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San Bernardino County Employees'
Retirement Association

POLICY NO. 021
Committee: Administration
Policy Category: General
Approved.

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By: _____
Chair of the Board

Subject: CLOSED SESSION MEETINGS OF THE BOARD OF RETIREMENT

CLOSED SESSION MEETINGS OF THE BOARD OF RETIREMENT

Closed sessions of the Board of Retirement (Board) of the San Bernardino County Employees' Retirement Association (SBCERA) are authorized under specified circumstances by provisions of the Ralph M. Brown Act, Government Code sections 54950 et. seq. (Brown Act). Confidential Information received during, or in relation to, closed sessions of the Board is confidential. The purpose of this policy is to explain the legal obligation of SBCERA Board members and Necessary Staff who participate in closed sessions not to disclose Confidential Information that has been acquired by being present in a closed session that is authorized by the Brown Act. (See. Gov. Code sec. 54963(a)). Maintenance of the confidentiality of this information is critical to prevent any disclosure of the Board's deliberative process, to protect the trust and confidence the trustees have in each other as co-fiduciaries of SBCERA, and to protect the non-public information of others who may be the subject of a closed session.

Pursuant to their fiduciary duties of loyalty and care and provisions of the Brown Act, SBCERA Board members and Necessary Staff who attend closed sessions are required to protect and hold confidential all non-public information obtained due to their position, unless the Board authorizes disclosure of that Confidential Information.

Accordingly, Board members and Necessary Staff shall not disclose Confidential Information to any other party, including but not limited to other SBCERA staff, or misuse it in any other fashion, including by using it for their or someone else's benefit. However, under certain circumstances as required by law or when authorized by the Board, Board members and/or Necessary Staff may be authorized to discuss Confidential Information with one another and/or with SBCERA's retained advisors, or with others as specifically provided in the Brown Act.

Written Confidential Information should be collected and must be returned to the SBCERA Chief Executive Officer, Chief Counsel, or when appropriate, SBCERA's retained counsel, at the end of the closed session portion of the meeting. Such Confidential Information must be shredded or placed in a confidential locked disposal bin, except for the Confidential Information that is retained as part of SBCERA's human resources, legal or permanent Board files.

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The following terms as used in this policy are defined as follows:

1. "Confidential Information" whether verbal or written, is all non-public information entrusted to or obtained by a Board member and/or Necessary Staff in or for a closed session that is specifically related to the basis for the SBCERA Board to meet lawfully in closed session under the Brown Act. It includes, but is not limited to, closed session board agenda materials, such as attorney-client privileged memoranda related to pending litigation, and personnel, medical, or similar records. Confidential Information shall be marked confidential and disseminated on paper, if feasible, that is distinguishable from non-confidential information.
2. "Necessary Staff" shall be only those persons present in closed sessions of the Board who are necessary to advise or take direction from the Board, given the specifically permitted purpose of a particular closed session discussion. The Board may make the determinations as to those individuals able to be present during a closed session, consistent with the dictates of the Brown Act. In addition, the Board has determined that in order to perform its official duties, it may be necessary for specified staff to have access to Confidential Information provided to the Board.