

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

DEPT: StanCERA Tom Watson

BOARD AGENDA # \*B-10

Urgent  Routine

AGENDA DATE May 24, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

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

STAFF RECOMMENDATIONS:

Approve the biennial revisions to the Bylaws of the Stanislaus County Employees' Retirement Association (StanCERA) as approved by the Board of Retirement on December 8, 2010.

FISCAL IMPACT:

There is no cost to the County with the adoption of these revisions.

BOARD ACTION AS FOLLOWS:

No. 2011-312

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

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. BD-36-A-18

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

### DISCUSSION:

In calendar year 2008 many revisions were made to the StanCERA Bylaws, however Articles 9 (Disability Retirement) and 10 (Claims Other than for Disability Retirement) were not changed. These were set aside for review in calendar year 2009. In calendar year 2009 many actuarial and legal issues as well as the transition of legal services for StanCERA took precedence for staff and legal counsel time, and these Bylaws were not reviewed.

With the change in legal counsel services, the new Excess Earnings Policy, Internal Revenue Service (IRS) rollover changes, and other practice changes, staff delved further into other Bylaw sections to perform minor clean-up that was needed to reflect the practice of the use of private general legal counsel, the new Excess Earnings Policy, IRS rollover regulations, and other minor changes.

In October 2010 staff and legal counsel met to review the potential changes. The results of this meeting were then reviewed by the Board of Retirement's Internal Governance Committee (IGC) at its November 23, 2010, meeting. The revisions were approved by the Committee and placed on the Board of Retirement's December 8, 2010 Board meeting agenda for approval.

Attachment A is the redlined version of the revised Bylaws that were approved by the Board of Retirement on December 8, 2010.

### POLICY ISSUE:

In accordance with State law, Government Code Section 31525, the Board of Supervisors approves the Bylaws of StanCERA that are not in conflict with State law. Adoption of the revisions will enable the Board of Retirement and staff to better serve the members of StanCERA and efficiently administer StanCERA retirement benefits. This also supports the Board of Supervisors' goal of efficient delivery of public services by continuously improving business efficiencies.

### STAFFING IMPACT:

There is no staffing impact associated with this item. The revisions to the Bylaws do not add or delete any labor requirements that would require any addition or reduction in staff.

### CONTACT PERSON:

Tom Watson, Retirement Administrator, (209) 525-6393, or, [www.retirement.org](http://www.retirement.org).

ATTACHMENT "A"



STANISLAUS COUNTY  
EMPLOYEES' RETIREMENT ASSOCIATION  
832 12<sup>th</sup> Street, Suite 600  
Modesto, CA 95354  
Mail: P.O. Box 3150, Modesto 95353

Phone (209) 525-6393  
Fax (209) 525-4334  
[www.stancera.org](http://www.stancera.org)  
e-mail: [retirement@stancera.org](mailto:retirement@stancera.org)

---

(Intentionally Blank)

**STANISLAUS COUNTY EMPLOYEES RETIREMENT ASSOCIATION  
BOARD OF RETIREMENT BYLAWS**

**Bylaws**

**Table Of Contents**

Article 1 Administration – Pages 4 - 7

- 1.1. Name
- 1.2. Purpose
- 1.3. Definitions
- 1.4. Management
- 1.5. Officers
- 1.6. Retirement Board Member Election Procedures
- 1.7. Committees
- 1.8. Policy Procedure And Practice
- 1.9. Independent Operations

Article 2 Meetings – Page 8

- 2.1. Regular Meetings
- 2.2. Special Meetings
- 2.3. Persons Attending Meetings
- 2.4. Rules Of Order
- 2.5. Quorum
- 2.6. Correspondence
- 2.7. Minutes
- 2.8 Compensation Of Members

Article 3 Membership – Pages 9 - 10

- 3.1. Membership Defined
- 3.2. Provisions For Membership
- 3.3. Contracting Districts
- 3.4. Waiver By Employees Over Sixty (60)
- 3.5. Exclusions
- 3.6. Enrollment Questionnaire
- 3.7. Proof Of Marriage
- 3.8. Beneficiary Proof Of Birth
- 3.9. Correction Of Date Of Birth
- 3.10. Proof Of Death
- 3.11. New Membership
- 3.12 Spouse/Registered Domestic Partner

Article 4 Members' Contributions – Pages 11 - 12

- 4.1. Contributions Made In Accordance With 1937 Act
- 4.2. Contributions Made On Regular Compensation
- 4.3. Partial Contributions Prohibited
- 4.4. Withdrawal On Termination
- 4.5. Refund To Deferred Members
- 4.6. Rate Of Interest Declarations
- 4.7. Member's Contributions Refund Policy
- 4.8. Buy Backs And Redeposits
- 4.9. Rollovers And Trustee-To-Trustee Transfer
- 4.10. Documentation Required
- 4.11. IRS Limitations
- 4.12. Remedies For Errors
- 4.13 Remedies For Member's Regular Payroll Contribution Errors

