter payments during the payment period, the member shall be liable for all remaining unpaid amounts, which may be deducted from any amounts StanCERA owes the member, if the member does not make a lump sum payment.~~

~~- Option 2 — lump sum payment to StanCERA for the full amount underpaid, during the underpayment period.—~~

~~2. StanCERA may pursue all remedies to collect underpayments.—~~

~~3. Upon the death of the member, before full repayment has been made, StanCERA shall pursue all remedies to collect underpayments.—~~

~~4. StanCERA will maintain a permanent record of all amounts of underpayments and the repayment to StanCERA of those underpayments.—~~

~~4.14. Amended 12/16/2015 Upon termination Section 31628.—~~

~~Upon rescission of deferred status Section 31701.—~~

~~Upon transfer to STRS Section 31565.—~~

~~Upon cancellation of a disability allowance Section 31737.—~~

~~Upon death Sections 31781, 31760.1, 31700.11, 31761.—~~

~~Upon a non-County employer's withdrawal Section 31564.—~~

~~Article IV Amended 08/26/03—~~

~~Article 4 amended 12/04/2007—~~

~~Article 4 Amended 11/23/2010—~~

~~Article 4 Amended 02/25/2014—~~

~~Article 4 Amended 12/16/2015—~~



## ~~ARTICLE 5 -- SERVICE RETIREMENT~~

### ~~5.1. APPLICATION~~

~~In addition to the provisions of the 1937 Act pertaining to service retirement, an application for service retirement shall be deemed complete when the following have been complied with:~~

- ~~A. Completed application has been made to the Retirement Board in care of the Executive Director.~~
- ~~B. All documents required by the 1937 Act and these Bylaws have been properly completed and submitted including: a certified proof of marriage or registered domestic partnership, a copy of certified proof of birth of the beneficiary, and/or minor children, social security number of the beneficiary and current Social Security benefit estimate (current within one (1) year) for all members with any Tier 3 service.~~
- ~~C. If member has ever had a spouse during this employment and is no longer married to that spouse, the member must submit proof of division, or non interest regarding division of community property. In the event of a spousal death, a death certificate will also be required.~~

~~Pursuant to Government Code Section 31672, a member's retirement date cannot be effective earlier than the date the official retirement application is filed with the Retirement Board, and not more than 60 days after filing the application.~~

~~5.1. Amended 02/25/2014~~

~~5.1. Amended 12/16/2015~~

### ~~5.2. RETIREMENT BOARD APPROVAL REQUIRED~~

~~All service retirements will be approved by the Retirement Board pursuant to Government Code Section 31670.~~

### ~~5.3. ANNUITY CERTIFICATES~~

~~Prior to the first payment of the retirement allowance, each member shall be provided with a document indicating the amount of his/her retirement allowance for the unmodified and optional methods of payments. This document shall provide for the signature of the member indicating the member's choice as to the option of allowance desired and shall constitute the annuity certificate referred to in the 1937 Act.~~

~~5.3. Amended 12/16/2015~~

~~Article 5 Amended 07/02/2002~~

~~Article 5 Amended 12/04/2007~~

~~Article 5 Amended 02/25/2014~~

~~Article 5 Amended 12/16/2015~~

~~ARTICLE 6 -- SERVICE~~

~~6.1. SERVICE CREDIT~~

~~Credit shall be given for each period of regular service rendered by a member for compensation. Overtime hours are excluded from regular service. A fractional year of service shall be determined as follows:~~

~~A. Monthly salaried employees on the basis of twelve (12) months per year (173.33 hours).~~

~~B. Per diem employees on the basis of two hundred sixty (260) days per year.~~

~~C. Hourly employees on the basis of two thousand eighty (2,080) hours per year.~~

~~D. Credit shall be given to court reporters for each period of service for which a contribution is made to the retirement system.~~

~~No credit shall be given for more than one (1) year of service in any twelve (12) month period.~~

~~6.1. Amended 12/16/2015~~

~~Article 6 Amended 07/02/2002~~

~~Article 6 Amended 12/04/2007~~

~~Article 6 Amended 12/16/2015~~

~~ARTICLE 7 — COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION~~

~~7.1. COMPENSATION EARNABLE~~

~~Computed pursuant to Government Code Section 31461.~~

~~Average compensation shall be defined as all pay including allowances and pay related to special skills, knowledge or shift work. Average compensation excludes overtime, bonuses, any specific reimbursement such as for travel or professional development and excludes leave accrual payments upon termination or in excess of maximum allowable in service payments by the employer as stated in the Auditor-Controller's earnings table from which retirement contributions are made and as approved by the Board of Supervisors (or like pay for non-County employers). Average compensation for Tier 6 members shall be base pay only.~~

~~7.1. Amended 02/25/2014~~

~~7.2. COURT REPORTERS~~

~~Court Reporters' compensation earnable shall be computed pursuant to Government Code Section 70047.1.~~

~~7.3. AVERAGE MONTHLY FINAL COMPENSATION~~

~~A. One Year Average~~

~~Pursuant to Government Code Section 31462.1, average monthly final compensation is computed as the member's compensation over a one-year period for Tiers 1, 4 and 5. This is 2,080 consecutive hours for members paid on an hourly basis and for members normally paid eighty (80) hours biweekly.~~

~~Members who are paid biweekly but on hourly schedules other than eighty (80) hours biweekly will have their average monthly final compensation for a one-year period computed by taking the member's hourly schedule over consecutive twenty-six (26) biweekly pay periods based upon the member working the full schedule or the equivalent of such schedule.~~

~~Members who are paid on a semi-monthly basis will have their average monthly final compensation for a one-year period computed by taking the member's semi-monthly schedule over consecutive twenty-four (24) semi-monthly pay periods based upon the member working the full schedule or the equivalent of such schedule.~~

~~Members who are paid on a monthly basis will have their average monthly final compensation for a one-year period computed by taking the member's monthly schedule over consecutive twelve (12) monthly pay periods based upon the member working the full schedule or the equivalent of such schedule.~~

~~The monthly final average compensation will be the total of the above divided by twelve (12).~~

~~B. Three Year Average~~

~~Pursuant to Government Section Code 31462, average monthly final compensation is computed as the member's compensation over a three-year period for Tiers 2, 3 and 6. This is consecutive 6,240 hours for members paid on an hourly basis and for members normally~~

~~paid eighty (80) hours biweekly. Members who are paid biweekly, but on hourly schedules other than eighty (80) hours biweekly, will have their average monthly final compensation for a three-year period computed by taking the member's hourly schedule over consecutive seventy-two (72) biweekly pay periods based upon the member working the full schedule or the equivalent of such schedule.~~

~~Members who are paid semi-monthly will have their average monthly final compensation for a three-year period computed by taking the member's semi-monthly schedule over consecutive seventy-two (72) semi-monthly pay periods based upon the member working the full schedule or the equivalent of such schedule.~~

~~Members who are paid monthly will have their average monthly final compensation for a three-year period computed by taking the member's monthly schedule over consecutive thirty-six (36) monthly pay periods based upon the member working the full schedule or the equivalent of such a period.~~

~~The monthly final compensation will be the total of the above divided by thirty-six (36).~~

~~7.3. Amended 02/25/2014~~

~~7.3. Amended 12/16/2015~~

#### ~~7.4 PENSIONABLE COMPENSATION~~

~~Pensionable Compensation is a term defined in State Retirement Law and is associated with new public employees (retirement system members) hired on or after January 1, 2013. Pensionable Compensation defines what can and cannot be used in the calculation of a member's retirement benefit. Please see Government Code Section 7522.34 of the California Public Employees' Pension Reform Act of 2013 for a complete definition of Pensionable Compensation.~~

~~7.4. Amended 12/16/15~~

~~Article 7 Amended 07/02/2002~~

~~Article 7 Amended 12/04/2007~~

~~Article 7 Amended 02/25/2014~~

~~Article 7 Amended 12/16/2015~~

| **ARTICLE ~~86~~ - AMENDMENTS AND REPEALS**

| **~~86~~.1. AMENDMENTS**

The Retirement Board may, as it deems necessary and desirable, by an affirmative vote of five (5) members, amend these Bylaws to be effective when approved by the Stanislaus County Board of Supervisors.

| **~~86~~.1. Amended 02/25/2014**

| **~~86~~.1. Amended 12/16/2015**

| **~~86~~.2. REPEALS**

All former Bylaws and amendments thereto are hereby repealed. The foregoing Bylaws become effective when approved by the Board of Supervisors as provided by Government Code Section 31525.

| **~~86~~.2. Amended 02/25/2014**

| **~~86~~.2. Amended 12/16/2015**

| **~~86~~.3. BYLAWS REVIEW**

The Bylaws shall be reviewed by a committee appointed by the Chair of the Retirement Board and revisions and/or amendments brought before the Board on or before December 31st at each odd year, or as needed.

| **~~86~~.3. Amended 02/25/2014**

| **Article ~~86~~ Amended 07/02/2002**

| **Article ~~68~~ Amended 02/25/2014**

| **Article ~~86~~ Amended 12/16/2015**

| **ARTICLE 94 - CLAIMS FOR DISABILITY RETIREMENT**

| **94.1. DEFINITIONS**

In this article, unless the context or subject matter otherwise requires:

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, Stanislaus County, a contracting district or other legally authorized entity claiming benefits, rights, or privileges under the County Employees Retirement Law of 1937, section 31450, et seq. of the California Government Code (hereinafter "the 1937 Act").
- C. "StanCERA" means the Stanislaus County Employees' Retirement Association.
- D. "Retirement Board" means the StanCERA Board of Retirement.
- E. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- F. "Referee" means a person appointed by the Retirement Board to make a determination pursuant to Section 31533 of the Government Code. A referee may also be referred to as a "Hearing Officer".
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Disability" or "disabled" means the subject employee's permanent physical and/or mental inability to substantially perform his or her usual job duties, with or without accommodations.
- I. "Accommodations" means an agreement by the subject employee's employer, either Stanislaus County or contracting district, to modify the regularly assigned duties and/or work environment as necessary to allow the subject employee to continue to work within the limitations established by medical evidence.
- J. "Pending" file status refers to an application which has been filed with the Executive Director's office but which cannot be processed because requisite documentation and/or information (e.g., medical records, medical reports, job descriptions, employer information, completed questionnaires, etc.) has not been received by the Executive Director's office.
- K. "Active" file status refers to an application, which has been filed with the Executive Director's office and for which the Executive Director's office has received all requisite documentation and/or information necessary to process it. A "pending" file becomes "active" as of the date on which the last requisite documentation and information is received by the Executive Director's office. Any time limits or file status dates will use the date the file becomes "active" as a reference date.

L. "Disability Counsel"  
means the independent  
legal counsel obtained by  
the Executive Director ▲

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| **94.1. Amended 02/25/2014**

| **94.1. Amended 12/16/2015**

| **94.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for disability retirement shall be made by filing with the Executive Director's office a completed application on a form approved by the Retirement Board for that purpose together

with all information required in Section 94.3 of these Bylaws. Upon the filing of an application, the Executive Director shall serve the applicant with a copy of this article. Upon receipt of all requisite information and documentation, the Executive Director shall review and investigate the matter and issue a recommendation to the Retirement Board pursuant to the provisions of this article.

- B. If during the pendency of an application there is any change in any of the facts or claims set forth in the application, or any information submitted pursuant to Section 94.3 of these Bylaws, the applicant shall immediately file with the Executive Director's office and serve on all interested parties written notice of the change. Upon the filing of such notice with the Executive Director's office, the application shall be deemed amended accordingly.
- C. In the event that the applicant modifies the basis of his / her claim for disability benefits, or changes the application from a claim for non-service to a claim for service-connected disability benefits, the date of that applicant's active filing date will be amended to reflect the later date upon which the Executive Director's office receives the additional information or modified claim. Failing to file an accurate or fully complete application form or failing to timely amend an already active application form may, at the discretion of the Retirement Board or referee, preclude the applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).
- D. An applicant may file an application for non-service connected disability benefits and/or service connected disability benefits. If the applicant files an application for service connected disability benefits only and the Retirement Board finds that the subject employee is disabled, but not on a service connected basis, upon application the subject employee, if eligible, shall be retired for non-service connected disability.

~~94.2.~~ Amended 02/25/2014

~~94.2.~~ Amended 12/16/2015

### ~~94.3.~~ DOCUMENTS TO BE COMPLETED AND FURNISHED BY APPLICANT

- A. The following documents must be furnished to the Executive Director's office by the applicant in connection with the initial disability application.
1. Completed Application for Disability Retirement (includes statement signed under penalty of perjury by the applicant that the materials provided are all the materials available in relation to the claim for disability benefits.)
  2. Responses to Disability Retirement Questionnaire, signed, under penalty of perjury.
  3. Duly executed authorizations for release of employment/workers' compensation information, medical information, and, if applicable, psychiatric information.
  4. Third party claims form.
  5. IME missed appointment form.
  6. Completed -Treating/Attending -Physician's -Statement. A minimum of one statement is required.
  7. Pursuant to Government Code Section 31722, if member applies for disability retirement four (4) or more months after date of termination, member shall include a letter from treating physician stating member has remained permanently disabled since date of termination.
  8. Employer's Job Task Analysis.

9. Employer's Job Description.

10. All other relevant medical reports and other relevant evidence the applicant would like the Retirement Board to consider.

~~11. Statement signed under penalty of perjury by the applicant that the materials provided are all the materials available in relation to the application.~~

**Comment [RS1]:** Incorporated into 4.3 (A)(1)

#### 11. Member's Statement Description of Employee's Job Duties

The responses on the Disability Retirement Questionnaire shall be provided under penalty of perjury and the applicant shall sign and attach to his / her responses, the signature page, which StanCERA provides with the questionnaire. If the responses are not returned with the appropriate signature page, they shall be deemed not to have been filed and shall be returned to the applicant with additional instructions.

B. At any time during the pendency of an application, the Executive Director, the Retirement Board, or counsel for the Executive Director may, by written notice to the applicant, request that the applicant serve within thirty (30) days, or such further time as may be designated, any or all of the following items:

1. Copies of all other documents upon which the applicant relies in support of the application.
2. A narrative physician's report of the subject employee's current medical condition.
3. Sworn written responses to written questions concerning any matter, which is either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to the subject employee's medical history, employment history, current medical condition, and current employment status.

C. The Executive Director and/or the Executive Director's counsel shall, in their sole and complete discretion, independently obtain copies of all of the applicant's medical records, employment records, and other relevant documents. However, in no event shall the applicant be relieved of his or her strict obligation to file and/or furnish to the Executive Director's office all medical records and necessary documents described in this section ~~94.3~~. StanCERA shall bear the costs incurred by the Executive Director and/or the Executive Director's counsel in independently obtaining copies of relevant documents. The applicant shall bear the costs he or she incurs in obtaining copies of documents filed and/or furnished by him or her in connection with the application.

~~94.3. Amended 02/25/2014~~

~~94.3. Amended 12/16/2015~~

#### ~~94.4. MEDICAL AND PSYCHIATRIC EXAMINATIONS~~

A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or counsel for the Executive Director may, by written notice to the applicant (and to the subject employee if the application was filed on behalf of the employee), request that the subject employee submit within thirty (30) days, or such further time as may be designated, to one or more medical examinations by physicians designated by the requesting party at the times and places specified in the notice of the examination(s). As used in this article, the words "medical" and "physician" include, but not limited to, duly licensed medical doctors,



osteopathic doctors, psychologists, chiropractors, and other legally recognized practitioners of the healing arts.

- B. StanCERA shall bear the fees charged by the examining physician(s) in connection with any examination conducted pursuant to this section. Notwithstanding the foregoing, in the event the subject employee fails to timely appear for a duly noticed medical examination, he or she shall be liable for any cancellation fee or other fee charged by the physician in connection with the subject employee's failure to appear. In the event the subject employee is, thereafter, granted disability benefits, such cancellation fee may be charged against said benefits.

**94.4. Amended 02/25/2014**

**94.4. Amended 12/16/2015**

#### **94.5. DISCOVERY AVAILABLE**

In addition to any form of discovery available, pursuant to this article, at any time during the pendency of the application, any interested party shall be entitled to any of the discovery procedures prescribed by the Code of Civil Procedure, provided that such discovery is limited to the subject matter of the application. All forms of discovery authorized by this article and all remedies and procedures related there to, shall be available in conjunction with any disability re-evaluation under Government Code Section 31729.

**94.5. Amended 12/16/2015**

#### **94.6. APPLICANT'S FAILURE TO FURNISH DOCUMENTS, INFORMATION, OR FAILURE TO SUBMIT TO MEDICAL EXAMINATION**

- A. If the applicant and/or the subject employee fails or refuses to comply with any request pursuant to section 94.3 within the time provided, or if the requesting party deems that a further response is required, or if the subject employee fails or refuses to appear for any medical examination pursuant to section 94.4 or fails or refuses to cooperate with an examining physician, or if the applicant and/or the subject employee otherwise fails or refuses to comply with any discovery request, the requesting party may move the Retirement Board for an order to compel compliance with the request.
- B. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion. Upon the filing of such a motion, the Executive Director or the Executive Director's counsel shall set a hearing thereon either before the Retirement Board or a referee and serve all interested parties with notice thereof. Said motion shall be heard no sooner than 30 days after notice thereof is served on all interested parties. No later than five (5) days before the date set for hearing, any interested party may file and serve written opposition to the motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of its order on all interested parties.
- C. If the applicant and/or the subject employee fails or refuses to obey an order of the Retirement Board or referee made pursuant to this section, the Retirement Board may upon the further motion of the requesting party (notice of which shall be given pursuant to paragraph 94.6.B., above) take any further action which it determines to be just and reasonable, including, but not limited to, precluding the applicant and/or the subject employee

from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice.

**94.6. Amended 02/25/2014**

**94.7. DOCUMENTS AND INFORMATION TO BE FURNISHED BY EMPLOYER**

At any time during the pendency of an application, the Executive Director, the Retirement Board, or counsel for the Executive Director may issue a written request to the subject employee's department head, supervisor(s), co-workers, personnel department or the risk management department seeking information regarding the subject employee's job duties, illness or injury and other pertinent data. The department head or other designated person(s) shall provide, or direct the provision of, the necessary data in written form to the requesting party within ten (10) days of receipt of the request.

**94.7. Amended 02/25/2014**

**94.8. COMMUNICATION WITH INDIVIDUAL RETIREMENT BOARD MEMBERS**

The members of the Retirement Board may act as judge and jury in all disability retirement hearings. As such, once an application for disability benefits is filed, communications between individual Retirement Board members and interested parties or their representatives concerning any issue pertaining to the application, are forbidden until such time as the Retirement Board issues its final written decision. Any violation of this section may result in the Retirement Board member being found ineligible to participate in any discussion regarding the application, or to vote on the disability application.

**94.9. RIGHT TO COUNSEL**

- A. Any applicant is entitled, at his/her/its expense, to be represented by legal counsel at any and all stages of the proceedings. If the applicant decides to retain legal counsel, he/she/it must immediately file, with the Executive Director's office, a written notice designating his/her/its counsel and providing the name, address and telephone number of said counsel. Absent such written designation, StanCERA is not obligated to recognize any party claiming to represent an applicant.
- B. In all matters pertaining to disability retirement, the Executive Director is entitled to be represented by legal counsel chosen by the Retirement Board. In addition, the Retirement Board shall be entitled to representation by legal counsel of its choosing.

**94.9. Amended 02/25/2014**

**4.9 Amended 4/24/2018**

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**94.10. STIPULATIONS OF OTHER ENTITIES NOT BINDING**

No stipulation, agreement, understanding, act or omission on behalf of the County of Stanislaus or on behalf of a contracting district by an officer, employee, or agent of the County of Stanislaus or of a contracting district in a worker's compensation or any other proceeding to which neither the Retirement Board nor StanCERA is a party, shall be binding upon the Retirement Board or StanCERA insofar as such stipulation, agreement, understanding, act or omission may be asserted to relate to disability retirement or the disposition of a particular application for disability retirement, unless such stipulation, agreement, understanding, act or omission has previously been approved by the Retirement Board through a duly adopted

motion, which has been recorded in the official minutes of the Retirement Board. The provisions of this section shall not be deemed to constitute a new policy, but rather a formalization and continuation of an existing unwritten policy, which has been in effect during the life of StanCERA.

**94.10. Amended 12/16/2015**

#### **94.11. ADMINISTRATIVE RECOMMENDATION**

- A. After reviewing the application, and all other documents and information obtained in connection therewith and conducting any necessary investigation, the Executive Director shall make an appropriate recommendation to the Retirement Board. The recommendation may consist of one or more of the following:
1. "Grant service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  2. "Deny service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  3. "Grant non-service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all elements legally necessary to entitle the subject employee to non-service-connected disability retirement.
  4. "Deny non-service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to non-service connected disability retirement.
  5. "Refer for hearing" where the Executive Director determines that there is substantial evidence to support the disability claim, but the evidence does not, in the Executive Director's opinion, prove by a preponderance of the evidence all the elements necessary to grant the disability claim.
- B. The Executive Director's recommendation to the Retirement Board shall be made at a Retirement Board meeting after placing the matter on the agenda of a Retirement Board meeting.

**94.11. Amended 02/25/2014**

**94.11. Amended 12/16/2015**

#### **94.12. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application for which the Retirement Board has received an administrative recommendation pursuant to section 94.11, the Retirement Board shall at the first meeting where the matter properly appears on its agenda take the following action or any other action that the Retirement Board may deem appropriate: grant the disability retirement; deny the disability retirement; remand the application to the Executive Director for further investigation; or refer any or all issues for hearing.

**94.12. Amended 02/25/2014**

#### **94.13. REQUEST FOR HEARING**

Whenever the Retirement Board denies an application for service connected or non-service connected disability retirement without a hearing, the applicant shall, upon request, be entitled to a hearing before the Retirement Board, or before a referee appointed by the Retirement Board. Any such request for hearing shall be in writing and shall be made within thirty (30) days after notice of the Retirement Board's action denying the application and is mailed by certified or registered mail to the applicant or to his / her counsel, if the applicant is represented by counsel. A request for hearing shall be deemed made on the date mailed if mailed by certified or registered mail, on the date postmarked if mailed by first class mail and actually received by StanCERA, or on the date actually received by StanCERA, whichever is earlier.

