

**MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION (MCERA)
CODE OF FIDUCIARY CONDUCT, ETHICS AND GOVERNANCE**

Adopted: January 9, 2008
Amended: July 8, 2009
Reviewed: August 8, 2012
Amended: December 11, 2013
Amended: December 14, 2016
Reviewed: January 8, 2020
Reviewed: October 12, 2022

WHEREAS, Article XVI, Section 17 of the California Constitution provides in pertinent part as follows:

Notwithstanding any other provision of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

- (a) *The retirement board shall have the sole and exclusive fiduciary responsibility over the assets of the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets . . . are trust funds and shall be held for the exclusive purposes of providing benefits to participants . . . and their beneficiaries and defraying reasonable expenses of administering the system.*
- (b) *The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.*
- (c) *The members of the retirement board . . . shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.*
- (d) *The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.*
- (e) *The retirement board . . . , consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.*

WHEREAS Chief Judge Benjamin Cardoza, in 1928, set forth the standard for fiduciary conduct, as follows:

A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the “disintegrating erosion” of particular exceptions. Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd

WHEREAS, the National Conference on Public Employee Retirement Systems has published NCPERS’ Model Code of Ethics, the Guiding Principles of which are as follows:

1. *Service to the beneficiaries of public pension funds is the primary function of public pension fund trustees.*
2. *The beneficiaries of public pension funds are sovereign and the trustees of those funds are ultimately responsible to them.*
3. *In those situations where the law is not clear, the best interests of the fund beneficiaries must be served. Conscience is critical. Good ends never justify unethical means.*
4. *Efficient and effective administration and investment management is basic to public pension funds. Misuse of influence, fraud, waste or abuse is unacceptable conduct.*
5. *Safeguarding the trust of fund beneficiaries is paramount. Conflicts of interest, bribes, gifts or favors which subordinate fund trustees to private gains are unacceptable.*
6. *Service to public pension fund beneficiaries demands special sensitivity to the qualities of justice, courage, honesty, equity, competence and compassion.*
7. *Timely and energetic execution of fiduciary responsibilities is to be pursued at all times by pension fund trustees.*

WHEREAS, the Political Reform Act of 1974 and Government Code section 1090 set forth specific circumstances which require public officials to disqualify themselves from making, participating in, or attempting to influence governmental decisions which may affect any of their financial interests.

NOW, THEREFORE, BE IT RESOLVED, that the Board of the Marin County Employees’ Retirement Association (the “Board”) hereby adopts the following *Code of Fiduciary Conduct, Ethics and Governance*:

PREAMBLE

The Board of Retirement of the Marin County Employees' Retirement Association ("MCERA") is an independent fiduciary board whose members function as pension trustees under the authority of the County Employees Retirement Law of 1937 (Government Code Title 3, Division 4, Part 3, Chapter 3 and 3.9, Sections 31450-31899.10), governed by the principles of Article XVI, Section 17 of the California Constitution ("Proposition 162"). The management of MCERA is vested in the Retirement Board.

MCERA was established July 1, 1950, in accordance with a vote of the people of Marin County, as an organization that was created to administer retirement benefits. The actions of MCERA affect officials, eligible employees, eligible retirees and government sponsors of the following agencies:

- County of Marin
- Marin County Courts
- City of San Rafael
- Novato Fire Protection District
- Marin City Community Services District
- Tamalpais Community Services District
- Southern Marin Fire Protection District
- Marin/Sonoma Mosquito & Vector Control District
- Local Agency Formation Commission (LAFCO)

The members of MCERA's Board are mindful of the positions of trust and confidence held by them. They adopt this Code to ensure the proper administration of MCERA, and to foster unquestioned public confidence in MCERA's institutional integrity as a prudently managed and fiduciarily governed public pension system.

MCERA's *Code of Fiduciary Conduct, Ethics and Governance* provides a fiduciary framework for the proper conduct of MCERA's affairs.

