



# 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).

## 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.

Liability 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 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 a settlement of 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.

## 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 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
01-19-2021	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.