

SANTA BARBARA COUNTY EMPLOYEES' RETIREMENT SYSTEM

Public Records Act Policy

I. PURPOSE

The Board of Retirement ("Board") of the Santa Barbara County Employees' Retirement Association ("SBCERS") adopts this policy to establish guidelines and procedures for making determinations concerning the disclosure of information in SBCERS' files, records or other information when responding to requests made under the California Public Records Act, Government Code Section 7920.000 et seq. ("PRA").

The Board recognizes that it has an obligation to balance its members' right to privacy with the public's right to information regarding public business. There are no "bright line" standards available to the Board for knowing how that balance should tip in each instance. Nevertheless, the Board has determined that it would be useful to establish guidelines for SBCERS to follow when a request is made under the PRA, and to publish those guidelines for the benefit of its members and their beneficiaries, and the public at large.

All staff should be familiar with these guidelines so that the process of responding to requests is efficient, consistent, and compliant with the applicable laws. In many circumstances, these guidelines will enable staff to respond to requests without the need for substantial analysis or the assistance of legal counsel. However, given the complexities of the law, situations will likely arise where a simple application of the general guidelines will not provide a definitive answer. When such a situation arises, the CEO should refer any questions to legal counsel.

II. GENERAL PRINCIPLES

A request to inspect SBCERS records may be made by a telephone call, an in-person or virtual oral request, a written request (by letter and/or e-mail), a subpoena or a court order. The person making a request for records may be a member, a beneficiary, an employee organization, a government agency or member of the press or general public or an attorney on behalf of any entity, group, or individual. Staff should always be aware that a request, no matter how informal it may appear, must be analyzed under the principles outlined in this Policy (or analyzed by legal counsel in more complicated situations). The general principles of the policy may be summarized as follows:

1. Confidentiality of an individual member's records must be protected unless those records relate to the conduct of the public's business, or unless the member has authorized the disclosure in writing.
2. An individual (member or beneficiary) generally must be permitted access to their own records.
3. The public - i.e., any person, for any reason - has a right to inspect records that relate to SBCERS' operation and that are neither confidential nor protected from disclosure by the applicable laws.
4. Generally, SBCERS must respond to any request for information within ten (10) calendar days of receipt of the request. The response need not contain the actual requested information or production of the sought records, but must (at a minimum) provide a response as to whether SBCERS will produce the requested records or provide a basis for rejecting the request. If

SBCERS is unable to formulate a response within ten (10) calendar days, it may extend the time for a response by as much as fourteen (14) calendar days, but may only do so with good cause.

5. Subpoenas or court orders requiring the production of records and/or information should be referred to legal counsel immediately upon receipt.

6. Even if a request seeks records subject to disclosure under California case law, a request may be objectionable if it is unreasonably burdensome. Additionally, the PRA only requires SBCERS to disclose its existing records; it does not require SBCERS to conduct studies, reorganize information or summarize data for the requesting party. Thus, when confronted with a request that will substantially disrupt SBCERS' operations, the CEO should consult legal counsel.

7. When a request is made for information regarding an individual member that is not specifically addressed in these guidelines, SBCERS should seek the advice of legal counsel.

III. APPLICABLE LAW

A. Public Records Act (PRA)

The PRA generally requires SBCERS to disclose "public records" unless the particular information is exempt from disclosure. Under the PRA and interpreting case law, "public records" include information in virtually any format "relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency." Although certain exemptions allow SBCERS to withhold some records, case law in California generally favors disclosure.

The PRA sets forth an extensive list of records that are exempt from required disclosure. Many of the statutory exemptions are inapplicable to SBCERS and others may be applicable only in rare instances. The following exemptions are the most important exemptions for SBCERS:

1. Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

2. Records pertaining to pending litigation to which the public agency is a party until the pending litigation or claim has been finally adjudicated or otherwise settled.

3. Personnel, medical, or similar files or information, the disclosure of which would constitute an unwarranted invasion of personal privacy as described below in section III. B.

4. Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

5. Certain records pertaining to "alternative investments" in which SBCERS invests as defined by Government Code Section 7928.710.