1. FIDUCIARY DUTIES.

Each member of MCERA's Board shall execute their duties as set forth in the County Employees' Retirement Law of 1937, as amended, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

Each member of MCERA's Board shall discharge his or her duties with respect to the system solely in the interests of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system, with the duty to the participants and beneficiaries taking precedence over any other duty. (California Constitution Article XVI, Section 17(b).)

Each member of MCERA's Board shall diligently attend to the business of the Board and shall not leave to other Board members control over the administration of the affairs of the Board.

Each member of MCERA's Board shall comply with MCERA's *Code of Fiduciary Conduct, Ethics and Governance*.

2. FIDUCIARY CONFLICTS OF INTEREST.

Each member of MCERA's Board shall abide by the provisions of California Government Code Sections 1090 et seq., which prohibit Board Members from being financially interested, directly or indirectly, in any contract made by the Board.

Each member of MCERA's Board shall abide by the provisions of the Political Reform Act, Government Code sections 81000, et seq, including section 87100 which prohibits Board Members from making, participating in making, or using their positions to influence Board and Association decisions in which they have a financial interest.

No member of MCERA's Board shall engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, or in conflict with, his or her duties as a member of MCERA's Board, or with the duties, functions, or responsibilities of MCERA's Board.

No member of MCERA's Board shall perform any work, service, or counsel for compensation outside his or her Board responsibilities where any part of his or her efforts will be subject to approval by any other members of the Board on which he or she serves.

Each member of MCERA's Board shall abide by the provisions of California Government Code Sections 87200 et seq., which require the public disclosure of economic interests as prescribed therein.

In keeping with the provisions of the Government Code, a member of MCERA's Board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the Board, or in the gains or profits accruing therefrom. These people are prohibited from having any financial interest in any contract made by them in their official capacity and from making or influencing official decisions in which they have a financial interest.

Each member of MCERA's Board shall strive to avoid activities which may impair the ability to exercise independent judgment in the discharge of official duties.

In order to maintain the highest standards of conduct and ethics above the minimum requirements of the California Government Code and to avoid even the appearance of a conflict of interest, each member of MCERA's Board should conduct official and private affairs so as to avoid giving rise to a reasonable conclusion that he or she can be improperly influenced in the performance of his or her public duty. In addition, each member of MCERA's Board should conduct official and private affairs so as to avoid giving rise to the reasonable conclusion that he or she is using his or her position on the Board to further his or her own financial interests.

Members of the MCERA Board shall be accountable for recognizing a potential or actual conflict of interest and for disqualifying themselves from making, participating in, or attempting to influence Board decisions which may affect any of their financial interests. Immediately prior to the Board's consideration of the matter, a Member shall publicly disclose the actual or potential conflict in detail sufficient to be understood by the public, recuse himself or herself from participating, and, if required by law, leave the room until the matter is concluded. Disclosure during Board meetings may be made 1) orally or 2) by handing a written statement to the Chair of the MCERA Board, with a copy to all trustees and the Retirement Administrator, which will be available to the public. Such a disclosure shall be reflected in the official record of the meeting. To the extent a matter on which one or more Board members have recused themselves returns to the Board for further consideration on multiple occasions, the minutes will reflect both the continued recusals and the rationale for the recusals, but Board members need not orally or in writing repeat the disclosure at each such meeting.

3. LIMITATIONS ON GIFTS, HONORARIA AND PERSONAL LOANS; AND DISCLOSURE OF GIFTS ON THE RECORD.

Each member of MCERA's Board and designated staff shall comply with the gift limitation provisions and the prohibition on acceptance of honoraria under California Government Code Sections 89500 et seq.

Each member of MCERA's Board and designated staff shall abide by the loan limitation provisions of California Government Code Sections 87460 et seq., which prohibits receiving personal loans from any officer, employee, member, consultant, or contractor with the MCERA.

In addition to the minimum gift limitation requirements of California Government Code Sections 89500 et seq., MCERA Board Members shall not accept or solicit gifts, favors, services or promises of future benefits which might compromise or impair the Board Member's exercise of independent judgment, or which the Board Member knows, or should know, are being offered with the intent to influence that Board Member's official conduct.