**94.13. Amended 02/25/2014**

**94.13. Amended 12/16/2015**

**4.13 Amended 4/24/2018**

#### **94.14. SETTING FOR HEARING**

- A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify Executive Director's counsel who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. The Executive Director's counsel shall give written notice of the date, time and place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.
- B. The Executive Director shall maintain a list of retired judges or qualified licensed *attorneys* who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least 10 days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.
- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**94.14. Amended 02/25/2014**

**94.14. Amended 12/16/2015**

| **94.15. HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof, ruling upon the admissibility of evidence, ordering medical I examinations; requiring the additional relevant evidence be gathered and presented; questioning witnesses, and determining whether the matter shall proceed or be adjourned subject to continuation.
- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions.
- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.
- G. Refusal of the applicant or subject employee to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.
- H. The production of medical evidence, in the form of written reports, is favored. Such reports should include the following:
  - 1. A history of the subject injury or illness;
  - 2. The subject employee's prior and subsequent medical history;
  - 3. The subject employee's current subjective complaints;
  - 4. The findings upon examination;
  - 5. The nature and extent of disability;
  - 6. The anticipated nature and extent of further treatment or care;
  - 7. Whether or not the subject employee has a disability, which permanently incapacitates him/her from performing his/her usual and customary job duties, and the basis for that opinion, including the specific job duties for which he/she is incapacitated and the

specific medical conditions, which so incapacitate him/her.

- I. Any interested party may offer, and the Retirement Board or referee shall receive in evidence, medical records and reports, provided that copies of the said documents have been served on all other interested parties at least fifteen (15) days prior to the hearing, along with written notice of intention to offer the said documents into evidence. Any other interested party may subpoena the author of such a medical report or record as a witness and examine him/her as if under cross-examination.
- J. Any interested party may offer, and the referee or Retirement Board shall receive, into evidence the written statement of any non-medical witness provided that:
  1. It is made by affidavit or by declaration under penalty of perjury; and,
  2. A copy has been served on all interested parties at least fifteen (15) days prior to the hearing along with notice of intention to offer the same into evidence.
- K. Any interested party may offer, and the Retirement Board or referee shall receive into evidence the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code, and no exceptional circumstances exist if:
  1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and
  2. At least fifteen (15) days prior to the hearing the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party upon receiving such notice may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him/her.
- L. For the purposes of this article, "service" of a document or notice may be accomplished manually or by mail in the manner provided by section 9.21. If delivery is by mail, the times prescribed in this Article for delivery of documents and notices shall be increased by five (5) days.

M.  
Applicants  
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application.  
Service by  
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shall be  
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Applicant's  
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Failure of an  
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Referee or the Retirement Board shall be deemed a withdrawal of the corresponding disability retirement application with prejudice, unless the hearing is continued by agreement of the parties or upon a showing of good cause. All hearing notices shall include a warning in substantially the following form: "The applicant must personally appear and testify at this hearing. Failure to do so will result in a denial of the disability retirement application."

**Comment [R2]:** Advised by counsel Ted Cabral

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~~94.15.~~ **Amended 02/25/2014**

~~94.15.~~ **Amended 12/16/2015**

~~4.15 (M)~~ **added 4/24/2018**

#### ~~94.16.~~ **DECISION OF THE REFEREE**

- A. When a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and a recommended decision and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Executive Director's office his / her proposed findings of fact and recommended decision, which shall include those documents received into evidence. Simultaneously therewith, he / she shall serve the proposed findings of fact and recommended decision on all interested parties. The referee shall not be entitled to remuneration for his services until the aforesaid documents have been filed and served. For the purposes of this section, a matter is considered "submitted" on the last day of the hearing, unless the referee, for good cause, orders otherwise.

- C. In the absence of good cause, as determined by the referee, any post hearing briefs or other pleadings shall be filed with the Executive Director's office and served on the referee and on all interested parties within twenty (20) days of the last day of the hearing. The filing of post hearing briefs shall not extend the date the matter is submitted.
- D. Upon the service of the referee's proposed findings of fact and recommended decision, the interested parties shall have ten (10) days to submit objections thereto by filing the same with the Retirement Board and serving the same on all interested parties whereupon the said objections shall be incorporated in the record to be considered by the Retirement Board.

**94.16. Amended 02/25/2014**

**94.16. Amended 12/16/2015**

#### **94.17. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

- A. Upon receiving the proposed findings of fact and recommendation of the referee, the Retirement Board may:
1. Approve and adopt the proposed findings and recommendation of the referee; or
  2. Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof, the Retirement Board shall take such action as in its opinion is indicated by such evidence; or
  3. Refer the matter back with / without instructions to the referee for further proceedings; or
  4. Set the matter for hearing before itself. At such hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.
- B. Upon approving and adopting the referee's decision or any subsequently modified decision, thereof, the Retirement Board shall comply with Subsection 94.18(C).

**94.17. Amended 02/25/2014**

**94.17. Amended 12/16/2015**

#### **94.18. HEARINGS BEFORE THE RETIREMENT BOARD**

- A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:
1. A majority of all members present; or
  2. Four (4) members, whichever is greater, concur therein.
- B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.
- C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with



a notice of the right to judicial review of the Retirement Board's decision as set forth in Section 9.20.

**94.18. Amended 02/25/2014**

**94.18. Amended 12/16/2015**

#### **94.19. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date the notice is mailed to the applicant by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the subject employee, if other than the applicant, and to all other interested parties and their respective counsel.

**94.19. Amended 02/25/2014**

**94.19. Amended 12/16/2015**

#### **94.20. JUDICIAL REVIEW OF RETIREMENT BOARD DECISIONS**

The time to seek judicial review of final Retirement Board decisions is governed by Code of Civil Procedure section 1094.6. Each notice of decision shall include a statement substantially as follows: "The time to seek judicial review (appeal) from this decision is governed by Code of Civil Procedure section 1094.6. If you disagree with this decision and wish to appeal it, you must file a petition for writ of mandate with the superior court within 90 days of the date of this notice. If you fail to do so, you will lose your right to appeal this decision".

**94.20. Amended 02/25/2014**

**94.20. Amended 12/16/2015**

#### **94.21. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this Article require service on "interested parties," such service shall be made on the Executive Director, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.
- C. Unless otherwise provided in these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.

D. For purposes of determining the effectiveness of service on an applicant or subject employee, correspondence shall be deemed "properly addressed" if it bears the address specified on the application, or if the application has been amended, the address specified on the most recently filed amended application.

**94.21. Amended 02/25/2014**

**94.21. Amended 12/16/2015**

**Article 94 Amended 12/04/2007**

**Article 94 Amended 11/23/2010**

**Article 94 Amended 02/25/2014**

**Article 94 Amended 12/16/2015**

**Article 4 Amended 4/24/2018**

**ARTICLE 405 - CLAIMS FOR BENEFITS, RIGHTS, OR PRIVILEGES OTHER THAN DISABILITY RETIREMENT**

**405.1. PURPOSE**

The purpose of this article is to provide a procedure for acting upon applications for rights, benefits, and privileges other than applications for disability retirement under the 1937 Act to the end that applications can be expeditiously processed with a minimum lapse of time and that when a hearing is required by law, the Applicant will have notice of the hearing and an opportunity to appear before the Retirement Board and present his / her case.

**405.1. Amended 12/16/2015**

**405.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for rights, benefits, and privileges other than applications for disability retirement shall be made by filing with the Retirement Board a completed application, on a form approved by the Retirement Board, for that purpose, together with all facts, information, and documentation supporting such claim. Upon the filing of such an application, the Retirement Board shall serve the Applicant with a copy of this article and forward the application to the Executive Director for the Executive Director's review, investigation, and recommendation, pursuant to the provisions of this article.
- B. If, during the pendency of an application, there is any change in any of the facts or claims set forth in the application, the Applicant shall immediately file with the Retirement Board and serve on all interested parties written notice of the change. Upon the filing of such notice with the Retirement Board, the application shall be deemed amended accordingly.
- C. Failure to accurately and fully complete or timely amend an application may delay its processing or, in the discretion of the Retirement Board or referee, preclude the Applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).

**405.2. Amended 02/25/2014**

**405.2. Amended 12/16/2015**

**405.3. FURTHER INFORMATION TO BE FURNISHED BY APPLICANT**

- A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or the counsel for StanCERA may, by written notice to the Applicant, request that the Applicant serve, within thirty (30) days or such further time as may be designated, any or all of the following items: copies of all pertinent records and reports, copies of all other documents upon which the Applicant relies in support of the application, and sworn written responses to written inquiries concerning any matter, which is, either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to, the subject employee's medical history, employment history, current medical condition, and current employment status.

- B. With respect to any request, pursuant to Subsection ~~405.2~~. (A), if the Applicant or subject employee fails or refuses to respond within the time allowed for response or if the propounding party deems a further response to be required, the propounding party may move the Retirement Board for an order to compel compliance with the request. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion. Upon the filing of such a motion, the Executive Director shall set a hearing thereon either before the Retirement Board or a referee and serve all interested parties with notice thereof. No later than five (5) days before the date set for hearing, any interested party may file and serve written opposition to the motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of the ruling on all interested parties. If the Applicant or subject employee fails or refuses to obey an order of the Retirement Board or referee made, pursuant to this subsection, the Retirement Board may take any further action upon the noticed request of any interested party, which it determines to be reasonable and just, including, but not limited to, precluding the Applicant from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice.

Nothing in this Section shall be construed to limit the right of any interested party to seek judicial review of action taken by the Retirement Board or referee pursuant to this Section.

~~405.3~~. Amended 02/25/2014

~~405.3~~. Amended 12/16/2015

#### ~~405.4~~. ADMINISTRATIVE RECOMMENDATION

A. Upon review of the application and information submitted by the Applicant, and all other relevant material, the Executive Director shall make one of the following recommendations to the Retirement Board:

1. "Grant claim for benefits" where the Executive Director determines, from all available information that there is no substantial conflict with respect to the facts necessary to grant an application for benefits, rights, or privileges.
2. "Refer for hearing:" where the Executive Director is unable to find, from all available information, the necessary conditions to recommend granting a claim for benefits, rights, or privileges. At any time prior to hearing, the Executive Director may, in accordance with the standards set forth in Subsection ~~405.4~~, withdraw his recommendation to refer to hearing and recommend that the claim for benefits, rights, or privileges be granted, and the Retirement Board may act, thereon, in the manner prescribed in Section ~~405.5~~ of this Article.
3. "Deny claim for benefits" where the Executive Director determines from all available information that there is no substantial evidence to support the facts necessary to grant such a benefit.

B. The Executive Director's recommendation to the Retirement Board shall be made at a regular meeting of the Retirement Board after placing the matter on the agenda of a Retirement Board meeting.

~~405.4~~. Amended 02/25/2014

~~405.4~~ Amended 12/16/2015

#### **405.5. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application, for which the Retirement Board has received an administrative recommendation, pursuant to Section ~~405.4~~, the Retirement Board shall, at the first meeting where the matter properly appears on its agenda, take the following action or any other action that the Retirement Board may deem appropriate:

- A. If the administrative recommendation is "grant claim for benefits" the Retirement Board may either grant such a claim or refer all issues for hearing.
- B. If the administrative recommendation is "refer for hearing", the Retirement Board may either refer all issues for hearing or remand to the Executive Director for further investigation.
- C. If the administrative recommendation is "deny claim for benefits", the Retirement Board may either deny such benefit, grant such benefit, or refer all issues to hearing.

~~405.5.~~ Amended 02/25/2014

~~405.5.~~ Amended 12/16/2015

#### **405.6. SETTING FOR HEARING**

- A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify counsel, who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. The Executive Director's counsel shall give written notice of the date, time and place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.
- B. The Executive Director shall maintain a list of retired judges or qualified licensed attorneys who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least ten (10) days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.
- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but are not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**~~405.6.~~ Amended 02/25/2014**  
**~~405.6.~~ Amended on 12/16/2015**

**~~405.7.~~ PRE-HEARING PROCESS**

- A. The Executive Director shall schedule a date for the hearing. The Retirement Board or referee may, upon stipulation by the interested parties or showing of good cause, continue a hearing to a new date. The party requesting the continuance shall bear all costs relating to the continuance, unless good cause is shown to the Retirement Board.
- B. Within thirty (30) days of the date of the hearing, the Applicant shall provide a copy of all documents and writings, which the Applicant proposes to introduce at the hearing to the Executive Director, and the Executive Director shall provide a copy of documents and writings that the Executive Director intends to introduce at the hearing to the Applicant. Any interested party may request a pre-hearing conference. The Applicant or the Executive Director may set a pre-hearing conference by serving all interested parties with written notice of the conference at least fifteen (15) days in advance. Such conferences shall be attended by all interested parties and their counsel.
- C. Any interested party shall at any time after filing of the application, be entitled to undertake discovery in the form of requests for admissions, interrogatories or depositions in the manner prescribed by the Code of Civil Procedure, provided that such discovery is limited to the matters set forth in the application.
- D. Formal discovery shall be limited to those procedures provided in this Article and the 1937 Act, except as otherwise stipulated between the parties or as authorized by the Retirement Board or referee upon a showing of good cause.

**~~405.7.~~ Amended 02/25/2014**  
**~~405.7.~~ Amended on 12/16/2015**

**~~405.8.~~ HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof; ruling upon the admissibility of evidence; ordering medical examinations; requiring that additional relevant evidence be gathered and presented; questioning witnesses; and determining whether the matter shall proceed or be adjourned subject to continuation.
- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely on in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient

in and of itself to support a finding unless it would be admissible over objection in civil actions.

- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.
- G. Refusal of the Applicant or interested party to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.
- H. Any interested party may offer, and the Retirement Board or referee shall receive into evidence, the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding, that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code and no exceptional circumstances exist if:
  - 1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and
  - 2. At least thirty (30) days prior to the hearing, the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party, upon receiving such notice, may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him. These limitations are not applicable to a deposition admissible under the terms of Section 2025.010 of the Code of Civil Procedure.
- I. For the purposes of this Section, "delivery" of a document or notice may be accomplished manually or by mail in the manner provided by Subsection ~~405.14~~. If delivery is by mail, the times prescribed in this subsection for delivery of documents and notices shall be increased by five (5) days.

~~405.8. Amended 02/25/2014~~

~~405.8. Amended on 12/16/2015~~

~~5.8. Amended on 4/24/2018~~

#### ~~405.9. DECISION OF THE REFEREE~~

- A. Where a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and recommended decisions and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Retirement Board his proposed findings of fact and recommended decision, which shall include those documents received into evidence or rejected and shall serve the same on all interested parties. The referee shall not be entitled to remuneration for his services, until the aforesaid documents have been filed and served.
- C. Within ten (10) days following the service of the referee's proposed findings of fact and recommended decision, any interested party may submit objections, thereto, by filing the same with the Retirement Board and serving the same on all interested parties.

~~405.9. Amended on 12/16/2015~~

**405.10. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

Upon receiving the proposed findings of fact and recommended decision, the Retirement Board may:

- A. Approve and adopt the proposed findings and recommendations of the referee; or
- B. Require a transcript or summary of all the testimony plus all other evidence received by the referee and, thereupon, take such action as in its opinion is indicated by such evidence; or
- C. Refer the matter back with / without instructions to the referee for further proceedings; or
- D. Set the matter for hearing before the Retirement Board on a date within the next forty-five (45) days. At such a hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.

***405.10. Amended 02/25/2014***

***405.10. Amended on 12/16/2015***

**405.11. HEARINGS BEFORE THE RETIREMENT BOARD**

- A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held, pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:
  - 1. A majority of all members present; or
  - 2. Four (4) members, whichever is greater, concur therein.
- B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.
- C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with a notice of the right to judicial review of the Retirement Board's decision as set forth in Section ~~405.14~~.

***405.11. Amended on 12/16/2015***

**405.12. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date notice, thereof, is mailed to the subject employee by US first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the applicant, if other than the subject employee, and to all other interested parties and their respective counsel.

***405.12. Amended on 12/16/2015***



### **405.13. JUDICIAL REVIEW OF THE RETIREMENT BOARD'S DECISION**

Judicial review of the final retirement decisions shall be subject to Code of Civil Procedure Section 1094.6. This section has been made applicable by the Retirement Board and the Stanislaus County Board of Supervisors. Following each final decision, the Executive Director shall include in the notice of decision a statement substantially as follows: "The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure section 1094.6, which has been made applicable to StanCERA by the Retirement Board and the Stanislaus County Board of Supervisors. Generally, any petition or other paper seeking judicial review must be filed in the appropriate court not later than the ninetieth (90) day following the date on which this decision becomes final. Judicial review of a final decision is reviewable, pursuant to Code of Civil Procedure section 1094.5 only if the petition for writ of mandate made pursuant to Code of Civil Procedure section 1094.06 is filed within the time limits specified in latter section.

**405.13. Amended 02/25/2014**

**405.13. Amended on 12/16/2015**

### **405.14. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this article require service on "interested parties," such service shall be made on StanCERA, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and who have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.
- C. Unless otherwise provided by these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served, shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.
- D. For purposes of determining the effectiveness of service on an Applicant, correspondence shall be deemed "properly addressed" if it bears the address specified on the application, or, if the application has been amended, the address specified on the most recently filed amended application.

**405.14. Amended 02/25/2014**

**405.14. Amended on 12/16/2015**

**Article 405 Amended 12/11/2002**

**Article 405 Amended 12/04/2007**

**Article 405 Amended 11/23/2010**

**Article 405 Amended 02/25/2014**

**Article 405 Amended 12/16/2015**

**Article 5 Amended 4/24/2018**

**ARTICLE 447 - SUBPOENAS**

**447.1. POWER TO ISSUE  
SUBPOENAS**

The Retirement Board, the Executive Director or ~~the~~ Referee appointed under these bylaws may issue ~~a~~ subpoenas or subpoena duces tecum in accordance with the provisions of Government Code Section 31535. ~~The applicant or counsel, for any party, may request that a subpoena be issued by the Retirement Board, the Executive Director or the Referee for purposes related to the members' application. The applicant shall bear all costs related to subpoenas issued at the request of the applicant or their counsel.~~

Subpoenas shall be signed by the Chair of the Retirement Board, the Secretary of the Retirement Board, the Executive Director, ~~or the Referee, or~~ counsel for the Executive Director on the Executive Director's behalf.

**7.2 PARTIES ENTITLED TO ISSUANCE OF  
SUBPOENAS**

Any party to a pending application or other proceeding under these Bylaws may request that subpoenas be issued on the party's behalf by the Retirement Board, the Referee, or the Executive Director. The scope of such subpoenas shall be limited to the subject matter of the application or proceeding. The party requesting such subpoenas shall be solely responsible for enforcing them and shall bear all costs incurred in connection with issuance of such subpoenas.

**Comment [RS3]:** All changes to this section recommended by Executive Director's counsel

**447.1. Amended 02/25/2014**  
**447.1. Amended on 12/16/2015**  
**7.1 Amended on 4/24/2018**  
**7.2 Added on 4/24/2018**

**Article 447 Amended 12/11/2002**  
**Article 447 Amended 03/22/2005**  
**Article 447 Amended 02/25/2014**  
**Article 447 Amended 12/16/2015**  
**Article 7 Amended on 4/24/2018**

~~ARTICLE 12 — Article 12 —  
Reviewed and No Amendments Made 12/11/2002 —  
Repealed on 12/04/2007 —~~

~~ARTICLE 13 — Article 13 —  
Repealed on 12/05/2006 — See Retiree Health Allowance Policy —~~



## ~~ARTICLE 14 – CONTINUING EDUCATION AND DUE DILIGENCE VISITATIONS~~

### ~~14.1. NEED FOR A POLICY~~

~~In order for the Retirement Board to make prudent and responsible decisions, as required by Government Code Section 31595, the Retirement Board adopts the following policy on continuing education and due diligence visitations.~~

### ~~14.2. ESTABLISHMENT OF LIST AND EVALUATION OF CONTINUING EDUCATIONAL SEMINARS AND CONFERENCES~~

~~It is the Retirement Board's desire to further educate themselves and staff through a review of information attained at continuing educational seminars and conferences, and also establish an attendance list of worthwhile continuing education sponsors. To this end, the attending representatives of the Retirement Board will:~~

- ~~A. Provide a summary report to the full Retirement board of information and knowledge obtained at such gathering, which is considered by that person to be of benefit to StanCERA;~~
- ~~B. Provide a recommendation as to the worthiness of the information that was presented;~~
- ~~C. Provide a recommendation as to future participation.~~

### ~~14.3. EDUCATIONAL REQUIREMENT~~

~~The Retirement Board establishes the following guidelines regarding the Education requirements for its Retirement Board members:~~

- ~~A. Recommend new trustees attend at least one (1) of the following within their first (3) three year term:~~
  - ~~1. Principles of Pension Management~~
  - ~~2. Modern Investment Theory and Practice for Retirement Systems~~
- ~~B. All Board members must attend at least one (1) of the following within each of their (3) three year terms:~~
  - ~~1. CALAPRS~~
  - ~~2. NCPERS~~
  - ~~3. SACRS~~
  - ~~4. Other Board approved event~~
- ~~C. It is expected that each Board member attend thirty-six (36) hours of pension related training but at least a minimum of twenty-four (24) hours as required by PEPRA legislation.~~
- ~~D. Staff will be responsible for monitoring the Retirement Board member educational hours earned and seek guidance from the Retirement Board, Educational or Governance Committee, if necessary,~~

~~regarding the allowable credit hours for all conferences or seminars attended. The information will become a matter of public record, and will be posted on the StanCERA website.~~

~~14.3. Amended 02/25/2014~~

~~14.3. Amended on 12/16/2015~~

#### ~~14.4. DUE DILIGENCE VISITATIONS OF MONEY MANAGEMENT FIRMS AND CONSULTANTS~~

~~It is the Retirement Board's desire to conduct on-site due diligence visitations of money management firms and consultants, which are currently retained or which the Retirement Board is considering. To this end, the Due Diligence Committee will:~~

- ~~A. Conduct on-site due diligence visitation to at least four (4 ) of the investment management firms each calendar year so that each firm is visited no less than once in five (5 ) years. The initial due diligence visit made before or upon hiring of an investment management firm will count as a regular due diligence visit;~~
- ~~B. Conduct on-site due diligence visitations of the money management and consulting firms under consideration for retainment by the Retirement Board;~~
- ~~C. Conduct on-site due diligence visitation to StanCERA custodial banks, actuarial and investment consultants once every five (5) years.~~
- ~~D. As part of the due diligence process in retaining a money management firm, consultants or actuary, there will be no acceptance of entertainment, travel, hotel or other type of gifts by the Retirement Board members and staff from a money manager, consultant or actuary under consideration for retainment.~~

~~For purposes of the above sections, meals are not considered a gift.~~

~~14.4. Amended on 12/16/2015~~

#### ~~14.5 . DUE DILIGENCE REPORTING REQUIREMENTS~~

~~StanCERA requires the Due Diligence Committee to present a report following each visit made.~~

~~14.5. Amended on 12/16/2015~~

#### ~~14.6. REIMBURSEMENT FOR TRAVEL EXPENSES RELATED TO EDUCATION AND DUE DILIGENCE VISITS~~

~~The Retirement Board recognizes that Retirement Board members and staff training as well as due diligence visits are necessary activities to insure that benefits are administered properly and assets are managed well. To that end, the following Travel Policy is established:~~

~~For any educational event or due diligence travel, all reasonable expenses related to the trip will be reimbursed or paid for by StanCERA. Reasonable expenses will include airfare, train fare, mileage (RS approved rate using odometer readings or Stanislaus County Auditor-Controller mileage chart),~~

~~ferry, toll bridge, parking, shuttle service, taxi service (including tip), hotel lodging, meals (including tips), necessary business phone calls, tips for portage, and other expenses that may occur which are incurred by the traveler for the approved travel. The traveler should present receipts for all items which are easily obtainable (such as lodging and meals) but may also claim amounts for such expenses as bridge toll, taxi service or tips for portage for which receipts are generally not given. The StanCERA business traveler must pay for any additional costs for a spouse or other fellow traveler who has not been authorized to travel on StanCERA business. The Executive Director will review and approve the travel expenses for all Retirement Board members and other staff. A member of the Retirement Board will review and approve the travel expenses of the Executive Director. The disbursing agent for StanCERA( i.e. the Stanislaus County Auditor-Controller's Office), will allow for and pay the travel expenses of the Retirement Board members and staff that have been approved by either the Executive Director or member of the Retirement Board.~~

~~14.6. Amended 02/25/2014~~

~~14.6. Amended on 12/16/2015~~

~~Article 14 Amended 01/25/2005~~

~~Article 14 Amended 12/08/2010~~

~~Article 14 Amended 02/25/2014~~

~~Article 14 Amended on 12/16/2015~~



Richard Santos, Executive Director

Date

## Historical Notes

Approved by the Board of Supervisors on September 27, 1988.