Article 5 Service Retirement – Page 13

- 5.1. Application
- 5.2. Retirement Board Approval Required
- 5.3. Annuity Certificates

Article 6 Service – Page 14

- 6.1. Service Credit

Article 7 Compensation Earnable – Page 15

- 7.1. Compensation Earnable
- 7.2. Court Reporters
- 7.3. Average Monthly Final Compensation

Article 8 Amendments And Repeals – Page 16

- 8.1. Amendments
- 8.2. Repeals
- 8.3. Bylaws Review

Article 9 Claims For Disability Retirement – Pages 17 - 23

- 9.1. Definitions
- 9.2. Filing And Amendment Of Applications
- 9.3. Documents To Be Completed And Furnished By Applicant
- 9.4. Medical And Psychiatric Examinations
- 9.5. Discovery Available
- 9.6. Applicant's Failure To Furnish Documents, Information, Or Failure To Submit To Medical Examination
- 9.7. Documents And Information To Be Furnished By Employer
- 9.8. Communication With Individual Retirement Board Members
- 9.9. Right To Counsel
- 9.10. Stipulations Of Other Entities Not Binding
- 9.11. Administrative Recommendation
- 9.12. Procedure Upon Administrative Recommendation
- 9.13. Setting For Hearing
- 9.14. Hearing Procedures
- 9.15. Decision Of The Referee
- 9.16. Action By The Retirement Board Upon Referee's Decision
- 9.17. Hearings Before The Retirement Board
- 9.18. Date Of Final Decision And Notice Thereof
- 9.19. Judicial Review Of The Retirement Board's Decision
- 9.20. Service Of Notice

Article 10 Claims For Benefits, Rights Or Privileges Other Than Disability Retirement - Pages 24 - 27

- 10.1. Purpose
- 10.2. Filing And Amendment Of Applications
- 10.3. Further Information To Be Furnished By Applicant
- 10.4. Administrative Recommendation
- 10.5. Procedure Upon Administrative Recommendation
- 10.6. Setting For Hearing
- 10.7. Pre-Hearing Process
- 10.8. Hearing Procedures
- 10.9. Decision Of The Referee
- 10.10. Action By The Retirement Board Upon Referee's Decision
- 10.11. Hearings Before The Retirement Board
- 10.12. Date Of Final Decision And Notice Thereof
- 10.13. Judicial Review Of The Retirement Board's Decision
- 10.14. Service Of Notice

Article 11 Subpoenas – Page 28

- 11.1. Subpoenas

[Article 12 Time Limits For Judicial Review](#) – Page 29  
12.1 – 12.5 – Repealed 12/04/2007

[Article 13 Retiree Health Insurance Policy](#) – Page 30  
13.1 - 13.9 - Repealed 10/11/06 - See Retiree Health Allowance Policy and Retiree Health Insurance Guidelines

[Article 14 Continuing Education And Due Diligence Visitations](#) – Pages 31 -32

- 14.1. Need For A Policy
- 14.2. Establishment Of List And Evaluation Of Continuing Educational Seminars And Conferences
- 14.3. Educational Requirement
- 14.4. Due Diligence Visitations Of Money Management Firms And Consultants
- 14.5. Due Diligence Visitations Of Real Estate Properties
- 14.6. Continuing Education Seminars And Due Diligence Visitation Requests Policies
- 14.7. Education Policy Reporting Requirements
- 14.8. Due Diligence Reporting Requirements
- 14.9. Reimbursement For Travel Expenses Related To Education And Due Diligence Visits

[Historical Notes](#) – Page 33

Bylaws Updated as of 12/29/2006  
PDF Document created 02/06/2007  
Bylaws Updated as of 12/04/2007  
Bylaws Updated as of 03/25/2008  
[Bylaws Updated as of 12/08/2010](#)

Stanislaus County Employees Retirement Association  
Board Of Retirement Bylaws

## **ARTICLE 1 – ADMINISTRATION**

### **1.1. NAME**

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

### **1.2. PURPOSE**

StanCERA is established in accordance with and subject to the Stanislaus County Employees' Retirement Law of 1937, 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 as supplemented by these bylaws.

### **1.3. DEFINITIONS**

- A. "Administrator" means the StanCERA Retirement Administrator.
- B. "Applicant" means a person, the Retirement Board, or StanCERA claiming benefits, rights, or privileges under the 1937 Act.
- C. StanCERA means the Stanislaus County Employees' Retirement Association.
- D. "Retirement Board" means the StanCERA Board of Retirement.
- E. "Hearing officer" means the person designated by the Retirement Board to conduct a hearing, and make recommendation pursuant to section 31533 of the Government Code.
- F. "Part-time employee" means an employee of Stanislaus County or a contracting district 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 50 percent of the normal workweek.
- G. "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.
- H. "Subject employee" means the member of the retirement system on behalf of whom an application is filed.
- I. Member "contributions" are defined as the actuarially determined rate as applied to the member's compensation earnable for each pay period.