If a Board Member or designated staff has received gifts, either directly or through MCERA, of \$50.00 or more in the immediate preceding twelve months from a person, firm or entity seeking to conduct business with the MCERA Board, before the Board considers an item involving that donor, the Board Member or designated staff shall disclose the receipt of the gift(s), the donor's name, and the nature and value of the gift(s) to the Board in open session. All gift disclosures required by law, including but not limited to those required by this Code, shall also be included on each Board Member's and designated staff's Form 700.

4. CONTACTS WITH VENDORS, CONSULTANTS AND ADVISORS.

- (a) **Prospective Vendors, Consultants and Advisors.** No member of the MCERA Board or staff shall accept any gifts, favors, or services from any current or prospective vendor, consultant or advisor (a “service provider”) that the Board Member or staff knows has responded to a Request for Proposal from MCERA, or is otherwise a candidate in a non-RFP selection process by MCERA. Furthermore, each member of the Board shall refrain from any discussions with any current or prospective service provider who is a finalist in the selection process regarding the Request for Proposal outside of an open public meeting, other than as part of a regularly scheduled interview during the selection process.
- (b) **Existing Vendors, Consultants and Advisors.** Business meetings and discussions, including meetings which include meals, with current service providers may provide useful information of benefit to the Board member, and are not prohibited by this *Code of Fiduciary Conduct, Ethics and Governance*.

5. USE OF MCERA RESOURCES AND FACILITIES FOR PRIVATE GAIN.

No member of the MCERA Board shall use Board consultants or staff, or MCERA facilities, equipment, materials or supplies for any purpose other than the discharge of his or her responsibilities to the retirement system.

6. USE OF OFFICIAL POSITION.

No MCERA Board member shall use his or her Board position either to negotiate on behalf of the MCERA Board or to become involved in personnel matters outside of any process established for that purpose. Furthermore, no Board member shall use his or her official position to secure a special privilege or exemption for himself or herself or on behalf of others.

7. CONFIDENTIAL INFORMATION.

No member of the MCERA Board shall obtain or use for personal reasons or for private gain any confidential information acquired as a result of his or her position as a member of the Board.

Each Board Member shall abide by the provisions of Government Code section 54963, which prohibits the disclosure of confidential information acquired during authorized closed sessions.

8. CONDUCT AND ATTENDANCE AT RETIREMENT BOARD MEETINGS.

The MCERA Board shall provide fair and equal treatment for all persons and matters coming before the Board or any Board committee.

Board members shall listen courteously to all discussions at meetings and avoid interrupting other speakers, including other Board members, staff or committee members, except as may be permitted by established Rules of Order.

Board members shall refrain from abusive or disruptive conduct, personal charges or verbal attacks upon the character, motives, ethics, or morals of others.

In keeping with their fiduciary obligations, Board members shall make every reasonable effort to attend all meetings of the Board and all meetings of Committees on which they serve. When Board members are unable to attend a meeting of the Board or Standing Committee, they shall notify the Retirement Administrator as soon as possible to help ensure that a quorum will be achieved.

As provided by the Brown Act, the Board or a Standing Committee may permit one or more of its members to participate in their meetings by teleconference (audio or video), so long as the notice, public access, roll call voting and other procedural requirements of the Brown Act are met. It is the policy of the MCERA Board that if a trustee is unable to be physically present at a Standing Committee meeting, other than the Investment Committee, that trustee may request to participate from a remote location by teleconference. The trustee will timely contact the Chair of the Standing Committee to notify the Chair of his or her desire to participate via teleconference. The Committee Chair will, in his or her sole discretion, determine if the remote access request will be granted. Such request will also only be granted if the Retirement Administrator first determines that MCERA is reasonably able to comply with all Brown Act requirements with respect to the proposed teleconferencing location.

Board members may attend any meeting of a Standing Committee of which they are not a member, but only as observers. Only Committee members may vote on matters before the Committee. Board members may not attend meetings of Ad Hoc Committees of which they are not members unless the meeting agenda has been posted and all the requirements of the Brown Act have been met.