~~Amendment to Section 7.1. approved by the Board of Supervisors on March 14, 1989.~~

Amendment to Sections 49.4.(A), 49.6.(B), and 49.6.(C) approved by the Board of Supervisors on April 25, 1989.

Amendment to Sections 94.4.(A), 94.4.(B), 94.6.(B), 94.6.(C) and 94.7.(A) and deletion of Section 94.6.(D) approved by the Board of Supervisors on December 19, 1989.

Amendment to Section 1.5. approved by the Board of Supervisors on March 27, 1990.

Amendment of Section 1.2 by addition of Subsection (J) approved by the Board of Supervisors on October 2, 1990.

Addition of Section 3.11, (A), (B), and (C) approved by the Board of Supervisors on October 2, 1990.

~~Addition of Section 4.7. approved by the Board of Supervisors on March 26, 1991.~~

Amendment of Article 1, addition of Section 1.6 approved by the Board of Supervisors on April 27, 1993.

~~Addition of Article 13 (Sections 13.1 thru 13.7) approved by the Board of Supervisors on October 25, 1994.~~

~~Addition of Article 14 (Sections 14.1 thru 14.7) approved by the Board of Supervisors on April 2, 1996.~~

~~Amendment of Article 13 approved by the Board of Supervisors on November 6, 1996.~~

Revision of the Bylaws approved by the Board of Supervisors on August 18, 1998.

~~Amendment of Article 13 approved by the Board of Supervisors on September 20, 1998~~

Amendment of Article 2 approved by the Board of Supervisors on April 6, 1999

Amendment of Article 1 approved by the Board of Supervisors on August 31, 1999

~~Amendment of Article 13, Section 13.2, approved by the Board of Supervisors on December 21, 1999~~

Amendment of Article 1, Section 1.5, approved by the Board of Supervisors on October 31, 2000

Revision of the Bylaws approved by the Board of Supervisors on July 2, 2002

Revision of the Bylaws approved by the Board of Supervisors on December 11, 2002

Amendment of Article 2, Section 2.1, approved by the Board of Supervisors on December 5, 2006

~~Repeal of Article 13 on 12/05/2006 — See Retiree Health Allowance Policy~~

Revision of the Bylaws approved by the Board of Supervisors on December 4, 2007

Amendment of Article 1, Section 1.7, approved by the Board of Supervisors on March 25, 2008

Revision of the Bylaws approved by the Board of Supervisors on May 24, 2011

Amendment of Articles 1-~~35~~, ~~78~~-11, ~~and 14~~ approved by the Board of Supervisors on February 25, 2014

Amendment of Articles ~~1.7~~, ~~4.11~~, ~~4.12~~, ~~4.14~~, approved by the Board of Supervisors on March 15, 2016

Removal of Prior Articles 4 (Member Contributions), 5 (Service Retirement), 6 (Service), 7 (Compensation Earnable) and 14 (Continuing Education and Due Diligence Visitations). Prior articles 4, 5, 6, 7 and 14 reclassified as StanCERA Internal Policies. Prior articles 9 (Claims for Disability Retirement), 10 (Claims for Benefits, Rights, or Privileges Other Than Disability), 8 (Amendments and Repeals) and 11 (Subpoenas) reclassified to articles 4, 5, 6 and 7, respectively. Approved by the Board of Supervisors on XX-XX-XXXX

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Stanislaus County  
Employees'  
Retirement Association

## BYLAWS

Amended and Approved by the  
Board of Retirement April 24, 2018

# BYLAWS

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## **ARTICLE 1 – ADMINISTRATION**

### **1.1 NAME**

The name of this association is "the "STANISLAUS COUNTY EMPLOYEES' RETIREMENT ASSOCIATION"(hereinafter "StanCERA").

#### **1.1. Amended 12-16-2015**

### **1.2. PURPOSE**

StanCERA is established, in accordance with and subject to the County Employees' Retirement Law of 1937 (CERL), section 31450, et seq., of the California Government Code (hereinafter "the 1937 Act"). For the purpose of carrying out the provisions of said law within Stanislaus County, California, StanCERA is governed by the 1937 Act, California Public Employees' Pension Reform Act of 2013 (PEPRA) and other Government Code Sections applicable to CERL Systems as supplemented by these Bylaws.

#### **1.2. Amended 02-25-2014**

#### **1.2. Amended 12-16-2015**

### **1.3. DEFINITIONS**

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, the Retirement Board, or StanCERA claiming benefits, rights, or privileges under the 1937 Act.
- C. "Retirement Board" means the StanCERA Board of Retirement.
- D. "Hearing Officer" means the person designated by the Retirement Board to conduct a hearing, and make recommendations pursuant to Government Code section 31533.
- E. "Part-time employee" means an employee of Stanislaus County or a contracting district or other local government who is not employed in a permanent position as established by the Board of Supervisors or other local governing body by budget or ordinance or who regularly works less than fifty-five percent (55%) of the normal workweek.
- F. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Member contributions" means as the actuarially determined rate as applied to the member's compensation earnable or pensionable compensation for each pay period.
- I. "It" means "non-person"

J. "Shall" imposes a duty

L. "May" creates discretionary authority or grants permission or power

M. "Must" creates or recognizes a right; and

N. "May not" imposes a prohibition and is synonymous with shall not.

**1.3. Amended 02-25-2014**

**1.3. Amended 12-16-2015**

**1.3. Amended 04-24-2018**

## **1.4. POLICY AND ADMINISTRATIVE**

Policy directives of the retirement system is vested in the Retirement Board. Day-to-day administration of the retirement system is delegated to the Executive Director. Appointment or election of members of the Retirement Board shall be as provided by Government Code Section 31520.1.

**1.4. Amended 02-25-2014**

**1.4. Amended 12-16-2015**

## **1.5. OFFICERS**

At the first regular meeting in January, the positions of chair and vice chair will rotate in ascending order by succession by the number assigned to the Retirement Board member and shall be held for a period of one (1) year. If a member has not served at least two (2) years on the Retirement Board, that member shall skip the normal rotation and the next successor shall be appointed to chair or vice-chair. Should any officer fail for any reason to complete his or her term, the normal successor shall perform the balance of the unexpired term. If the unexpired term is for less than nine (9) months, then the successor shall also hold office for their normal term immediately following the completion of the unexpired term. If the unexpired term is for nine (9) months or more, the successor shall only hold office for the completion of the unexpired term. The secretary of the Retirement Board shall be the Executive Director. The alternate safety member shall serve as provided in Government Code Section 31520.1 of the 1937 Act.

Pursuant to Government Code Section 31520.1, the alternate safety member shall sit in place of the seventh member during determinations of retirement benefits of a person from the same service as the alternate safety member.

**1.5. Amended 08-31-1999**

**1.5. Amended 10-31-2000**

**1.5. Amended 02-25-2014**

**1.5. Amended 12-16-2015**

**1.5. Amended 04-24-2018**

## **1.6. RETIREMENT BOARD MEMBER ELECTION PROCEDURES**

RETIREMENT BOARD MEMBERS WHO ARE ELECTED by members of StanCERA of the same category of membership (Second and Third seats by General members, Seventh and Alternate seats by Safety members, and Eighth and Alternate Seats by Retired members) shall

be elected according to the procedures set forth in this Section of the StanCERA Bylaws. In all cases where the word "Department" appears in this Section, the meaning shall be construed to include all Stanislaus County Departments, the City of Ceres and contracting Districts (all employers who use StanCERA for administration of retirement benefits). The Executive Director shall prepare a NOTICE OF ELECTION, which shall contain the deadlines for the submission of nomination papers, date of distribution of ballots, date of final receipt of ballots and the date for canvassing the ballots.

The distribution of the notice of election to active and/or retired members shall be made no more than sixty (60) calendar days and no less than forty-five (45) calendar days prior to the final date for receipt of ballots. The distribution of the notice of election will be distributed by U. S. postal services.

The Executive Director shall prepare a NOMINATION PAPER, which upon completion will contain the following information:

Name of candidate; candidate's Agency (if General or Safety member) or city and state of residence (if Retired member); a candidate's statement of not more than two hundred (200) words; signatures of the specific membership electorate in support of the candidate (General – at least twenty-five (25); Safety - at least ten (10); Retired - at least fifteen (15)). If it is determined that 2 or more candidates for the same seat have duplicate membership electorate signatures, then the candidate that turned in their membership electorate document first shall be the only candidate that may count that signature towards fulfilling the signature requirement above); A prepared statement of willingness to serve on the Retirement Board; the Retirement Board seat number and category (General, Safety or Retired); and final date for filing the paper. Completed nomination papers must be submitted to the Executive Director by 5:00 p.m. on the date specified in the notice of election and on the nomination paper (no later than thirty (30) days before the final date for receipt of ballots). Candidates shall only be placed on the election ballot if the above nomination papers and procedures are completed. If only one (1) nomination paper is received by the Executive Director on or before the deadline specified for receipt, the Executive Director shall declare that the candidate is the new Retirement Board member of the seat for which the candidate sought election (pursuant to Government Code Section 31523) and shall prepare and distribute a declaration of election results showing a unanimous ballot for the candidate to all Departments.

If two (2) or more nomination papers are received by the Executive Director on or before the deadline for receipt, the Executive Director shall prepare ELECTION BALLOT MATERIALS, which shall consist of:

- A. A ballot with the candidates' names, Agency (if General or Safety member) or city and state of residence if Retired member), candidates' statements, final date for receipt of ballots and a listing of candidates' names in alphabetical order by last name with appropriate places to indicate the member's choice of a particular candidate;
- B. A "secret" envelope to hold the completed ballot;
- C. A "return to" envelope, which will have the Executive Director's address for receipt of ballots, space for the member's printed name, space for the member's signature, and prepaid return postage; and
- D. A "cover" envelope with the member's name and mailing address. The ballots must be received back in the Executive Director's office by 5:00 p.m. on the final date indicated on the ballot regardless of the method of delivery or postmark date (if applicable) or the ballot material will be voided. The date for final receipt of ballots shall be no less than twenty (20) days following the date of disbursement of the ballot material.

Ballot material may be REISSUED to members who file a notice of non-receipt of election material prepared and filed in the Executive Director's office. The Executive Director shall make a second and final attempt to send out any RETURNED BALLOT MATERIAL at a reasonable cost of staff time and money.

The ballots shall be CANVASSED on the business day following the final date for receipt of ballots by the Executive Director (or his/her designee), one (1) member of the Retirement Board, not associated with the election in any way, and any staff from the Executive Director's office, as may be necessary to expeditiously handle the canvassing of the ballots.

The candidate who receives the HIGHEST NUMBER OF VOTES of the ballots cast shall be declared the WINNER and member of the Retirement Board to assume the seat for which the candidate ran at any Retirement Board meetings following the expiration of the term of the incumbent. The new member will serve three (3) years or for the remaining period of time in which a seat may become vacant for any reason other than the expiration of the incumbent's term of office.

The Executive Director shall prepare a DECLARATION OF ELECTION RESULTS to include the seat of the Retirement Board, the final date of the receipt of ballots, and the name of all the candidates who ran with their corresponding number of votes received in the election. The declaration shall also state the winner of the election and the date on which the winner assumes the seat on the Retirement Board.

The Executive Director shall telephone or email each candidate with the results of the election and the declaration shall be posted in a conspicuous place in or near the Executive Director's office in the afternoon following the canvassing. Copies of the declaration shall be delivered to each candidate and each Agency/Department Director (if General member or Safety member election) or the Retired Employees of Stanislaus County Organization, Inc.(RESKO), (if a Retired Member election) with a message to retirees of the winner to appear on the next retiree payroll check following the canvassing.

If any of the specific electorate desires a RECOUNT of the ballots cast, the member must make a written petition to the Retirement Board for a recount and include a \$500.00 payment for costs incurred. The petition must be received by the Executive Director no later than fourteen (14) days following the original canvassing of the ballots. The Executive Director shall forward the petition on to the Chair of the Retirement Board who shall call a special meeting of the Retirement Board for a recount. The date of the recount shall be no later than thirty (30) days from the date of the original canvassing. The petitioner or designee must attend the recount, which shall be accomplished in the same manner as the original count. If the recount shows that a different candidate is the winner by receiving the highest number of votes, a DECLARATION OF REVISED ELECTION RESULTS shall be prepared and distributed in the same fashion as the original declaration of election results.

All member election material shall be DESTROYED thirty (30) days after the original canvassing of the ballots if there is no petition for a recount. Member election material shall be destroyed one (1) week following the completion of all procedures of a recount.

**1.6. Amended 02-25-2014**

**1.6. Amended 12-16-2015**

**1.6. Amended 04-24-2018**



## 1.7. COMMITTEES

The Retirement Board has determined that the following are standing committees.

- A. Due Diligence Committee. This committee may consist of the Vice-Chair as Chair, one (1) other Board member the Executive Director, the Investment Officer and one (1) staff member appointed by the Executive Director (or a designee of the Executive Director), to act as the recorder. This committee shall insure that Due Diligence visits are carried out and reports provided to the Retirement Board of investment manager and other vendor business reviews on a schedule as determined by these Bylaws and the committee.
- B. Internal Governance Committee. This committee shall consist of three (3) Retirement Board members. The Committee Chair may request administrative staff and/or legal counsel to attend Committee meetings as needed. At least one of the Retirement Board members of the committee shall have sufficient background in accounting, financial or managerial matters to understand, relate to and communicate accounting and organizational matters especially as they relate to audit reports. This committee shall have the responsibility for oversight of all financial audits (both external and internal), compliance audits, Bylaw revisions, Policy revisions, Retirement Board member education and training (including ethics) and other internal governance matters.
- C. Strategic Planning Objectives Committee. This Committee shall consist of no less than two (2) Retirement Board members. The committee may request input from administrative staff and attendance for staff at its meetings as the Committee so desires. The committee shall oversee and review staff reports related to the study and recommendations of Retirement Board approved strategic planning objectives. The committee shall have authority to survey, research, request actuarial and other studies as it deems necessary. The committee shall only make "final" reports to the Retirement Board or recommendations to the Retirement Board that require the Board's action. This committee meets at least once every three (3) years, however, may not always have Board members assigned due to the cyclical nature of the needs required of this Committee.
- D. Performance Review and Compensation Committee (PRCC). This committee shall consist of current Chair, past Chair, and current Vice Chair. As needed, the PRCC will meet to discuss the performance and compensation of the position of Executive Director.

The Committee's evaluation process should include but not be limited to the following criteria:

*Goals:* Whether the subject position's stated goals at the beginning of the evaluation period were effectively and meaningfully carried out.

*Added Value:* Whether the subject position added value to the retirement process in all areas of administration. Added value can be measured in (but not limited to) areas such as financial, administrative efficiency, member services, internal and external communication, and enhanced investment governance.

*Strategic Plan:* Whether the subject position's actions are consistent with the Strategic Plan and whether the Strategic Plan is being meaningfully implemented.

After the Committee meets regarding performance review and compensation, the Committee will draft a memorandum with its recommendation regarding the disposition of the subject position to the full Board of Retirement for approval.

The Retirement Board Chair at his/her discretion may appoint Retirement Board members or staff to any standing or ad hoc committee as the Chair deems necessary.

**1.7. Amended 02-25-2014**

**1.7. Amended 12-16-2015**

**1.7. Amended 04-24-2018**

## **1.8. POLICY, PROCEDURE AND PRACTICE**

In governing administration matters the following hierarchy is established in order of priority.

- A. Federal Law
- B. State Law
- C. Local ordinances and resolutions when not in conflict with higher laws
- D. StanCERA Bylaws
- E. Policies and procedures formally adopted by the Retirement Board
- F. Informal policies and procedures
- G. Practice

1.8. Amended 12/16/2015

## **1.9. INDEPENDENT OPERATIONS**

StanCERA is a separate legal entity from Stanislaus County and is governed by the Retirement Board. California Constitution provides that the Retirement Board has the full responsibility and authority to invest StanCERA member retirement funds and provide necessary services in administering retirement benefits as provided in the 1937 Act, and as adopted in multiple employer-employee agreements. To fulfill the mission of StanCERA, the Retirement Board hires staff, contracts with investment managers, hires consultants, and adopts an administrative budget.

To save the time and effort of establishing its own set of Personnel Policies and tracking labor laws (and in accordance with California State law), the Retirement Board hires staff who are Stanislaus County employees. This means that in general and in most instances, these staff will be treated (hired, paid, promoted, demoted, retired or fired) the same as other Stanislaus County employees in like classifications. However, given that StanCERA staff provide services to a variety of public agencies and administer retirement benefits, staff are not subject to mandates from the Board of Supervisors or its agents that would interfere with or otherwise supersede the delivery of those services. To that end this Statement of Independent Operation acknowledges that from time to time, the Retirement Board may act to overrule or set aside a personnel decision or action that emanates from Stanislaus County personnel authority involving staff hired by the Retirement Board or its Executive Director. In matters of retirement benefit administration, the Retirement Board shall have final say in its handling of staff. The Retirement Board has and will continue to utilize Stanislaus County Personnel staff to handle recruitments and Stanislaus County payroll with its contingent of payroll-related items

such as: extra help, Personal Services Contracts, leave time and termination cash out payments, retirement benefits, Social Security coverage, deferred compensation program, group health insurances, unemployment insurance, long term disability, workers compensation insurance, professional development, employee assistance program, cafeteria plan cash out, auto allowance and mileage reimbursement the same as other Stanislaus County employees.

The Retirement Board has used and will continue to use its hired investment consultant to aid in its decision on specific investment managers to hire, their performance and possible termination, as well as providing education on investments.

The Retirement Board has used and will continue to use a variety of special consultants and attorneys.

Since fiscal year 2003-2004, the administrative budget for StanCERA has been approved and monitored solely by the Retirement Board. While the budget includes costs for Stanislaus County services through the Stanislaus County's cost allocation plan (CAP), these services are approved for payment since they support the staff in its mission to provide the promised retirement benefits. While StanCERA may choose not to utilize Stanislaus County services, it intends on continuing its use of and payment for services obtained through the Stanislaus County's CAP as needed. StanCERA will not pay for general Stanislaus County costs to the extent that it does not receive services for such costs.

- 1.9. Amended 02-25-2014***
- 1.9. Amended 12-16-2015***
- 1.9. Amended 04-24-2018***

#### **1.10. ADMINISTRATION OF EXECUTIVE DIRECTOR POSITION, INVESTMENT CLASSIFICATION AND OTHER EXECUTIVE LEVEL STAFF**

Specifically regarding the position of Executive Director, the Investment Officer Series and any other executive level classifications, the Board of Retirement shall have full control over the creation, assessment and disposition of these positions, including salary, and will administer and achieve this control using the processes currently in place at the County. It is understood that the processes used to achieve this control should not be limited to the administration of existing executive level County classifications, as StanCERA, from time to time, may need to create and administer other executive level classifications that do not currently exist. The Retirement Board will continue to work with County Personnel to ensure that any other County classifications used by StanCERA in the administration of the retirement plan are properly structured within the County's salary and position guidelines.

- 1.10. Amended 02-25-2014***
- 1.10. Amended 12-16-2015***
- 1.10 Amended 04-24-2018***

- Article 1 Amended 07-13-2005***
- Article 1 Amended 12-04-2007***
- Article 1 Amended 03-25-2008***
- Article 1 Amended 11-23-2010***
- Article 1 Amended 02-25-2014***
- Article 1 Amended 12-16-2015***
- Article 1 Amended 04-24-2018***

## **ARTICLE 2 – MEETINGS**

### **2.1. REGULAR MEETINGS**

Regular meetings of the Retirement Board shall be held on the fourth Tuesday of each month beginning May 1, 2016. This will be a combined meeting with Investment and Finance items being heard first, to be followed by Administrative and Member and Employer items. When appropriate, StanCERA staff or the Retirement Chair can alter this order if necessary. All regular meetings shall be held at 1:30 p.m. on the aforementioned day in **the Wesley W. Hall Board Room located on the sixth floor of 832 12th Street, Modesto**, California, unless changed by the chair and proper notice given by the Executive Director.

