

***PUBLIC EMPLOYEES RETIREMENT  
ASSOCIATION OF NEW MEXICO  
BOARD POLICIES AND PROCEDURES***

***Adopted March 29, 2001; amended 2002; 2011, 2012 and 2014***

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## I. GENERAL GUIDELINES

**A. Overview and Purpose.** The New Mexico Public Employees Retirement Board (“Board”) is the Trustees of the Public Employees Retirement Association (“PERA”) and the funds created by state statute.<sup>1</sup> As Trustees, Board Members are fiduciaries to the various PERA funds and must prudently administer these retirement systems for the sole and exclusive benefit of PERA members, retirees and beneficiaries.<sup>2</sup> Additionally, the Executive Director also has a fiduciary duty to prudently administer these retirement systems for the sole and exclusive benefit of PERA members, retirees and beneficiaries. In order to maintain the respect, trust and confidence of its members and retirees, all Board Members and the Executive Director must use the powers and resources of their office only to advance the interests of PERA members, retirees and beneficiaries and not to obtain personal benefits or pursue private advantage incompatible with these interests. Board Members and the Executive Director shall conduct themselves in a manner that justifies the confidence placed in them by PERA members and retirees, at all times maintaining their integrity and discharging their responsibilities ethically in the course of their association with the PERA.

The purpose of these policies is to provide general guidelines and standards of conduct for Board Members and the Executive Director of the New Mexico Public Employees Retirement Association; and to implement the provisions of the Governmental Conduct Act,<sup>3</sup> NMSA 1978, Sections 10-11-130.1 and 10-11-133(G) of the PERA Act and the Financial Disclosure Act.<sup>4</sup>

**B. Mission Statement.** The mission of the Board of the Public Employees Retirement Association is to preserve, protect and administer the Trust to meet its current and future obligations and provide quality services to association members.

**C. Value Statement.** The Board will act with integrity in meeting its fiduciary responsibilities to the Trust. The Board will make efficient, effective, prudent and visionary decisions in fulfilling its mission. Board Members will be reliable, responsible, and will utilize opportunities to receive necessary training in order to be knowledgeable fiduciaries. The Board will engage in inclusive decision making processes, which support its expectation that the Board speaks with a unified voice.

### **D. Fiduciary Responsibilities**

- 1. Duty of Loyalty:** Board Members and the Executive Director shall act solely for the benefit of the present and future participants and beneficiaries of the Fund and shall give their undivided loyalty to such participants and beneficiaries. Good faith does not excuse disloyalty.
- 2. Duty to Deal Impartially:** Board Members and the Executive Director shall deal impartially with all association members and retirees.
- 3. Duty to Preserve the Trust:** Board Members and the Executive Director shall preserve the trust assets through implementation of the Board Investment Policy and monitoring fund performance.
- 4. Duty to Be Educated:** The complexities of sound management of the assets and liabilities of the Trust Fund impose a continuing responsibility for all Board Members and the Executive Director to attend educational conferences, seminars, and other events that are

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<sup>1</sup> Public Employees Retirement Act, NMSA 1978, Sections 10-11-1, et seq. (1999), the Judicial Retirement Act, NMSA 1978, Sections 10-12B-1 et seq. (1997), the Magistrate Retirement Act, NMSA 1978, Sections 10-12C-1 et seq. (1997) the Volunteer Firefighters Retirement Act, NMSA 1978, Section 10-11A-1 et seq. (1997) and the Deferred Compensation Act, NMSA 1978, Sections 10-7A-1 et seq.

<sup>2</sup> N.M. Const. art. XX, § 22.

<sup>3</sup> NMSA 1978, Section 10-16-1 et seq. (1993).

<sup>4</sup> NMSA 1978, Section 10-16A-1 et seq. (1997).

required to conduct the business of PERA, or that will better prepare them to perform their fiduciary duties.

**5. Duty as Co-Trustee**

- a. Board Members and the Executive Director have a duty to participate in the administration of the trust.
- b. Board Members and the Executive Director have a duty to use reasonable care to prevent co-trustees from committing a breach.
- c. Board Members and the Executive Director have a duty to compel performance or redress a breach.

**E. Governance Principles:** The Board shall establish and communicate Board policies and priorities and then monitor performance. The Board recognizes that the achievement of its goals requires self-discipline by the Board as a whole and by individual Board members to abide by the policies articulated herein and to govern in a manner consistent with the Board's value statement. The Board is responsible for creating and maintaining an atmosphere that encourages frank and collegial discussions both at the Board and Committee levels and between the Board and PERA management.

[Amended: 3/31/2011]

**II. BOARD'S ROLE AND DUTIES**

Consistent with its fiduciary role as Trustees of the funds, the Board's principal role is to ensure that PERA is appropriately governed and managed. With the overriding goal of protecting fund assets, the Board's role is as follows:

**A. Adopt and Monitor Policies**

1. Set the long-term strategic direction for PERA, focusing on the goals of PERA against which its performance is measured and monitored.
2. Create, adopt, review and/or revise Board rules, policies and guidelines regarding administration of the retirement system as necessary but at least every 2 years in odd-numbered years.
3. Select, supervise and regularly evaluate the Executive Director. The Board shall evaluate the Executive Director at least annually.
4. Delegate execution of established Board policy and strategic objectives to the Executive Director and through the Executive Director, re-delegation to the employees of PERA.
5. Set the Board agenda; identify, articulate, prioritize and schedule matters the Board will regularly address.
  - a. Create an annual schedule for meetings.
  - b. Identify benchmarks that trigger Board review.
  - c. Identify information needs and determine how, when and in what form information is to be delivered to Board Members to enable the Board to meet its responsibilities, having regard for time availability.
6. Provide for the election of employee and retired members on the Board.
7. Evaluate the Board's performance annually at the retreat, and take any steps necessary to improve Board operations.

**B. Review and Evaluate Agency Performance**

1. Monitor performance and regularly review results as measured by performance standards:
  - a. PERA's mission/value statements

- b. Long-range goals including the performance based budget, communication plan and other such plans as directed by the Board
- c. Performance measures that include external as well as internal measures.
- 2. Review, approve and monitor actuarial data, assumptions and actuarial studies.
- 3. Approve the annual budget.
- 4. Ensure the integrity of the financial control and reporting system.
- 5. Oversee annual independent audit, including approval of the outside auditor.
- 6. Approve requests for proposals (RFPs) and participate in RFP evaluation committees, at the Board's discretion.