### **1.4. MANAGEMENT**

Management of the retirement system is vested in the Retirement Board. Day-to-day administration of the retirement system is delegated to the Administrator. Appointment or election of members of the Retirement Board shall be as provided by Section 31520.1 of the Government Code and this Article.

### **1.5. OFFICERS**

At the first regular meeting in January, the Retirement Board shall appoint one of its members as chair and one of its members as vice chair, each to hold office for a term of one year. The positions of chair and vice chair will rotate by succession by the number assigned to the Retirement Board member. If a member has not served at least two 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 term, the normal successor shall perform the balance of the unexpired term. If the unexpired term is for less than 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 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 Administrator. The alternate safety member shall serve as provided in 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 8-31-99 and 10-31-00**

### **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 Retirement Board's 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).

## StanCERA Bylaws

The Administrator 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 shall be made no more than sixty (60) nor less than forty-five (45) days prior to the final date for receipt of ballots. The distribution of the notice of election shall be made with employee payroll for General and Safety member elections; through the mail for Retired member elections.

The Administrator shall prepare a NOMINATION PAPER which upon completion will contain the following information:

name of candidate; candidate's Department (if General or Safety member) or city and state 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--twenty five (25); Safety--ten (10); Retired--fifteen (15)); 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 Administrator 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 nomination paper is received by the Administrator on or before the deadline specified for receipt, the Administrator 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 or more nomination papers are received by the Administrator on or before the deadline for receipt, the Administrator shall prepare ELECTION BALLOT MATERIALS which shall consist of:

- A. A ballot with the candidates' names, Departments (if General or Safety member) or city and state 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 Administrator's address for receipt of ballots, the member's name and space for the member's signature; and
- D. A cover envelope with the member's name and Department (if General or Safety member) or name and mailing address (if Retired member). The ballots must be received back in the Administrator's Office by 5:00 p.m. on the final date indicated on the ballot 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 Office of the Administrator. The Administrator 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 Administrator, one (1) member of the Retirement Board not associated with the election in any way, and any staff from the Administrator'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 Administrator 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 Administrator shall telephone each candidate with the results of the election and the declaration shall be posted in a conspicuous place in or near the Office of the Administrator in the afternoon following the canvassing. Copies of the declaration shall be mailed to each candidate and each Department (if General member or Safety member election) or the Retired Employees of Stanislaus County, 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 Administrator no later than fourteen (14) days following the original canvassing of the ballots. The Administrator 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 longer 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.

### 1.7. COMMITTEES

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

~~A. Retiree Benefits Committee. This committee shall make appropriate annual reviews of retiree ad hoc benefits. The committee shall consist of the retiree representative, one employee representative, one appointed member and the Administrator. The committee shall report to the Retirement Board only to make recommendations for changes or for status quo continuances of retiree ad hoc benefits. The committee shall insure that any recommendation is provided to the Retirement Board in sufficient time for the Retirement Board to develop proposed changes for further review as provided in the 1937 Act before final determinations are made and changes are implemented.~~

Formatted: Bullets and Numbering

~~B.A. Due Diligence Committee. This committee shall consist of the Vice-Chair as Chair and two other Board members and staff appointed by the Vice-Chair. 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.~~

Formatted: Bullets and Numbering

~~C.B. Internal Governance Committee. This committee shall consist of three Retirement Board members, the Administrator, the Operations Manager and appropriate legal counsel. 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.~~

Formatted: Bullets and Numbering

~~D.C. Strategic Planning Objectives Committee. This committee shall consist of no less than two Retirement Board members, the Administrator, project and any other staff as the committee deems are necessary. The committee may request input from administrative staff and attendance fo 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.~~

Formatted: Bullets and Numbering

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.

### 1.8. 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

### 1.9. INDEPENDENT OPERATIONS

StanCERA is a separate legal entity from Stanislaus County and is governed by the Retirement Board. California State law 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 various employer-employee agreements. To fulfill the mission of StanCERA, the Retirement Board hires staff, contracts with investment managers, hires consultants, adopts an administrative budget, purchases goods and services and adopts administrative policy.

