



# Board of Retirement Regular Meeting

## Sacramento County Employees' Retirement System

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### Agenda Item 11C

**MEETING DATE:** January 17, 2024

**SUBJECT:** Subrogation Claims Policy

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

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#### **RECOMMENDATION**

Approve amendments to SCERS' Subrogation Claims Policy.

#### **PURPOSE**

This item supports Strategic Management Plan goals regarding transparency, compliance with laws and regulations, and effective oversight of Plan assets.

#### **DISCUSSION**

In December 2008, the Board approved its Subrogation Claims Policy, establishing guidelines and procedures for subrogation claims, that is, potential recovery of a portion of benefits payable by SCERS due to the injury or death of a member caused by a third party other than the member's employer. The policy has been reviewed and affirmed twice since adoption, in December 2017 and January 2021.

Pursuant to SCERS' practice of reviewing and refreshing policies every three years, Staff has re-evaluated the policy to consider whether any amendments are necessary due to legal changes or practical experience. The recommended amendments are largely stylistic, with the possible exception of reconstituting the Background section (previously a lengthy recitation of the law) as an Authority section (now simply a citation to the applicable legal authority). This streamlined approach is consistent with recent changes to policies reviewed by General Counsel.

#### **ATTACHMENTS**

- Board Order
- Redlined version of policy with proposed amendments
- Clean version of policy with proposed amendments

Prepared by:

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Jason R. Morrish  
General Counsel

Reviewed by:

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Eric Stern  
Chief Executive Officer



# Retirement Board Order

## Sacramento County Employees' Retirement System

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Before the Board of Retirement  
January 17, 2024

AGENDA ITEM:

### Subrogation Claims Policy

THE BOARD OF RETIREMENT hereby approves Staff's recommendation to approve amendments to SCERS' Subrogation Claims Policy.

I HEREBY CERTIFY that the above order was passed and adopted on January 17, 2024 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES  
(Present but not voting):

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James Diepenbrock  
Board President

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Eric Stern  
Chief Executive Officer and  
Board Secretary



## SUBROGATION CLAIMS POLICY

### PURPOSE

The purpose of this Policy is to establish guidelines and procedures for the recovery of a portion of the benefits payable by ~~the Sacramento County Employees' Retirement System ("SCERS")~~ because of an injury to, or the death of, a member ~~of SCERS~~ proximately caused by the act of any person(s) other than the member's employer ~~from such person(s) (a "subrogation claim" or "subrogation action")~~.

### POLICY

~~The~~ General Counsel shall pursue a subrogation action only if it can be commenced within three years after the liability of SCERS to pay ~~applicable~~ benefits has been fixed. ~~The~~

~~L~~iability of SCERS to pay benefits shall be considered fixed at the time the ~~Retirement~~ Board, or staff if authorized by the Board, approves the payment of benefits.

~~The~~ General Counsel may take any and all action necessary to prosecute any subrogation action consistent with the subrogation provisions of any workers' compensation law, as required by Government Code Section 31820. The action may include, but shall not be limited to, the filing of a claim of lien in pending litigation, ~~the filing of a separate action,~~ or a combination of both.

~~The~~ General Counsel may engage an outside law firm to provide legal services to evaluate and/or pursue a subrogation claim.

~~The~~ General Counsel shall report ~~to the Board~~ on the filing and progress of any subrogation action ~~to the Board~~, and shall request authorization from the Board prior to settling ~~a subrogation action~~ for any amount less than the additional costs payable by SCERS for benefits payable because of an injury to, or the death of, a member proximately caused by the act of any person(s) other than the member's employer.

Notwithstanding the foregoing, ~~the~~ General Counsel may authorize ~~thea~~ settlement of ~~a~~ subrogation claim without further action of the Board, on the following conditions:

1. ~~The~~ General Counsel concludes, in consultation with the Chief Executive Officer, that a proposed settlement is reasonable under the ~~particular~~ circumstances of the case, but must be accepted prior to the next scheduled meeting of the Board; and
2. ~~The~~ General Counsel reports the terms of the settlement to the Board at its next regularly scheduled meeting.

## AUTHORITY BACKGROUND

The Board has a fiduciary obligation to prudently manage the assets of SCERS that it holds in trust for the benefit of its participants and beneficiaries, minimizing employer contributions, and defraying reasonable expenses of administration.

Article 14 of the County Employees' Retirement Law of 1937 ("CERL"), consisting of California Government Code Sections 31820-31823, authorizes a retirement board to recover from such person(s) an amount which is the lesser of the following:

1. An amount which is equal to one half of the actuarial equivalent of the benefits for which the retirement system is liable because of such injury or death; or

2. An amount which is equal to one half of the remaining balance of the amount recovered after allowance of that amount which the employer or its insurance carrier have paid or become obligated to pay (e.g., Workers' Compensation).

The right to prosecute such recovery is referred to as a claim for subrogation or subrogation action ("subrogation"). Subrogation rights are assets belonging to SCERS and as with any other assets the Board has an obligation to reasonably manage and pursue subrogation in order to recover such funds as will benefit its participants and beneficiaries, minimize employer contributions, and defray reasonable expenses of administration.

## RESPONSIBILITIES

Executive Owner: General Counsel

## POLICY HISTORY

Date	Description
01-17-2024	Board amended policy
01-19-2021	Board affirmed policy.
08-01-2018	Renumbered from 016.
12-20-2017	Board affirmed in revised policy format.
12-08-2008	Board approved new policy.

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# SUBROGATION CLAIMS POLICY

## PURPOSE

The purpose of this Policy is to establish guidelines and procedures for the recovery of a portion of the benefits payable by SCERS because of an injury to, or the death of, a member proximately caused by the act of any person(s) other than the member's employer (a "subrogation claim" or "subrogation action").

## POLICY

General Counsel shall pursue a subrogation action only if it can be commenced within three years after the liability of SCERS to pay benefits has been fixed. The liability of SCERS to pay benefits shall be considered fixed at the time the Board, or staff if authorized by the Board, approves the payment of benefits.

General Counsel may take any and all action necessary to prosecute any subrogation action consistent with the subrogation provisions of any workers' compensation law as required by Government Code Section 31820. The action may include, but shall not be limited to, the filing of a claim of lien in pending litigation, the filing of a separate action or a combination of both. General Counsel may engage an outside law firm to provide legal services to evaluate and/or pursue a subrogation claim.

General Counsel shall report to the Board on the filing and progress of any subrogation action, and shall request authorization from the Board prior to settling for any amount less than the additional costs payable by SCERS for benefits payable because of an injury to, or the death of, a member proximately caused by the act of any person(s) other than the member's employer.

Notwithstanding the foregoing, General Counsel may authorize the settlement of a subrogation claim without further action of the Board, on the following conditions:

1. General Counsel concludes, in consultation with the Chief Executive Officer, that a proposed settlement is reasonable under the circumstances of the case, but must be accepted prior to the next scheduled meeting of the Board; and
2. General Counsel reports the terms of the settlement to the Board at its next regularly scheduled meeting.

## AUTHORITY

California Government Code Sections 31820-31823

## RESPONSIBILITIES

Executive Owner: General Counsel

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