**C. Individual Board Member Responsibilities**

- 1. At all times individual Board Members shall act in the best interest of PERA and the Trust consistent with his/her fiduciary duty, ensuring the highest standard of duty to the Trust and conformance to the Board's policies.
- 2. Individual Board Members shall implement and monitor the Board's Policies.
- 3. Individual Board Members cannot act on behalf of the entire Board unless specifically delegated that authority.
- 4. An individual Board Member may remove any item from the Consent Agenda for placement on the regular agenda. Such items on the regular agenda must then be approved by a majority vote of the Board members present at the meeting.
- 5. Individual Board members shall not become involved in operational management of the agency, except as requested by the Executive Director.
- 6. Individual Board members shall refrain from performing any function delegated or normally assigned to PERA staff unless prior approval is obtained from the Board.

**D. Board Chair and Vice Chair**

- 1. The Board Chair's principal role is to lead the Board in the conduct of Board business by managing the affairs of the Board and ensuring the integrity of the Board's process. The Chair's specific duties, delegated by the Board, are to:
  - a. Provide leadership to the Board in terms of collegiality and ethical conduct, avoiding any bias for or against an individual Board member.
  - b. Ensure that Board operations and activities are consistent with Board policies.
  - c. Set the Board agenda with input from Board Members and the Executive Director and staff, articulating, setting priorities and scheduling agenda items as appropriate. If the Chair refuses to place an item on the agenda, four (4) individual Board members may petition in writing and place an item on the agenda without the Chair's consent.
  - d. Conduct Board meetings, controlling the process of the Board deliberations pursuant to these Board Policies.
    - 1. Ensure timely, fair, orderly, thorough and efficient deliberations, including enforcement of the Board's rules of order.
  - e. Ensure information flow to the Board that is comprehensive and timely without being overly detailed. With input from the Board Members, Committee Chairs and Executive Director and staff, determine the frequency, subjects and format of information that is provided to the Board and Committees prior to meeting.
  - f. Make decisions on matters that the Board has expressly delegated to the Chair the decision-making authority.
    - 1. Convene and chair meetings of the Board.

2. Appoint Committee membership, Committee Chairs and Vice-Chairs, with consideration given to the equitable representation between the member groups, the expressed desires of individual Board Members and the value of periodic rotation of Committee members to provide exposure to different Board responsibilities.
  3. In consultation with affected Committee Chairs, appoint subcommittee members or ad hoc committees, giving consideration to the equitable representation between the member groups, the expressed desires of individual Board Members and the value of providing exposure to different Board responsibilities.
  4. In consultation with affected Committee Chairs, resolve the scope of authority of different Committees as set forth in the Committee charters with the goal of ensuring the most effective and efficient operation of the Board.
  5. Certify actions taken by the Board, as needed.
- g.** Represent PERA or designate other Board Members to represent PERA to outside organizations.
  - h.** Act as the representative and formal spokesperson for the Board for communications between the Board and Executive Director, and between the Board and the media and the public.
  - i.** Initiate the Board's ongoing assessment of Board performance, process and organization, recognizing that continuing improvement will require periodic change to meet future needs and conditions.
2. The Board Chair and Vice-Chair shall be elected annually by members of the Board in open session at the first meeting of the Board in the calendar year. The terms of both Chair and Vice-Chair shall be for one calendar year. Both Chair and Vice-Chair may serve subsequent terms.
  3. In the absence or incapacity of the Board Chair, the Vice-Chair shall have the duties and responsibilities delegated and established by Board policy in conformance with the authority delegated to the Board Chair.
  4. When the Board Chair resigns prior to the expiration of the Chair's elected term, the Vice-Chair shall become the Board Chair to complete the unexpired term and shall have the duties and responsibilities delegated and established by Board policy in conformance with the authority delegated to the Board Chair
  5. When the Board Vice-Chair resigns or succeeds to the position of Board Chair, the Board shall hold an election for a new Board Vice-Chair to complete the unexpired term.

**E. Committees, Committee Chairs and Committee Vice-Chairs**

1. The standing Board Committees are Rules and Administration, Audit and Budget, Legislative, Investments and Disability Review. These Committees shall:
  - a.** Assist the Board by considering policy alternatives and implications for Board deliberations and actions.
  - b.** Act for the Board when formally delegated such authority for specific purposes. Committee authority is limited to areas explicitly delegated by the full Board, as set forth in the Committee charters.
2. All Board Members shall be advised of the meetings of each Committee, and may choose to attend any Committee meeting, regardless of whether or not they are members of the Committee. Board members may participate in Committee discussions, but may only vote in Committees of which they are members.
3. Committee Chairs are responsible for organizing the work of the Committees. In fulfilling this function they:

- a. Set the Committee agenda in consultation with the Board Chair and the Executive Director.
  - b. Convene and chair meetings of the Committee.
  - c. Appoint temporary committee members as may be necessary to achieve a quorum. Such appointments shall be effective for the duration of the meeting or until a quorum of the committee members is achieved.
  - d. Ensure that the Committee operates to assist the Board consistent with Board rules and policies including:
    - i. Limiting meeting discussion content to issues that, according to Board delegation, are within the Committee's responsibility.
    - ii. Ensuring timely, fair, orderly, thorough but efficient deliberations, and enforcement of the Board's rules of order.
  - e. Work directly with the staff person(s) assigned by the Executive Director and consultants designated to the Committee, as appropriate, on matters within the Committee's authority.
  - f. Act as a liaison between the Committee, the Board Chair and the Board.
  - g. Provide the Board Chair with recommendations concerning subcommittee membership.
4. In the absence or incapacity of the Committee Chair, the Committee Vice-Chair shall have the duties and responsibilities delegated to the Committee Chair and established by the Committee's authority.