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 are relegated to administering retirement benefits, staff are not subject to mandates from the Board of Supervisors or its agents that would interfere with or otherwise supercede 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 Administrator. 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 Stanislaus County Counsel for general legal advice unless Stanislaus County Counsel advises that there is a conflict of interest or that other legal expertise is required in certain circumstances or until such time as the Retirement Board determines that it requires full time in-house counsel.~~

The Retirement Board has used and will continue to use a variety of special consultants as needs arise such as for services related to benefit and liability determinations, the taxability of retirement benefits and legal advice on the determination of granting or denying disability retirement applications.

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 including but not limited to banking; staff payroll; check writing; some printing; postage metering and handling; Purchasing Cards; general liability, ~~and workers compensation and fiduciary insurances;~~ telecommunications; some data processing services; ~~Stanislaus County Counsel legal 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 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 (for example a cost associated with maintaining the Chambers or other meeting room which the Retirement Board or staff do not utilize).

*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 2 – MEETINGS

### 2.1. REGULAR MEETINGS

Regular meetings of the Retirement Board shall be held on the second Wednesday of each month to focus on administrative and benefit issues; and on the fourth Tuesday of the month to focus on investment issues. If circumstances are such that only one regular meeting is scheduled within a certain month, all issues within the Retirement Board's jurisdiction will be addressed at that meeting. All regular meetings shall be held at 2:00 p.m. on the aforementioned days in the **StanCERA Board Room located on the sixth floor of 832 12th Street, Modesto, California**, unless changed by the chair and proper notice given by the Administrator.

### 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 members of the Retirement Board. The Administrator shall publicly post and give each Retirement Board member the minimum notice required by the Ralph M. Brown Act.

### 2.3. PERSONS ATTENDING MEETINGS

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

### 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. Consent items (e.g. Approval of minutes & Retirements)
- C. Presentations to the Retirement Board
- D. Closed Session
- E. Administrator
- F. Committee Reports and Recommendations
- G. Correspondence
- H. Member's forum for future agenda items
- I. Adjournment

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

### 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 Administrator two weeks prior to any regularly scheduled Retirement Board meeting to appear on the Retirement Board agenda.

### 2.7. MINUTES

The Administrator shall cause to be recorded in the minutes the time and place of each meeting, the name of each 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 Administrator, approved as to form by [Stanislaus County Counsel/legal counsel](#), and shall become a part of the Retirement Board's permanent record.

### 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 3 – MEMBERSHIP

### 3.1. MEMBERSHIP DEFINED

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

### 3.2. PROVISIONS FOR MEMBERSHIP

Every employee of Stanislaus County or of any district included in StanCERA who is appointed to a permanent full-time position as specified in the ordinances of Stanislaus County or of the included district 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.

### 3.3. 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 be allowed to make the additional appropriation by periodic payments over a period of time not to exceed thirty (30) years.

### 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

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 Administrator, 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 copy of a birth certificate
6. Passport
7. Alien registration card with photograph

#### B. Any two (2) of the following:

1. Marriage record if date of birth is shown
2. Military record
3. Child's birth certificate showing date of birth of member
4. Affidavit by older relative
5. Hospital birth record

### 3.7. PROOF OF MARRIAGE

A. Every member, at the time of retirement, shall submit proof of marriage and an affidavit that the marriage continues if a designated beneficiary is the spouse, and the option pursuant to Section 31760, et seq., of the Government Code 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.

**3.8. BENEFICIARY PROOF OF BIRTH**

Every member, at the time of retirement, shall submit proof of birth of any designated beneficiary or beneficiary selected pursuant to the exercise of an option contained within Section 31760, et seq., of the Government Code.

**3.9. CORRECTION OF DATE OF BIRTH**

If the Administrator determines that the member's date of birth should be corrected on the records of StanCERA, the Administrator shall make such correction. In the event of such a correction, other than the failure to submit proof of birth, StanCERA shall refund excess contributions plus interest to the member or shall require additional contributions plus interest from the member. StanCERA may make any other adjustments to the member's benefits in order to best carry out the purposes of the 1937 Act and to provide benefits based on the member's corrected date of birth.

**3.10. PROOF OF DEATH**

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

**3.11. NEW MEMBERSHIP**

A. *Any Tier III member who, at the time he or 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.*

B. *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. Except as expressly provided by law, or a Board of Supervisor resolution the member shall not be entitled to buy back any service rendered in a non-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.*

**3.12. 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*

Formatted: Font: Bold, Italic

## 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.

### 4.2. CONTRIBUTIONS MADE ON REGULAR COMPENSATION

Normal and cost-of-living contributions shall be made on the compensation earnable of the employee.

### 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 Section 31628 of the Government Code. The Retirement Board, pursuant to Section 31628 of the Government Code, hereby orders that payment may be withheld for a period not to exceed six months after the date of separation. For the purposes of this section, "termination" means the member has not been paid for 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 regulation.

