

SANTA BARBARA COUNTY EMPLOYEES' RETIREMENT SYSTEM
GUIDELINES FOR RETENTION AND ASSIGNMENT OF REFEREES

1. Introduction

Pursuant to Government Code Section 31533, the Board of Retirement (the "Board") utilizes referees to conduct *de novo* hearings of disability retirement applications referred to hearing under its Bylaws. These guidelines contain a statement of Board policy regarding the retention and assignment of referees.

2. Statement of Policy re Neutrality of Referees

The Board's primary goal is the selection and retention of referees who will consider the underlying evidence and make recommendations to the Board on a *de novo* basis, without giving weight to prior administrative actions or recommendations. During the conduct of disability retirement proceedings, the Referee constitutes the duly authorized representative of the Board. Like the Board, referees are expected to neutrally consider evidence and argument, with no pre-disposition towards the grant or denial of disability retirement applications. The Board's duty is to determine whether the granting of a disability retirement in a particular case has merit based on the law and the evidence. The Board's policy is to encourage full and accurate fact finding. The Retirement System is equally well served by a grant as by a denial where the decision is based on the law and the evidence.

3. Qualifications of Referees

Pursuant to Government Code Section 31533, the minimum qualifications of a referee are that the referee must be a member of the State Bar of California. In addition to this minimum qualification, the Board considers additional qualifications including (a) prior experience as a referee, fact finder or arbitrator, (b) experience and knowledge of retirement law and employment law, (c) broad and diverse professional experience, (d) demonstrated ability in legal analysis and writing, including the ability to write a clear and concise report for consideration by Board members, and (e) the willingness and ability to schedule hearings promptly and to make reports and recommendations on a timely basis.

4. Assignment of Referees to Particular Cases

Referees will be assigned to hear applications on a rotating basis unless the assignment involves an application previously heard by a referee, in which case that referee will be assigned to the matter if available.

5. Process for Selection and Retention of Referees

The following procedures for selection and retention of referees is to be utilized:

(a) Recommendations regarding the selection and retention of referees shall be made by the Board's Operations Committee (the "Committee"). The Committee may consult with the Board's counsel, who does not represent SBCERS in disability retirement hearings and, at its option, may select and retain a special advisor with respect to referee selection and retention issues, who may be a retired judge, law professor or similar individual with credentials of legal experience, independence and neutrality.

(b) The Committee shall periodically evaluate existing referees and consider the addition of new referees to the panel. The following procedures shall be utilized by the Committee and/or staff at its direction:

(i) The Committee may solicit qualified applicants to serve as referees. Applications may be supplemented by resumes, writing samples, references and letters of recommendation where available.

(ii) Applications shall be subject to preliminary screening for qualification by the Committee.

(iii) In evaluating current referees, the Committee shall consider the same factors utilized in considering the qualifications of proposed new referees.

(iv) Upon completion of the review process, the Committee shall make recommendations to the full Board for retention of referees.

(v) In completing the above procedures, the Committee may utilize System staff in order to conduct ministerial acts, such as the preparation of correspondence or notices soliciting applications or public comment. However, consistent with the Board's past policies, System staff and counsel involved in the presentation of evidence to referees shall not be involved in the decision making process for retention of referees. Such process shall be conducted solely by Board members, alone or in consultation with Board counsel and/or the special advisor to the Committee.

(c) Effective upon the acceptance by the full Board of a panel of referees recommended by the Committee pursuant to these guidelines, each member of the panel shall serve for a five year term. At the conclusion of such term, the panel shall be evaluated in accordance with the procedures set forth above and additional panel members may be solicited in accordance with the procedures set forth herein. A referee shall not be removed from the panel prior to the expiration of his or her term except for good cause. Good cause shall include, by way of example and without limitation, the inability to serve for an extended period due to illness or disability, willful failure to conduct hearings in accordance with applicable rules or the failure to conduct hearings

and make recommendations in a timely fashion. Good cause shall not include the substance of a particular report and recommendation or the tendency of a referee to make recommendations for or against the granting or denial of disability retirement. In the event that, during any five year term, the membership of the referee panel is reduced due to resignations or removals, the Committee may recommend appointment of additional referees, from prior applicants found to be qualified but not named to the panel or from newly solicited applications. Otherwise, the selection and review process of referees in accordance with these guidelines shall be conducted once every five years.

6. Amendment History

This policy was adopted by the Retirement Board on December 15, 1999; revised April 22, 2009; and revised April 23, 2014.