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San Bernardino County Employees'
Retirement Association

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By: _____
Chair of the Board

Subject: RECORDS RETENTION POLICY

RECORDS RETENTION POLICY

I. PURPOSE

The Board may establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the Board to be necessary, disposal of records in its jurisdiction. (Government Code section 31537.)

This policy ensures that SBCERA maintains records that are essential to its operation, reduces costs and improves the efficiency of recordkeeping, and ensures legal compliance with state, federal and regulatory requirements.

The Records Retention Schedule, attached as Appendix A, lists the retention and destruction requirements for categories of records pertaining to SBCERA. The Schedule contains minimum statutory time periods for retention and specifies the length of time that records must be maintained before destruction. Departmental practices, the investigation of complaints, the existence or likelihood of litigation or administrative enforcement actions, or other business needs may compel a longer retention period. If there is any doubt as to the need for longer retention of a particular record, staff should consult with the Chief Executive Officer or Chief Counsel.

II. DEFINITIONS

A. **Record** – Any writing containing information relating to the conduct of the public's business that is prepared, owned, or retained, regardless of the physical form or characteristics (Government Code sections 6252-6257). This means a record can be any paper or electronic documents, computer tape, voice or data transmissions, film, e-mail and/or text message, or other form of documentation that records or transmits any type of writing relating to the conduct of SBCERA business. Information can be stored on a variety of storage media, such as microfilm, microfiche, diskette, optical disk, CD-ROM, videotape, including security footage, paper, etc.

B. **Original Record** – A document on file as identified in the Records Retention Schedule. Every reproduction of an electronically stored document maintained shall be deemed to be an Original Record. (Gov. Code § 34090.5)

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C. Electronic Communications – Information created and / or stored on or within a computer, computer server, cloud, smart phone, or any other electronic medium or device for electronic processing that requires a computer or other electronic medium or device to display or process the records. Electronic Communications includes, but is not limited to:

1. Emails, text messages, instant messages, digital images, voicemail, photographs, sound recordings, compact disks, audiotapes, videotapes, spreadsheets, and other data or data compilations stored in any electronic medium from which information can be obtained.
2. Information created through the use of, and contained in, SBCERA's social media applications.

D. Official Record - An "official record" reflects the final, official recorded position or activities or an organization related to specific content of the record. Any deletion or purge of the official records must be accompanied by a detailed justification for such deletion or purge.

E. SBCERA Member Record – The Member Record shall include all correspondence, affidavits, statements, and any other written documents received or produced by SBCERA pertaining to the member. The Member Record shall also include all data held electronically by SBCERA or a third-party vendor on behalf of SBCERA that pertains to the member including, but not limited to, data held in a pension administration software system.

III. POLICY GUIDELINES

All SBCERA employees are responsible for complying with the records retention policy and schedule. The minimum retention period of a record must be consistent with applicable laws, orders, rules, or regulations. When such criteria does not exist, a reasonable retention period will be established based on SBCERA's needs and the usefulness of the information. Retained information must be stored in a manner designed to ensure its accessibility, integrity, confidentiality, authenticity, and legibility.

A. Records Created or Received in Physical Form Only

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. There is no need to scan physical records if a digital counterpart exists. If a physical document

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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, until the Records Retention Policy is updated to reflect the existence of the record and establish a retention period. The Chief Executive Officer and Chief Counsel should then be consulted about the disposition of the physical document.

B. Records Created or Received in Electronic Form Only

As SBCERA moves towards a paperless environment, 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 or in accordance with the retention schedule and stored in an organized and accessible manner.

C. Electronic Communications

Electronic communications shall be retained and preserved for two (2) years or as prescribed by law, unless the content of an electronic communication and/or any attachment(s) are (a) an official record or (b) necessary for the conduct of SBCERA business and were made for the purpose of preserving its informational content, then it shall be retained for the retention period specified herein.

However, electronic communications that are considered transitory in nature and are not customarily kept or retained by SBCERA as the primary means for preserving information for future reference may be periodically or routinely purged from the system without any necessary action by the sender or the recipient of the communication. In addition, it is the responsibility of the user of the email system to manage email messages according to the retention policy. Records created using SBCERA's email system should be saved to an appropriate archival medium.

The retention period of email messages that are not saved or are not an official record is the following: Items in "INBOX" and "SENT ITEMS" will remain ninety (90) days from inception date, and then removed to "TRASH." Items in "TRASH" will be deleted in thirty (30) days, regardless of inception.