### 4.5. REFUND TO DEFERRED MEMBERS

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

- A. If not covered under provisions of a reciprocal retirement system, upon receipt of request for refund;
- B. If covered under provision of a reciprocal retirement system, upon receipt of request for refund and certification of termination of membership in such reciprocal system.

### 4.6. RATE OF INTEREST DECLARATIONS

~~At its regular meeting immediately upon adoption of the actuarial survey recommendations, the Retirement Board shall declare the rate of interest, which shall be credited to members' contributions. The Retirement Board shall only declare the rate of interest to be credited to members' contributions and other accounts when that rate changes.~~

### 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 receives a retirement allowance from StanCERA.

### 4.8 BUY BACKS AND REDEPOSITS

A. A member may pay for a buy back in installments on a "period for period" basis 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 of these bylaws, 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 a buy back, the member's beneficiary shall have 120 days after the date of death of the member to complete the buy back as provided in Government Code Section 31485.7.

### 4.9 ROLLOVERS AND TRUSTEE-TO-TRUSTEE TRANSFERS

A member may use rollovers or trustee-to-trustee transfers to purchase permissive service credit.

A. Rollovers and 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 or trustee-to-trustee transfer
3. Qualified 401(a) plans, if direct rollover or trustee-to-trustee transfer
4. Qualified 401(k) plans, if direct rollover or trustee-to-trustee transfer
5. Stanislaus County-sponsored PARS plan, if direct rollover or trustee-to-trustee transfer

- 6. 403 (b) plans
- 7. Roth IRA

B. The following types of rollovers and/or trustee-to-trustee transfers will not be allowed:

- 1. Any Post-Tax Funds
- 2. ~~Non-traditional IRA's, including but not limited to, Roth IRA, SIMPLE, Educational IRA, SEP, SAR-SEP or Inherited IRA~~
- 3. ~~403(b) plans~~
- 4. Indirect Rollover from a 457 Governmental Plan
- 5. Indirect Rollover from a qualified 401(a) plan
- 6. Indirect Rollover from a qualified 401(k) plan
- 7. Keogh Plans
- 8. Partial distributions from any account, which contains both pre-tax and post-tax monies
- 9. Any other type of rollover, either direct or indirect, or 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.

#### 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 Administrator shall have final determination on acceptable documentation.

#### 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, salary and future benefits.

#### 4.12 REMEDIES FOR ERRORS

The Administrator may take whatever action deemed necessary to correct any errors which are deemed to violate Federal or State laws, or IRS code, rules or regulations including but not limited to refunding buy back amounts, repayment of excess transfers or rollovers, or reduction of the amount of service credit purchased and collection of overpayments in lump sum or by reducing a retiree's monthly allowance by no more than 10% (or a higher amount if approved by retiree) after adjusting the allowance prospectively to the corrected monthly amount. Interest in monthly payment amount shall only be added if the reduction in allowance is insufficient to pay back to StanCERA amounts owed in less than one year. For ongoing errors, corrections shall only be made from the cessation of the error back (retrospectively or retroactively) four (4) years.

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

Whenever the Administrator finds that there is an error in a member's contribution amount(s) from the regular payroll contributions, the Administrator shall correct the error by either refunding to the member (and/or employer if the employer pays member contributions on behalf of the member) any overpayment that was made to StanCERA or collecting any underpayment from the member (and/or employer if the employer pays member contributions on behalf of the member).

Overpayments to StanCERA can be corrected by making an immediate offset in the next payroll cycle of the amount of overpayment back to the member (and/or employer).

Underpayments shall be collected in like manner and over the same time period as the error has occurred. For example: If StanCERA staff find that a member should have contributed \$60 per payroll period, but the member only contributed \$50 per payroll period for six payroll periods, then the member's contributions will be increased to \$70 per payroll period (the corrected amount of \$60 plus the underpaid amount of \$10 per payroll period) for six payroll periods.

If the error is for a period of longer than one year, semi-annual interest shall be added at the declared rate by the Retirement Board that is in effect at the start of the collection of the amount(s) necessary to correct the member's contributions.

*1Upon 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 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. Application has been made to the Retirement Board in care of the Administrator.
- B. All documents required by the 1937 Act and these bylaws have been properly completed and submitted including: proof of marriage and affidavit of continuance thereof (if a spouse is nominated as the beneficiary), proof of birth of the beneficiary; and social security number of the beneficiary.
- C. If member has ever designated a spouse as a beneficiary and is no longer married to that spouse, the member must submit proof of division, non-interest regarding division of community property and/or death certificate in relation to StanCERA retirement benefits.

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.*

### 5.2 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 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 type of allowance desired and shall constitute the annuity certificate referred to in the 1937 Act.

*Article 5 Amended 07/02/2002*

*Article 5 Amended 12/04/2007*

**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.
- 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 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.

