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March 23, 2020

Subject: Executive Orders N-25-20 and N-35-20

To All Participating SCERS Employers:

On March 18, 2020, SCERS issued a letter regarding its interpretation of Executive Order N-25-20. Since then, the Governor issued Executive Order N-35-20. **This letter contains SCERS' interpretation of both Executive Orders and supersedes the earlier letter.**

Executive Orders N-25-20 and N-35-20

On March 4, Governor Newsom declared a state of emergency in connection with the COVID-19 pandemic. On March 12, Governor Newsom issued Executive Order N-25-20, which reads in pertinent part as follows:

7. The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency. Consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors, are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. The Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers.

On March 22, Governor Newsom issued Executive Order N-35-20, which reads in pertinent part as follows:

3. The suspension of statutes identified in Paragraph 7 of Executive Order E-25-20 [sic], issued on March 12, 2020, shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the COVID-19 pandemic.

Pursuant to these Executive Orders, the reinstatement and work hour limitations set forth in Government Code section 7522.56(b), (d), (f), and (g) have been suspended for SCERS members.

In addition, SCERS considers Government Code section 31680.6 to have been suspended as well. Similar to section 7522.56(d), section 31680.6 sets out a work hour limitation of 960 hours per fiscal year for county employees. Although the Executive Orders do not specifically

mention section 31680.6, the Governor's intent is unambiguous: to eliminate work hour limitations that could impede adequate staffing in local government to address COVID-19.

Terms of Suspension

In addition, we understand the suspension to be subject to the following terms:

- By the terms of Executive Order N-35-20, the purpose of the suspension is “to ensure adequate staffing to appropriately respond to the COVID-19 pandemic.” Therefore, to be eligible for the suspension, the work performed by the retired SCERS members must be directly related to appropriate COVID-19 pandemic response. Participating SCERS employers and retired SCERS members should maintain reasonable records showing their work fit these criteria.
- As a part of their existing reporting requirements to SCERS, participating employers should identify any retired SCERS members that have returned to work for them pursuant to this suspension.
- The suspension ordered by Executive Orders N-25-20 and N-35-20 shall be effective until such time as the Governor lifts the state of emergency.
- Participating SCERS employers and retired SCERS members must comply with the terms of the Executive Order and provisions of law not affected by the Executive Order (e.g., Government Code section 7522.56(e)).

SCERS reserves the right to supplement or modify the statements contained in this letter upon receipt of further information and/or Executive Orders from the Governor's Office.

Please contact me with any questions.

Regards,

/s/

Eric Stern
Chief Executive Officer