It is the individual staff member's responsibility to accurately classify an e-mail message according to the record retention categories set forth in the Records Retention Schedule and to ensure that the record is maintained for the prescribed retention period.

If the content of an e-mail message is necessary for, or convenient to, the conduct of SBCERA business and was made for the purpose of preserving its informational content, staff is required to take appropriate steps to ensure its retention in accordance with the Records Retention Schedule.

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D. Imaged Files or Other Electronic Reproduction of Records

Government Code section 34090.5 authorizes the conversion of hard copy materials and records onto other electronic mediums. Imaged files or other electronic reproduction of records shall be deemed to be an "original" of the paper record, and paper records may be retained or purged, upon a determination by the Chief Executive Officer and Chief Counsel that:

1. The records were electronically imaged and recorded on a medium that is a trusted system and that does not permit additions, deletions or changes to the original document;
2. The device used to reproduce the record, paper, or document on the medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images;
3. The imaged or reproduced records are used by SBCERA in the ordinary conduct of its business in lieu of the paper records and are made as accessible for public reference as the paper records were;
4. A true electronic or paper copy of archival quality shall be kept in a safe and separate place for security purposes; and
5. No paper pages of any records shall be destroyed if any page cannot be electronically reproduced with legibility sufficient to be read for the record's intended purpose. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

E. Litigation Holds

Whenever SBCERA learns of pending litigation, the Chief Executive Officer shall notify Chief Counsel. Chief Counsel will inform the appropriate employees which documents should be held pending resolution of the litigation ("litigation hold"). The litigation hold applies to electronic and hard copy documents including email correspondence, work drafts, notes, memoranda, correspondence, and other documents pertaining to the litigation as determined by the Chief Counsel or, outside counsel if appropriate. All documents pertaining to the litigation in the possession of SBCERA or SBCERA's employee(s) should be preserved until the Chief Counsel notifies employees that the litigation hold is no longer in effect.

F. Records Containing Trade Secrets

Consultants, investment managers, and other vendors used by SBCERA may provide information and documents to SBCERA that contain trade secrets. Generally, a trade secret is information, including programs, methods, technology, and processes, that has

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independent economic value from not being generally known to the public or others who can obtain value from disclosure and which the owner has taken reasonable steps to protect.

Prior to disclosure of any documents or information supplied by a consultant, manager, or vendor, the responsible employee that possesses the document or information shall consult with Chief Counsel for an opinion regarding whether the material to be disclosed is a trade secret. Chief Counsel will then contact the consultant, manager, or vendor to determine whether the document or information contains trade secrets. If a document contains trade secrets, Chief Counsel will work with appropriate employees to request that the consultant, manager, or vendor redact the document prior to disclosure.

G. Preliminary Drafts and Notes

Unless deemed an Official Record, preliminary drafts, notes and interagency or intra-agency correspondence may be destroyed if they are no longer needed and there is no legal or policy requirement that they be retained.

H. Electronic Data Retention

SBCERA data that is held or maintained by a third-party enterprise content vendor may constitute an SBCERA Member Record. Member Records held by a third-party vendor are SBCERA records and shall be subject to the same retention guidelines as data held by SBCERA. Data held by a third-party vendor that is proprietary to the vendor and is not part of the Member Record is not a record of SBCERA, and SBCERA will not maintain or purge such data.

I. Transitory Records

Records whose value is comparatively short-lived and should be discarded when they have fulfilled their purpose for which they were created. Examples: 1) copies of reproduced/printed material of general information; 2) originals/copies of documents kept solely for tickler, suspense, or follow-up; 3) preliminary work materials used for preparation of reports, studies, etc.; 4) duplicates/extra copies of records; and 6) appointment logs/calendars.

IV. DISPOSITION OF RECORDS

Initially, staff will have 12 months to comply with provisions of this policy or unless extended by Chief Executive Officer and Chief Counsel. Thereafter, annually, each Department is responsible for reviewing all records in its custody. Records that have reached the end of their retention period are to be destroyed pursuant to the Records

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Retention Schedule. Electronic versions of those records must also be deleted at the same time. Board action is not required for the destruction of records in accordance with the Records Retention Schedule.

This section does not authorize the destruction of the following original records:

- A. Records required to be kept by statute;
- B. Records less than two years old; or
- C. Minutes, agendas, and resolutions of the Board.

V. RECORDS RETENTION SCHEDULE UPDATE

The SBCERA Board delegates to Chief Counsel the responsibility of updating the Records Retention Schedule in accordance with federal and state regulations and laws and final approval of such changes shall be with the Chief Executive Officer.