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SCERS Protects the Confidentiality of Member Information

Recently the Sacramento County Employees' Retirement System (SCERS) received several requests under the California Public Records Act (PRA) for information regarding the benefits paid to our retirees. These requests have asked for detailed information about members' retirement service under SCERS, including their names, the amount of their monthly retirement benefits, their age, the dates they retired, their positions at retirement, the department or agency where they worked, and when they were hired.

For the reasons discussed below, SCERS has provided some of the information requested, but SCERS has not disclosed individually-identifiable information regarding our members.

SCERS supports and adheres to the principles of 'open government' that underlie the Public Records Act and believes that access to information about how government operates is vital for preserving the trust and confidence of the public. To that end, SCERS conducts its business in an open and transparent manner designed to let our stakeholders and any other interested party see that we not only carry out our responsibilities in managing the retirement system in accordance with the law, but that we are committed to the highest fiduciary and professional standards.

However, one of SCERS' important responsibilities in managing the retirement system is to safeguard the confidentiality of the personal information SCERS has regarding our members. This is not simply out of respect for the privacy of our members, but like the Public Records Act, it is a duty that is established by state law.

Specifically, Government Code Section 31532, which is part of the law governing SCERS, declares that "... individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration [of benefits] or upon order of a court of competent jurisdiction, or upon written authorization by the member."

In short, failure to adhere to the duty to protect the confidential information regarding our members would be a breach of trust and could subject SCERS to legal liability.

SCERS believes that Government Code Section 31532 reflects the decision by the legislature that certain information must be kept confidential because its disclosure could subject the affected individuals to harm or loss, and that this risk overrides the

general policy in favor of disclosure. Consistent with that view, the Public Records Act itself exempts from disclosure any information required to be kept confidential under Government Code Section 31532.

Accordingly, notwithstanding the requests SCERS has received under the PRA, SCERS will not disclose individually-identifiable information about our members unless and until it is clear that we are required to do so under the law.

It should be noted that while SCERS is duty-bound to protect the confidentiality of individual member information, SCERS has endeavored to provide the parties who filed the PRA requests with information that would be helpful to the public in assessing the operation of the retirement system.

For example, in response to a request for information regarding SCERS members or beneficiaries who receive \$8,333 or more per month in retirement benefits, SCERS provided a list of the 221 monthly benefit payments in this category. SCERS also provided collective information about where the recipients worked as of their date of retirement. SCERS did not, however, provide the name of each benefit recipient or list where a particular recipient worked at retirement, since such information could effectively identify the benefit recipient in question.

SCERS also advised the requesting parties that the 221 individuals who receive benefits at the noted level (i.e., \$100,000 or more per year) represent 2.8% of SCERS' benefit recipients. SCERS further advised the requesting parties that more than 70% of SCERS' benefit recipients receive \$36,000 or less per year and 26% of benefit recipients receive \$12,000 or less per year.

SCERS recognizes the important role played by the Public Records Act and is committed to providing the public with accurate information regarding how SCERS operates. At the same time, SCERS has a fiduciary and statutory duty to protect the confidentiality of member information. SCERS believes that the course of action we have taken regarding disclosure and non-disclosure of information reasonably addresses the public's 'right to know' without compromising the privacy protection SCERS owes to individual members.