***2.1. Amended 02-25-2014***

***2.1. Amended 12-16-2015***

***2.1. Amended 04-20-2016***

***2.1. Amended 04-24-2016***

### **2.2. SPECIAL MEETINGS**

Special meetings of the Retirement Board may be scheduled at any time by the Chair of the Retirement Board or any five (5) members of the Retirement Board. The Executive Director shall publicly post and give each Retirement Board member the minimum notice required by the Ralph M. Brown Act.

***2.2. Amended 02-25-2014***

***2.2. Amended 12-16-2015***

### **2.3. PERSONS ATTENDING MEETINGS**

All meetings of the Retirement Board shall be open to the public, except closed sessions, permitted by law.

***2.3. Amended 12/16/2015***

### **2.4. RULES OF ORDER**

ROBERT'S RULES OF ORDER shall guide the Retirement Board in its proceedings, except as otherwise provided herein or in the 1937 Act. The Chair shall have a vote on all questions and motions and shall not be required to relinquish the Chair in order to participate in discussions. The Chair shall not make or second a motion. The order of business shall include:

- A. Roll Call
- B. Announcements
- C. Public Comment
- D. Consent Items (e.g., Approval of minutes & retirements)

- E. Investment Matters
- F. Administrative and Member and Employer Matters
- G. Committee Reports and Recommendations
- H. Closed Session
- I. Members' Forum (Information and Future Agenda Requests Only)
- J. Adjournment

The Retirement Board Chair may make changes in the above order at his / her discretion.

### **Requests for Staff Support by the Board**

The Board shall request any research, analyses and reports from staff as are necessary for the Board's effective oversight of StanCERA operations. Such requests will be agendaized and Considered at regularly scheduled Board meetings. If approved, the Executive Director will be responsible for coordinating the completion of the approved project or report within a reasonable time or by the completion date specified in the Board action.

### **Requests by Individual Board Members for Staff or External Support**

Board members making individual requests for information will be advised to make the request with the full Board during Member's Forum, unless the information is readily available and the Executive Director determines that a response will not require any significant commitment of staff time or other external StanCERA resources.

**2.4. Amended 02-25-2014**

**2.4. Amended 12-16-2015**

**2.4 Amended 04-24-2018**

### **2.5. QUORUM**

Five (5) members of the Retirement Board shall constitute a quorum. No business may be transacted without a quorum.

No motion may be passed without a majority of the quorum voting affirmatively.

### **2.6. CORRESPONDENCE**

All correspondence to the Retirement Board must be in writing and received by the Executive Director one hundred twenty (120) hours prior to any regularly scheduled Retirement Board meeting to appear on the Retirement Board agenda.

**2.6. Amended 02-25-2014**

**2.6. Amended 12-16-2015**

## **2.7. MINUTES**

The Executive Director shall cause to be recorded in the minutes the time and place of each meeting, the name of each Board member present, a summary of official actions taken by the Retirement Board, and such other information that will concisely reflect each meeting's content. The minutes shall be presented for Retirement Board approval at its next regular meeting. Such minutes shall be signed by the Executive Director, approved as to form by general legal counsel, and shall become a part of the Retirement Board's permanent record. Meetings shall be audibly recorded and available on the StanCERA website.

***2.7. Amended 02-25-2014***

***2.7. Amended 12-16-2015***

## **2.8. COMPENSATION OF MEMBERS**

Pursuant to Government Code Sections 31520.5 and 31521, those members (appointed by the Board of Supervisors and the retiree representative) shall be eligible to receive the maximum allowance per meeting of the Retirement Board or meeting of a committee for not more than the maximum meetings allowed per month.

***Article 2 Amended 12-04-2007***

***Article 2 Amended 11-23-2010***

***Article 2 Amended 02-25-2014***

***Article 2 Amended 12-16-2015***

***Article2 Amended 4-24-2018***

## **ARTICLE 3 – MEMBERSHIP**

### **3.1. MEMBERSHIP DEFINED**

Membership shall be as defined by the 1937 Act as supplemented by these Bylaws.

#### ***3.1. Amended 02-25-2014***

### **3.2. PROVISIONS FOR MEMBERSHIP**

Every employee of Stanislaus County or of any district, municipality or local government participating in StanCERA, who is appointed to a permanent full-time position, as specified in the ordinances of Stanislaus County or of the included districts, municipalities or local governments shall become a member of StanCERA. Employees hired prior to October 1, 1988, became members on the first day of the calendar month after entrance into service. Employees hired on or after October 1, 1988, shall become members on the date of hire.

#### ***3.2. Amended 4/24/2018***

### **3.3. CONTRACTING DISTRICTS**

Whenever any contracting district is required to make an additional appropriation pursuant to Government Code Section 31627.6, for the purpose of paying for a member's service with the district prior to the district's joining StanCERA, the district may make the additional appropriation by periodic payments (including interest at the current actuarial rate which shall remain in effect until the principal is exhausted) over a period of time not to exceed fifteen ( 15 ) years or may pay the entire balance to the System in one lump sum.

#### ***3.3. Amended 12-16-2015***

#### ***3.3. Amended 4-24-2018***

### **3.4. WAIVER BY EMPLOYEES OVER SIXTY (60)**

An employee of Stanislaus County or of any district included in StanCERA, appointed to a permanent full-time position who is age sixty (60) or over at time of entry, may waive the StanCERA membership requirement pursuant to Government Code Section 31552.

### **3.5. EXCLUSIONS**

Temporary, seasonal, intermittent part-time employees, and independent and personal service contractors are excluded from membership in StanCERA.

### **3.6. ENROLLMENT QUESTIONNAIRE AND PROOF OF BIRTH**

Every member of StanCERA shall file a sworn enrollment questionnaire showing that member's date of birth, date of hire, position, classification (general or safety) and the compensation received. The questionnaire shall be in the form provided by StanCERA. Every member shall submit with the enrollment questionnaire proof of the member's date of birth within ninety (90) days of hire. If a proper questionnaire with proof of birth is not filed within ninety (90) days of

hire, the rate of contribution shall be based on the highest age for the member's retirement tier and classification. When the questionnaire is filed or proof of age is submitted to the Executive Director, the normal age rates will be applied and excess contributions shall not be refunded to the member. The following documents will be acceptable for proof of birth:

A. Any one (1) of the following:

1. Infant baptismal certificate
2. Census record
3. School age record
4. Naturalization certificate
5. A photocopy of a certified birth certificate
6. Passport
7. Alien registration card with photograph
8. Military record (i.e. DD214, ID) if date of birth is shown

B. Any two (2) of the following:

1. Photocopy of certified Marriage Certificate if date of birth is shown
2. Photocopy of Child's certified birth certificate, showing date of birth of member
3. Affidavit by older relative, notarized
4. Hospital birth record

3.6. Amended 02-25-2014

3.6. Amended 12-16-2015

3.6. Amended 4-24-2018

### **3.7. PROOF OF MARRIAGE**

- A. Every member, at the time of retirement, shall submit a copy of a certified proof of marriage or registered domestic partnership certification and an affidavit that the marriage continues if a designated beneficiary is the spouse or registered domestic partner, and the option pursuant to Government Code Section 31760, et seq., is elected.
- B. Every applicant for a spousal continuance based upon a death of a member may be required to submit an affidavit that the marriage continued up until the time of death of the member.

**3.7. Amended 02-25-2014**

**3.7. Amended 12-16-2015**



### **3.8. BENEFICIARY PROOF OF BIRTH**

Every member, at the time of retirement, shall submit a copy of proof of birth certification (see 3.6) of designated beneficiary or beneficiaries selected pursuant to the exercise of an option contained within Government Code Section 31760, et seq.,.

**3.8. Amended 02-25-2014**

**3.8. Amended 12-16-2015**

**3.8. Amended 4-24-2018**

### **3.9. CORRECTION OF DATE OF BIRTH**

Repealed 12/16/2015 See StanCERA Internal Policies – Member Contributions

**3.9. Amended 02-25-2014**

**3.9. Amended 04-24-2018**

### **3.10. PROOF OF DEATH**

Every applicant, at the time of application for a death benefit or continuance, shall submit a copy of a certified final death certificate or a court decree establishing the fact of death.

**3.10. Amended 02-25-2014**

**3.10. Amended on 12-16-2015**

### **3.11. TIER 3 AND SAFETY MEMBERSHIP**

A. Any Tier III member who transfers to a Safety eligible position shall be required to become a contributing member of the retirement system as of the date of the transfer to the Safety eligible position. Any Tier III member whose position becomes Safety eligible through law or collective bargaining process shall be required to become a contributing member of the retirement system as of the effective date of the legislation or negotiated agreement.

**3.11. Amended 02-25-2014**

**3.11. Amended on 12-16-2015**

**3.11. Amended on 4-24-2018**

### **3.12. SPOUSE/REGISTERED DOMESTIC PARTNER**

Wherever in the Bylaws the term “spouse” is used, this term shall also include registered domestic partners.

**Article 3 Amended 12-04-2007**

**Article 3 Amended 11-23-2010**

**Article 3 Amended 02-25-2014**

**Article 3 Amended 12-16-2015**

## ARTICLE 4 - CLAIMS FOR DISABILITY RETIREMENT

### 4.1. DEFINITIONS

In this article, unless the context or subject matter otherwise requires:

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, Stanislaus County, a contracting district or other legally authorized entity claiming benefits, rights, or privileges under the County Employees Retirement Law of 1937, section 31450, et seq. of the California Government Code (hereinafter "the 1937 Act").
- C. "StanCERA" means the Stanislaus County Employees' Retirement Association.
- D. "Retirement Board" means the StanCERA Board of Retirement.
- E. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- F. "Referee" means a person appointed by the Retirement Board to make a determination pursuant to Section 31533 of the Government Code. A referee may also be referred to as a "Hearing Officer".
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Disability" or "disabled" means the subject employee's permanent physical and/or mental inability to substantially perform his or her usual job duties, with or without accommodations.
- I. "Accommodations" means an agreement by the subject employee's employer, either Stanislaus County or contracting district, to modify the regularly assigned duties and/or work environment as necessary to allow the subject employee to continue to work within the limitations established by medical evidence.
- J. "Pending" file status refers to an application which has been filed with the Executive Director's office but which cannot be processed because requisite documentation and/or information (e.g., medical records, medical reports, job descriptions, employer information, completed questionnaires, etc.) has not been received by the Executive Director's office.
- K. "Active" file status refers to an application, which has been filed with the Executive Director's office and for which the Executive Director's office has received all requisite documentation and/or information necessary to process it. A "pending" file becomes "active" as of the date on which the last requisite documentation and information is received by the Executive Director's office. Any time limits or file status dates will use the date the file becomes "active" as a reference date.
- L. "Disability Counsel" means the independent legal counsel obtained by the Executive Director on StanCERA's behalf.

### 4.1. Amended 02-25-2014

#### **4.1. Amended 12-16-2015**

#### **4.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for disability retirement shall be made by filing with the Executive Director's office a completed application on a form approved by the Retirement Board for that purpose together with all information required in Section 4.3 of these Bylaws. Upon the filing of an application, the Executive Director shall serve the applicant with a copy of this article. Upon receipt of all requisite information and documentation, the Executive Director, acting-on behalf of StanCERA, shall review and investigate the matter and issue a recommendation to the Retirement Board pursuant to the provisions of this article.
- B. If during the pendency of an application there is any change in any of the facts or claims set forth in the application, or any information submitted pursuant to Section 4.3 of these Bylaws, the applicant shall immediately file with the Executive Director's office and serve on all interested parties written notice of the change. Upon the filing of such notice with the Executive Director's office, the application shall be deemed amended accordingly.
- C. In the event that the applicant modifies the basis of his / her claim for disability benefits, or changes the application from a claim for non-service to a claim for service-connected disability benefits, the date of that applicant's active filing date will be amended to reflect the later date upon which the Executive Director's office receives the additional information or modified claim. Failing to file an accurate or fully complete application form or failing to timely amend an already active application form may, at the discretion of the Retirement Board or referee, preclude the applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).
- D. An applicant may file an application for non-service connected disability benefits and/or service connected disability benefits. If the applicant files an application for service connected disability benefits only and the Retirement Board finds that the subject employee is disabled, but not on a service connected basis, upon application the subject employee, if eligible, shall be retired for non-service connected disability.

#### **4.2. Amended 02-25-2014**

#### **4.2. Amended 12-16-2015**

#### **4.3. DOCUMENTS TO BE COMPLETED AND FURNISHED BY APPLICANT**

- A. The following documents must be furnished to the Executive Director's office by the applicant in connection with the initial disability application.
  - 1. Completed Application for Disability Retirement (includes statement signed under penalty of perjury by the applicant that the materials provided are all the materials available in relation to the claim for disability benefits.
  - 2. Responses to Disability Retirement Questionnaire, signed, under penalty of perjury.
  - 3. Duly executed authorizations for release of employment/workers' compensation information, medical information, and, if applicable, psychiatric information.
  - 4. Third party claims form.

5. IME missed appointment form.
  6. Completed Treating/Attending Physician's Statement. A minimum of one statement is required.
  7. Pursuant to Government Code Section 31722, if member applies for disability retirement four (4) or more months after date of termination, member shall include a letter from treating physician stating member has remained permanently disabled since date of termination.
  8. Employer's Job Task Analysis.
  9. Employer's Job Description.
  10. All other relevant medical reports and other relevant evidence the applicant would like the Retirement Board to consider.
  11. Member's Statement Description of Employee's Job Duties The responses on the Disability Retirement Questionnaire shall be provided under penalty of perjury and the applicant shall sign and attach to his / her responses, the signature page, which StanCERA provides with the questionnaire. If the responses are not returned with the appropriate signature page, they shall be deemed not to have been filed and shall be returned to the applicant with additional instructions.
- B. At any time during the pendency of an application, the Executive Director, the Retirement Board, or counsel for the Executive Director may, by written notice to the applicant, request that the applicant serve within thirty (30) days, or such further time as may be designated, any or all of the following items:
1. Copies of all other documents upon which the applicant relies in support of the application.
  2. A narrative physician's report of the subject employee's current medical condition.
  3. Sworn written responses to written questions concerning any matter, which is either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to the subject employee's medical history, employment history, current medical condition, and current employment status.
- C. The Executive Director and/or Disability Counsel~~the Executive Director's counsel~~ shall, in their sole and complete discretion, independently obtain copies of all of the applicant's medical records, employment records, and other relevant documents. However, in no event shall the applicant be relieved of his or her strict obligation to file and/or furnish to the Executive Director's office all medical records and necessary documents described in this section 4.3. StanCERA shall bear the costs incurred by the Executive Director and/or Disability Counsel~~the Executive Director's counsel~~ in independently obtaining copies of relevant documents. The applicant shall bear the costs he or she incurs in obtaining copies of documents filed and/or furnished by him or her in connection with the application.

**4.3. Amended 02-25-2014**

**4.3. Amended 12-16-2015**

#### **4.4. MEDICAL AND PSYCHIATRIC EXAMINATIONS**

- A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or Disability Counsel ~~counsel for the Executive Director~~ may, by written notice to the applicant (and to the subject employee if the application was filed on behalf of the employee), request that the subject employee submit within thirty (30) days, or such further time as may be designated, to one or more medical examinations by physicians designated by the requesting party at the times and places specified in the notice of the examination(s). As used in this article, the words "medical" and "physician" include, but not limited to, duly licensed medical doctors, osteopathic doctors, psychologists, chiropractors, and other legally recognized practitioners of the healing arts.
- B. StanCERA shall bear the fees charged by the examining physician(s) in connection with any examination conducted pursuant to this section. Notwithstanding the foregoing, in the event the subject employee fails to timely appear for a duly noticed medical examination, he or she shall be liable for any cancellation fee or other fee charged by the physician in connection with the subject employee's failure to appear. In the even the subject employee is, thereafter, granted disability benefits, such cancellation fee may be charged against said benefits.

**4.4. Amended 02-25-2014**

**4.4. Amended 12-16-2015**

#### **4.5. DISCOVERY AVAILABLE**

In addition to any form of discovery available, pursuant to this article, at any time during the pendency of the application, any interested party shall be entitled to any of the discovery procedures prescribed by the Code of Civil Procedure, provided that such discovery is limited to the subject matter of the application. All forms of discovery authorized by this article and all remedies and procedures related there to, shall be available in conjunction with any disability re-evaluation under Government Code Section 31729.

**4.5. Amended 12-16-2015**

#### **4.6. APPLICANT'S FAILURE TO FURNISH DOCUMENTS, INFORMATION, OR FAILURE TO SUBMIT TO MEDICAL EXAMINATION**

- A. If the applicant and/or the subject employee fails or refuses to comply with any request pursuant to section 4.3 within the time provided, or if the requesting party deems that a further response is required, or if the subject employee fails or refuses to appear for any medical examination pursuant to section 4.4 or fails or refuses to cooperate with an examining physician, or if the applicant and/or the subject employee otherwise fails or refuses to comply with any discovery request, the requesting party may move the Retirement Board for an order to compel compliance with the request.
- B. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion. Upon the filing of such a motion, the Executive Director or Disability Counsel ~~the Executive Director's counsel~~ shall set a hearing thereon either before the Retirement Board or a referee and

serve all interested parties with notice thereof. Said motion shall be heard no sooner than 30 days after notice thereof is served on all interested parties. No later than five (5) days before the date set for hearing, any interested party may file and serve written opposition to the motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of its order on all interested parties.

- C. If the applicant and/or the subject employee fails or refuses to obey an order of the Retirement Board or referee made pursuant to this section, the Retirement Board may upon the further motion of the requesting party (notice of which shall be given pursuant to paragraph 4.6.B., above) take any further action which it determines to be just and reasonable, including, but not limited to, precluding the applicant and/or the subject employee from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice.

#### **4.6. Amended 02-25-2014**

#### **4.7. DOCUMENTS AND INFORMATION TO BE FURNISHED BY EMPLOYER**

At any time during the pendency of an application, the Executive Director, the Retirement Board, or ~~Disability Counsel~~ ~~counsel for the Executive Director~~ may issue a written request, with a copy to employer's counsel, to the subject employee's department head, supervisor(s), co-workers, personnel department or the risk management department seeking information regarding the subject employee's job duties, illness or injury and other pertinent data. The department head or other designated person(s) shall provide, or direct the provision of, the necessary data in written form to the requesting party within ten (10) days of receipt of the request.

#### **4.7. Amended 02-25-2014**

#### **4.8. COMMUNICATION WITH INDIVIDUAL RETIREMENT BOARD MEMBERS**

The members of the Retirement Board may review and decide all disability hearings and their decision shall be final. As such, once an application for disability benefits is filed, communications between individual Retirement Board members and interested parties or their representatives concerning any issue pertaining to the application, are forbidden until such time as the Retirement Board issues its final written decision. Any violation of this section may result in the Retirement Board member being found ineligible to participate in any discussion regarding the application, or to vote on the disability application.

#### **4.9. RIGHT TO COUNSEL**

- A. Any applicant is entitled, at his/her/its expense, to be represented by legal counsel at any and all stages of the proceedings. If the applicant decides to retain legal counsel, he/she/it must immediately file, with the Executive Director's office, a written notice designating his/her/its counsel and providing the name, address and telephone number of said counsel. Absent such written designation, StanCERA is not obligated to recognize any party claiming to represent an applicant.
- B. ~~In all matters pertaining to disability retirement, the Executive Director, who is acting on behalf of StanCERA, is entitled to be represented by legal Disability Counsel~~ ~~counsel chosen by the Retirement Board. In addition, the Retirement~~

~~Board shall be entitled to representation by legal counsel of its choosing. In all matters pertaining to disability retirement, the Executive Director, who is acting on behalf of StanCERA, is entitled to be represented by Disability Counsel, subject to the approval of the Retirement Board. In addition, the Retirement Board shall be entitled to representation by legal counsel of its choosing.~~

**4.9. Amended 02-25-2014**  
**4.9 Amended 4-24-2018**

**4.10. STIPULATIONS OF OTHER ENTITIES NOT BINDING**

No stipulation, agreement, understanding, act or omission on behalf of the County of Stanislaus or on behalf of a contracting district by an officer, employee, or agent of the County of Stanislaus or of a contracting district in a worker's compensation or any other proceeding to which neither the Retirement Board nor StanCERA is a party, shall be binding upon the Retirement Board or StanCERA insofar as such stipulation, agreement, understanding, act or omission may be asserted to relate to disability retirement or the disposition of a particular application for disability retirement, unless such stipulation, agreement, understanding, act or omission has previously been approved by the Retirement Board through a duly adopted motion, which has been recorded in the official minutes of the Retirement Board. The provisions of this section shall not be deemed to constitute a new policy, but rather a formalization and continuation of an existing unwritten policy, which has been in effect during the life of StanCERA.

**4.10. Amended 12-16-2015**

**4.11. ADMINISTRATIVE RECOMMENDATION**

- A. After reviewing the application, and all other documents and information obtained in connection therewith and conducting any necessary investigation, the Executive Director shall make an appropriate recommendation to the Retirement Board. The recommendation may consist of one or more of the following:
1. "Grant service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  2. "Deny service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  3. "Grant non-service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all elements legally necessary to entitle the subject employee to non-service-connected disability retirement.
  4. "Deny non-service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to non-service connected disability retirement.
  5. "Refer for hearing" where the Executive Director determines that there is substantial evidence to support the disability claim, but the evidence does not, in the Executive



Director's opinion, prove by a preponderance of the evidence all the elements necessary to grant the disability claim.

B. The Executive Director's recommendation to the Retirement Board shall be made at a Retirement Board meeting after placing the matter on the agenda of a Retirement Board meeting.

**4.11. Amended 02-25-2014**

**4.11. Amended 12-16-2015**

#### **4.12. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application for which the Retirement Board has received an administrative recommendation pursuant to section 4.11, the Retirement Board shall at the first meeting where the matter properly appears on its agenda take the following action or any other action that the Retirement Board may deem appropriate: grant the disability retirement; deny the disability retirement; remand the application to the Executive Director for further investigation; or refer any or all issues for hearing.