*Article 6 Amended 07/02/02*

*Article 6 Amended 12/04/2007*

**ARTICLE 7 - COMPENSATION EARNABLE**

**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, 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).

**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**

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 hours for members paid on an hourly basis and for members normally paid 80 hours biweekly. Members who are paid biweekly but on hourly schedules other than 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 26 biweekly 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 12.

**B. Three Year Average**

Average monthly final compensation is computed as the member's compensation over a three-year period for Tiers 2 and 3. This is 6,240 hours for members paid on an hourly basis and for members normally paid 80 hours biweekly. Members who are paid biweekly but on hourly schedules other than 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 72 biweekly pay periods based upon the member working the full schedule or the equivalent of such schedule. The monthly final compensation will be the total of the above divided by 36.

*Article 7 Amended 07/02/02*

*Article 7 Amended 12/04/2007*

**ARTICLE 8 - AMENDMENTS AND REPEALS**

**8.1. 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 Board of Supervisors of Stanislaus County.

**8.2. REPEALS**

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

**8.3 BYLAWS REVIEW**

The bylaws shall be reviewed by a committee appointed by the Chair of the Retirement Board and revisions brought before the Board on or before November 30th at each odd year.

*Article 8 Amended 07/02/02*

## ARTICLE 9 - CLAIMS FOR DISABILITY RETIREMENT

### 9.1. DEFINITIONS

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

- A. "Administrator" means the StanCERA Retirement Administrator.
- 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, which is StanCERA's governing body. Applications for disability retirement are evaluated and decided by the Retirement Board.
- E. "Party" means any person disclosed by the records of StanCERA or by an application to have an interest in the subject matter of an application, including the applicant and the subject employee in the event the application is filed on behalf of an 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 a member of StanCERA who either files an application for disability retirement on his or her own behalf or for whom an application is filed by another person, Stanislaus County, a contracting district, or other legally authorized entity.
- 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 Administrator'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 Administrator's office.
- K. "Active" file status refers to an application, which has been filed with the Administrator's office and for which the Administrator'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 Administrator's office. Any time limits or file status dates will use the date the file becomes "active" as a reference date.

### 9.2. FILING AND AMENDMENT OF APPLICATIONS

- A. A claim for disability retirement shall be made by filing with the Administrator's office a completed application on a form approved by the Retirement Board for that purpose together with all information required in Section 9.3 of these bylaws. Upon the filing of an application, the Administrator shall serve the applicant with a copy of this article. Upon receipt of all requisite information and documentation, the Administrator 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 9.3 of these bylaws, the applicant shall immediately file with the Administrator's office and serve on all interested parties written notice of the change. Upon the filing of such notice with the Administrator's office, the application shall be deemed amended accordingly.
- C. In the event that the applicant modifies the basis of his or 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 Administrator'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.

**9.3. DOCUMENTS TO BE COMPLETED AND FURNISHED BY APPLICANT**

A. The following documents must be furnished to the Administrator's office by the applicant in connection with the initial application.

1. Completed Application for Disability Retirement.
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. Completed Treating Physician's Statement.
5. Copies of all medical records for the last five (5) years.
6. Copies of all medical records, regardless of the date, relating to the disability.
7. All workers' compensation records and reports on the disability.
8. All vocational rehabilitation documents relating to the disability, including all documents and records regarding modified work, or job accommodations offered by Stanislaus County or contracting district.
9. All other relevant medical reports and other relevant evidence the applicant would like the Retirement Board to consider.
10. 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.

The responses on the Disability Retirement Questionnaire shall be provided under penalty of perjury, and the applicant shall sign and attach to his or 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 Administrator, the Retirement Board, or counsel for the Administrator 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. Additional copies of all pertinent medical records and reports.
2. Copies of all other documents upon which the applicant relies in support of the application.
3. A narrative physician's report of the subject employee's current medical condition.
4. 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, without limitation, the subject employee's medical history, employment history, current medical condition, and current employment status.

C. The Administrator and/or the Administrator's counsel may, in their sole and complete discretion, independently obtain copies of some or 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 Administrator's office all medical records and necessary documents described in this section 9.3. StanCERA shall bear the costs incurred by the Administrator and/or the Administrator'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.

**9.4. MEDICAL AND PSYCHIATRIC EXAMINATIONS**

A. At any time during the pendency of an application, the Administrator, the Retirement Board, or counsel for the Administrator 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, without limitation, 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.

#### **9.5. 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 thereto, shall be available in conjunction with any disability re-evaluation under Government Code Section 31729.

#### **9.6. 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 9.3 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 9.4 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 Administrator or the Administrator'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 9.6.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.

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

At any time during the pendency of an application, the Administrator, the Retirement Board, or counsel for the Administrator 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.

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

The members of the Retirement Board 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.