9. COMMUNICATIONS WITH SERVICE PROVIDERS AND OTHER NON-MCERA PERSONS AND ENTITIES.

A Board member shall be respectful of the Board and its decisions, and of committees and their recommendations, in all external communications, even if he or she disagrees with such decisions or recommendations.

As a means to provide correct, timely and uniform information regarding MCERA administration, the provision of MCERA benefits, and related matters, inquiries on such matters from services providers, the media, and other non-MCERA entities and individuals should be directed to the MCERA Administrator. If Board members receive inquiries from non-MCERA entities and individuals regarding MCERA and choose to respond to such inquiries, such Board members shall clarify that they are not speaking on behalf of the Board, unless the communication is specifically authorized by the Board.

A Board member shall not correspond with a non-MCERA person or entity using MCERA letterhead or as a spokesperson on behalf of the Board unless the communication is authorized by the Board.

Copies of all written communications from a Board member to a current service provider (vendor, consultant or advisor), or person or entity related to a current service provider, relating to MCERA's business (other than purely personal or social correspondence) shall be provided to the MCERA Administrator for possible subsequent distribution to all members of the Board.

A copy of any written business related communication (other than routine announcements, generally distributed newsletters, and similar material) received by a Board member from a current MCERA service provider, and not received by any other Board Member, shall be forwarded to the MCERA Administrator for possible subsequent distribution to all members of the Board.

10. COMMUNICATIONS TO THE ELECTORATE.

The Board may publicly express an opinion with regard to the merits of a proposed ballot measure that is reasonably expected to impact MCERA members or their beneficiaries with respect to their retirement or the operation of the retirement system. MCERA may provide information to its membership regarding the measure that is fair and impartial, avoids advocacy of any particular vote, and is provided to membership as part of normal communications as to which MCERA is not expending additional funds. MCERA may not, however, expend retirement system funds or other MCERA resources (such as staff time) to mount a campaign, or otherwise advocate, on any measure before the electorate or on behalf of any particular candidate on a ballot. In addition, unless authorized by the Board, individual Board members shall not use their retirement system titles when expressing an opinion regarding any ballot measure or candidate for office, unless the individual specifically identifies his or her opinion as personal and not that of the Board or retirement system. MCERA shall consult with its counsel prior to speaking officially, or expending MCERA resources, on any items that will be brought before the electorate so as to avoid any potential misuse of trust funds.

11. COMMUNICATIONS WITH PLAN MEMBERS.

Board members shall be aware of the risk of communicating inaccurate information to plan members (both active members and retirees), and the potential exposure to liability and possible harm to a plan member that may result from such miscommunications.

Board members shall mitigate the risk of miscommunication with plan members and thereby avoid creating additional plan liability by refraining from providing specific advice or counsel with respect to the rights or benefits to which a plan member may be entitled under the MCERA plan.

Where explicit advice or counsel, with respect to retirement plan provisions, policies or benefits is needed, Board members will refer inquiries to the MCERA Administrator or appropriate designee.

12. NON-COMPLIANCE SANCTIONS.

Violation of this *Code of Fiduciary Conduct, Ethics and Governance* is grounds to remove the offender from the position of Chair or Vice-Chair of the MCERA Board, or from any other assignment on behalf of the Board, and may also subject the offender to censure by the Board.

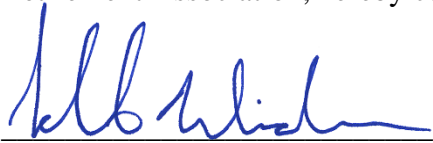
The Board may also pursue all of its legal remedies against any Board member who violates the provisions of this *Code of Fiduciary Conduct, Ethics and Governance*.

13. POLICY REVIEW.

The Board shall review this *Code of Fiduciary Conduct, Ethics and Governance* at least every three years to assure its efficacy and relevance. The Board may amend this policy, from time to time, by majority vote of the Board.

14. RETIREMENT ADMINISTRATOR'S CERTIFICATE.

I, Jeff Wickman, the duly appointed Retirement Administrator of the Marin County Employees' Retirement Association, hereby certify the review of this Policy on October 12, 2022.



Retirement Administrator