**4.12. Amended 02-25-2014**

#### **4.13. REQUEST FOR HEARING**

Whenever the Retirement Board denies an application for service connected or non-service connected disability retirement without a hearing, the applicant shall, upon request, be entitled to a hearing before the Retirement Board, or before a referee appointed by the Retirement Board. Any such request for hearing shall be in writing and shall be made within thirty (30) days after notice of the Retirement Board's action denying the application and is mailed by certified or registered mail to the applicant or to his / her counsel, if the applicant is represented by counsel. A request for hearing shall be deemed made on the date mailed if mailed by certified or registered mail, on the date postmarked if mailed by first class mail and actually received by StanCERA, or on the date actually received by StanCERA, whichever is earlier.

**4.13. Amended 02-25-2014**

**4.13. Amended 12-16-2015**

**4.13 Amended 04-24-2018**

#### **4.14. SETTING FOR HEARING**

A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify Disability Counsel ~~Executive Director's counsel~~ who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. Disability Counsel ~~The Executive Director's counsel~~ shall give written notice of the date, time and



place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.

- B. The Executive Director shall maintain a list of retired judges or qualified licensed attorneys who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least 10 days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.
- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**4.14. Amended 02-25-2014**

**4.14. Amended 12-16-2015**

#### **4.15. HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof, ruling upon the admissibility of evidence, ordering medical I examinations; requiring the additional relevant evidence be gathered and presented; questioning witnesses, and determining whether the matter shall proceed or be adjourned subject to continuation.
- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions.
- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine

witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.

- G. Refusal of the applicant or subject employee to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.
- H. The production of medical evidence, in the form of written reports, is favored. Such reports should include the following:
  - 1. A history of the subject injury or illness;
  - 2. The subject employee's prior and subsequent medical history;
  - 3. The subject employee's current subjective complaints;
  - 4. The findings upon examination;
  - 5. The nature and extent of disability;
  - 6. The anticipated nature and extent of further treatment or care;
  - 7. Whether or not the subject employee has a disability, which permanently incapacitates him/her from performing his/her usual and customary job duties, and the basis for that opinion, including the specific job duties for which he/she is incapacitated and the specific medical conditions, which so incapacitate him/her.
- I. Any interested party may offer, and the Retirement Board or referee shall receive in evidence, medical records and reports, provided that copies of the said documents have been served on all other interested parties at least fifteen (15) days prior to the hearing, along with written notice of intention to offer the said documents into evidence. Any other interested party may subpoena the author of such a medical report or record as a witness and examine him/her as if under cross-examination.
- J. Any interested party may offer, and the referee or Retirement Board shall receive, into evidence the written statement of any non-medical witness provided that:
  - 1. It is made by affidavit or by declaration under penalty of perjury; and,
  - 2. A copy has been served on all interested parties at least fifteen (15) days prior to the hearing along with notice of intention to offer the same into evidence.
- K. Any interested party may offer, and the Retirement Board or referee shall receive into evidence the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code, and no exceptional circumstances exist if:
  - 1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and

2. At least fifteen (15) days prior to the hearing the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party upon receiving such notice may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him/her.

- L. For the purposes of this article, "service" of a document or notice may be accomplished manually or by mail in the manner provided by section 9.21. If delivery is by mail, the times prescribed in this Article for delivery of documents and notices shall be increased by five (5) days.
- M. Applicants shall personally appear at all hearings pertaining to their application. Service by mail of written notice of hearing shall be sufficient to compel an Applicant's appearance at hearing. Failure of an applicant to personally appear and testify at any duly noticed hearing, whether before a Referee or the Retirement Board shall be deemed a withdrawal of the corresponding disability retirement application with prejudice, unless the hearing is continued by agreement of the parties or upon a showing of good cause. All hearing notices shall include a ~~statement warning~~ in substantially the following form: "The applicant must personally appear and testify at this hearing. Failure to do so will result in a denial of the disability retirement application."

**4.15. Amended 02-25-2014**

**4.15. Amended 12-16-2015**

**4.15 (M) added 4-24-2018**

#### **4.16. DECISION OF THE REFEREE**

- A. When a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and a recommended decision and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Executive Director's office his / her proposed findings of fact and recommended decision, which shall include those documents received into evidence. Simultaneously therewith, he / she shall serve the proposed findings of fact and recommended decision on all interested parties. The referee shall not be entitled to remuneration for his services until the aforesaid documents have been filed and served. For the purposes of this section, a matter is considered "submitted" on the last day of the hearing, unless the referee, for good cause, orders otherwise.
- C. In the absence of good cause, as determined by the referee, any post hearing briefs or other pleadings shall be filed with the Executive Director's office and served on the referee and on all interested parties within twenty (20) days of the last day of the hearing. The filing of post hearing briefs shall not extend the date the matter is submitted.
- D. Upon the service of the referee's proposed findings of fact and recommended decision, the interested parties shall have ten (10) days to submit objections thereto by filing the same with the Retirement Board and serving the same on all interested parties whereupon the said objections shall be incorporated in the record to be considered by the Retirement Board.

**4.16. Amended 02-25-2014**

**4.16. Amended 12-16-2015**

#### **4.17. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

- A. Upon receiving the proposed findings of fact and recommendation of the referee, the Retirement Board may:
1. Approve and adopt the proposed findings and recommendation of the referee; or
  2. Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof, the Retirement Board shall take such action as in its opinion is indicated by such evidence; or
  3. Refer the matter back with / without instructions to the referee for further proceedings; or
  4. Set the matter for hearing before itself. At such hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.
- B. Upon approving and adopting the referee's decision or any subsequently modified decision, thereof, the Retirement Board shall comply with Subsection 4.18(C).

***4.17. Amended 02-25-2014***

***4.17. Amended 12-16-2015***

#### **4.18. HEARINGS BEFORE THE RETIREMENT BOARD**

- A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:
1. A majority of all members present; or
  2. Four (4) members, whichever is greater, concur therein.
- B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.
- C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with a notice of the right to judicial review of the Retirement Board's decision as set forth in Section 4.20.

***4.18. Amended 02-25-2014***

***4.18. Amended 12-16-2015***

#### **4.19. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date the notice is mailed to the applicant by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the subject employee, if other than the applicant, and to all other interested parties and their respective counsel.

**4.19. Amended 02-25-2014**

**4.19. Amended 12-16-2015**

#### **4.20. JUDICIAL REVIEW OF RETIREMENT BOARD DECISIONS**

The time to seek judicial review of final Retirement Board decisions is governed by Code of Civil Procedure section 1094.6. Each notice of decision shall include a statement substantially as follows: "The time to seek judicial review (appeal) from this decision is governed by Code of Civil Procedure section 1094.6. If you disagree with this decision and wish to appeal it, you must file a petition for writ of mandate with the superior court within 90 days of the date of this notice. If you fail to do so, you will lose your right to appeal this decision".

**4.20. Amended 02-25-2014**

**4.20. Amended 12-16-2015**

#### **4.21. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this Article require service on "interested parties," such service shall be made on the Executive Director, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.
- C. Unless otherwise provided in these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.
- D. For purposes of determining the effectiveness of service on an applicant or subject employee, correspondence shall be deemed "properly addressed" if it bears the address specified on the application, or if the application has been amended, the address specified on the most recently filed amended application.

**4.21. Amended 02-25-2014**

**4.21. Amended 12-16-2015**

**Article 4 Amended 12-04-2007**

**Article 4 Amended 11-23-2010**

**Article 4 Amended 02-25-2014**

**Article 4 Amended 12-16-2015**

**Article 4 Amended 04-24-2018**

**ARTICLE 5 - CLAIMS FOR BENEFITS, RIGHTS, OR PRIVILEGES OTHER THAN  
DISABILITY RETIREMENT**

**5.1. PURPOSE**

The purpose of this article is to provide a procedure for acting upon applications for rights, benefits, and privileges other than applications for disability retirement under the 1937 Act to the end that applications can be expeditiously processed with a minimum lapse of time and that when a hearing is required by law, the Applicant will have notice of the hearing and an opportunity to appear before the Retirement Board and present his / her case.

***5.1. Amended 12-16-2015***

**5.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for rights, benefits, and privileges other than applications for disability retirement shall be made by filing with the Retirement Board a completed application, on a form approved by the Retirement Board, for that purpose, together with all facts, information, and documentation supporting such claim. Upon the filing of such an application, the Retirement Board shall serve the Applicant with a copy of this article and forward the application to the Executive Director for the Executive Director's review, investigation, and recommendation, pursuant to the provisions of this article.
- B. If, during the pendency of an application, there is any change in any of the facts or claims set forth in the application, the Applicant shall immediately file with the Retirement Board and serve on all interested parties written notice of the change. Upon the filing of such notice with the Retirement Board, the application shall be deemed amended accordingly.
- C. Failure to accurately and fully complete or timely amend an application may delay its processing or, in the discretion of the Retirement Board or referee, preclude the Applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).

***5.2. Amended 02-25-2014***

***5.2. Amended 12-16-2015***

**5.3. FURTHER INFORMATION TO BE FURNISHED BY APPLICANT**

- A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or the counsel for StanCERA may, by written notice to the Applicant, request that the Applicant serve, within thirty (30) days or such further time as may be designated, any or all of the following items: copies of all pertinent records and reports, copies of all other documents upon which the Applicant relies in support of the application, and sworn written

responses to written inquiries concerning any matter, which is, either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to, the subject employee's medical history, employment history, current medical condition, and current employment status.

- B. With respect to any request, pursuant to Subsection 5.2. (A), if the Applicant or subject employee fails or refuses to respond within the time allowed for response or if the propounding party deems a further response to be required, the propounding party may move the Retirement Board for an order to compel compliance with the request. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion.

Upon the filing of such a motion, the Executive Director shall set a hearing thereon either before the Retirement Board or a referee and serve all interested parties with notice thereof. No later than five (5) days before the date set for hearing, any interested party may file and serve written opposition to The motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of the ruling on all interested parties. If the Applicant or subject employee fails or refuses to obey an order of the Retirement Board or referee made, pursuant to this subsection, the Retirement Board may take any further action upon the noticed request of any interested party, which it determines to be reasonable and just, including, but not limited to, precluding the Applicant from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice. Nothing in this Section shall be construed to limit the right of any interested party to seek judicial review of action taken by the Retirement Board or referee pursuant to this Section.

**5.3. Amended 02-25-2014**

**5.3. Amended 12-16-2015**

**5.4. ADMINISTRATIVE RECOMMENDATION**

- A. Upon review of the application and information submitted by the Applicant, and all other relevant material, the Executive Director shall make one of the following recommendations to the Retirement Board:
1. "Grant claim for benefits" where the Executive Director determines, from all available information that there is no substantial conflict with respect to the facts necessary to grant an application for benefits, rights, or privileges.
  2. "Refer for hearing:" where the Executive Director is unable to find, from all available information, the necessary conditions to recommend granting a claim for benefits, rights, or privileges. At any time prior to hearing, the Executive Director may, in accordance with the standards set forth in Subsection 5.4, withdraw his recommendation to refer to hearing and recommend that the claim for benefits, rights, or privileges be granted, and the Retirement Board may act, thereon, in the manner prescribed in Section 5.5 of this Article.
  3. "Deny claim for benefits" where the Executive Director determines from all available information that there is no substantial evidence to support the facts necessary to grant such a benefit.

- B. The Executive Director's recommendation to the Retirement Board shall be made at a regular meeting of the Retirement Board after placing the matter on the agenda of a Retirement Board meeting.

**5.4. Amended 02-25-2014**

**5.4. Amended 12-16-2015**

## **5.5. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application, for which the Retirement Board has received an administrative recommendation, pursuant to Section 5.4, the Retirement Board shall, at the first meeting where the matter properly appears on its agenda, take the following action or any other action that the Retirement Board may deem appropriate:

- A. If the administrative recommendation is "grant claim for benefits" the Retirement Board may either grant such a claim or refer all issues for hearing.
- B. If the administrative recommendation is "refer for hearing", the Retirement Board may either refer all issues for hearing or remand to the Executive Director for further investigation.
- C. If the administrative recommendation is "deny claim for benefits",, the Retirement Board may either deny such benefit, grant such benefit, or refer all issues to hearing.

**5.5. Amended 02-25-2014**

**5.5. Amended 12-16-2015**

## **5.6. SETTING FOR HEARING**

- A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify counsel, who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. The Executive Director's counsel shall give written notice of the date, time and place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.
- B. The Executive Director shall maintain a list of retired judges or qualified licensed attorneys who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least ten (10) days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.



- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but are not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**5.6. Amended 02-25-2014**

**5.6. Amended on 12-16-2015**

### **5.7. PRE-HEARING PROCESS**

- A. The Executive Director shall schedule a date for the hearing. The Retirement Board or referee may, upon stipulation by the interested parties or showing of good cause, continue a hearing to a new date. The party requesting the continuance shall bear all costs relating to the continuance, unless good cause is shown to the Retirement Board.
- B. Within thirty (30) days of the date of the hearing, the Applicant shall provide a copy of all documents and writings, which the Applicant proposes to introduce at the hearing to the Executive Director, and the Executive Director shall provide a copy of documents and writings that the Executive Director intends to introduce at the hearing to the Applicant. Any interested party may request a pre-hearing conference. The Applicant or the Executive Director may set a pre-hearing conference by serving all interested parties with written notice of the conference at least fifteen (15) days in advance. Such conferences shall be attended by all interested parties and their counsel.
- C. Any interested party shall at any time after filing of the application, be entitled to undertake discovery in the form of requests for admissions, interrogatories or depositions in the manner prescribed by the Code of Civil Procedure, provided that such discovery is limited to the matters set forth in the application.
- D. Formal discovery shall be limited to those procedures provided in this Article and the 1937 Act, except as otherwise stipulated between the parties or as authorized by the Retirement Board or referee upon a showing of good cause.

**5.7. Amended 02-25-2014**

**5.7. Amended on 12-16-2015**

### **5.8. HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the

Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof; ruling upon the admissibility of evidence; ordering medical examinations; requiring that additional relevant evidence be gathered and presented; questioning witnesses; and determining whether the matter shall proceed or be adjourned subject to continuation.

- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely on in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions.
- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.
- G. Refusal of the Applicant or interested party to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.
- H. Any interested party may offer, and the Retirement Board or referee shall receive into evidence, the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding, that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code and no exceptional circumstances exist if:
  - 1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and
  - 2. At least thirty (30) days prior to the hearing, the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party, upon receiving such notice, may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him. These limitations are not applicable to a deposition admissible under the terms of Section 2025.010 of the Code of Civil Procedure.
- I. For the purposes of this Section, "delivery" of a document or notice may be accomplished manually or by mail in the manner provided by Subsection 5.14. If delivery is by mail, the times prescribed in this subsection for delivery of documents and notices shall be increased by five (5) days.

**5.8. Amended 02-25-2014**

**5.8. Amended on 12-16-2015**

**5.8 Amended on 04-24-2018**

## **5.9. DECISION OF THE REFEREE**

- A. Where a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and recommended decisions and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Retirement Board his proposed findings of fact and recommended decision, which shall include those documents received into evidence or rejected and shall serve the same on all interested parties. The referee shall not be entitled to remuneration for his services, until the aforesaid documents have been filed and served.
- C. Within ten (10) days following the service of the referee's proposed findings of fact and recommended decision, any interested party may submit objections, thereto, by filing the same with the Retirement Board and serving the same on all interested parties.

**5.9. Amended on 12-16-2015**

**5.10. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

Upon receiving the proposed findings of fact and recommended decision, the Retirement Board may:

- A. Approve and adopt the proposed findings and recommendations of the referee; or
- B. Require a transcript or summary of all the testimony plus all other evidence received by the referee and, thereupon, take such action as in its opinion is indicated by such evidence; or
- C. Refer the matter back with / without instructions to the referee for further proceedings; or
- D. Set the matter for hearing before the Retirement Board on a date within the next forty-five (45) days. At such a hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.

**5.10. Amended 02-25-2014**

**5.10. Amended on 12-16-2015**

**5.11. HEARINGS BEFORE THE RETIREMENT BOARD**

- A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held, pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:
  - 1. A majority of all members present; or
  - 2. Four (4) members, whichever is greater, concur therein.
- B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.

- C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with a notice of the right to judicial review of the Retirement Board's decision as set forth in Section 5.14.

**5.11. Amended on 12-16-2015**

**5.12. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date notice, thereof, is mailed to the subject employee by US first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the applicant, if other than the subject employee, and to all other interested parties and their respective counsel.

**5.12. Amended on 12-16-2015**

**5.13. JUDICIAL REVIEW OF THE RETIREMENT BOARD'S DECISION**

Judicial review of the final retirement decisions shall be subject to Code of Civil Procedure Section 1094.6. This section has been made applicable by the Retirement Board and the Stanislaus County Board of Supervisors. Following each final decision, the Executive Director shall include in the notice of decision a statement substantially as follows: "The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure section 1094.6, which has been made applicable to StanCERA by the Retirement Board and the Stanislaus County Board of Supervisors. Generally, any petition or other paper seeking judicial review must be filed in the appropriate court not later than the ninetieth (90) day following the date on which this decision becomes final. Judicial review of a final decision is reviewable, pursuant to Code of Civil Procedure section 1094.5 only if the petition for writ of mandate made pursuant to Code of Civil Procedure section 1094.06 is filed within the time limits specified in latter section.

**5.13. Amended 02-25-2014**

**5.13. Amended on 12-16-2015**

**5.14. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this article require service on "interested parties," such service shall be made on StanCERA, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and who have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.

- C. Unless otherwise provided by these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served, shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.
- D. For purposes of determining the effectiveness of service on an Applicant, correspondence shall be deemed "properly addressed" if it bears the address specified on the application, or, if the application has been amended, the address specified on the most recently filed amended application.

**5.14. Amended 02-25-2014**

**5.14. Amended on 12-16-2015**

*Article 5 Amended 12-11-2002*

*Article 5 Amended 12-04-2007*

*Article 5 Amended 11-23-2010*

*Article 5 Amended 02-25-2014*

*Article 5 Amended 12-16-2015*

*Article 5 Amended 04-24-2018*

**ARTICLE 6 - AMENDMENTS AND REPEALS**

**6.1. AMENDMENTS**

The Retirement Board may, as it deems necessary and desirable, by an affirmative vote of five (5) members, amend these Bylaws to be effective when approved by the Stanislaus County Board of Supervisors.

**6.1. Amended 02-25-2014**

**6.1. Amended 12-16-2015**

**6.2. REPEALS**

All former Bylaws and amendments thereto are hereby repealed. The foregoing Bylaws become effective when approved by the Board of Supervisors as provided by Government Code Section 31525.

**6.2. Amended 02-25-2014**

**6.2. Amended 12-16-2015**

**6.3. BYLAWS REVIEW**

The Bylaws shall be reviewed by a committee appointed by the Chair of the Retirement Board and revisions and/or amendments brought before the Board on or before December 31st at each odd year, or as needed.

**6.3. Amended 02/25/2014**

*Article 6 Amended 07-02-2002*

**Article 6 Amended 02-25-2014**  
**Article 6 Amended 12-16-2015**

## **ARTICLE 7 - SUBPOENAS**

### **7.1. POWER TO ISSUE SUBPOENAS**

The Retirement Board, the Executive Director or a Referee appointed under these Bylaws may issue subpoenas or subpoenas duces tecum in accordance with the provisions of Government Code Section 31535. Subpoenas shall be signed by the Chair of the Retirement Board, the Secretary of the Retirement Board, the Executive Director, or the Referee, or counsel for the Executive Director on the Executive Director's behalf.

### **7.2 PARTIES ENTITLED TO ISSUANCE OF SUBPOENAS**

Any Party to a pending transaction or other proceeding under these Bylaws may request that subpoenas be issued on the party's behalf by the Retirement Board, the Referee, or the Executive Director. The scope of such subpoenas shall be limited to the subject matter of the application or proceeding. The party requesting such subpoenas shall be solely responsible for enforcing them in the same manner found in Government Code section 25170 et seq, as set forth in Government Code section 31535, and shall bear all costs incurred in connection with issuance of such subpoenas.

**7.1. Amended 02-25-2014**

**7.1. Amended on 12-16-2015**

**7.1. Amended on 04-24-2018**

**7.2. Added on 04-24-2018**

**Article 7 Amended 12-11-2002**

**Article 7 Amended 03-22-2005**

**Article 7 Amended 02-25-2014**

**Article 7 Amended 12-16-2015**

**Article 7 Amended 04-24-2018**

## **HISTORICAL NOTES**

Approved by the Board of Supervisors on September 27, 1988.

Amendment to Sections 4.4.(A), 4.6.(B), and 4.6.(C) approved by the Board of Supervisors on April 25, 1989.

Amendment to Sections 4.4.(A), 4.4.(B), 4.6.(B), 4.6.(C) and 4.7.(A) and deletion of Section 4.6.(D) approved by the Board of Supervisors on December 19, 1989.

Amendment to Section 1.5. approved by the Board of Supervisors on March 27, 1990.

Amendment of Section 1.2 by addition of Subsection (J) approved by the Board of Supervisors on October 2, 1990.

Addition of Section 3.11, (A), (B), and (C) approved by the Board of Supervisors on October 2, 1990.

Amendment of Article 1, addition of Section 1.6 approved by the Board of Supervisors on April 27, 1993.

Revision of the Bylaws approved by the Board of Supervisors on August 18, 1998.

Amendment of Article 2 approved by the Board of Supervisors on April 6, 1999

Amendment of Article 1 approved by the Board of Supervisors on August 31, 1999

Amendment of Article 1, Section 1.5, approved by the Board of Supervisors on October 31, 2000

Revision of the Bylaws approved by the Board of Supervisors on July 2, 2002

Revision of the Bylaws approved by the Board of Supervisors on December 11, 2002

Amendment of Article 2, Section 2.1, approved by the Board of Supervisors on December 5, 2006

Revision of the Bylaws approved by the Board of Supervisors on December 4, 2007

Amendment of Article 1, Section 1.7, approved by the Board of Supervisors on March 25, 2008

Revision of the Bylaws approved by the Board of Supervisors on May 24, 2011

Amendment of Articles 1-3, 8-11 approved by the Board of Supervisors on February 25, 2014

Amendment of Article 1.7 approved by the Board of Supervisors on March 15, 2016

Removal of Prior Articles 4 (Member Contributions), 5 (Service Retirement), 6 (Service), 7 (Compensation Earnable) and 14 (Continuing Education and Due Diligence Visitations). Prior articles 4, 5, 6, 7 and 14 reclassified as StanCERA Internal Policies. Prior articles 9 (Claims for Disability Retirement), 10 (Claims for Benefits, Rights, or Privileges Other Than Disability), 8 (Amendments and Repeals) and 11 (Subpoenas) reclassified to articles 4, 5, 6 and 7, respectively. Approved by the Board of Supervisors on MM/DD/2018



Stanislaus County  
Employees'  
Retirement Association

**BYLAWS**

Amended and Approved by the  
Board of Retirement April 24, 2018

# BYLAWS

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## **ARTICLE 1 – ADMINISTRATION**

### **1.1 NAME**

The name of this association is "the "STANISLAUS COUNTY EMPLOYEES' RETIREMENT ASSOCIATION"(hereinafter "StanCERA").