[Amended: 6/24/2011]

**F. Board Minutes**

1. All Committee and Board meetings shall be documented with minutes that are reviewed and approved by the committee and the Board, respectively. All minutes shall satisfy the deadlines and other requirements of the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4, as amended.
2. Minutes shall record the actions and deliberations of the Board or Committee. Minutes shall reflect procedural requirements (notice, approval of the agenda, the presence of a quorum, etc.), identification of the matters considered, the actions taken or approved and other decisions reached. Minutes shall include a short statement of each action taken by the board with a brief explanation of the rationale for the decision.
3. PERA's contract recorder shall prepare and deliver to PERA staff for review, comment and revision, a draft of the minutes of each Board and Committee meeting no later than ten (10) working days after the date of the meeting
4. PERA staff shall deliver minutes to the Board members present at the meeting(s) for review, comment and revision. Board revisions shall be made within two (2) working days after delivery.
5. Minutes shall be approved, amended or disapproved, at the next Committee/Board meeting where a quorum is present.
6. Original minutes and all required attachments or exhibits shall be retained pursuant to state law.
7. Verbatim minutes shall not be taken. Board actions shall be recorded. Board member statements shall be summarized.
8. Minutes shall reflect participation by advisors (staff, consultants, actuaries or other professionals) and the Board or Committee's consideration of the advisor's report, advice or opinion.
  - a. Pursuant to NMSA, the board minutes shall not be released prior to the approval by the Board.

[Amended: 12/18/2014]

### III. STANDARDS OF CONDUCT

- A. **Conduct:** Board Members and the Executive Director shall conduct themselves with integrity and dignity; exercising care, prudence and diligence required of public pension fund fiduciaries.
1. **Conflict:** No Board Member or the Executive Director shall participate in a decision or action involving any asset or benefit for his/her own interest except insofar as the benefit is incidental to the Board Member's membership as a PERA participant or retiree or deferred compensation plan participant. Board Members and the Executive Director shall disclose and refrain from participating in any discussion or decision concerning an investment, benefit or other action in which the Board Member has an interest or a conflict, including abstention from voting regarding the action.
  2. **Decision-making:** Board Members and the Executive Director shall make decisions that are consistent with their fiduciary duty.
  3. **Record-keeping:** As Trustees of the Funds, the Board shall ensure that adequate records be kept of all formal actions, in the form of official minutes or other documents, sufficient to provide documentation for those decisions for future reference. Records of all matters voted, including abstentions from voting, shall be maintained as part of Board or Committee meeting minutes.
  4. **Breach:** No Board Member or the Executive Director shall knowingly participate in the breach of fiduciary duty by another Board Member or the Executive Director, including concealment of such breach, or knowingly or negligently permitting such breach to occur. Each Board Member and the Executive Director has an obligation to disclose a breach of fiduciary duty to the Board Chair, or in the case of the Board Chair, to the Board Vice-Chair.
  5. **Subsequent Employment:** No Board Member shall contract or accept employment with any business or individual who contracts with PERA and shall not do so for a period of one year after leaving the Board.
- B. **Prohibited Transactions and Acts**
1. A Board Member and the Executive Director shall not use the prestige or influence of the State or PERA for private gain or advantage, or the private gain or advantage of another, including, but not limited to, taking an official act, which directly or indirectly benefits him/her or a family member.<sup>5</sup>
  2. A Board Member and the Executive Director shall not use PERA facilities, equipment (including, but not limited to, copy machines, telephones, vehicles, postage meters, data processing or word processing equipment, or personal computers), supplies or employees for private gain or advantage, or for the private gain or advantage of another.
  3. During the last year of their term in office, if a Board Member seeking re-election to the Board submits an article for publication in the PERA newsletter, it must first be approved by the Chair. If the article is written by the Chair, it must be approved by the Vice-Chair prior to publication.
- C. **Conflicts of Interest**
1. Members of the Board and the Executive Director shall avoid any action, whether or not specifically prohibited by these guidelines or any applicable Federal or State statute, which might result in, or create the appearance of:
    - a. Giving preferential treatment to any member, beneficiary, individual, firm or organization, etc.;

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<sup>5</sup> Family member includes spouse and legal dependents. NMSA 1978, §10-16-2(D) (1993).

- b. Lacking complete independence or impartiality; or
  - c. Diminished confidence of the public and the membership in the integrity of the Board governance.
2. No Board Member or the Executive Director shall demand, exact, solicit, or extort, accept, or receive anything of value (including, but not limited to, money, meals, drinks, entertainment, lodging, travel expenses, services or other consideration) other than that lawfully received by the Board Member in his/her official capacity under Section III.E of this Policy.
  3. A Board Member or the Executive Director shall not have an ex parte communication on the merits of a Disability Review Committee matter or an administrative appeal with any party or their attorney until after the Board's decision and the case is administratively final. Any ex parte communications made known to the Executive Director, PERA staff or individual Board Members shall be reported to the Chair. If the Chair determines that the ex parte communication involved the merits of the appeal, abstention from participating and voting on the appeal by the Board Member who received the ex parte communication shall be required.
  4. A Board Member or the Executive Director may not do through third parties that which he/she may not do directly under the foregoing restrictions.

#### **D. Financial Conflicts and Disclosures**

1. **Financial Conflicts:** Board Members and the Executive Director shall not have any financial interests in any entity or transaction that may affect his/her official acts as a Board Member or PERA Executive Director, except insofar as the financial interest is incidental to the Board Member or Executive Director's membership in the Fund or the deferred compensation plan.
2. **Disclosure Statement:** On or before January 31 of each year, each Board Member and the Executive Director and Executive Staff shall complete and deliver to the Executive Director for filing with the Secretary of State a disclosure statement that affirmatively states that the Board Member or Executive Director does not have a financial interest that may affect his/her official acts as a Board Member or Executive Director and disclosing his/her family members' financial interest(s) in any business engaged or, to the Board Member's or Executive Director's knowledge, proposing to engage in any transaction with PERA. The requirements of the Financial Disclosure Act applicable to Board Members and the Executive Director and Executive Staff also apply to the Board Members' and Executive Director's and Executive Staff's spouses. The disclosure statement shall be in the form prescribed by the Secretary of State and shall contain at least the following information:
  - a. Compliance with NMSA 1978, §10-11-133(G), which states that no Board Member or the Executive Director shall:
    - i. have any direct or indirect interest in the gains or profits of any investment made by the Board;
    - ii. receive any direct or indirect pay or emolument for services provided the Board, except as provided for in the State of New Mexico Per Diem and Mileage Act, NMSA 1978, §10-8-1, et seq. and current DFA Rules;
    - iii. directly or indirectly, for the Board Member for themselves or as agent or partner or others, borrow any of the funds or deposits of the association or in any manner use them except to make current and necessary payments authorized by the Board; or
    - iv. become an endorser or surety or become in any manner an obligor for money of the Board loaned or borrowed.

