



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 11

MEETING DATE: March 21, 2018

SUBJECT: Affirmation of Existing SCERS Policies

SUBMITTED FOR: ___ Consent X **Deliberation and Action** ___ **Receive and File**

RECOMMENDATION

Staff recommends the Board approve the proposed new **Appeal of SCERS' Administrative Decisions Policy** that affirms the current process and establishes timeframes for a member, beneficiary, or other related party with an interest in or right to benefits from SCERS to request the CEO and/or Board review a disputed SCERS' administrative decision.

PURPOSE

To ensure disputed administrative decisions are addressed timely and in a manner that progressively leads to a final administrative action by the Board, for which the party disputing the administrative decision may subsequently seek judicial review.

DISCUSSION

The need for this new policy was identified as work progressed on the current project to collect, reformat, affirm, and organize all Board policies in one central location to ensure proper administration of all SCERS Board policies.

SCERS' has a long-standing practice that provides members an opportunity to request the CEO review administrative decisions of the Chief Benefits Officer. If a member is not satisfied with the CEO's response, the member may request that the Board review the matter and make a determination, which exhausts the administrative process available to the member.

There are occasions when a member disputes executive management's administrative decision, but does not acknowledge or accept that decision nor pursue resolution of the matter through Board review. Depending on the nature of the issue, it may remain open or questioned for many months or years, and potentially be subsequently revisited by the member, perhaps with the notion or hope that the passage of time might result in a different, more favorable, determination by SCERS.

The proposed policy specifies a progressive process and timeline for escalating a disputed administrative decision to ensure members are able to exercise their due process rights, and ensure the available administrative procedure is completed and concluded within a reasonable timeframe. Once the Board has made a final administrative decision on the issue, the member may request judicial review of that decision by filing a petition for writ of mandate as specified in the Code of Civil Procedure.

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APPEAL OF SCERS' ADMINISTRATIVE DECISIONS POLICY

Revision Date: March 21, 2018

Policy Number: 018

Revision Number:

PURPOSE

The purpose of this policy is to provide SCERS members and/or their related parties as defined herein with due process procedures and timeline for disputed matters in SCERS' administrative decisions affecting such persons.

SCOPE

The scope of this policy includes SCERS' administrative decisions related to:

1. Determination of eligibility, effective date, and amount of pension and other benefits payable from SCERS, and application of any required limitations or other changes thereto. However, determination of eligibility to apply for and be granted disability retirement benefits is subject to Chapter 5 of SCERS Bylaws and SCERS Disability Retirement Procedures. If and when granted, disability retirement benefits payable from SCERS are subject to this policy.
2. Determination of eligibility for SCERS membership.
3. Determination of eligibility, required amount, and maximum time for payment of additional member contributions for the purchase of permissive service credit.
4. The adjustment, correction, collection, or return by SCERS of underpaid or overpaid member contributions due to SCERS and underpaid or overpaid benefits from SCERS, including application or waiver of interest thereon, pursuant to SCERS Bylaws and policies.
5. SCERS' correction of errors or omissions pursuant to SCERS Bylaws and policies.
6. Determination of eligibility for, and application of the rights and benefits of, reciprocity for SCERS members who are also members of one or more reciprocal public retirement systems in California.
7. Other similar types of administrative decisions not expressly enumerated above related to the rights and benefits of SCERS members, their beneficiaries and/or survivors, or their current or former spouses/registered domestic partners.

DEFINITIONS

As used in this policy, the terms below have the following meaning:

Administrative Decision – A determination made by SCERS in response to a written request, typically submitted by a member or Related Party in a form prescribed by SCERS, for the commencement or change of benefits from SCERS or the determination or modification of rights to benefits from SCERS.

Board Review – The Board's consideration of an Administrative Decision of SCERS' Chief Executive Officer (CEO) that is disputed in writing by a member or Related Party.

CEO Review – The CEO's consideration of an Administrative Decision of SCERS' Chief Benefits Officer (CBO) that is disputed in writing by a member or Related Party.

Final Administrative Action - A determination by the Board on a disputed Administrative Decision submitted for Board Review. A Final Administrative Action is subject to Judicial Review.

Judicial Review – An inquiry into the validity of a Final Administrative Action of the Board heard by the court without a jury pursuant to Code of Civil Procedure Section 1094.5, provided the petition for writ of mandate is filed within the time limits specified in Code of Civil Procedure Section 1094.6 and as provided by Sacramento County Code Section 1.06.020.