**1.1. Amended 12-16-2015**

### **1.2. PURPOSE**

StanCERA is established, in accordance with and subject to the County Employees' Retirement Law of 1937 (CERL), section 31450, et seq., of the California Government Code (hereinafter "the 1937 Act"). For the purpose of carrying out the provisions of said law within Stanislaus County, California, StanCERA is governed by the 1937 Act, California Public Employees' Pension Reform Act of 2013 (PEPRA) and other Government Code Sections applicable to CERL Systems as supplemented by these Bylaws.

**1.2. Amended 02-25-2014**

**1.2. Amended 12-16-2015**

### **1.3. DEFINITIONS**

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, the Retirement Board, or StanCERA claiming benefits, rights, or privileges under the 1937 Act.
- C. "Retirement Board" means the StanCERA Board of Retirement.
- D. "Hearing Officer" means the person designated by the Retirement Board to conduct a hearing, and make recommendations pursuant to Government Code section 31533.
- E. "Part-time employee" means an employee of Stanislaus County or a contracting district or other local government who is not employed in a permanent position as established by the Board of Supervisors or other local governing body by budget or ordinance or who regularly works less than fifty-five percent (55%) of the normal workweek.
- F. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Member contributions" means as the actuarially determined rate as applied to the member's compensation earnable or pensionable compensation for each pay period.
- I. "It" means "non-person"

- J. "Shall" imposes a duty
- L. "May" creates discretionary authority or grants permission or power
- M. "Must" creates or recognizes a right; and
- N. "May not" imposes a prohibition and is synonymous with shall not.

- 1.3. Amended 02-25-2014**
- 1.3. Amended 12-16-2015**
- 1.3. Amended 04-24-2018**

#### **1.4. POLICY AND ADMINISTRATIVE**

Policy directives of the retirement system is vested in the Retirement Board. Day-to-day administration of the retirement system is delegated to the Executive Director. Appointment or election of members of the Retirement Board shall be as provided by Government Code Section 31520.1.

- 1.4. Amended 02-25-2014**
- 1.4. Amended 12-16-2015**

#### **1.5. OFFICERS**

At the first regular meeting in January, the positions of chair and vice chair will rotate in ascending order by succession by the number assigned to the Retirement Board member and shall be held for a period of one (1) year. If a member has not served at least two (2) years on the Retirement Board, that member shall skip the normal rotation and the next successor shall be appointed to chair or vice-chair. Should any officer fail for any reason to complete his or her term, the normal successor shall perform the balance of the unexpired term. If the unexpired term is for less than nine (9) months, then the successor shall also hold office for their normal term immediately following the completion of the unexpired term. If the unexpired term is for nine (9) months or more, the successor shall only hold office for the completion of the unexpired term. The secretary of the Retirement Board shall be the Executive Director. The alternate safety member shall serve as provided in Government Code Section 31520.1 of the 1937 Act.

Pursuant to Government Code Section 31520.1, the alternate safety member shall sit in place of the seventh member during determinations of retirement benefits of a person from the same service as the alternate safety member.

- 1.5. Amended 08-31-1999**
- 1.5. Amended 10-31-2000**
- 1.5. Amended 02-25-2014**
- 1.5. Amended 12-16-2015**
- 1.5. Amended 04-24-2018**

#### **1.6. RETIREMENT BOARD MEMBER ELECTION PROCEDURES**

RETIREMENT BOARD MEMBERS WHO ARE ELECTED by members of StanCERA of the same category of membership (Second and Third seats by General members, Seventh and Alternate seats by Safety members, and Eighth and Alternate Seats by Retired members) shall

be elected according to the procedures set forth in this Section of the StanCERA Bylaws. In all cases where the word "Department" appears in this Section, the meaning shall be construed to include all Stanislaus County Departments, the City of Ceres and contracting Districts (all employers who use StanCERA for administration of retirement benefits). The Executive Director shall prepare a NOTICE OF ELECTION, which shall contain the deadlines for the submission of nomination papers, date of distribution of ballots, date of final receipt of ballots and the date for canvassing the ballots.

The distribution of the notice of election to active and/or retired members shall be made no more than sixty (60) calendar days and no less than forty-five (45) calendar days prior to the final date for receipt of ballots. The distribution of the notice of election will be distributed by U. S. postal services.

The Executive Director shall prepare a NOMINATION PAPER, which upon completion will contain the following information:

Name of candidate; candidate's Agency (if General or Safety member) or city and state of residence (if Retired member); a candidate's statement of not more than two hundred (200) words; signatures of the specific membership electorate in support of the candidate (General – at least twenty-five (25); Safety - at least ten (10); Retired - at least fifteen (15)). If it is determined that 2 or more candidates for the same seat have duplicate membership electorate signatures, then the candidate that turned in their membership electorate document first shall be the only candidate that may count that signature towards fulfilling the signature requirement above); A prepared statement of willingness to serve on the Retirement Board; the Retirement Board seat number and category (General, Safety or Retired); and final date for filing the paper. Completed nomination papers must be submitted to the Executive Director by 5:00 p.m. on the date specified in the notice of election and on the nomination paper (no later than thirty (30) days before the final date for receipt of ballots). Candidates shall only be placed on the election ballot if the above nomination papers and procedures are completed. If only one (1) nomination paper is received by the Executive Director on or before the deadline specified for receipt, the Executive Director shall declare that the candidate is the new Retirement Board member of the seat for which the candidate sought election (pursuant to Government Code Section 31523) and shall prepare and distribute a declaration of election results showing a unanimous ballot for the candidate to all Departments.

If two (2) or more nomination papers are received by the Executive Director on or before the deadline for receipt, the Executive Director shall prepare ELECTION BALLOT MATERIALS, which shall consist of:

- A. A ballot with the candidates' names, Agency (if General or Safety member) or city and state of residence if Retired member), candidates' statements, final date for receipt of ballots and a listing of candidates' names in alphabetical order by last name with appropriate places to indicate the member's choice of a particular candidate;
- B. A "secret" envelope to hold the completed ballot;
- C. A "return to" envelope, which will have the Executive Director's address for receipt of ballots, space for the member's printed name, space for the member's signature, and prepaid return postage; and
- D. A "cover" envelope with the member's name and mailing address. The ballots must be received back in the Executive Director's office by 5:00 p.m. on the final date indicated on the ballot regardless of the method of delivery or postmark date (if applicable) or the ballot material will be voided. The date for final receipt of ballots shall be no less than twenty (20) days following the date of disbursement of the ballot material.

Ballot material may be REISSUED to members who file a notice of non-receipt of election material prepared and filed in the Executive Director's office. The Executive Director shall make a second and final attempt to send out any RETURNED BALLOT MATERIAL at a reasonable cost of staff time and money.

The ballots shall be CANVASSED on the business day following the final date for receipt of ballots by the Executive Director (or his/her designee), one (1) member of the Retirement Board, not associated with the election in any way, and any staff from the Executive Director's office, as may be necessary to expeditiously handle the canvassing of the ballots.

The candidate who receives the HIGHEST NUMBER OF VOTES of the ballots cast shall be declared the WINNER and member of the Retirement Board to assume the seat for which the candidate ran at any Retirement Board meetings following the expiration of the term of the incumbent. The new member will serve three (3) years or for the remaining period of time in which a seat may become vacant for any reason other than the expiration of the incumbent's term of office.

The Executive Director shall prepare a DECLARATION OF ELECTION RESULTS to include the seat of the Retirement Board, the final date of the receipt of ballots, and the name of all the candidates who ran with their corresponding number of votes received in the election. The declaration shall also state the winner of the election and the date on which the winner assumes the seat on the Retirement Board.

The Executive Director shall telephone or email each candidate with the results of the election and the declaration shall be posted in a conspicuous place in or near the Executive Director's office in the afternoon following the canvassing. Copies of the declaration shall be delivered to each candidate and each Agency/Department Director (if General member or Safety member election) or the Retired Employees of Stanislaus County Organization, Inc.(RESKO), (if a Retired Member election) with a message to retirees of the winner to appear on the next retiree payroll check following the canvassing.

If any of the specific electorate desires a RECOUNT of the ballots cast, the member must make a written petition to the Retirement Board for a recount and include a \$500.00 payment for costs incurred. The petition must be received by the Executive Director no later than fourteen (14) days following the original canvassing of the ballots. The Executive Director shall forward the petition on to the Chair of the Retirement Board who shall call a special meeting of the Retirement Board for a recount. The date of the recount shall be no later than thirty (30) days from the date of the original canvassing. The petitioner or designee must attend the recount, which shall be accomplished in the same manner as the original count. If the recount shows that a different candidate is the winner by receiving the highest number of votes, a DECLARATION OF REVISED ELECTION RESULTS shall be prepared and distributed in the same fashion as the original declaration of election results.

All member election material shall be DESTROYED thirty (30) days after the original canvassing of the ballots if there is no petition for a recount. Member election material shall be destroyed one (1) week following the completion of all procedures of a recount.

**1.6. Amended 02-25-2014**

**1.6. Amended 12-16-2015**

**1.6. Amended 04-24-2018**

## 1.7. COMMITTEES

The Retirement Board has determined that the following are standing committees.

- A. Due Diligence Committee. This committee may consist of the Vice-Chair as Chair, one (1) other Board member the Executive Director, the Investment Officer and one (1) staff member appointed by the Executive Director (or a designee of the Executive Director), to act as the recorder. This committee shall insure that Due Diligence visits are carried out and reports provided to the Retirement Board of investment manager and other vendor business reviews on a schedule as determined by these Bylaws and the committee.
- B. Internal Governance Committee. This committee shall consist of three (3) Retirement Board members. The Committee Chair may request administrative staff and/or legal counsel to attend Committee meetings as needed. At least one of the Retirement Board members of the committee shall have sufficient background in accounting, financial or managerial matters to understand, relate to and communicate accounting and organizational matters especially as they relate to audit reports. This committee shall have the responsibility for oversight of all financial audits (both external and internal), compliance audits, Bylaw revisions, Policy revisions, Retirement Board member education and training (including ethics) and other internal governance matters.
- C. Strategic Planning Objectives Committee. This Committee shall consist of no less than two (2) Retirement Board members. The committee may request input from administrative staff and attendance for staff at its meetings as the Committee so desires. The committee shall oversee and review staff reports related to the study and recommendations of Retirement Board approved strategic planning objectives. The committee shall have authority to survey, research, request actuarial and other studies as it deems necessary. The committee shall only make "final" reports to the Retirement Board or recommendations to the Retirement Board that require the Board's action. This committee meets at least once every three (3) years, however, may not always have Board members assigned due to the cyclical nature of the needs required of this Committee.
- D. Performance Review and Compensation Committee (PRCC). This committee shall consist of current Chair, past Chair, and current Vice Chair. As needed, the PRCC will meet to discuss the performance and compensation of the position of Executive Director.

The Committee's evaluation process should include but not be limited to the following criteria:

*Goals:* Whether the subject position's stated goals at the beginning of the evaluation period were effectively and meaningfully carried out.

*Added Value:* Whether the subject position added value to the retirement process in all areas of administration. Added value can be measured in (but not limited to) areas such as financial, administrative efficiency, member services, internal and external communication, and enhanced investment governance.

*Strategic Plan:* Whether the subject position's actions are consistent with the Strategic Plan and whether the Strategic Plan is being meaningfully implemented.

After the Committee meets regarding performance review and compensation, the Committee will draft a memorandum with its recommendation regarding the disposition of the subject position to the full Board of Retirement for approval.



The Retirement Board Chair at his/her discretion may appoint Retirement Board members or staff to any standing or ad hoc committee as the Chair deems necessary.

**1.7. Amended 02-25-2014**

**1.7. Amended 12-16-2015**

**1.7. Amended 04-24-2018**

## **1.8. POLICY, PROCEDURE AND PRACTICE**

In governing administration matters the following hierarchy is established in order of priority.

- A. Federal Law
- B. State Law
- C. Local ordinances and resolutions when not in conflict with higher laws
- D. StanCERA Bylaws
- E. Policies and procedures formally adopted by the Retirement Board
- F. Informal policies and procedures
- G. Practice

1.8. Amended 12/16/2015

## **1.9. INDEPENDENT OPERATIONS**

StanCERA is a separate legal entity from Stanislaus County and is governed by the Retirement Board. California Constitution provides that the Retirement Board has the full responsibility and authority to invest StanCERA member retirement funds and provide necessary services in administering retirement benefits as provided in the 1937 Act, and as adopted in multiple employer-employee agreements. To fulfill the mission of StanCERA, the Retirement Board hires staff, contracts with investment managers, hires consultants, and adopts an administrative budget.

To save the time and effort of establishing its own set of Personnel Policies and tracking labor laws (and in accordance with California State law), the Retirement Board hires staff who are Stanislaus County employees. This means that in general and in most instances, these staff will be treated (hired, paid, promoted, demoted, retired or fired) the same as other Stanislaus County employees in like classifications. However, given that StanCERA staff provide services to a variety of public agencies and administer retirement benefits, staff are not subject to mandates from the Board of Supervisors or its agents that would interfere with or otherwise supersede the delivery of those services. To that end this Statement of Independent Operation acknowledges that from time to time, the Retirement Board may act to overrule or set aside a personnel decision or action that emanates from Stanislaus County personnel authority involving staff hired by the Retirement Board or its Executive Director. In matters of retirement benefit administration, the Retirement Board shall have final say in its handling of staff. The Retirement Board has and will continue to utilize Stanislaus County Personnel staff to handle recruitments and Stanislaus County payroll with its contingent of payroll-related items

such as: extra help, Personal Services Contracts, leave time and termination cash out payments, retirement benefits, Social Security coverage, deferred compensation program, group health insurances, unemployment insurance, long term disability, workers compensation insurance, professional development, employee assistance program, cafeteria plan cash out, auto allowance and mileage reimbursement the same as other Stanislaus County employees.

The Retirement Board has used and will continue to use its hired investment consultant to aid in its decision on specific investment managers to hire, their performance and possible termination, as well as providing education on investments.

The Retirement Board has used and will continue to use a variety of special consultants and attorneys.

Since fiscal year 2003-2004, the administrative budget for StanCERA has been approved and monitored solely by the Retirement Board. While the budget includes costs for Stanislaus County services through the Stanislaus County's cost allocation plan (CAP), these services are approved for payment since they support the staff in its mission to provide the promised retirement benefits. While StanCERA may choose not to utilize Stanislaus County services, it intends on continuing its use of and payment for services obtained through the Stanislaus County's CAP as needed. StanCERA will not pay for general Stanislaus County costs to the extent that it does not receive services for such costs.

**1.9. Amended 02-25-2014**

**1.9. Amended 12-16-2015**

**1.9. Amended 04-24-2018**

#### **1.10. ADMINISTRATION OF EXECUTIVE DIRECTOR POSITION, INVESTMENT CLASSIFICATION AND OTHER EXECUTIVE LEVEL STAFF**

Specifically regarding the position of Executive Director, the Investment Officer Series and any other executive level classifications, the Board of Retirement shall have full control over the creation, assessment and disposition of these positions, including salary, and will administer and achieve this control using the processes currently in place at the County. It is understood that the processes used to achieve this control should not be limited to the administration of existing executive level County classifications, as StanCERA, from time to time, may need to create and administer other executive level classifications that do not currently exist. The Retirement Board will continue to work with County Personnel to ensure that any other County classifications used by StanCERA in the administration of the retirement plan are properly structured within the County's salary and position guidelines.

**1.10. Amended 02-25-2014**

**1.10. Amended 12-16-2015**

**1.10 Amended 04-24-2018**

**Article 1 Amended 07-13-2005**

**Article 1 Amended 12-04-2007**

**Article 1 Amended 03-25-2008**

**Article 1 Amended 11-23-2010**

**Article 1 Amended 02-25-2014**

**Article 1 Amended 12-16-2015**

**Article 1 Amended 04-24-2018**

## **ARTICLE 2 – MEETINGS**

### **2.1. REGULAR MEETINGS**

Regular meetings of the Retirement Board shall be held on the fourth Tuesday of each month beginning May 1, 2016. This will be a combined meeting with Investment and Finance items being heard first, to be followed by Administrative and Member and Employer items. When appropriate, StanCERA staff or the Retirement Chair can alter this order if necessary. All regular meetings shall be held at 1:30 p.m. on the aforementioned day in **the Wesley W. Hall Board Room located on the sixth floor of 832 12th Street, Modesto**, California, unless changed by the chair and proper notice given by the Executive Director.

***2.1. Amended 02-25-2014***

***2.1. Amended 12-16-2015***

***2.1. Amended 04-20-2016***

***2.1. Amended 04-24-2016***

### **2.2. SPECIAL MEETINGS**

Special meetings of the Retirement Board may be scheduled at any time by the Chair of the Retirement Board or any five (5) members of the Retirement Board. The Executive Director shall publicly post and give each Retirement Board member the minimum notice required by the Ralph M. Brown Act.

***2.2. Amended 02-25-2014***

***2.2. Amended 12-16-2015***

### **2.3. PERSONS ATTENDING MEETINGS**

All meetings of the Retirement Board shall be open to the public, except closed sessions, permitted by law.

***2.3. Amended 12/16/2015***

### **2.4. RULES OF ORDER**

ROBERT'S RULES OF ORDER shall guide the Retirement Board in its proceedings, except as otherwise provided herein or in the 1937 Act. The Chair shall have a vote on all questions and motions and shall not be required to relinquish the Chair in order to participate in discussions. The Chair shall not make or second a motion. The order of business shall include:

- A. Roll Call
- B. Announcements
- C. Public Comment
- D. Consent Items (e.g., Approval of minutes & retirements)

- E. Investment Matters
- F. Administrative and Member and Employer Matters
- G. Committee Reports and Recommendations
- H. Closed Session
- I. Members' Forum (Information and Future Agenda Requests Only)
- J. Adjournment

The Retirement Board Chair may make changes in the above order at his / her discretion.

### **Requests for Staff Support by the Board**

The Board shall request any research, analyses and reports from staff as are necessary for the Board's effective oversight of StanCERA operations. Such requests will be agendaized and Considered at regularly scheduled Board meetings. If approved, the Executive Director will be responsible for coordinating the completion of the approved project or report within a reasonable time or by the completion date specified in the Board action.

### **Requests by Individual Board Members for Staff or External Support**

Board members making individual requests for information will be advised to make the request with the full Board during Member's Forum, unless the information is readily available and the Executive Director determines that a response will not require any significant commitment of staff time or other external StanCERA resources.

***2.4. Amended 02-25-2014***

***2.4. Amended 12-16-2015***

***2.4 Amended 04-24-2018***

### **2.5. QUORUM**

Five (5) members of the Retirement Board shall constitute a quorum. No business may be transacted without a quorum.

No motion may be passed without a majority of the quorum voting affirmatively.

### **2.6. CORRESPONDENCE**

All correspondence to the Retirement Board must be in writing and received by the Executive Director one hundred twenty (120) hours prior to any regularly scheduled Retirement Board meeting to appear on the Retirement Board agenda.

***2.6. Amended 02-25-2014***

***2.6. Amended 12-16-2015***

## **2.7. MINUTES**

The Executive Director shall cause to be recorded in the minutes the time and place of each meeting, the name of each Board member present, a summary of official actions taken by the Retirement Board, and such other information that will concisely reflect each meeting's content. The minutes shall be presented for Retirement Board approval at its next regular meeting. Such minutes shall be signed by the Executive Director, approved as to form by general legal counsel, and shall become a part of the Retirement Board's permanent record. Meetings shall be audibly recorded and available on the StanCERA website.

***2.7. Amended 02-25-2014***

***2.7. Amended 12-16-2015***

## **2.8. COMPENSATION OF MEMBERS**

Pursuant to Government Code Sections 31520.5 and 31521, those members (appointed by the Board of Supervisors and the retiree representative) shall be eligible to receive the maximum allowance per meeting of the Retirement Board or meeting of a committee for not more than the maximum meetings allowed per month.

***Article 2 Amended 12-04-2007***

***Article 2 Amended 11-23-2010***

***Article 2 Amended 02-25-2014***

***Article 2 Amended 12-16-2015***

***Article2 Amended 4-24-2018***

## **ARTICLE 3 – MEMBERSHIP**

### **3.1. MEMBERSHIP DEFINED**

Membership shall be as defined by the 1937 Act as supplemented by these Bylaws.

#### ***3.1. Amended 02-25-2014***

### **3.2. PROVISIONS FOR MEMBERSHIP**

Every employee of Stanislaus County or of any district, municipality or local government participating in StanCERA, who is appointed to a permanent full-time position, as specified in the ordinances of Stanislaus County or of the included districts, municipalities or local governments shall become a member of StanCERA. Employees hired prior to October 1, 1988, became members on the first day of the calendar month after entrance into service. Employees hired on or after October 1, 1988, shall become members on the date of hire.

#### ***3.2. Amended 4/24/2018***

### **3.3. CONTRACTING DISTRICTS**

Whenever any contracting district is required to make an additional appropriation pursuant to Government Code Section 31627.6, for the purpose of paying for a member's service with the district prior to the district's joining StanCERA, the district may make the additional appropriation by periodic payments (including interest at the current actuarial rate which shall remain in effect until the principal is exhausted) over a period of time not to exceed fifteen ( 15 ) years or may pay the entire balance to the System in one lump sum.

#### ***3.3. Amended 12-16-2015***

#### ***3.3. Amended 4-24-2018***

### **3.4. WAIVER BY EMPLOYEES OVER SIXTY (60)**

An employee of Stanislaus County or of any district included in StanCERA, appointed to a permanent full-time position who is age sixty (60) or over at time of entry, may waive the StanCERA membership requirement pursuant to Government Code Section 31552.

