



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 13

MEETING DATE: November 20, 2019

SUBJECT: Records Retention Policy

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

RECOMMENDATION

Staff recommends that the Board approve the Records Retention Policy.

PURPOSE

This item complies with the 2019-20 Strategic Management Plan goal to improve organization-wide capabilities by establishing consistent standards for record retention.

DISCUSSION

Government Code section 31537 authorizes the Board to “establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction.”

Staff recommends that the Board adopt a policy regarding the maintenance and disposal of SCERS' records – i.e., documents reflecting the business of SCERS that have some enduring legal, administrative, fiscal or historical value. Generally, the recommended policy calls for (1) electronic records to be retained permanently, and (2) physical records to be converted to electronic form and then destroyed, with some exceptions. This approach is informed by the following considerations:

First, technology has advanced to the point that the cost of electronic storage is essentially de minimis. Indeed, it is now more expensive and burdensome to administer a periodic purge program than to simply acquire more storage capacity.

Second, there are many advantages to the long-term preservation of SCERS records: public transparency, the accurate understanding of historical events, and preparedness for legal disputes. Because of these advantages, and the plummeting cost of electronic storage, it has become common for public agencies to retain electronic records indefinitely. This raises expectations for SCERS to do likewise. (For example, many public board and agencies archive or even post audio and digital recordings of public meetings.)

Third, the storage of physical documents, and the attendant costs of fire- and flood-proofing the storage environment, are expensive. Physical space at SCERS' office is at a premium. For these reasons, it is now common practice in both the private and public sectors to destroy physical documents after they have been digitized.

Fourth, notwithstanding the expense of physical storage, it remains advisable to preserve certain categories of physical documents. For example, the recommended policy requires the retention of certain physical documents called for in common types of litigation, for a period of time corresponding to the applicable statute of limitations. Also, where SCERS forms require a signature by a nonmember spouse in connection with his/her waiver of benefits, the policy requires such original signatures to be retained in case of disputes about authenticity.

Because best practices in records management are sensitive to developments in law and technology, staff anticipates that this policy will continue to evolve. Accordingly, the policy delegates authority to the Chief Executive Officer to make modifications to the policy, provided he/she provides an update to the Board the following month.

This policy addresses the retention of Board meeting audio records. Therefore, the policy supersedes and rescinds SCERS Policy No. 006 ("Board Meetings Audio Recordings Policy").

Prepared by:

/S/

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General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



RECORDS RETENTION POLICY

PURPOSE

The purpose of this policy is to establish a procedure concerning the retention and disposal of SCERS' records, pursuant to Government Code section 31537.

APPLICATION

The retention rules set out in Sections III and IV below apply to "records" created or received by the SCERS Board and/or staff. Whether a document constitutes a "record" is addressed in Section II below.

If an item is not a "record" as defined below, the Board and/or staff may retain or dispose of the non-record at his or her discretion, in accordance with the document's relevance and usefulness to business needs.

On occasion, the Chief Executive Officer or General Counsel may issue a Litigation Hold Notice. A Litigation Hold Notice requests that the Board and/or staff identify and preserve certain documents (both electronic and physical) for litigation purposes. Such a Litigation Hold Notice supersedes the retention schedules set out in this policy.

POLICY

I. Whether a Document Is a Record

Whether a document constitutes a "record" is not susceptible to a single definitive and objective formula. Unavoidably, the determination calls for some personal judgment and sensitivity to circumstances and the important issues of the day. In determining whether a document is a record, the follow considerations apply:

- Physical Form: A record is not limited to any particular physical form. A record can be, among other things, a paper document, an electronic file, audio recordings on CD's and cassette tapes, video recordings on VHS tapes and DVD's, microfiche, meeting minutes, social media, databases, maps, and photographs.
- Public Business: A record pertains to the conduct of the public's business and was prepared, owned, used, or received by SCERS during the course of business. Purely personal papers or correspondence that pertain to an individual's private affairs are generally not records.
- Enduring Value: Records are documents that have some enduring legal, fiscal, administrative, or historical value. Thus, documents embodying Board decisions,

SCERS policies, and other aspects of SCERS governance are generally records. Similarly, documents embodying SCERS' participation in legal, financial, and investment transactions are generally records. On the other hand, documents that constitute only informal or transitory communications are generally not records.

- Claims/Waivers of Rights: Relatedly, documents containing significant concessions, admissions, or waivers of rights by members, nonmember spouses/beneficiaries, vendors, service providers, and other counterparties have ongoing legal value and should be considered records. Similarly, documents by which such persons create, claim, or assert rights also have ongoing legal value and should be considered records.
- Formality and Finality: Records tend to be the final and official version of documents. Thus, working papers, rough drafts, informal notes and calculations, and other materials created for personal reference or convenience are generally not records.

All of the documents identified in Appendix A are examples of records.

III. Records Created or Received in Physical Form Only

Historically, much of SCERS' records existed only in physical, "hard" form (e.g. paper documents and files, microfiche, video cassette tapes, etc.) Physical records should be digitized (i.e., converted into an electronic file) and then retained or purged in accordance with the schedule set out in Appendix A.

Where Appendix A directs that physical records be retained, and multiple physical specimens of the same document exist (e.g., multiple copies of the same member handbook), only one physical specimen needs to be retained.