3. **New Board Member:** Each new Board Member shall complete and deliver to the Secretary of State and Executive Director the disclosure statement, described in this Section, within thirty (30) days of assuming duties as a Board Member.
4. **Updated Disclosures:** Each Board Member and the Executive Director shall update his/her disclosure statement within forty-five (45) days of the date that the Board Member or Executive Director becomes aware of a change in circumstances as described in Paragraph D2 above.
5. **Exception:** Nothing herein shall be construed to limit the right of any Board Member or the Executive Director to personally invest in financial instruments or mutual funds that PERA may also hold or which is offered by PERA's financial managers.

**E. Gifts, Contributions, Disclosures and Solicitations**

1. **Gifts and Solicitations:** Except for gifts of food or beverage given in a place of public accommodation and consumed at the time of receipt, not exceeding \$50 for a single gift or \$150 in a calendar year, Board Members or the Executive Director may not accept gifts or anything of value<sup>6</sup> directly or indirectly from the following person or entity (NMSA 1978, §10-11-130.1) that:
  - a. has a current contract with the retirement board or association;
  - b. is a potential bidder, offeror or contractor for the provision of services or personal property to the retirement board or association;
  - c. is authorized to invest public funds pursuant to state or federal law or is an employee or agent of such a person; or
  - d. is an organization, association or other entity having a membership that includes persons described in Paragraphs (a) through (c) of this subsection.
2. **Exception:** An occasional gift of less than \$10.00 in value shall not be included in the limitations on gifts.
3. **Disclosures by Board Members and the Executive Director:** Consistent with this policy and in order to afford PERA participants the assurance that Board Members perform their duties in an impartial manner, the Board shall:
  - a. At least semi-annually, disclose anything of value from entities described in Section E.1.above received in the capacity as a PERA Board Member, except as provided for in the State of New Mexico Per Diem and Mileage Act, NMSA 1978, §10-8-1, et seq. and current DFA Rules.
  - b. The PERA Gift Report Form (Exhibit 1) shall be completed at least semi-annually by each Board Member, even if he/she reports "no gifts."
    - i. The reports shall be filed in the Executive Director's Office with the Executive Director's Executive Assistant.
    - ii. Semi-annual reports shall be filed immediately following the six-month period covered by the report. Board Members may file reports more frequently than semi-annually.
4. **Contributions:** No person who is a candidate in a primary or general election for a position that qualifies the person for ex-officio membership on the Board, no Member serving ex officio on the Board and no person who is a nominee for the Board by election of the membership shall accept anything of value of more than \$25.00 as a contribution from a person who:
  - a. has a current contract with the retirement board or association;
  - b. is a potential bidder, offeror or contractor for the provision of services or personal property to the retirement board or association;

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<sup>6</sup> "Anything of value" includes, without limitation, food, drink, gifts, compensation, contributions or reimbursement for travel or any other activity that is not permitted in NMSA 1978, §10-11-130.1.

- c. is authorized to invest public funds pursuant to state or federal law or is an employee or agent of such a person; or
- d. is an organization, association or other entity having a membership that includes persons described in Paragraphs (a) through (c) of this subsection.

**F. Confidential Information:** A Board Member shall not use or disclose, directly or indirectly, confidential information<sup>7</sup> obtained in the course of or by reason of his/her official capacity. Confidential information shall be used solely for PERA purposes and under no circumstances revealed to unauthorized persons or entities, except as may be required to be disclosed as a public record under the PERA Act, NMSA 1978, §10-11-130(I) (1997) and the New Mexico Public Records Act, NMSA 1978, §14-3-1 (1999).

**G. Outside Employment and Other Outside Activity:** Board Members and the Executive Director may not engage in any outside employment or other activity that is not compatible with the full and proper discharge of their duties and responsibilities with the Board. Activities or actions that are not compatible with Board duties include, but are not limited to, the following:

- 1. Engaging in any outside employment, private business activity, or other interest which may interfere with the Board Member's ability to perform his/her duties as Board Member, or which may impair the efficient operation of the Board;
- 2. Accepting employment or rendering services in exchange for pay regarding the PERA Act, policies, rules or matters of PERA business, except if the employment or services are in the course of public employment;

**H. Procurement Oversight:** During the pendency of any Request for Proposal or Invitation to Bid, no person or entity that submits an application or bid for the award of a PERA contract, nor an agent for such person or entity, may have any communication concerning any topic with the Board, Executive Director or staff member, except as expressly provided in the procurement document. This communication restriction exists from the date that the procurement document is mailed until the contract is awarded.

1. Any applicant or bidder who violates these communication restrictions, or permits an agent to violate these restrictions on behalf of the applicant or bidder, will be immediately disqualified from further consideration under the solicitation.

- 2. These communications shall not apply to:
  - a. Staff who are identified within the Request for Proposal or Invitation to Bid as responsible for responding to prospective applicant or bidder questions;
  - b. Communications by a firm under contract to provide services to PERA, where the communication is made to the Board or Committee or staff and relates to the services for which the firm has been retained; and
  - c. Communication that is required of finalists, consistent with the terms of the Request for Proposal or Invitation to Bid, for the purpose of providing the Board and staff with information that updates any information previously included in the proposal or bid.

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<sup>7</sup> "Confidential information" is defined in the PERA Act at NMSA 1978, §10-11-130(I), as all information contained in a member or retiree file except the applicable coverage plan, amounts of contributions made by both the member and the employer, and the pension amounts paid. With the release or consent of the member, other information may be released. The names and addresses of members and retirees may be released without the release or consent of the member to candidates for election to the PERA Board. Confidential information may also include confidential contract, financial, investment or legal information, and information not available to the public at large, or divulgence of such information in advance of the time prescribed for its authorized release.

3. If the Chair (or the Vice Chair if the Chair is involved) determines that a violation has occurred, the Chair will promptly inform the Board and the Procurement Manager of this determination, and the Procurement Manager will inform the applicant or bidder of his/her immediate disqualification.

[Amended: 6/24/2011]

#### IV. **BOARD EDUCATION AND TRAVEL**

**A. Board Education:** Establishing standards of accountability and approval for Board Members relative to official Board education is vested with the Board itself by statute and PERA Rule. Approval of official Board education by Board Members is delegated to the Chair and the Vice Chair of the Board for review and approval or denial, then for submission to the full Board for concurrence.