### **3.5. EXCLUSIONS**

Temporary, seasonal, intermittent part-time employees, and independent and personal service contractors are excluded from membership in StanCERA.

### **3.6. ENROLLMENT QUESTIONNAIRE AND PROOF OF BIRTH**

Every member of StanCERA shall file a sworn enrollment questionnaire showing that member's date of birth, date of hire, position, classification (general or safety) and the compensation received. The questionnaire shall be in the form provided by StanCERA. Every member shall submit with the enrollment questionnaire proof of the member's date of birth within ninety (90) days of hire. If a proper questionnaire with proof of birth is not filed within ninety (90) days of

hire, the rate of contribution shall be based on the highest age for the member's retirement tier and classification. When the questionnaire is filed or proof of age is submitted to the Executive Director, the normal age rates will be applied and excess contributions shall not be refunded to the member. The following documents will be acceptable for proof of birth:

A. Any one (1) of the following:

1. Infant baptismal certificate
2. Census record
3. School age record
4. Naturalization certificate
5. A photocopy of a certified birth certificate
6. Passport
7. Alien registration card with photograph
8. Military record (i.e. DD214, ID) if date of birth is shown

B. Any two (2) of the following:

1. Photocopy of certified Marriage Certificate if date of birth is shown
2. Photocopy of Child's certified birth certificate, showing date of birth of member
3. Affidavit by older relative, notarized
4. Hospital birth record

3.6. Amended 02-25-2014

3.6. Amended 12-16-2015

3.6. Amended 4-24-2018

### **3.7. PROOF OF MARRIAGE**

- A. Every member, at the time of retirement, shall submit a copy of a certified proof of marriage or registered domestic partnership certification and an affidavit that the marriage continues if a designated beneficiary is the spouse or registered domestic partner, and the option pursuant to Government Code Section 31760, et seq., is elected.
- B. Every applicant for a spousal continuance based upon a death of a member may be required to submit an affidavit that the marriage continued up until the time of death of the member.

**3.7. Amended 02-25-2014**

**3.7. Amended 12-16-2015**

### **3.8. BENEFICIARY PROOF OF BIRTH**

Every member, at the time of retirement, shall submit a copy of proof of birth certification (see 3.6) of designated beneficiary or beneficiaries selected pursuant to the exercise of an option contained within Government Code Section 31760, et seq.,.

***3.8. Amended 02-25-2014***

***3.8. Amended 12-16-2015***

***3.8. Amended 4-24-2018***

### **3.9. CORRECTION OF DATE OF BIRTH**

Repealed 12/16/2015 See StanCERA Internal Policies – Member Contributions

***3.9. Amended 02-25-2014***

***3.9. Amended 04-24-2018***

### **3.10. PROOF OF DEATH**

Every applicant, at the time of application for a death benefit or continuance, shall submit a copy of a certified final death certificate or a court decree establishing the fact of death.

***3.10. Amended 02-25-2014***

***3.10. Amended on 12-16-2015***

### **3.11. TIER 3 AND SAFETY MEMBERSHIP**

A. Any Tier III member who transfers to a Safety eligible position shall be required to become a contributing member of the retirement system as of the date of the transfer to the Safety eligible position. Any Tier III member whose position becomes Safety eligible through law or collective bargaining process shall be required to become a contributing member of the retirement system as of the effective date of the legislation or negotiated agreement.

***3.11. Amended 02-25-2014***

***3.11. Amended on 12-16-2015***

***3.11. Amended on 4-24-2018***

### **3.12. SPOUSE/REGISTERED DOMESTIC PARTNER**

Wherever in the Bylaws the term "spouse" is used, this term shall also include registered domestic partners.

***Article 3 Amended 12-04-2007***

***Article 3 Amended 11-23-2010***

***Article 3 Amended 02-25-2014***

***Article 3 Amended 12-16-2015***



## ARTICLE 4 - CLAIMS FOR DISABILITY RETIREMENT

### 4.1. DEFINITIONS

In this article, unless the context or subject matter otherwise requires:

- A. "Executive Director" means the StanCERA Retirement Administrator or designee of Executive Director.
- B. "Applicant" means a person, Stanislaus County, a contracting district or other legally authorized entity claiming benefits, rights, or privileges under the County Employees Retirement Law of 1937, section 31450, et seq. of the California Government Code (hereinafter "the 1937 Act").
- C. "StanCERA" means the Stanislaus County Employees' Retirement Association.
- D. "Retirement Board" means the StanCERA Board of Retirement.
- E. "Party" means any person disclosed by the records of the retirement system or by the application to have an interest in any subject matter including the applicant and the subject employee.
- F. "Referee" means a person appointed by the Retirement Board to make a determination pursuant to Section 31533 of the Government Code. A referee may also be referred to as a "Hearing Officer".
- G. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- H. "Disability" or "disabled" means the subject employee's permanent physical and/or mental inability to substantially perform his or her usual job duties, with or without accommodations.
- I. "Accommodations" means an agreement by the subject employee's employer, either Stanislaus County or contracting district, to modify the regularly assigned duties and/or work environment as necessary to allow the subject employee to continue to work within the limitations established by medical evidence.
- J. "Pending" file status refers to an application which has been filed with the Executive Director's office but which cannot be processed because requisite documentation and/or information (e.g., medical records, medical reports, job descriptions, employer information, completed questionnaires, etc.) has not been received by the Executive Director's office.
- K. "Active" file status refers to an application, which has been filed with the Executive Director's office and for which the Executive Director's office has received all requisite documentation and/or information necessary to process it. A "pending" file becomes "active" as of the date on which the last requisite documentation and information is received by the Executive Director's office. Any time limits or file status dates will use the date the file becomes "active" as a reference date.
- L. "Disability Counsel" means the independent legal counsel obtained by the Executive Director on StanCERA's behalf.

#### **4.1. Amended 02-25-2014**

#### **4.1. Amended 12-16-2015**

#### **4.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for disability retirement shall be made by filing with the Executive Director's office a completed application on a form approved by the Retirement Board for that purpose together with all information required in Section 4.3 of these Bylaws. Upon the filing of an application, the Executive Director shall serve the applicant with a copy of this article. Upon receipt of all requisite information and documentation, the Executive Director, acting on behalf of StanCERA, shall review and investigate the matter and issue a recommendation to the Retirement Board pursuant to the provisions of this article.
- B. If during the pendency of an application there is any change in any of the facts or claims set forth in the application, or any information submitted pursuant to Section 4.3 of these Bylaws, the applicant shall immediately file with the Executive Director's office and serve on all interested parties written notice of the change. Upon the filing of such notice with the Executive Director's office, the application shall be deemed amended accordingly.
- C. In the event that the applicant modifies the basis of his / her claim for disability benefits, or changes the application from a claim for non-service to a claim for service-connected disability benefits, the date of that applicant's active filing date will be amended to reflect the later date upon which the Executive Director's office receives the additional information or modified claim. Failing to file an accurate or fully complete application form or failing to timely amend an already active application form may, at the discretion of the Retirement Board or referee, preclude the applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).
- D. An applicant may file an application for non-service connected disability benefits and/or service connected disability benefits. If the applicant files an application for service connected disability benefits only and the Retirement Board finds that the subject employee is disabled, but not on a service connected basis, upon application the subject employee, if eligible, shall be retired for non-service connected disability.

#### **4.2. Amended 02-25-2014**

#### **4.2. Amended 12-16-2015**

#### **4.3. DOCUMENTS TO BE COMPLETED AND FURNISHED BY APPLICANT**

- A. The following documents must be furnished to the Executive Director's office by the applicant in connection with the initial disability application.
  - 1. Completed Application for Disability Retirement (includes statement signed under penalty of perjury by the applicant that the materials provided are all the materials available in relation to the claim for disability benefits.
  - 2. Responses to Disability Retirement Questionnaire, signed, under penalty of perjury.
  - 3. Duly executed authorizations for release of employment/workers' compensation information, medical information, and, if applicable, psychiatric information.
  - 4. Third party claims form.

5. IME missed appointment form.
  6. Completed Treating/Attending Physician's Statement. A minimum of one statement is required.
  7. Pursuant to Government Code Section 31722, if member applies for disability retirement four (4) or more months after date of termination, member shall include a letter from treating physician stating member has remained permanently disabled since date of termination.
  8. Employer's Job Task Analysis.
  9. Employer's Job Description.
  10. All other relevant medical reports and other relevant evidence the applicant would like the Retirement Board to consider.
  11. Member's Statement Description of Employee's Job Duties The responses on the Disability Retirement Questionnaire shall be provided under penalty of perjury and the applicant shall sign and attach to his / her responses, the signature page, which StanCERA provides with the questionnaire. If the responses are not returned with the appropriate signature page, they shall be deemed not to have been filed and shall be returned to the applicant with additional instructions.
- B. At any time during the pendency of an application, the Executive Director, the Retirement Board, or counsel for the Executive Director may, by written notice to the applicant, request that the applicant serve within thirty (30) days, or such further time as may be designated, any or all of the following items:
1. Copies of all other documents upon which the applicant relies in support of the application.
  2. A narrative physician's report of the subject employee's current medical condition.
  3. Sworn written responses to written questions concerning any matter, which is either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to the subject employee's medical history, employment history, current medical condition, and current employment status.
- C. The Executive Director and/or Disability Counsel shall, in their sole and complete discretion, independently obtain copies of all of the applicant's medical records, employment records, and other relevant documents. However, in no event shall the applicant be relieved of his or her strict obligation to file and/or furnish to the Executive Director's office all medical records and necessary documents described in this section 4.3. StanCERA shall bear the costs incurred by the Executive Director and/or Disability Counsel in independently obtaining copies of relevant documents. The applicant shall bear the costs he or she incurs in obtaining copies of documents filed and/or furnished by him or her in connection with the application.

**4.3. Amended 02-25-2014**

**4.3. Amended 12-16-2015**

#### **4.4. MEDICAL AND PSYCHIATRIC EXAMINATIONS**

- A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or Disability Counsel may, by written notice to the applicant (and to the subject employee if the application was filed on behalf of the employee), request that the subject employee submit within thirty (30) days, or such further time as may be designated, to one or more medical examinations by physicians designated by the requesting party at the times and places specified in the notice of the examination(s). As used in this article, the words "medical" and "physician" include, but not limited to, duly licensed medical doctors, osteopathic doctors, psychologists, chiropractors, and other legally recognized practitioners of the healing arts.
- B. StanCERA shall bear the fees charged by the examining physician(s) in connection with any examination conducted pursuant to this section. Notwithstanding the foregoing, in the event the subject employee fails to timely appear for a duly noticed medical examination, he or she shall be liable for any cancellation fee or other fee charged by the physician in connection with the subject employee's failure to appear. In the event the subject employee is, thereafter, granted disability benefits, such cancellation fee may be charged against said benefits.

***4.4. Amended 02-25-2014***

***4.4. Amended 12-16-2015***

#### **4.5. DISCOVERY AVAILABLE**

In addition to any form of discovery available, pursuant to this article, at any time during the pendency of the application, any interested party shall be entitled to any of the discovery procedures prescribed by the Code of Civil Procedure, provided that such discovery is limited to the subject matter of the application. All forms of discovery authorized by this article and all remedies and procedures related there to, shall be available in conjunction with any disability re-evaluation under Government Code Section 31729.

***4.5. Amended 12-16-2015***

#### **4.6. APPLICANT'S FAILURE TO FURNISH DOCUMENTS, INFORMATION, OR FAILURE TO SUBMIT TO MEDICAL EXAMINATION**

- A. If the applicant and/or the subject employee fails or refuses to comply with any request pursuant to section 4.3 within the time provided, or if the requesting party deems that a further response is required, or if the subject employee fails or refuses to appear for any medical examination pursuant to section 4.4 or fails or refuses to cooperate with an examining physician, or if the applicant and/or the subject employee otherwise fails or refuses to comply with any discovery request, the requesting party may move the Retirement Board for an order to compel compliance with the request.
- B. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion. Upon the filing of such a motion, the Executive Director or Disability Counsel shall set a hearing thereon either before the Retirement Board or a referee and serve all interested parties with notice thereof. Said motion shall be heard no sooner than 30 days after notice thereof is served on all interested parties. No later than five (5) days before the date set for hearing,

any interested party may file and serve written opposition to the motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of its order on all interested parties.

- C. If the applicant and/or the subject employee fails or refuses to obey an order of the Retirement Board or referee made pursuant to this section, the Retirement Board may upon the further motion of the requesting party (notice of which shall be given pursuant to paragraph 4.6.B., above) take any further action which it determines to be just and reasonable, including, but not limited to, precluding the applicant and/or the subject employee from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice.

#### ***4.6. Amended 02-25-2014***

#### **4.7. DOCUMENTS AND INFORMATION TO BE FURNISHED BY EMPLOYER**

At any time during the pendency of an application, the Executive Director, the Retirement Board, or Disability Counsel may issue a written request, with a copy to employer's counsel, to the subject

employee's department head, supervisor(s), co-workers, personnel department or the risk management department seeking information regarding the subject employee's job duties, illness or injury and other pertinent data. The department head or other designated person(s) shall provide, or direct the provision of, the necessary data in written form to the requesting party within ten (10) days of receipt of the request.

#### ***4.7. Amended 02-25-2014***

#### **4.8. COMMUNICATION WITH INDIVIDUAL RETIREMENT BOARD MEMBERS**

The members of the Retirement Board may review and decide all disability hearings and their decision shall be final. As such, once an application for disability benefits is filed, communications between individual Retirement Board members and interested parties or their representatives concerning any issue pertaining to the application, are forbidden until such time as the Retirement Board issues its final written decision. Any violation of this section may result in the Retirement Board member being found ineligible to participate in any discussion regarding the application, or to vote on the disability application.

#### **4.9. RIGHT TO COUNSEL**

- A. Any applicant is entitled, at his/her/its expense, to be represented by legal counsel at any and all stages of the proceedings. If the applicant decides to retain legal counsel, he/she/it must immediately file, with the Executive Director's office, a written notice designating his/her/its counsel and providing the name, address and telephone number of said counsel. Absent such written designation, StanCERA is not obligated to recognize any party claiming to represent an applicant.

- B. In all matters pertaining to disability retirement, the Executive Director, who is acting on behalf of StanCERA, is entitled to be represented by Disability Counsel, subject to the approval of the Retirement Board. In addition, the Retirement Board shall be entitled to representation by legal counsel of its choosing.

#### ***4.9. Amended 02-25-2014***

#### **4.9 Amended 4-24-2018**

#### **4.10. STIPULATIONS OF OTHER ENTITIES NOT BINDING**

No stipulation, agreement, understanding, act or omission on behalf of the County of Stanislaus or on behalf of a contracting district by an officer, employee, or agent of the County of Stanislaus or of a contracting district in a worker's compensation or any other proceeding to which neither the Retirement Board nor StanCERA is a party, shall be binding upon the Retirement Board or StanCERA insofar as such stipulation, agreement, understanding, act or omission may be asserted to relate to disability retirement or the disposition of a particular application for disability retirement, unless such stipulation, agreement, understanding, act or omission has previously been approved by the Retirement Board through a duly adopted motion, which has been recorded in the official minutes of the Retirement Board. The provisions of this section shall not be deemed to constitute a new policy, but rather a formalization and continuation of an existing unwritten policy, which has been in effect during the life of StanCERA.

#### **4.10. Amended 12-16-2015**

#### **4.11. ADMINISTRATIVE RECOMMENDATION**

- A. After reviewing the application, and all other documents and information obtained in connection therewith and conducting any necessary investigation, the Executive Director shall make an appropriate recommendation to the Retirement Board. The recommendation may consist of one or more of the following:
1. "Grant service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  2. "Deny service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to service-connected disability retirement.
  3. "Grant non-service connected disability retirement" where the Executive Director determines that the applicant has proved by a preponderance of the evidence all elements legally necessary to entitle the subject employee to non-service-connected disability retirement.
  4. "Deny non-service connected disability retirement" where the Executive Director determines that the applicant has clearly failed to establish one or more of the elements legally necessary to entitle the subject employee to non-service connected disability retirement.
  5. "Refer for hearing" where the Executive Director determines that there is substantial evidence to support the disability claim, but the evidence does not, in the Executive Director's opinion, prove by a preponderance of the evidence all the elements necessary to grant the disability claim.
- B. The Executive Director's recommendation to the Retirement Board shall be made at a Retirement Board meeting after placing the matter on the agenda of a Retirement Board meeting.

**4.11. Amended 02-25-2014**

**4.11. Amended 12-16-2015**

#### **4.12. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application for which the Retirement Board has received an administrative recommendation pursuant to section 4.11, the Retirement Board shall at the first meeting where the matter properly appears on its agenda take the following action or any other action that the Retirement Board may deem appropriate: grant the disability retirement; deny the disability retirement; remand the application to the Executive Director for further investigation; or refer any or all issues for hearing.

**4.12. Amended 02-25-2014**

#### **4.13. REQUEST FOR HEARING**

Whenever the Retirement Board denies an application for service connected or non-service connected disability retirement without a hearing, the applicant shall, upon request, be entitled to a hearing before the Retirement Board, or before a referee appointed by the Retirement Board. Any such request for hearing shall be in writing and shall be made within thirty (30) days after notice of the Retirement Board's action denying the application and is mailed by certified or registered mail to the applicant or to his / her counsel, if the applicant is represented by counsel. A request for hearing shall be deemed made on the date mailed if mailed by certified or registered mail, on the date postmarked if mailed by first class mail and actually received by StanCERA, or on the date actually received by StanCERA, whichever is earlier.

**4.13. Amended 02-25-2014**

**4.13. Amended 12-16-2015**

**4.13 Amended 04-24-2018**

#### **4.14. SETTING FOR HEARING**

- A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify Disability Counsel who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. Disability Counsel shall give written notice of the date, time and place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.
- B. The Executive Director shall maintain a list of retired judges or qualified licensed attorneys who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a

reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least 10 days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.

- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**4.14. Amended 02-25-2014**

**4.14. Amended 12-16-2015**

**4.15. HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof, ruling upon the admissibility of evidence, ordering medical I examinations; requiring the additional relevant evidence be gathered and presented; questioning witnesses, and determining whether the matter shall proceed or be adjourned subject to continuation.
- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions.
- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.
- G. Refusal of the applicant or subject employee to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.



- H. The production of medical evidence, in the form of written reports, is favored. Such reports should include the following:
1. A history of the subject injury or illness;
  2. The subject employee's prior and subsequent medical history;
  3. The subject employee's current subjective complaints;
  4. The findings upon examination;
  5. The nature and extent of disability;
  6. The anticipated nature and extent of further treatment or care;
  7. Whether or not the subject employee has a disability, which permanently incapacitates him/her from performing his/her usual and customary job duties, and the basis for that opinion, including the specific job duties for which he/she is incapacitated and the specific medical conditions, which so incapacitate him/her.
- I. Any interested party may offer, and the Retirement Board or referee shall receive in evidence, medical records and reports, provided that copies of the said documents have been served on all other interested parties at least fifteen (15) days prior to the hearing, along with written notice of intention to offer the said documents into evidence. Any other interested party may subpoena the author of such a medical report or record as a witness and examine him/her as if under cross-examination.
- J. Any interested party may offer, and the referee or Retirement Board shall receive, into evidence the written statement of any non-medical witness provided that:
1. It is made by affidavit or by declaration under penalty of perjury; and,
  2. A copy has been served on all interested parties at least fifteen (15) days prior to the hearing along with notice of intention to offer the same into evidence.
- K. Any interested party may offer, and the Retirement Board or referee shall receive into evidence the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code, and no exceptional circumstances exist if:
1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and
  2. At least fifteen (15) days prior to the hearing the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party upon receiving such notice may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him/her.
- L. For the purposes of this article, "service" of a document or notice may be accomplished manually or by mail in the manner provided by section 9.21. If delivery is by mail, the times

prescribed in this Article for delivery of documents and notices shall be increased by five (5) days.

M. Applicants shall personally appear at all hearings pertaining to their application. Service by mail of written notice of hearing shall be sufficient to compel an Applicant's appearance at hearing. Failure of an applicant to personally appear and testify at any duly noticed hearing, whether before a Referee or the Retirement Board shall be deemed a withdrawal of the corresponding disability retirement application with prejudice, unless the hearing is continued by agreement of the parties or upon a showing of good cause. All hearing notices shall include a statement in substantially the following form: "The applicant must personally appear and testify at this hearing. Failure to do so will result in a denial of the disability retirement application."

**4.15. Amended 02-25-2014**

**4.15. Amended 12-16-2015**

**4.15 (M) added 4-24-2018**

#### **4.16. DECISION OF THE REFEREE**

- A. When a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and a recommended decision and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Executive Director's office his / her proposed findings of fact and recommended decision, which shall include those documents received into evidence. Simultaneously therewith, he / she shall serve the proposed findings of fact and recommended decision on all interested parties. The referee shall not be entitled to remuneration for his services until the aforesaid documents have been filed and served. For the purposes of this section, a matter is considered "submitted" on the last day of the hearing, unless the referee, for good cause, orders otherwise.
- C. In the absence of good cause, as determined by the referee, any post hearing briefs or other pleadings shall be filed with the Executive Director's office and served on the referee and on all interested parties within twenty (20) days of the last day of the hearing. The filing of post hearing briefs shall not extend the date the matter is submitted.
- D. Upon the service of the referee's proposed findings of fact and recommended decision, the interested parties shall have ten (10) days to submit objections thereto by filing the same with the Retirement Board and serving the same on all interested parties whereupon the said objections shall be incorporated in the record to be considered by the Retirement Board.

**4.16. Amended 02-25-2014**

**4.16. Amended 12-16-2015**

#### **4.17. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

- A. Upon receiving the proposed findings of fact and recommendation of the referee, the Retirement Board may:
  - 1. Approve and adopt the proposed findings and recommendation of the referee; or

2. Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof, the Retirement Board shall take such action as in its opinion is indicated by such evidence; or

3. Refer the matter back with / without instructions to the referee for further proceedings; or

4. Set the matter for hearing before itself. At such hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.

B. Upon approving and adopting the referee's decision or any subsequently modified decision, thereof, the Retirement Board shall comply with Subsection 4.18(C).

**4.17. Amended 02-25-2014**

**4.17. Amended 12-16-2015**

#### **4.18. HEARINGS BEFORE THE RETIREMENT BOARD**

A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:

1. A majority of all members present; or

2. Four (4) members, whichever is greater, concur therein.

B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.

