

**SAN MATEO COUNTY EMPLOYEES RETIREMENT ASSOCIATION
BOARD OF RETIREMENT PROCEDURES FOR AUDITING OF EMPLOYER DATA AND INFORMATION TO
DETERMINE CORRECTNESS OF MEMBERS' RETIREMENT BENEFITS, REPORTABLE COMPENSATION,
ENROLLMENT IN, AND REINSTATEMENT TO, THE RETIREMENT SYSTEM**

I. Purpose.

By statute, the Board of Retirement is authorized to audit SamCERA employers to determine the correctness of member's retirement benefits, reportable compensation, enrollment in, and reinstatement to, the retirement system. (Government Code Sections 31542.5, 31543, 7522.72 and 7522.74.)

II. Procedures.

- A. Alternative Audit Approaches.** Staff may utilize one or more of the following approaches, as it deems appropriate, in order to determine the correctness of members' records, retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the retirement system and/or compliance with applicable state or federal law. Verification of employer information and data may be periodically checked or performed on an as need basis. Similarly, issues concerning a specific member's compensation or specific compensation issues that may arise from time to time, Staff may conduct or cause to be conducted by an independent auditor, a specific audit of that issue. Issues regarding whether an element of compensation was paid to enhance a member's benefit will be handled in accordance with the "Board of Retirement Procedure for Assessment and Determination of Whether an Element of Compensation Was Paid to Enhance a Member's Benefit."
- B. Confidentiality.** To the extent that any confidential member or employer personnel information is presented, appropriate steps, in accordance with applicable law, will be taken by staff and the Board and the employer throughout the process to protect the confidentiality of information produced in any audit, staff reports, and discussion by or with the Board.
- C. Annual Audit Approach.** SamCERA may, from time to time, request SamCERA's independent auditor as part of, or in addition to its annual financial audit activities, to review employer data and reporting that may impact a member's eligibility, contributions, membership, records, benefits, and and/or compliance with applicable state or federal law.
- D. Informal Requests.** Staff may make informal requests of the employer so as to resolve any issues related to individual or multiple member records, retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the retirement system and/or compliance with applicable state or federal law.
- E. Request For Special Audit Report.** If staff believes that reason exists, in addition to or as a follow up to the annual audit activities described in paragraph B, to have a Special

Audit of information, it may request that the Board authorize a Special Audit in accordance with Section III.

III. Special Audit Procedure.

- A. Request to the Board.** If Staff believes that a Special Audit is needed regarding information submitted by the employer with respect to member records, retirement benefits, reportable compensation, or enrollment in, and reinstatement to, the retirement system and/or compliance with applicable state or federal law, staff shall submit a written report to the Board setting forth the:
- (1) Reasons for the Special Audit, including a report as to prior informal requests of the employer so as to resolve any issues without a Special Audit.
 - (2) Books, papers, data, or records that should be provided by the employer in connection with the Special Audit, including but not limited to personnel and payroll records.
 - (3) Protocol that staff wishes to follow in conducting the Special Audit, including but not limited to who will conduct the audit and a proposed time and place.
 - (4) Estimated cost of the Special Audit, adjustment, and correction.
 - (5) Requested action by the Board in authorizing a Special Audit
 - (6) Any planned or potential follow on requests relating to adjustments or corrections by the employer that may be required as a result of such audit.
- B. Copy of Special Audit Request and Employer Response.** Staff shall send a copy of its Special Audit request to the employer at least 15 days prior to the Board meeting. Any response to the report should be submitted by the employer at least 5 days prior to the meeting.
- C. Opportunity to address the Board.** Staff and the employer will both be given an opportunity at the meeting to address the Board with respect to Staff's request.
- D. Approval of Special Audit Request.** If the Board approves staff's request for an audit, the employer will be informed of the Board's decision. The audit will then be conducted in accordance with the parameters established by the Board.
- E. Written Report of Special Audit Result.** Upon completion of the audit, staff will provide to the Board a written report of the audit results and the conclusions of the auditor and staff. A copy of the report will be provided to the employer at least 15 days prior to any Board discussion or action. Any response to the report should be submitted by the employer at least 5 days prior to the meeting.
- F. Cost of Special Audit and Corrective Action.** The Board may assess the employer costs of the audit, as well as the costs of any adjustment or correction, if the Board determines that the employer knowingly failed to comply with its legal responsibilities under the new law by (a) reporting compensation to SamCERA that the employer knew or should have known was not compensation earnable as defined in the 1937 Act, or (b) failed to identify to SamCERA the pay period in which compensation earnable was earned. The Board may further determine if other Board action should be taken as a result of the audit.

SAN MATEO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

RESOLUTION 12-13-06

**RESOLUTION APPROVING AMENDMENT OF REGULATION 4.14
OF ARTICLE IV OF THE BOARD OF RETIREMENT REGULATIONS
REQUIRED BREAK IN SERVICE PRIOR TO POST RETIREMENT EMPLOYMENT**

WHEREAS, Government Code §31525 provides that this Board, with the approval of the Board of Supervisors, may establish regulations that govern the operation of *SamCERA* that are not inconsistent with the California Employees' Retirement Law of 1937; and

WHEREAS, Board of Retirement regulation 4.14 sets forth certain requirements for *SamCERA* members who wish to return to employment with a *SamCERA* employer after retirement; and

WHEREAS, the provisions contained in regulation 4.14 requiring a break in service reflect certain requirements as set forth by the Internal Revenue Service; and

WHEREAS, in 2012, the California Public Employees' Pension Reform Act was enacted and it mandates additional requirements that must be met prior to a retired member becoming reemployed by a *SamCERA* employer, and regulation 4.14 has been amended to reflect such requirements; and

WHEREAS, the Board has reviewed the amendment to regulation 4.1 which incorporates these changes in state statute and desires to adopt such amendment;

THEREFORE BE IT RESOLVED, that the Board hereby amends regulation 4.14 of Article 4 of the Regulations of the Board of Retirement to read as follows:

4.14 Required Break In Service Prior to Post Retirement Employment. Regardless of a member's age, every member who is reemployed by a *SamCERA* employer consistent with the terms of Government Code section 7522.56, or any amendments thereto, shall have a 180-day break in service from the date of retirement to the commencement of the reemployment. If a member is reemployed within the 180 days, pursuant to Government Code section 7522.56, and the member retired at an age younger than normal retirement age, as defined in section 4.12, there must be at least a continuous 90-day break in service from the date of the member's retirement prior to such reemployment unless such reemployment is to respond to an emergency declared by a government agency or an emergency that may prevent the stoppage of public business.

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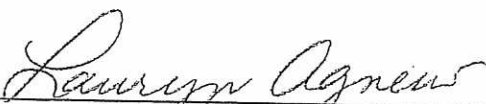
Regularly passed and adopted, by the San Mateo County Employees' Retirement Association, Board of Retirement, on October 23, 2012.

Ayes, Trustees: Arnott, Agnew, Bowler, David, Hackleman, Kwan Lloyd, Settles, Spinello, Tashman

Noes, Trustees:

Absent, Trustees:

Abstain, Trustees:



Lauryn Agnew, Board Secretary
SamCERA