Related Party – A member's beneficiary, survivor, or authorized agent, or a member's current or former spouse/registered domestic partner who has a community property interest in a SCERS' member's account and benefits.

POLICY

A. Requests for Benefits

Requests for the determination of eligibility for, amount, commencement, change, or adjustment of benefits from SCERS, or determination or modification of a person's rights to benefits from SCERS, are typically made in writing in a form prescribed by SCERS. Such requests are processed by staff according to SCERS' normal operating procedures.

B. Administrative Decision by Chief Benefits Officer (CBO)

In the event a request cannot be processed or approved as submitted, SCERS' CBO will make an Administrative Decision and provide a written notice of SCERS' determination in response to the request.

C. Request for CEO Review

If the CBO's determination is disputed, the member or Related Party may, within 60 calendar days of the written notice from the CBO, submit a written request for CEO Review of the Administrative Decision, and may include additional documentation or explanation, including affidavits, with the request.

A member or Related Party may within the 60-day period request in writing an extension of time to file a request for CEO Review upon a showing of good cause.

If a written request for either an extension of time or a request for CEO Review of a disputed CBO's determination is not submitted timely to SCERS, the disputed matter shall be deemed by SCERS to be resolved and closed, and the CBO's Administrative Decision shall stand.

The CEO may, in his or her sole discretion, also submit a recommendation to the Board that the CBO's Administrative Decision be affirmed by the Board. The Board's decision on the recommendation is a Final Administrative Action.

D. CEO Review

Within 60 calendar days of SCERS' receipt of the written request, the CEO will review the disputed issue, the CBO's determination, any additional information submitted with the written request for CEO Review, and any other information pertinent to the disputed matter(s) as determined by the CEO. The CEO will make an Administrative Decision and provide written notice thereof in response to the request for CEO Review.

E. Request for Board Review

If the CEO's determination is disputed, the member or Related Party may, within 60 calendar days of written notice of the CEO's Administrative Decision, submit a written request for Board Review.

A member or Related Party may within the 60-day period request in writing an extension of time to file a request for Board Review upon a showing of good cause.

If a written request for either an extension of time or a request for Board Review of a disputed CEO's determination is not submitted timely to SCERS, the disputed matter shall be deemed by SCERS to be resolved and closed, and the CEO's Administrative Decision shall stand.

The CEO may, in his or her sole discretion, also submit a recommendation to the Board that the CEO's Administrative Decision be affirmed by the Board. The Board's decision on the recommendation is a Final Administrative Action.

F. Board Review

Within 60 calendar days of SCERS' receipt of the written request for Board Review, the CEO will include an item for Board Review of an Administrative Decision in the agenda for a regular or special meeting of the Board, and provide the member or Related Party at least 30-day's advance written notice of the time and place of the meeting that includes the item for Board Review and during which the member or Related Party may address the Board.

The agenda materials submitted to the Board will include the original request and any subsequent written documentation and requests submitted by the member or Related Party, and a staff recommendation for the Board's determination on disputed matter(s) with relevant supporting documentation.

The Board's decision on the recommendation is a Final Administrative Action on any and all issues raised by the member or Related Party regarding the disputed Administrative Decision. There shall be no reconsideration of a Final Administrative Action.

G. Judicial Review

SCERS will send written notice of the Board's Final Administrative Action on a disputed Administrative Decision within 10 calendar days of the date the Board's decision was made. The notice shall include the following statement regarding Judicial Review (writ of mandate):

"Pursuant to the Board of Retirement's Bylaws and policy, action to seek judicial review of this decision is governed by the provisions of Section 1094.6 of the Code of Civil Procedure of the State of California. You are advised that any such petition must be filed not later than the ninetieth (90th) calendar day following the date this written notice of the Board's decision was sent by SCERS."

Accompanying this statement will be a copy of the text of California Code of Civil Procedure section 1094.6 and Chapter 1.06 of the Sacramento County Code related to the Judicial Review of administrative decisions, as required by Section 1.06.040 of the Sacramento County Code.

BACKGROUND

Members are allowed to seek judicial review of a final administrative decision by the Board of Retirement under California Code of Civil Procedure Section 1094.6 on disputed matters. This policy affirms the current process and establishes the timeframe for completing SCERS' administrative review and determination of disputed Administrative Decisions, which may ultimately conclude with a Final Administrative Action of the Board that may be subject to judicial review if a member or Related Party files a timely petition for writ of mandate.

RESPONSIBILITIES

Executive Owner: Chief Executive Officer

POLICY HISTORY

Date	Description
03-21-2018	<i>Board to adopt new policy</i>