#### **9.9. 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 Administrator'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 Administrator 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. In addition, the Retirement Board is entitled to be represented by legal counsel, and shall be deemed to be represented by the County Counsel's Office, unless otherwise designated by the Retirement Board.~~

#### 9.10. 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.

#### 9.11. ADMINISTRATIVE RECOMMENDATION

A. After reviewing the application and all other documents and information obtained in connection therewith and conducting any necessary investigation, the Administrator 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 Administrator 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 Administrator determines that there is no substantial evidence to support 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 Administrator 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 Administrator determines that there is no substantial evidence to support 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 Administrator determines that there is substantial evidence to support the disability claim, but the evidence does not, in the Administrator's opinion, prove by a preponderance of the evidence all the elements necessary to grant the disability claim.

B. The Administrator'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.

#### 9.12. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION

With respect to each application for which the Retirement Board has received an administrative recommendation pursuant to section 9.11, 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 Administrator for further investigation; or refer any or all issues for hearing.

#### 9.13. 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 Administrator shall notify Administrator'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 Administrator'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.



## StanCERA Bylaws

B. The Administrator 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 Administrator 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 Administrator 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 Administrator'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 Administrator 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.

### 9.14. HEARING PROCEDURES

A. Every hearing shall be reported by a certified shorthand reporter.

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 Chairman or the Chairman's designee, shall exercise such control over the hearing as is reasonable and necessary including, but not limited to; setting a new date, time, and place of the hearing; prescribing the order of proof; ruling upon the admissibility of evidence; 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.

## StanCERA Bylaws

I. Any interested party may offer, and the Retirement Board or referee shall receive into 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 ~~20472025.010 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 9.20. If delivery is by mail, the times prescribed in this Article for delivery of documents and notices shall be increased by five (5) days.

### 9.15. 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 therefore.

B. Within forty-five (45) days after the matter is submitted, the referee shall file with the Administrator's office his or her proposed findings of fact and recommended decision, which shall include those documents received into evidence. Simultaneously therewith, he or 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 Administrator's office and served on the referee and on all interested parties within 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.

### 9.16. 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 or 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 9.17.(C).

#### **9.17. 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 9.19 below.

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

The decision of the Retirement Board shall be final on the date it notice thereof is mailed to the subject employee 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 applicant, if other than the subject employee, and to all other interested parties and their respective counsel.

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

Judicial review of final retirement decisions shall be subject to Code of Civil Procedure Section 1094.6. This section has been made applicable by the Retirement Board for StanCERA and the County Board of Supervisors. Following each final decision, the Administrator 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<sup>th</sup>) 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."

#### **9.20. 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 Administrator, 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.

**Article 9 Amended 12/04/2007**

**Article 9 Amended 11/23/2010**

## **ARTICLE 10 - CLAIMS FOR BENEFITS, RIGHTS, OR PRIVILEGES OTHER THAN DISABILITY RETIREMENT**

### **10.1. 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 or her case.

### **10.2. 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 Retirement Administrator for the Retirement Administrator'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).

### **10.3. FURTHER INFORMATION TO BE FURNISHED BY APPLICANT**

A. At any time during the pendency of an application, the Retirement Administrator, 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, without limitation, the subject employee's medical history, employment history, current medical condition, and current employment status.

B. With respect to any request pursuant to Subsection 10.2.(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 Retirement Administrator 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.

### **10.4. ADMINISTRATIVE RECOMMENDATION**

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

1. "Grant claim for benefits:" where the Retirement Administrator 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 Retirement Administrator 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 Retirement Administrator may in accordance with the standards set forth in Subsection 10.4 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 10.5 of this article.

3. "Deny claim for benefits" where the Retirement Administrator determines from all available information that there is no substantial evidence to support the facts necessary to grant such a benefit.

B. The Retirement Administrator'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.

#### 10.5. PROCEDURE UPON ADMINISTRATIVE RECOMMENDATION

With respect to each application for which the Retirement Board has received an administrative recommendation pursuant to Section 10.4, 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 Retirement Administrator 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.

#### 10.6. 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 Administrator shall notify Administrator'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 Administrator'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 Administrator 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 Administrator 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 Administrator 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 Administrator'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 Administrator 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.

~~A. If the Retirement Board determines that a matter is to be set for hearing, the Retirement Board shall at the same time determine whether the matter is to be heard by the Retirement Board or by a referee.~~

~~B. If the Retirement Board determines that it is to hear a matter, the Retirement Administrator shall set the matter for hearing before the Retirement Board.~~

~~C. If the Retirement Board determines that a referee is to hear a matter, the Retirement Administrator shall set the matter for hearing before a referee.~~

#### 10.7. PRE-HEARING PROCESS

A. The Retirement Administrator 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 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 Retirement Administrator, and the Retirement Administrator shall provide a copy of documents and writings that the Retirement Administrator intends to introduce at the hearing to the Applicant. Any interested party may request a pre-hearing conference. The Applicant or the Retirement Administrator 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.