6. Additionally, Government Code Section 7922.000 provides a "catch all" provision whereby SBCERS can justify withholding any record by demonstrating that "on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." Records in this category may include those pertaining to internal staff deliberations where disclosure would tend to discourage candid discussion of issues under consideration.

B. Member Records

Government Code section 31532 of the County Employees' Law of 1937 (the "CERL") provides as follows: "Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of

this chapter [the '37 Act] or upon order of a court of competent jurisdiction, or upon written authorization by the member."

Based upon section 31532 and applicable court rulings, the SBCERS Board hereby adopts the following interpretation of Government Code section 31532 as it pertains to the confidentiality of member records:

Subject to the provisions of this section, data filed by any member or beneficiary with SBCERS is confidential, and no individual record shall be divulged by any official, employee or affiliate of SBCERS, to any person other than to (1) the member to whom the information relates (2) a person or entity the member authorizes in writing to receive the information, (3) the member's SBCERS employer where otherwise permitted or required by law or (4) a reciprocal government employer or retirement plan that seeks the information in order to verify the requirements of reciprocity or to calculate the member's retirement benefit with such entity. SBCERS shall utilize the information in its possession for the sole purpose of carrying out its obligations under the CERL.

Except as provided by this section, the following information is not public information and shall not be disclosed: a member's, beneficiary's or annuitant's social security number, date of birth, address, telephone and facsimile numbers, email address, age at entry into service, spouse's and/or beneficiary's names, disability application, medical records, or other personal information provided by the member or beneficiary (excluding the public information listed below).

The following information is public information and shall be released in response to a valid request: member's and benefit recipient's names, member's entry date into membership, category of service (e.g., general or safety), employment tier, applicable benefit formula, date of retirement, election of retirement options, type of retirement allowance (e.g., service, service connected disability, non-service connected disability), years of credited service, age factor for calculation of benefit, final average compensation (including the elements of compensation earnable or pensionable compensation), total retirement allowance and total other post-employment benefit amount.

IV. PROCEDURE FOR RESPONDING TO PUBLIC RECORDS REQUESTS

A. Initial Review

Upon receiving a request for records, SBCERS must first determine whether the request seeks "public records" subject to disclosure. It is important that a request may be partially acceptable and partially objectionable. SBCERS should disclose all records that are properly sought, even if the person making the request has sought other records that need not be disclosed. To make this determination, SBCERS should proceed as follows:

1. Document the maker of the request and the appropriate way to contact the maker upon conclusion of the initial review.
2. Determine if the records are prepared, owned, used, or retained by SBCERS. Records owned by SBCERS include those maintained on its behalf by its custodian and investment consultants which should be contacted as soon as possible when records in their possession are requested to assist in their production.
3. If the records are prepared, owned, used, or retained by SBCERS, then determine if the requested records relate to the conduct of the public's business.
4. Determine if the requested records fit under one of the exemptions discussed above (e.g., preliminary drafts, records related to litigation, personnel files or records pertaining to alternative investments).
5. Confer with legal counsel for a case-by-case determination as to whether the records are disclosable.
6. Determine whether the requested records will reveal information regarding a member

that is of a personal or private nature as described in Section III above.

7. Determine whether otherwise disclosable records need to be reorganized or redacted such that confidential information is not included in the disclosed material.

8. If, for any reason, SBCERS believes that certain records should not be disclosed, or questions whether certain records should be disclosed, legal counsel should be consulted.

B. Preparing the Response Letter

Under normal circumstances, within ten (10) calendar days after receipt of the request, SBCERS must notify in writing the person making the request whether some or all of the records will be disclosed. The response should also contain the following:

1. If any records will not be disclosed, SBCERS must explain why those records are being withheld. If some of the requested records will be disclosed while others will not, it is important that SBCERS clearly delineate which records will be disclosed (and which will not) and explain the reasons for the distinctions.