1. Within two months (per PERA Rule 2.80.200.21A) of becoming a Board Member, all new Board Members shall attend the “New Board Member Orientation.”
2. If adequate funding is provided, a Board Member may attend one (1) and ideally two (2) relevant educational conferences or seminars every fiscal year.
3. Section 10-11-133(F) NMSA 1978 (2010) requires the Board to provide Board members no less than 8 (eight) hours of training in pension fund investing, fiduciary obligations or ethics each year. Such training may be provided by PERA or approved outside sources and can be received through out-of-state educational conferences, staff and consultant educational sessions and in-state education conferences. PERA Rule 2.80.200.21B requires Board members to certify annually that they have met this requirement. Board members who fail to meet this requirement for 2 consecutive years are deemed to have resigned from the Board.

**B. Board Travel Generally:**

1. The Executive Director shall monthly provide all Board Members a list of upcoming seminars, professional and educational conferences, and other events that might assist Board Members in conducting the business of PERA.
2. Individual Board Members shall submit to the Board Chair a request to participate in any event requiring travel approval. Requests by the Board Chair shall be submitted to the Board Vice Chair for approval.
3. If approved, the Board Chair or Board Vice Chair shall place the travel item on the Consent Agenda for Board concurrence at its next monthly meeting.

**C. Authorization of Board Travel Within New Mexico:**

Travel by Board Members to attend all publicly noticed meetings or workshops of the Board and any of the Board’s committees or legislative hearings affecting PERA and any other event that is required to conduct the business of PERA does not require specific approval under this policy. Travel to and returning from the PERA office for PERA-related business does not require approval under this policy. Prior approval of Board Member travel within New Mexico to attend any professional and educational conference or seminar where any portion is paid for by PERA shall be approved in the same way as Board travel outside New Mexico. The Chair does not require specific approval for travel within New Mexico.

**D. Authorization of Board Travel Outside New Mexico:**

1. When a Board member requests approval for Board-sponsored travel, the Board Chair or Vice Chair shall inform the requesting Member of travel approval or denial in a timely manner. If there are budget limitations, priority shall be given to new Board Members.

- a. If a Board member is formally sanctioned by the Board, his or her out-of-state travel shall be suspended for the sanction period.
  - b. Board members shall be ineligible for out-of-state travel for educational purposes during the last ninety (90) days of their term of office, unless re-elected to a new term.
2. No prepayment or reimbursement of Board members for travel expenses will be made for travel that is not approved in advance as provided for in this section.
- E. Speakers:** A request to be a speaker at a conference or seminar requiring travel where any portion is proposed to be paid by PERA shall be put on the Consent Agenda and, if approved by the Board, expenses shall be paid by PERA.
- F. Emergency Travel:** In an emergency situation, the Board Chair shall review and approve or deny the travel requests for travel that have not been approved at a previous monthly Board meeting, but which will occur prior to the next Board meeting. The Vice Chair will review and approve or deny emergency travel requests for the Board Chair.
- G. Payment for Travel:** PERA shall pay for all approved Board Member travel, including transportation and related meals and lodging as set forth in the State of New Mexico Per Diem and Mileage Act, NMSA 1978, §10-8-1, et seq. and current DFA Rules. While traveling, Board Members may participate in meals provided by third parties as allowed by NMSA 1978, §10-11-130.1. In such situations, Board Members may not claim per diem reimbursements for such meals and must comply with the Board's policies regarding gifts and disclosure.
- H. Report on Travel:** Each Board Member shall verbally report to the Board on any event requiring travel outside of New Mexico for which PERA has paid within sixty (60) days after travel has been completed.

[Amended: 12/18/2014]

## **V. INSIDER TRADING POLICY**

- A. Confidentiality of Inside Information:** Board Members who come into possession of material non-public information concerning a publicly traded company must safeguard the information and not intentionally or inadvertently communicate it to any person (including family members and friends) unless the person has a need to know for legitimate, PERA-related reasons. Any Board Member who improperly reveals material non-public information to another person or any other person with whom the Board Member shares the information can be held liable under the anti-fraud provisions of the federal securities laws (primarily section 10(b) of the Securities Exchange Act of 1934 ("1934 Act"). To avoid even the appearance of impropriety, Board Members should refrain from providing advice or making recommendations regarding the purchase or sale of any securities traded by PERA.
- B. Prohibition of Insider Trading:** The anti-fraud provisions of the federal securities laws generally prohibit persons who have a duty not to disclose material non-public information from trading securities on the basis of such information. In addition, the anti-fraud provisions prohibit fraudulent, manipulative, or deceptive trading practices. Persons who violate these prohibitions are subject to potential civil damages and criminal penalties. The civil damages can consist of disgorgement of any illicit profits and a fine of up to three times the profit gained or loss avoided. The criminal penalties can be as much as \$1 million and 10 years imprisonment per violation. PERA, its Board and executive staff, certain key personnel, and consultants could be deemed

“controlling persons” subject to potential liability under federal securities laws. A Board Member should contact the PERA Office of General Counsel immediately if he/she becomes aware of the possibility of a violation of insider trading laws.

- C. **Materiality:** Information regarding a publicly traded company is deemed material if it would be considered important by a reasonable investor in deciding whether to buy, sell, or refrain from any activity regarding that company’s securities. Further, such information would be material if it were likely to have a significant impact on the market price of that company’s securities. So long as the information remains material and non-public, it must be maintained in strict confidence and not used for trading purposes. By way of example, it is probable that the following information, in most circumstances, would be deemed material:
1. Annual or quarterly financial results;
  2. A significant change in earnings or earnings projections;
  3. Unusual gains or losses in major operations;
  4. Negotiations and agreements regarding significant acquisitions, divestitures, or business combinations.
  5. A significant increase or decrease in dividends on the company’s stock; and
  6. Major management changes.

[Amended: 4/28/2011]

## VI. SANCTIONS & ENFORCEMENT

- A. **Process:** Any breach of fiduciary duty, violation of this policy or other conduct that falls below the high ethical standard this Board expects of itself, shall be looked into by the Board. If a majority of the Board request, an investigation shall be conducted by an investigator. The investigator shall be selected by at least seven Board Members.
- B. **Hearing:** In the case of removal from the Board, a hearing shall be conducted in accordance with 2 NMAC 80.1500.10.3, except that the Board shall hear the evidence and make a decision, instead of a hearing officer. The requirement for a recommended decision and exceptions to the recommended decision may be waived.
- C. **Removal:** After a full investigation, hearing and vote by the Board, a Board Member may be removed in the following instances.
1. A Board Member may be removed for unexcused absences from four consecutively scheduled meetings of the Board.
  2. With the exception of public officers removable only by impeachment,<sup>8</sup> violation of the Governmental Conduct Act or this policy is grounds for discipline, including dismissal.<sup>9</sup> Dismissal includes removal from the Board.
  3. Removal of a Board Member is an extreme remedy and shall be utilized by the Board only when necessary to protect the assets of the Trust.
    - a. The purpose of removing a trustee is not to inflict a penalty for past action, but to preserve the Trust assets. The standard in each case is whether the circumstances are such that the continuance of the Board Member in office would be detrimental to the Trust.