#### 10.8. 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.

C. The referee or, with respect to hearings before the Retirement Board, the Chairman or the Chairman'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 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 2025-2025.010 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 2025-2025.010 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 10.14. If delivery is by mail, the times prescribed in this subsection for delivery of documents and notices shall be increased by five (5) days.

#### 10.9. 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 therefore.

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.

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

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

1. Approve and adopt the proposed findings and recommendations of the referee; or
2. 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
3. Refer the matter back with or without instructions to the referee for further proceedings; or
4. 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.

**10.11. 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 10.14 below.

~~Within ten (10) days following the date the Retirement Board renders its decision and findings of fact, if any, 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 10.13 below, either by certified or registered mail, return receipt requested.~~

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

The decision of the Retirement Board shall be final on the date ~~it~~ notice thereof is mailed to the subject employee 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 applicant, if other than the subject employee, and to all other interested parties and their respective counsel.

**10.13. 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 Administrator 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<sup>th</sup>) 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."

**10.14. 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.

*Amended 12/11/02*

*Article 10 Amended 12/04/2007*

*Article 10 Amended 11/23/2010*

## **ARTICLE 11 - SUBPOENAS**

### **11.1. SUBPOENAS**

The Retirement Board, the Retirement Administrator or the Referee may issue a subpoena 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 Retirement Administrator 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 Retirement Administrator or the Referee.

*Amended 12/11/02*



*Last Date Amended 03/22/2005*

**ARTICLE 12 – Article 12**

*Reviewed and No Amendments Made 12/11/02*

*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. A Retirement Board member must attend at least two State Association of County Retirement Systems (SACRS) meetings during the members 3 year term;
- B. The member must have 36 hours of continuing education during his/her term. SACRS conferences may be included in those hours;
- C. The Education Committee will be responsible for monitoring the Retirement Board members educational hours earned and determining the allowable credit hours for all conferences or seminars attended.

**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 two of the investment management firms each calendar year so that each firm is visited no less than once in three 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 at least one non-investment management firm each calendar year (e.g. investment consultant, custodian or actuary) with the goal of visiting each firm once every five 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.

\*Any other Retirement Board member may also participate in due diligence visits.

**14.5. DUE DILIGENCE VISITATIONS OF REAL ESTATE PROPERTIES**

It is the Retirement Board's desire to conduct on-site due diligence visitations of any real estate properties invested in by the Retirement Board. To this end, the Due Diligence Committee will:

Conduct on-site due diligence visitations of any real estate properties invested in by the Retirement Board. These on-site due diligence visitations will be scheduled at the Retirement Board's convenience and be conducted every two (2) years, unless the annual appraisal and/or quarterly review process requires immediate attention.

**14.6. CONTINUING EDUCATION SEMINARS AND DUE DILIGENCE VISITATION REQUESTS POLICIES**

All requests, by Retirement Board members and staff to attend continuing education seminars and conferences other than those sponsored by SACRS, CALAPRS, NCPERS or NAPPA will:

- A. Be discussed as a non-consent item on the Retirement Board agenda;
- B. Contain an agenda and supporting information on the pertinence and necessity of attendance or visitation;
- C. Identify the sponsors, if any;
- D. Contain specific information as to whether or not the Retirement Board member will be a speaker or panel participant;
- E. Contain specific documentation concerning the cost involved for attendance or visitation. The documentation will outline the costs borne by StanCERA and those borne by the sponsor. The cost borne by the sponsor will be subject to the Fair Political Practices Commission (FPPC). Any amount from a sponsor shall be given to StanCERA and not to any individual members;
- F. Contain a justification, if more than four (4) representatives of the Retirement Board, including staff, are to attend.

**14.7. EDUCATION POLICY REPORTING REQUIREMENTS**

StanCERA requires new members to educate themselves. The Internal Governance Education Committee will present an annual report to the Retirement Board regarding each members' efforts to educate themselves. The information will become a matter of public record, and will be sent to the Board of Supervisors, RESCO and all members.

**14.8. DUE DILIGENCE REPORTING REQUIREMENTS**

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

**14.9 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 (IRS 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 is not traveling on StanCERA approved business.

The Administrator 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 Retirement Administrator. 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 Administrator or member of the Retirement Board.

**Article 14 amended 01/25/05**

**Article 14 amended 12/08/10**

## 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 9.4.(A), 9.6.(B), and 9.6.(C) approved by the Board of Supervisors on April 25, 1989.

Amendment to Sections 9.4.(A), 9.4.(B), 9.6.(B), 9.6.(C) and 9.7.(A) and deletion of Section 9.6.(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 29, 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](#)