C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with a notice of the right to judicial review of the Retirement Board's decision as set forth in Section 4.20.

**4.18. Amended 02-25-2014**

**4.18. Amended 12-16-2015**

#### **4.19. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date the notice is mailed to the applicant by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the subject employee, if other than the applicant, and to all other interested parties and their respective counsel.

**4.19. Amended 02-25-2014**

**4.19. Amended 12-16-2015**

#### **4.20. JUDICIAL REVIEW OF RETIREMENT BOARD DECISIONS**

The time to seek judicial review of final Retirement Board decisions is governed by Code of Civil Procedure section 1094.6. Each notice of decision shall include a statement substantially as

follows: "The time to seek judicial review (appeal) from this decision is governed by Code of Civil Procedure section 1094.6. If you disagree with this decision and wish to appeal it, you must file a petition for writ of mandate with the superior court within 90 days of the date of this notice. If you fail to do so, you will lose your right to appeal this decision".

**4.20. Amended 02-25-2014**

**4.20. Amended 12-16-2015**

#### **4.21. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this Article require service on "interested parties," such service shall be made on the Executive Director, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.
- C. Unless otherwise provided in these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.
- D. For purposes of determining the effectiveness of service on an applicant or subject employee, correspondence shall be deemed "properly addressed" if it bears the address specified on the application, or if the application has been amended, the address specified on the most recently filed amended application.

**4.21. Amended 02-25-2014**

**4.21. Amended 12-16-2015**

**Article 4 Amended 12-04-2007**

**Article 4 Amended 11-23-2010**

**Article 4 Amended 02-25-2014**

**Article 4 Amended 12-16-2015**

**Article 4 Amended 04-24-2018**

**ARTICLE 5 - CLAIMS FOR BENEFITS, RIGHTS, OR PRIVILEGES OTHER THAN  
DISABILITY RETIREMENT**

**5.1. PURPOSE**

The purpose of this article is to provide a procedure for acting upon applications for rights, benefits, and privileges other than applications for disability retirement under the 1937 Act to the end that applications can be expeditiously processed with a minimum lapse of time and that when a hearing is required by law, the Applicant will have notice of the hearing and an opportunity to appear before the Retirement Board and present his / her case.

***5.1. Amended 12-16-2015***

**5.2. FILING AND AMENDMENT OF APPLICATIONS**

- A. A claim for rights, benefits, and privileges other than applications for disability retirement shall be made by filing with the Retirement Board a completed application, on a form approved by the Retirement Board, for that purpose, together with all facts, information, and documentation supporting such claim. Upon the filing of such an application, the Retirement Board shall serve the Applicant with a copy of this article and forward the application to the Executive Director for the Executive Director's review, investigation, and recommendation, pursuant to the provisions of this article.
- B. If, during the pendency of an application, there is any change in any of the facts or claims set forth in the application, the Applicant shall immediately file with the Retirement Board and serve on all interested parties written notice of the change. Upon the filing of such notice with the Retirement Board, the application shall be deemed amended accordingly.
- C. Failure to accurately and fully complete or timely amend an application may delay its processing or, in the discretion of the Retirement Board or referee, preclude the Applicant from asserting or introducing evidence of the omitted or changed fact(s) or claim(s).

***5.2. Amended 02-25-2014***

***5.2. Amended 12-16-2015***

**5.3. FURTHER INFORMATION TO BE FURNISHED BY APPLICANT**

- A. At any time during the pendency of an application, the Executive Director, the Retirement Board, or the counsel for StanCERA may, by written notice to the Applicant, request that the Applicant serve, within thirty (30) days or such further time as may be designated, any or all of the following items: copies of all pertinent records and reports, copies of all other documents upon which the Applicant relies in support of the application, and sworn written responses to written inquiries concerning any matter, which is, either relevant to the subject matter of the application or is reasonably calculated to lead to the discovery of evidence, which would be admissible at hearing including, but not limited to, the subject employee's medical history, employment history, current medical condition, and current employment status.
- B. With respect to any request, pursuant to Subsection 5.2. (A), if the Applicant or subject employee

fails or refuses to respond within the time allowed for response or if the propounding party deems a further response to be required, the propounding party may move the Retirement Board for an order to compel compliance with the request. Such a motion shall be made by filing with the Retirement Board and serving on all interested parties a copy of the written request and proof of service thereof, a copy of the response, if any, and a statement of the facts and arguments supporting the motion.

Upon the filing of such a motion, the Executive Director shall set a hearing thereon either before the Retirement Board or a referee and serve all interested parties with notice thereof. No later than five (5) days before the date set for hearing, any interested party may file and serve written opposition to The motion. After hearing the motion, the Retirement Board or referee shall rule thereon and serve notice of the ruling on all interested parties. If the Applicant or subject employee fails or refuses to obey an order of the Retirement Board or referee made, pursuant to this subsection, the Retirement Board may take any further action upon the noticed request of any interested party, which it determines to be reasonable and just, including, but not limited to, precluding the Applicant from asserting or introducing evidence of specified facts or claims, deeming specified facts or claims to be admitted, or dismissing the application with or without prejudice. Nothing in this Section shall be construed to limit the right of any interested party to seek judicial review of action taken by the Retirement Board or referee pursuant to this Section.

**5.3. Amended 02-25-2014**

**5.3. Amended 12-16-2015**

#### **5.4. ADMINISTRATIVE RECOMMENDATION**

A. Upon review of the application and information submitted by the Applicant, and all other relevant material, the Executive Director shall make one of the following recommendations to the Retirement Board:

1. "Grant claim for benefits" where the Executive Director determines, from all available information that there is no substantial conflict with respect to the facts necessary to grant an application for benefits, rights, or privileges.

2. "Refer for hearing:" where the Executive Director is unable to find, from all available information, the necessary conditions to recommend granting a claim for benefits, rights, or privileges. At any time prior to hearing, the Executive Director may, in accordance with the standards set forth in Subsection 5.4, withdraw his recommendation to refer to hearing and recommend that the claim for benefits, rights, or privileges be granted, and the Retirement Board may act, thereon, in the manner prescribed in Section 5.5 of this Article.

3. "Deny claim for benefits" where the Executive Director determines from all available information that there is no substantial evidence to support the facts necessary to grant such a benefit.

B. The Executive Director's recommendation to the Retirement Board shall be made at a regular meeting of the Retirement Board after placing the matter on the agenda of a Retirement Board meeting.

**5.4. Amended 02-25-2014**

**5.4. Amended 12-16-2015**

#### **5.5. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION**

With respect to each application, for which the Retirement Board has received an administrative recommendation, pursuant to Section 5.4, the Retirement Board shall, at the first meeting where the matter properly appears on its agenda, take the following action or any other action that the Retirement Board may deem appropriate:

- A. If the administrative recommendation is "grant claim for benefits" the Retirement Board may either grant such a claim or refer all issues for hearing.
- B. If the administrative recommendation is "refer for hearing", the Retirement Board may either refer all issues for hearing or remand to the Executive Director for further investigation.
- C. If the administrative recommendation is "deny claim for benefits", the Retirement Board may either deny such benefit, grant such benefit, or refer all issues to hearing.

**5.5. Amended 02-25-2014**

**5.5. Amended 12-16-2015**

**5.6. SETTING FOR HEARING**

- A. If the Retirement Board determines that a matter is to be set for hearing, the matter shall be heard by a referee unless the Retirement Board moves to hear the matter itself. If the Retirement Board determines that the matter shall be heard by a referee, the Executive Director shall notify counsel, who shall promptly schedule a hearing, taking into consideration the availability of a qualified referee, the availability of witnesses for the parties, and any other matter necessary and appropriate for the hearing. The Executive Director's counsel shall give written notice of the date, time and place of the hearing to all interested parties at least 30 days in advance of the scheduled hearing, unless otherwise stipulated by all interested parties.
- B. The Executive Director shall maintain a list of retired judges or qualified licensed attorneys who are approved by the Retirement Board and who are available to serve as hearing referees. The Executive Director shall appoint the referee for each hearing by determining which person on the list served last and selecting the person next in order. In the event the person next in order declines to serve as referee or is unavailable to serve within a reasonable period of time, the Executive Director shall appoint the person on the list next in order. The notice of hearing shall include the identity of the person appointed as referee. Any interested party may promptly object in writing to the appointment of a particular referee. If said written objection is not filed with the Executive Director's office at least ten (10) days prior to the date first set for hearing, any such objection shall be waived. In the event such objection is timely filed, the Executive Director shall appoint as referee the person next in order on the referee list.
- C. Upon stipulation by the interested parties or upon a showing of good cause, the referee or the Retirement Board may continue a hearing to a new date.
- D. The party requesting the continuance shall bear all costs relating to the continuance unless good cause is shown to the referee or to the Retirement Board. Such costs include, but are not limited to, referee fees, court reporter fees, witness fees, and any other costs, fees and expenses incurred by the Retirement Board, by anyone on behalf of StanCERA or by any other interested party as a result of the continuance.

**5.6. Amended 02-25-2014**

**5.6. Amended on 12-16-2015**

### **5.7. PRE-HEARING PROCESS**

- A. The Executive Director shall schedule a date for the hearing. The Retirement Board or referee may, upon stipulation by the interested parties or showing of good cause, continue a hearing to a new date. The party requesting the continuance shall bear all costs relating to the continuance, unless good cause is shown to the Retirement Board.
- B. Within thirty (30) days of the date of the hearing, the Applicant shall provide a copy of all documents and writings, which the Applicant proposes to introduce at the hearing to the Executive Director, and the Executive Director shall provide a copy of documents and writings that the Executive Director intends to introduce at the hearing to the Applicant. Any interested party may request a pre-hearing conference. The Applicant or the Executive Director may set a pre-hearing conference by serving all interested parties with written notice of the conference at least fifteen (15) days in advance. Such conferences shall be attended by all interested parties and their counsel.
- C. Any interested party shall at any time after filing of the application, be entitled to undertake discovery in the form of requests for admissions, interrogatories or depositions in the manner prescribed by the Code of Civil Procedure, provided that such discovery is limited to the matters set forth in the application.
- D. Formal discovery shall be limited to those procedures provided in this Article and the 1937 Act, except as otherwise stipulated between the parties or as authorized by the Retirement Board or referee upon a showing of good cause.

**5.7. Amended 02-25-2014**

**5.7. Amended on 12-16-2015**

### **5.8. HEARING PROCEDURES**

- A. Every hearing before a referee shall be reported by a certified shorthand reporter, and every hearing before the Retirement Board shall be electronically recorded.
- B. At any hearing, any interested party may be represented by legal counsel, at his/her/its own cost.
- C. The referee or, with respect to hearings before the Retirement Board, the Chair or the Chair's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to, prescribing the order of proof; ruling upon the admissibility of evidence; ordering medical examinations; requiring that additional relevant evidence be gathered and presented; questioning witnesses; and determining whether the matter shall proceed or be adjourned subject to continuation.
- D. Except as otherwise provided in this Article, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable and responsible persons are accustomed to rely on in the conduct of serious affairs regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objections



in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions.

- E. Oral evidence shall be taken only on oath or affirmation.
- F. On any relevant matter, each interested party shall have the right to call and examine witnesses, introduce documentary and other physical evidence, and cross-examine opposing witnesses. Any interested party who does not testify on his own behalf may be called and examined as a witness, as if, under cross-examination.
- G. Refusal of the Applicant or interested party to submit to examination or to answer relevant questions shall be grounds for considering such questions for the purpose of that hearing to be answered in a way unfavorable to the refusing party.
- H. Any interested party may offer, and the Retirement Board or referee shall receive into evidence, the deposition of any witness subject to the objections available under Code of Civil Procedure Section 2025.010 et seq., notwithstanding, that the deponent is not "unavailable as a witness" within the meaning of Section 240 of the Evidence Code and no exceptional circumstances exist if:
  - 1. The deposition was taken in the manner provided for by law or by stipulation of the parties; and
  - 2. At least thirty (30) days prior to the hearing, the proponent of the deposition delivered to all interested parties notice of intention to offer the same into evidence. Any interested party, upon receiving such notice, may subpoena the deponent and, if he does so, at the discretion of the Retirement Board or referee, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the party who subpoenaed him. These limitations are not applicable to a deposition admissible under the terms of Section 2025.010 of the Code of Civil Procedure.
- I. For the purposes of this Section, "delivery" of a document or notice may be accomplished manually or by mail in the manner provided by Subsection 5.14. If delivery is by mail, the times prescribed in this subsection for delivery of documents and notices shall be increased by five (5) days.

**5.8. Amended 02-25-2014**

**5.8. Amended on 12-16-2015**

**5.8 Amended on 04-24-2018**

#### **5.9. DECISION OF THE REFEREE**

- A. Where a hearing is held before a referee, the referee shall prepare, in writing, proposed findings of fact and recommended decisions and reasons therefor.
- B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Retirement Board his proposed findings of fact and recommended decision, which shall include those documents received into evidence or rejected and shall serve the same on all interested parties. The referee shall not be entitled to remuneration for his services, until the aforesaid documents have been filed and served.

- C. Within ten (10) days following the service of the referee's proposed findings of fact and recommended decision, any interested party may submit objections, thereto, by filing the same with the Retirement Board and serving the same on all interested parties.

**5.9. Amended on 12-16-2015**

**5.10. ACTION BY THE RETIREMENT BOARD UPON REFEREE'S DECISION**

Upon receiving the proposed findings of fact and recommended decision, the Retirement Board may:

- A. Approve and adopt the proposed findings and recommendations of the referee; or
- B. Require a transcript or summary of all the testimony plus all other evidence received by the referee and, thereupon, take such action as in its opinion is indicated by such evidence; or
- C. Refer the matter back with / without instructions to the referee for further proceedings; or
- D. Set the matter for hearing before the Retirement Board on a date within the next forty-five (45) days. At such a hearing, the Retirement Board shall hear and decide the matter as if it had not been referred to a referee.

**5.10. Amended 02-25-2014**

**5.10. Amended on 12-16-2015**

**5.11. HEARINGS BEFORE THE RETIREMENT BOARD**

- A. Five (5) members of the Retirement Board constitute a quorum for the making of any decision at a hearing held, pursuant to the provisions of this Article. No findings of fact or decision by the Retirement Board shall be valid unless:
  - 1. A majority of all members present; or
  - 2. Four (4) members, whichever is greater, concur therein.
- B. When a hearing is held before the Retirement Board, the Retirement Board shall, no later than the second regular meeting following the meeting at which the matter is submitted, determine all material issues and shall incorporate such determinations in a written decision and findings of fact.
- C. Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, the Retirement Board shall serve all interested parties with a copy of the same together with a notice of the right to judicial review of the Retirement Board's decision as set forth in Section 5.14.

**5.11. Amended on 12-16-2015**

**5.12. DATE OF FINAL DECISION AND NOTICE THEREOF**

The decision of the Retirement Board shall be final on the date notice, thereof, is mailed to the subject employee by US first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. A copy of the decision along with the affidavit or certificate of mailing shall simultaneously be mailed to the applicant, if other than the subject employee, and to all other interested parties and their respective counsel.

**5.12. Amended on 12-16-2015**

**5.13. JUDICIAL REVIEW OF THE RETIREMENT BOARD'S DECISION**

Judicial review of the final retirement decisions shall be subject to Code of Civil Procedure Section 1094.6. This section has been made applicable by the Retirement Board and the Stanislaus County Board of Supervisors. Following each final decision, the Executive Director shall include in the notice of decision a statement substantially as follows: "The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure section 1094.6, which has been made applicable to StanCERA by the Retirement Board and the Stanislaus County Board of Supervisors. Generally, any petition or other paper seeking judicial review must be filed in the appropriate court not later than the ninetieth (90) day following the date on which this decision becomes final. Judicial review of a final decision is reviewable, pursuant to Code of Civil Procedure section 1094.5 only if the petition for writ of mandate made pursuant to Code of Civil Procedure section 1094.06 is filed within the time limits specified in latter section.

**5.13. Amended 02-25-2014**

**5.13. Amended on 12-16-2015**

**5.14. SERVICE OF NOTICE**

- A. Unless otherwise provided by these Bylaws or by statute, where the provisions of this Article require service of a notice, demand, request, or other written communication, service shall be made on the party on whom service is required unless the said party has filed notice of representation by counsel, in which case service shall be made upon counsel of record for that party.
- B. Where the provisions of this article require service on "interested parties," such service shall be made on StanCERA, on all interested parties who have appeared in the subject proceedings, and on all interested parties who have not appeared in such proceedings and who have filed a request to be served with documents, which are served and filed in such proceedings. Pursuant to Government Code section 31532, unless otherwise ordered by a court of competent jurisdiction or necessary for the processing of an application, sworn statements and individual records of members shall not be disclosed by StanCERA.
- C. Unless otherwise provided by these Bylaws or by statute, the service of all notices, orders, requests, and other written communications, which are not personally served, shall be effected by sealing the same in an envelope properly addressed to the party to be served and depositing the envelope in the United States mail with first class postage fully prepaid, and any applicable time limitations shall be extended in the manner prescribed by Code of Civil Procedure Section 1013.
- D. For purposes of determining the effectiveness of service on an Applicant, correspondence shall be deemed "properly addressed" if it bears the address specified on the application,

or, if the application has been amended, the address specified on the most recently filed amended application.

**5.14. Amended 02-25-2014**

**5.14. Amended on 12-16-2015**

*Article 5 Amended 12-11-2002*

*Article 5 Amended 12-04-2007*

*Article 5 Amended 11-23-2010*

*Article 5 Amended 02-25-2014*

*Article 5 Amended 12-16-2015*

*Article 5 Amended 04-24-2018*

**ARTICLE 6 - AMENDMENTS AND REPEALS**

**6.1. AMENDMENTS**

The Retirement Board may, as it deems necessary and desirable, by an affirmative vote of five (5) members, amend these Bylaws to be effective when approved by the Stanislaus County Board of Supervisors.

**6.1. Amended 02-25-2014**

**6.1. Amended 12-16-2015**

**6.2. REPEALS**

All former Bylaws and amendments thereto are hereby repealed. The foregoing Bylaws become effective when approved by the Board of Supervisors as provided by Government Code Section 31525.

**6.2. Amended 02-25-2014**

**6.2. Amended 12-16-2015**

**6.3. BYLAWS REVIEW**

The Bylaws shall be reviewed by a committee appointed by the Chair of the Retirement Board and revisions and/or amendments brought before the Board on or before December 31st at each odd year, or as needed.

**6.3. Amended 02/25/2014**

*Article 6 Amended 07-02-2002*

*Article 6 Amended 02-25-2014*

*Article 6 Amended 12-16-2015*

**ARTICLE 7 - SUBPOENAS**

**7.1. POWER TO ISSUE SUBPOENAS**

The Retirement Board, the Executive Director or a Referee appointed under these Bylaws may issue subpoenas or subpoenas duces tecum in accordance with the provisions of Government Code Section 31535. Subpoenas shall be signed by the Chair of the Retirement Board, the Secretary of the Retirement Board, the Executive Director, or the Referee.

## **7.2 PARTIES ENTITLED TO ISSUANCE OF SUBPOENAS**

Any Party to a pending transaction or other proceeding under these Bylaws may request that subpoenas be issued on the party's behalf by the Retirement Board, the Referee, or the Executive Director. The scope of such subpoenas shall be limited to the subject matter of the application or proceeding. The party requesting such subpoenas shall be solely responsible for enforcing them in the same manner found in Government Code section 25170 et seq, as set forth in Government Code section 31535, and shall bear all costs incurred in connection with issuance of such subpoenas.

***7.1. Amended 02-25-2014***

***7.1. Amended on 12-16-2015***

***7.1. Amended on 04-24-2018***

***7.2. Added on 04-24-2018***

***Article 7 Amended 12-11-2002***

***Article 7 Amended 03-22-2005***

***Article 7 Amended 02-25-2014***

***Article 7 Amended 12-16-2015***

***Article 7 Amended 04-24-2018***

## **HISTORICAL NOTES**

Approved by the Board of Supervisors on September 27, 1988.

Amendment to Sections 4.4.(A), 4.6.(B), and 4.6.(C) approved by the Board of Supervisors on April 25, 1989.

Amendment to Sections 4.4.(A), 4.4.(B), 4.6.(B), 4.6.(C) and 4.7.(A) and deletion of Section 4.6.(D) approved by the Board of Supervisors on December 19, 1989.

Amendment to Section 1.5. approved by the Board of Supervisors on March 27, 1990.

Amendment of Section 1.2 by addition of Subsection (J) approved by the Board of Supervisors on October 2, 1990.

Addition of Section 3.11, (A), (B), and (C) approved by the Board of Supervisors on October 2, 1990.

Amendment of Article 1, addition of Section 1.6 approved by the Board of Supervisors on April 27, 1993.

Revision of the Bylaws approved by the Board of Supervisors on August 18, 1998.

Amendment of Article 2 approved by the Board of Supervisors on April 6, 1999

Amendment of Article 1 approved by the Board of Supervisors on August 31, 1999

Amendment of Article 1, Section 1.5, approved by the Board of Supervisors on October 31, 2000

Revision of the Bylaws approved by the Board of Supervisors on July 2, 2002

Revision of the Bylaws approved by the Board of Supervisors on December 11, 2002

Amendment of Article 2, Section 2.1, approved by the Board of Supervisors on December 5, 2006

Revision of the Bylaws approved by the Board of Supervisors on December 4, 2007

Amendment of Article 1, Section 1.7, approved by the Board of Supervisors on March 25, 2008

Revision of the Bylaws approved by the Board of Supervisors on May 24, 2011

Amendment of Articles 1-3, 8-11 approved by the Board of Supervisors on February 25, 2014

Amendment of Article 1.7 approved by the Board of Supervisors on March 15, 2016

Removal of Prior Articles 4 (Member Contributions), 5 (Service Retirement), 6 (Service), 7 (Compensation Earnable) and 14 (Continuing Education and Due Diligence Visitations). Prior articles 4, 5, 6, 7 and 14 reclassified as StanCERA Internal Policies. Prior articles 9 (Claims for Disability Retirement), 10 (Claims for Benefits, Rights, or Privileges Other Than Disability), 8 (Amendments and Repeals) and 11 (Subpoenas) reclassified to articles 4, 5, 6 and 7, respectively. Approved by the Board of Supervisors on MM/DD/2018