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<sup>8</sup> Violations of the Governmental Conduct Act by the two ex officio members of the PERA Board are referred to the New Mexico House of Representatives by the Attorney General, which is consistent with the New Mexico Constitution. NMSA 1978, § 10-16-14(C).

<sup>9</sup> NMSA 1978, § 10-16-14(D) & § 10-16-11(C). The Attorney General may also enforce the Governmental Conduct Act by civil injunctive or other appropriate court orders. NMSA 1978, §10-16-14(E).

- b. Removal is also appropriate in instances of gross misconduct<sup>10</sup> and repeated violation of this policy and of the Board Member's fiduciary duty.

**D. Discipline Short of Removal:** Discipline may include the following:

1. Formal reprimand and public censure by the Board, which shall be permanently recorded in the Board minutes.
2. Suspension from participation on the Board or a particular Board activity for a specified period of time not to exceed one year.
3. Notwithstanding paragraph 2 of this subsection, a second sanction by the Board during a Board Member's term of office may result in suspension from participation on the Board or a particular Board activity for the remainder of his or her term.

[Amended: 12/18/2014]

## VII. EXECUTIVE DIRECTOR

- A. **Duties and Authority:** As a fiduciary, the Executive Director has the duty to utilize his/her power loyally, equitably and with prudence in managing the property of the PERA trust for the benefit of the association's members according to the terms of the trust. The Executive Director shall not cause or allow any act, decision, activity or circumstance that is imprudent, in violation of commonly accepted business and professional ethics, or a breach of fiduciary, contractual or regulatory responsibility. The Executive Director shall be expected to have a working knowledge of and to be in compliance with all applicable state and federal laws, regulations and policies.
- B. **Delegation:** The Executive Director can properly delegate the performance of acts that it is unreasonable to require him or her personally to perform, but the Executive Director must act prudently with respect to delegation of duties. The Executive Director must regularly evaluate performance under such delegation to assure competent delegation.
- C. **Standards of Conduct:** The Standards of Conduct set forth in Section III shall also apply to the Executive Director.
- D. **Hiring Exempt Employees:** The Executive Director has the authority to employ all NMPERA employees, except that the Board requires that the credentials of proposed exempt employees for the positions of Deputy Director of Operations, Deputy Director of Member Services, Chief Investment Officer and General Counsel be formally presented to and endorsed by a majority of the Board prior to any offer of employment to candidates for such positions.
- E. **Performance Evaluations**
  1. **Executive Director**
    - a. The Executive Director shall be formally evaluated by the Board at least once a year.
    - b. The Board shall follow the process set out in the Executive Director Evaluation Form attached to this section.
    - c. Performance criteria shall primarily include objectives for outcomes that are under the Executive Director's control, but may also include outcomes for which the Executive Director may reasonably be expected to exercise influence.

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<sup>10</sup> "Gross misconduct" is defined as violation of clearly established policy or rule, dereliction from duty, unlawful behavior involving matters of dishonesty or deception, but not negligence or carelessness.

- d. Performance criteria requiring additional resources shall be enforced only in the event that such incremental resources have been authorized and funded in the association's annual budget.

**2. Exempt Staff**

- a. The Executive Director shall develop and execute performance plans for all employees under his/her supervision. Such performance plans shall be consistent with the Executive Director's performance plan.
- b. Exempt employees shall be evaluated by the Executive Director in relation to their performance plan at least once per year.

**F. Internal Communications:** It is the responsibility of the Executive Director, or his or her designee, to act as the liaison for communication and information flow between the Board and PERA staff.

**G. Professional Development:**

1. The performance plan which the Board adopts and monitors each year for the Executive Director shall include training and professional development.
2. The Board shall approve training for the Executive Director in the same manner as for Board members

**H. Job Description:**

**DEFINITION**

This is a full-time job requiring not less than 40 hours per week. Incumbent supervises the administration of Board policies and assigned programs and activities of NMPERA; provides leadership to PERA employees in terms of collegiality, initiative and ethical conduct; coordinates assigned activities with other state divisions, the legislature and outside agencies; and provides responsible and complex administrative support to the NMPERA Board.

**SUPERVISION RECEIVED AND EXERCISED**

Receives general direction from the Board

Exercises direct supervision over supervisory, professional, technical and clerical staff.

**ESSENTIAL FUNCTION STATEMENTS** – *Essential responsibilities and duties may include, but are not limited to the following:*

1. Plan, direct, coordinate, evaluate work of assigned staff; assign work activities, projects and programs; review and evaluate work products, methods and procedures; meet with staff to resolve problems.
2. Establish and maintain plans for senior management succession.
3. Achieve the long term policies and strategic objectives established for PERA by the Board, including:
  - a. Determine appropriate methods for attaining the Board-established policies and strategic objectives;
  - b. Direct PERA employees in the furtherance of those objectives, and

- c. Ensure the management activities and decisions are within Board-approved policies.
- 4. Facilitate the efficient operation of PERA and the Board's committees.
- 5. Regularly advise and consult with outside organizations, membership constituency groups, employers and the legislature, ensuring effective external communications.
- 6. Manage essential public relations for PERA, maintaining a positive public image.
- 7. Maintain records for active and retired members.
- 8. Maintain performance records as specified by the Board.
- 9. Oversee the pension administration system.
- 10. Implement and oversee annuitant payroll system.
- 11. Adhere to a professional code of ethics and standards of professional conduct as may be prescribed by the Board.

## **QUALIFICATIONS**

### **Knowledge of:**

Principles of supervision, training and performance  
 Operational characteristics, services and activities of a pension program  
 Actuarial principles and their statistical application  
 Fundamentals of the securities industry  
 Principles and practices of budget preparation and administration  
 Legislative process, NM experience preferred  
 Pertinent Federal, State and local laws, codes and regulations.

