



# Board of Retirement Regular Meeting

## Sacramento County Employees' Retirement System

### Agenda Item 21

**MEETING DATE:** August 16, 2023

**SUBJECT:** Records Retention Policy

**SUBMITTED FOR:** \_\_\_ Consent      X Deliberation and Action      \_\_\_ Receive and File

#### RECOMMENDATION

Approve minor amendments to SCERS' Records Retention Policy.

#### PURPOSE

This item supports Strategic Management Plan goals regarding transparency, efficiency, and compliance with laws and regulations.

#### DISCUSSION

In 2019, the Board adopted its Record Retention Policy, seeking to establish efficient records management procedures in accordance with California Government Code Section 31537. 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. Staff has concluded that only minor, non-substantive changes are appropriate in order to update the policy and its cited legal authorities.

#### 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  
August 16, 2023

AGENDA ITEM:

### Records Retention Policy

THE BOARD OF RETIREMENT hereby approves Staff's recommendation to amend SCERS' Records Retention Policy with minor amendments.

I HEREBY CERTIFY that the above order was passed and adopted on August 16, 2023 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES  
(Present but not voting):

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Board President

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Eric Stern  
Chief Executive Officer and  
Board Secretary



# Redlined Version RECORDS RETENTION POLICY

## PURPOSE

The purpose of this policy is to establish efficient records management procedures ~~concerning the retention and disposal of SCERS' records~~, pursuant to Government Code Ssection 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.

## **II. 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.

## **III. 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.

## **IV. 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.

**V. ~~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
<u>08-16-2023</u>	<u>Board approved amended policy</u>
11-20-2019	<u>Board <del>approved</del>adopted policy, superseding and rescinding SCERS Policy No. 006 (Board Meetings Audio Recordings Policy)</u>

## APPENDIX A

Document	Retention	Citation (if any)
<b>Governance Records</b>		
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	
<b>Accounting / <del>Vending</del>Vendor Records</b>		
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, 26907.2
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 ( <del>three year</del> statute of limitations) <del> on a claim for hiring discrimination</del> )
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	Scan and retain resultant electronic files permanently; retain physical records until end of all payment obligations to member, spouse, or beneficiary	

interest; Waivers of 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	
<b>Investment Records</b>		
Investment contracts	Scan and retain resultant electronic files permanently; preserve physical records for four years after termination of contract	Code Civ. Proc. §§-337, <del>343</del> (statute of limitations) <del>for breach of contract</del> , <del>343</del> (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	<u>2014 and earlier</u> : Do not scan; purge physical records  <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.  <u>Other companies and assets</u> : Scan and preserve documents until 2023.	
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	
<b>Miscellaneous Records</b>		
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	



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