There is no need to scan physical records if a digital counterpart already exists. For example, investment consultant reports are usually provided to SCERS in both physical and electronic form. In that instance, there is no need to scan the physical version.

If a physical document constitutes a record, but that record is not specifically addressed in Appendix A, such record should be scanned, and the electronic image file maintained permanently. The Chief Executive Officer or General Counsel should then be consulted about the disposition of physical document.

IV. Records Created or Received in Electronic Form Only

As SCERS moves towards a paperless regime, many of the records it creates and/or receives – including records identified in Appendix A -- will exist in electronic form only. Such electronic records should be retained permanently and stored in an organized and accessible manner.

V. Delegation of Authority

The Board hereby delegates authority to the Chief Executive Officer to modify any retention periods set out in Appendix A to the extent consistent with law. However, the Chief

Executive Officer shall report any modifications to the Board at the Board meeting following such decision to modify.

VI. Rescission of SCERS Policy No. 006

This policy supersedes and rescinds SCERS Policy No. 006 (“Board Meetings Audio Recordings Policy”).

EFFECTIVE DATE

This policy is effective November 20, 2019.

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

Date	Description
11-20-2019	Staff recommended Board approve policy

APPENDIX A

Document	Retention	Citation (if any)
Governance Records		
Board meeting agendas, minutes, orders, and resolutions	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
Audio and video recordings of Board meetings	Digitize recordings and retain resultant electronic files permanently; purge cassette tapes, VHS tapes, CD's, DVD's, etc.	
Bylaws and regulations (former and current)	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
Board-approved policies (former and current)	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Accounting / Vending Records		
Auditor report	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Actuarial report	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
Comprehensive annual financial reports	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
Accounting entries	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Transaction code documents	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Warrants, vouchers, claims, checks, deposit orders, deposit receipts	Scan and retain resultant electronic files permanently; retain physical records for five years after scanning	Gov. Code §§ 26907, 6907.2
Contracts	Scan and retain resultant electronic files permanently; retain physical records until four years after termination of contract	Code Civ. Proc. § 337
Contract deliverables, reports, or similar records demonstrating performance	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Purchasing records, purchase requisitions	Scan and retain resultant electronic files permanently; purge physical records after scanning	
RFP and RFP-related documents (other than those pertaining to the awarded vendor)	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Annual budget	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
Budget records	Scan and retain resultant electronic files permanently; purge physical records after scanning	

Employee Records		
Interview materials (resumes, notes, other materials generated in connection with a candidate interview)	Do not scan; purge physical records three years after interview	Gov. Code § 12960 (three year statute of limitations on a claim for hiring discrimination)
Written performance evaluations, reprimands re: non-exempt employees	Scan and provide electronic files to County Department of Personnel Services; purge physical records after scanning	
Member Records		
Active / retired / deferred / terminated member files	Scan and retain resultant electronic files permanently; purge physical records after scanning except as indicted below	
Disability retirement applications; administrative hearing and litigation records	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Member's Affidavits – Form 6019 containing non-member spouse signature; Election of retirement allowance containing non-member spouse signature; Distribution request – Refund of Member-Paid Contributions & Interest containing non-member spouse signature	Scan and retain electronic files permanently; retain physical records until end of all payment obligations to member, spouse, or beneficiary	
Court Judgments / Domestic Relations Orders	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Agreements for purchase of permissive service credit (pre-membership employment, prior public service, unpaid medical leave of absence, post termination, redeposit, etc.)	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Declarations / Indemnification signed by members concerning disposition of retirement assets in connection with a divorce or other community property interest; Waivers of	Scan and retain resultant electronic files permanently; retain physical records until end of all payment obligations to member, spouse, or beneficiary	

interests signed by non-member spouses concerning same		
Power of attorney	Scan and retain resultant electronic files permanently; retain physical records until end of all payment obligations to member, spouse, or beneficiary	
Investment Records		
Investment contracts	Scan and retain resultant electronic files permanently; preserve physical records for four years after termination of contract	Code Civ. Proc. §§ 337 (statute of limitations for breach of contract), 343 (statute of limitations for breach of fiduciary duty)
Proxy voting records	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Investment consultant reports	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Investment manager annual reports	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Investment manager quarterly reports	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Records relating real estate investments from 2019 or earlier	<p><u>2014 and earlier</u>: Do not scan; purge physical records</p> <p><u>2015-2017</u>: Do not scan; preserve physical documents relating to the sale of the asset, the winding up of the title holding company, and any tax filings during the period. Preserve these until at least four years after dissolution of the relevant company. Purge any documents relating to acquisition or operations of the asset.</p> <p><u>Other companies and assets</u>: Scan and preserve documents until 2023.</p>	
Records relating real estate investments from 2020 forward	Scan and retain resultant electronic files permanently; retain physical records until further notice from real estate counsel	
Miscellaneous Records		
Member handbooks (former and current)	Scan and retain resultant electronic files permanently; retain physical records permanently after scanning	
General correspondence	Scan and retain resultant electronic files permanently; purge physical records after scanning	

1099's	<u>2011 and earlier</u> : Do not scan; purge physical records <u>2012 forward</u> : Scan and retain resultant electronic files permanently; purge physical records after scanning	
Spreadsheet of 1099 records	Scan and retain resultant electronic files permanently; purge physical records after scanning	
Pension payroll 1099 records	Scan and retain resultant electronic files permanently; purge physical records after scanning	