### **Ability to:**

Establish and maintain effective working relationships with those contacted in the course of work  
 Make sound decisions and/or recommendations  
 Communicate clearly and concisely, both orally and in writing  
 Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals  
 Research, analyze and evaluate new service delivery methods and techniques  
 Oversee and participate in the management of PERA's operations, services and activities  
 Oversee, direct and coordinate the work of staff  
 Delegate effectively  
 Select, supervise, train and evaluate staff while providing equal employment opportunities to all PERA employees  
 Develop and administer operational goals, objectives and procedures  
 Prepare and administer large and complex budgets  
 Prepare clear and concise administrative financial reports  
 Interpret, explain and/ or apply Federal, State and local policies, laws, regulations, court decisions and proposed legislation

Initiate recommendations to the Board

**Experience and Education Guidelines**

**Experience:**

Ten years of increasing responsible management experience, including five years of administration and supervisory responsibility, including demonstrated strength in fiscal management and budgeting skills  
Experience working with a Board of directors  
Experience in the legislative process  
Experience working with member services organizations

**Education:**

Bachelor's degree from an accredited college or university with major course work in management and technical disciplines related to pension management. Advanced professional degree preferred.

**License or Certificate:**

Possession of or demonstrated ability to obtain certification as Certified Pension Professional, CFA, CPA, JD, etc.

**Work Conditions**

Normal office environment with limited, but regular, in-state and out-of-state travel.  
[Amended: 3/29/2012]

## **PERA - Executive Director Evaluation**

### **Background:**

The PERA Rules, Section VII, (F) mandates that the PERA Board will formally evaluate the Executive Director at least once a year.

### **Process:**

The Executive Director evaluation is a multi-part process designed to elicit constructive feedback from PERA Board Members and key PERA Administration Executives leading the organization.

**It's important to see the Annual Assessment not as the evaluation itself, but as the starting point for a discussion and a catalyst for continued positive growth.**

### **The process includes:**

A comprehensive performance evaluation and the 'open-ended questions' form to be completed by each member of the PERA Board of Directors.

This same evaluation and 'open ended questions' form to be completed by the Executive Director and key PERA Administration Executives (as designated by the Board).

As a result of the evaluation, discussion and determination of the evaluation (along with recommendations) for changes and/or expectations by the Board to be discussed within executive session. Followed by a formal report and discussion from the Chair, to the Executive Director regarding the results of the performance evaluation.

### **Time frame:**

January of each year - All final forms distributed to identified individuals

Following February - Evaluations due to the Chair of the Board

Following March - Compilation and review by the Chair of the Board

March/April (as soon as possible after compilation and review by the Chair) The Chair to discuss the results of the evaluation with the PERA Board with the objective to determine recommendations/expectations for future positive growth to be shared with the Executive Director.

**PERA - Executive Director Evaluation  
Board of Directors Assessment Form**

**Introduction/Instructions:**

Evaluation of the Executive Director is a major function of the PERA Board to ensure vision, strategy, qualified management, financial leadership and governance. All responses should be directed to the Chair of the PERA Board, who will be responsible for removing any identifying data prior to compiling a summary, which will be reviewed by the PERA Board before it is shared with the Executive Director.

Each section begins with a brief description of an important area of responsibility. Please read the description in each section carefully before answering the questions. The questions measure your level of satisfaction with how well the Executive Director is carrying out various aspects of each area of responsibility. The Executive Director and Key Executive staff shall complete the identical evaluation forms.

If you are working with a hard copy, circle the number representing the degree to which you are satisfied or not satisfied with the Executive Director's performance in each responsibility mentioned. If you are working with an electronic version, eliminate all numbers except your response. The answers will include a number (1- 4) or an indication that the respondent is unable to answer (NS for not sure).

At the end of each section and at the conclusion of the assessment are a number of open ended questions. Please take the time to answer these questions, because your responses will be especially helpful when the Board and Executive Director look for ways to strengthen the Executive Director's performance and that of the organization as a whole. These comments will be shared with the Executive Director upon completion of the evaluation.

All responses will be kept confidential and will be compiled in a summary for review by the Board and used as objective background resulting in the performance evaluation of the Executive Director. Please send/hand deliver all completed forms, to the Chair of the PERA Board.

Attach additional pages of explanation, if desired. Timeliness is essential to ensure the prompt completion of the process.

**Description of Ratings:**

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

## Section 1 - Mission, Strategic Planning & Annual Goals

The Executive Director’s role has both strategic and operational components. Working with the Board, the Executive Director must develop a shared vision for the future of the organization, building understanding around the current mission, and develop appropriate goals and strategies to advance that mission.

### Executive Director Satisfaction Measures:

#### Description of Ratings:

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

1.1	works with the Board to develop a clear vision for the organization and understands his or her own leadership role	1	2	3	4	NS
1.2	works with the Board and staff to create an effective process for long range or strategic planning for the organization	1	2	3	4	NS
1.3	understanding of what must change and what must remain the same in order to accomplish the organization’s mission and realize its vision	1	2	3	4	NS
1.4	progress in pursuing or achieving the strategic:					
	<b>Goal A</b>	1	2	3	4	NS
	<b>Goal B</b>	1	2	3	4	NS
	<b>Goal C</b>	1	2	3	4	NS

**Section 2 - Accomplishment of Management Objectives**

Working with the Board, the Executive Director establishes operational objectives that support the strategic plan.

The Executive Director is responsible for leading staff in the implementation of the strategic planning and any annual plans.

**Executive Director Satisfaction Measures:**

**Description of Ratings:**

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

2.1 selects and cultivates qualified senior staff, models effective behaviors and skills, and builds morale among staff and volunteers

1      2      3      4      NS

2.2 ensures that there are appropriate systems in place to facilitate day to-day operations of the organization in the areas of:

a. development and delivery of programs	1	2	3	4	NS
b. education and outreach	1	2	3	4	NS
c.. policy development	1	2	3	4	NS
d. administration and operations	1	2	3	4	NS
e. resource development	1	2	3	4	NS

### Section 3 - Program Management

The Executive Director leads the staff in managing and administering PERA programs and services. This requires a thorough knowledge of the organization's mission area as well as an understanding of technical, operational, and ethical issues.