2. If some or all of the requested records will be disclosed, SBCERS must state the estimated date and time when the records will be made available. In general, SBCERS should provide the relevant information or make the records available at the earliest practicable date. Unless special circumstances exist, SBCERS should endeavor to produce the information or records within ten (10) days after the response letter is sent (i.e., within 20 days after the original request).

3. If some or all of the requested records will not be disclosed, because "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record," (pursuant to Govt. Code Section 7922.000) SBCERS must set forth the names and titles or positions of each person responsible for the denial.

Under "unusual circumstances," if SBCERS cannot reasonably make a determination within ten (10) days, the CEO "or his or her designee" should, within ten (10) days, send a letter to the person making the request explaining when a response is expected (but in no case more than 24 days after the initial request) and setting forth the reason(s) for the extension. Extensions should not be used simply to postpone the response, but rather should only be used when "unusual circumstances" exist. "Unusual circumstances" includes: (1) the need to search for and collect the requested records from other locations; (2) the need to search for, "sift through" and examine voluminous records; (3) the need for consultation with another agency, legal counsel or department; or (4) the need to compile data, to write programming language or a computer program, or to construct a computer report to extract more limited data that SBCERS seeks to provide in response to a PRA request

C. Producing the Records

The logistics of providing the requested records should be worked out on a case-by-case basis in cooperation with the person making the request. If practicable, the information should be provided electronically where agreeable to the requestor in order to reduce the burden and expense of providing paper copies. Where paper copies are requested, SBCERS should send copies of the relevant records to the person making the request. If the production requires substantial copying, SBCERS should not release the copies until the requesting party pays SBCERS for copying at the rate of \$.10 per page. If production of the requested records requires data compilation, extraction or programming, SBCERS may require the deposit of the reasonable cost of such process prior to producing such records.

D. Notifying the Member(s) Whose Records are Requested

Where feasible, staff may provide members whose records are being sought notice of the request and the SBCERS' intended action with respect to the request.

V. MISCELLANEOUS

A. Availability of This Policy

A copy of this policy statement shall be made available to any member of the public upon request and shall be made available on SBCERS' website.

B. Responsible Individual

For consistency and efficiency, the CEO shall be the responsible individual for requests under the PRA. Staff shall promptly refer all requests to the CEO, or his or her designee(s).

C. Record Keeping

A separate file shall be maintained for all documents relating to requests for records under the PRA. All communications relating to requests for records under the PRA shall either be in writing or memorialized by a writing that is appropriately filed.

VI. AMENDMENT HISTORY

This Policy was adopted by the Board of Retirement on August 25, 2010; reviewed and revised on May 25, 2022; and citations to this policy were revised in January 2023 to reflect statutory amendments.

SANTA BARBARA COUNTY EMPLOYEES' RETIREMENT System MEMBER
 INFORMATION CONTAINED IN THE SYSTEM'S RECORDS

ITEM	SOURCE	<u>SBCERS POLICY</u>	
		Disclose	Not Disclose
1. Name	Member/Employer	X	
2. Social Security number	Member/Employer		X
3. Date of Birth	Member/Employer		X
4. Date of Death	Employer/Beneficiary/ Death Reporting Service Provider	X	
5. Address	Member/Employer		X
6. Telephone and facsimile	Member/Employer		X
7. Email address	Member/Employer		X
8. Spouse and beneficiary designations	Member		X
9. Entry date into membership	Employer	X	
10. Age at entry into membership	Employer		X
11. Category of service (general or safety)	Employer	X	
12. Tier(s) of employment and dates	Employer	X	
13. Statutory formula for retirement Allowance	Government Code, collective bargaining MOU	X	
14. Date of retirement	Member/Employer	X	
15. Type of retirement (e.g., service, service-connected disability, non-service connected disability)		X	
16. Years of credited service	SBCERS calculation	X	
17. Age factor for calculation	SBCERS calculation	X	
18. Final Average Compensation (including all elements counted and whether 1 or 3-year average)	SBCERS calculation	X	
19. Retirement Option selected	Member	X	
20. Total Retirement Allowance	SBCERS calculation	X	
21. Disability application	Member		X
22. Medical records	Member/Employer/ physicians/hearing officer		X