



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 24

MEETING DATE: April 21, 2021

SUBJECT: Missing Member / Beneficiary Location Policy

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

RECOMMENDATION

Staff recommends the Board adopt the proposed Missing Member / Beneficiary Location Policy.

PURPOSE

This item supports the Strategic Management Plan objective to promote transparency, fairness, and compliance with laws and regulations.

DISCUSSION

On occasion, SCERS staff may not have up-to-date contact information for a member, beneficiary, or other person to whom benefits payments are owed. When that occurs, SCERS is at risk of not being able to make the payments required by law – e.g., benefits payments under the County Employees' Retirement Law; required minimum distributions under Internal Revenue Code section 401(a)(9); and error corrections pursuant to the IRS' Employees Plans Compliance Resolution Program.

Fortunately, SCERS will not be considered to have violated its payment obligations under those laws so long as it has performed an appropriate search for the missing payee. The proposed policy sets out instructions on how to perform that search and on what information should be conveyed to the missing payee. Those instructions are intended to satisfy the requirements set out in the applicable legal authorities, including:

- Government Code section 31783.5, which requires SCERS to attempt to locate a death benefit claimant “through such means as the board in its sound discretion deems reasonable including, but not limited to a registered or certified letter, return receipt requested, mailed to the last known address of the claimant.”
- Government Code section 31628, which requires SCERS to send a certified letter to a terminated member who has failed to withdraw accumulated contributions. Specifically, section 31628 requires the letter to be sent to “his or her last known address, . . . stating

that he or she has money to his or her credit on the books of the retirement system and that if he or she does not claim the money [within certain timeframes] the money will be deposited in and become a part of the current pension reserve fund.”

- The IRS’ guidance on locating missing participants for the purpose of required minimum distributions (Internal Revenue Service Memorandum for Employee Plans Examination Employees, dated October 19, 2017, re: “Missing Participants and Beneficiaries and Required Minimum Distributions”); and
- The IRS’ guidance on locating missing participants for the purpose of making error correction payments (Rev.Proc. 2019-19, Section 6.02(5)(d) re: “Locating Lost Participants”).

After taking the above steps to search for and communicate with the missing payee, staff may administer the unclaimed benefits payments in accordance with the terms of the CERL. With respect to some (but not all) unclaimed benefits, the CERL requires unclaimed funds to be held for a certain number of years after the last attempted contact and then deposited in the pension plan’s reserve if the payee does not come forward within that time (e.g., Gov. Code §§ 31783.5, 31628).

Compliance with the proposed policy would enable SCERS to meet its obligations under the CERL and to maintain its tax-qualified status even when the payees cannot be located.

Prepared by:

Reviewed by:

/S/

/S/

Stephen Lau
General Counsel

Eric Stern
Chief Executive Officer



MISSING MEMBER / BENEFICIARY LOCATION POLICY

PURPOSE

The purpose of this policy is to establish a procedure for locating persons to whom benefits are owed and for whom SCERS does not have current contact information.

POLICY

On occasion, a member, beneficiary, estate, or other person entitled to payment of benefits (including, but not limited to, a return of accumulated contributions, required minimum distributions, or underpayment corrections) may fail to claim the payment or cannot be located to make payments from the plan (missing payee). When this occurs, the Board shall, through staff, attempt to locate the missing payee. Specifically, staff shall take all of the following steps:

1. Search SCERS' records and employer records for the missing payee's last known address and other contact information;
 - a. For missing payees who are reciprocal members, staff shall attempt to obtain contact information from the reciprocal system.
2. Search publicly available records or directories for alternative contact information;
3. Engage a commercial locator service, credit reporting agency or proprietary internet search tool;
4. Attempt to contact the missing payee via U.S. Postal Service certified mail to the missing payee's last known mailing address (with return receipt requested);
 - a. The certified mail communication shall identify the type of payment to which the missing payee is entitled – e.g., accumulated contributions, death benefit, underpayment correction, etc.
 - b. If applicable, the certified mail communication shall provide notice that the funds, if unclaimed, will be deposited in and become a part of the pension plan's reserve after the applicable number of years – e.g., five years in the case of death benefits (Gov. Code § 31783.5) or in the case of returning accumulated contributions to members first employed after January 1, 1976 (§ 31628); ten years in the case of returning accumulated contributions to members first employed before January 1, 1976 (§ 31628); or any other duration provided in the CERL.

5. Attempt to contact the missing payee through other appropriate means for any other available information – e.g., other mailing addresses, email addresses, and telephone numbers.
 - a. If staff is successful in making contact with the missing payee by telephone or email, staff shall attempt to obtain a mailing address from him or her and then perform the steps in Paragraph 4 using the working mailing address.
6. Maintain a written record of having taken each of these steps.

After taking the above steps to contact the missing payee, staff shall administer the unclaimed benefits payments in accordance with the terms of the CERL. Where required by the CERL (e.g., Gov. Code §§ 31783.5, 31628), the unclaimed benefits payment shall be held for the specified number of years after the last attempted contact, and if not claimed within that time, shall be deposited in and become a part of the pension plan’s reserve.

This policy does not address the scenario in which the missing payee comes forward after the unclaimed amounts have been deposited in the pension plan’s reserve.

BACKGROUND

When SCERS is unable to locate a person to whom benefits are owed, SCERS is at risk of not meeting its various payment obligations under the law – e.g., benefits payments under the County Employees’ Retirement Law; required minimum distributions under Internal Revenue Code section 401(a)(9); and full error corrections pursuant to the IRS’ Employees Plans Compliance Resolution Program. This policy sets out a procedure for addressing these situations. In particular, this policy sets out a reasonable process for locating missing payees that complies with Government Code section 31783.5. In addition, this policy complies with IRS guidance for locating missing payees for the purposes of required minimum distributions and error corrections. See Internal Revenue Service Memorandum for Employee Plans Examination Employees, dated October 19, 2017 (re: “Missing Participants and Beneficiaries and Required Minimum Distributions); Rev.Proc. 2019-19, Section 6.02(5)(d) (re: “Locating Lost Participants”). In short, compliance with this policy would enable SCERS to comply with the CERL and to maintain its tax-qualified status even when payee cannot be located.

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

Date	Description
04-21-2021	Board approved policy