#### Executive Director Satisfaction Measures:

##### Description of Ratings:

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

3.1	demonstrates substantive knowledge regarding PERA's programs and services	1	2	3	4	NS
3.2	works with the Board to develop appropriate policies to ensure the efficiency and effectiveness of programs	1	2	3	4	NS
3.3	sets high standards of quality for PERA's programs	1	2	3	4	NS
3.4	recommends new programs and the modification or discontinuation of current programs, as appropriate, to the Board	1	2	3	4	NS

## Section 4 - External Liaison, Partnering and Communication

The Executive Director, in partnership with the Board and appropriate staff, is responsible for developing and implementing appropriate communication development and strategies. The Executive Director and Board use their combined strengths, knowledge, and relationships to help the organization achieve its objectives. The Executive Director and Board members are key players in establishing and maintaining positive relationships to include a good public image.

### Executive Director Satisfaction Measures:

#### Description of Ratings:

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

4.1	has a clear understanding of expected communication strategy needed for effective partnering to realize PERA’s mission	1	2	3	4	NS
4.2	is innovative in the creation of partnerships with PERA stakeholders and cultivates effective working relationships that contribute to the organization’s development	1	2	3	4	NS
4.3	guides activities in order to ensure adequate communication for all members, Board members, legislators and other stakeholders	1	2	3	4	NS
4.4	is knowledgeable about the public policy dimension of the PERA’s work, and provides strong advocacy for PERA’s interests	1	2	3	4	NS
4.5	is an articulate and knowledgeable spokesperson for PERA	1	2	3	4	NS

## Section 5 - Operations Management

The Executive Director is responsible for the day-to-day management. The Executive Director works with staff to develop, maintain, and use the systems and resources that facilitate the effective operation of the organization.

### Executive Director Satisfaction Measures:

#### Description of Ratings:

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

5.1	is knowledgeable regarding the operations of an effective office environment	1	2	3	4	NS
5.2	works effectively with staff to ensure that the organization has in place:					
	a. sound risk management policies including adequate insurance coverage coverage	1	2	3	4	NS
	b. appropriate personnel policies and staffing	1	2	3	4	NS
	c. plans for the appropriate use of technology and technological systems	1	2	3	4	NS
	d. sound internal communications and training processes	1	2	3	4	NS
5.3	ensures compliance with all legal and regulatory requirements	1	2	3	4	NS

**Section 6 - Executive Director / Board / Staff Relationship**

The Executive Director and the Board must work together as partners. Each arm of leadership draws upon its own unique strengths and abilities. The Executive Director and the Board have joint responsibility for developing and maintaining a strong working relationship and a system for effectively sharing information. It is mission critical that the Executive Director and staff members assigned to assist the Board in carrying out its work develop and maintain an effective working relationship.

**Executive Director Satisfaction Measures:**

**Description of Ratings:**

1=Very Dissatisfied    2=Dissatisfied    3=Satisfied    4=Very Satisfied    NS=Not Sure

6.1	is clear about the differences between his or her role and that of the Board	1	2	3	4	NS
6.2	is an effective partner with the Board in leading PERA	1	2	3	4	NS
6.3	has been delegated the authority necessary to manage the organization effectively	1	2	3	4	NS
6.4	raises issues and questions and provides adequate information to inform Board discussions	1	2	3	4	NS
6.5	has established appropriate systems for dialogue and communication between the Board and staff to ensure that the Board maintains a good knowledge of the organization	1	2	3	4	NS
6.6	extends professional courtesy to include consideration and respect with PERA Staff and the Board	1	2	3	4	NS

**PERA Executive Director Evaluation  
Open-Ended Question/Comments**

Please answer the questions below as completely as possible. Use examples if available to demonstrate specific points. Return the form to the Chair. Use additional paper if needed.

1. Over the past year, what are some limitations in the Executive Director's performance?
  
  
  
  
  
  
  
  
  
  
2. Over the past year, what have been the most significant achievements from the Executive Director?
  
  
  
  
  
  
  
  
  
  
3. What are areas in which the Board could provide better support to the Executive Director?
  
  
  
  
  
  
  
  
  
  
4. Additional comments:

Print/Type Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## **VIII. BOARD-STAFF COMMUNICATION**

### **A. Board Response to Member Inquiries/Complaints**

PERA Board members must be sensitive to member inquiries and complaints. At the same time, Board members should not become involved in the day-to-day operational management of the retirement association.

#### **1. Board Response to Member Inquiries**

- a. Members and retirees should be directed to contact PERA staff directly when inquiries of a general nature are made of PERA Board members.
- b. If members and retirees have specific questions about member services, they should be directed to contact the Deputy Director of Member Services.
- c. Inquiries about operations should be referred to the Deputy Director of Operations.
- d. Inquiries about deferred compensation should be referred to the Deferred Compensation Plan Manager or the Third-Party Administrator of the Deferred Compensation Plan.
- e. Inquiries about investments should be referred to the Chief Investment Officer
- f. Board members are encouraged to have members and retirees submit general information such as address changes, etc., directly to PERA staff or online at RIO Self-Service so as to lessen the chance of errors or misunderstanding

#### **2. Board Response to Member Complaints**

- a. Complaints to PERA Board members are to be directed to the Executive Director, or to his or her designee, for resolution.
- b. If designated, the Deputy Director of Member Services will respond to member services issues.
- c. If designated, the Deputy Director of Operations will respond to inquiries about operations, investments or deferred compensation.
- d. If designated, the Chief Investment Officer will respond to inquiries about investments.

#### **3. Procedure for Handling Complaints**

- a. The complaint will be investigated and a response given to the PERA member or retiree within 5 working days of receiving the complaint.
- b. The Board member initiating the complaint will be notified when PERA staff has responded to the complaint.
- c. PERA staff is prohibited from divulging any confidential member information when notifying the Board member that staff has responded to the complaint.

### **B. Confidential Member Information**

1. New Mexico state law prohibits PERA staff and Board members from disclosing confidential member information.
2. Neither the retirement board nor the association can allow public inspection of, or disclosure of, information from any member or retiree file without prior written release and consent of the member or retiree.
3. The only **EXCEPTION** is that the names and addresses of PERA members or retirees being requested for election purposes by candidates for election to the retirement board may be produced. No other PERA member or retiree information can be produced or disclosed without written release or consent.

4. The law on disclosure of confidential member or retiree information is found at NMSA 1978, Section 10-11-130(I) (2010).

**C. Legal Opinions:**

PERA Office of General Counsel shall provide advice to the full Board upon request by the Board. Board Members shall not seek individual legal advice or individual formal opinions from PERA's Office of General Counsel or contract legal counsel without Board approval. This policy shall not preclude individual Board Members from requesting PERA's interpretation of the statute and rules that PERA administers.

[Amended 7/28/2011]