

**MINUTES OF MEETING
BOARD OF TRUSTEES COUNTY EMPLOYEES RETIREMENT SYSTEM
SPECIAL CALLED MEETING SEPTEMBER 29, 2021 AT 2:00 P.M.
VIA LIVE VIDEO TELECONFERENCE**

At the meeting of the County Employees Retirement System Board of Trustees held on September 29, 2021 the following members were present: Betty Pendergrass (Chair), Dr. Patricia Carver, George Cheatham, Michael Foster, JT Fulkerson, Dr. Martin Milkman, William O'Mara, and Jerry Powell. Staff members present was Ed Owens, III, CERS CEO, David Eager, Rebecca Adkins, Erin Surratt, Michael Board, Connie Pettyjohn, Connie Davis, Ashley Gabbard, D'Juan Surratt, Vicki Hale, Carrie Slayton, Carrie Bass, Kristen Coffey, Sherry Rankin, Shaun Case, Phillip Cook, and Glenna Frasher. Others present included Joseph Bowman and Eric Bronco.

Ms. Pendergrass called the meeting to order and read the Opening Statement relating to a Special Called Meeting.

Ms. Rankin took Roll Call. There was no public comment received.

Ms. Pendergrass introduced agenda item *Approval of Minutes – September 15, 2021*. Ms. Pendergrass noted one addition she would like to make to the minutes. After the Public Comment was read, Ms. Pendergrass had asked Mr. Owens to bring Ms. Combs' comment back to the Board during our November discussion of the 2021 actuarial valuation. Mr. Fulkerson made a motion and Dr. Milkman seconded to approve the minutes with the addition presented today.

Ms. Pendergrass noted that Dr. Carver is present and wanted her noted as such on the roll call. Mr. O'Mara is still having computer issues.

Ms. Pendergrass introduced agenda item *Joint Health Care Committee Report*. Ms. Pendergrass indicated that since these were discussed at length during the last meeting, a vote is all that would be required. Ms. Pendergrass referenced the Committee's recommendations regarding the 2022 plan components and rates for non-Medicare eligible members in the Board's material and opened the floor for a motion on those recommendations. Mr. Fulkerson made a motion and Dr. Milkman

seconded to approve the recommendations for the non-Medicare eligible members. The motion passed unanimously.

Ms. Pendergrass then referenced the Committee's recommendations regarding the 2022 plan components and rates for Medicare eligible members in the Board's material and opened the floor for a motion on those recommendations. Mr. Fulkerson made a motion and Dr. Milkman seconded to approve the recommendations for the Medical eligible members. The motion passed unanimously.

Ms. Pendergrass asked Ms. Pettyjohn if there was any Board action needed on the RFP timeline for Medicare eligible and COBRA, or if this was just for informational purposes. Ms. Pettyjohn indicated that there was no action needed as this was just for information only. Ms. Pendergrass indicated that since this information was previously covered, there would be no update on this agenda item unless the Trustees have any questions for Connie.

Ms. Pendergrass introduced agenda item *Joint Audit Committee Report*. Ms. Pendergrass began by stating we do have a Board Elections Policy, but she has asked Ms. Coffey to hold this item for a later date.

Ms. Pendergrass stated that the Joint Audit Committee met on August 26, 2021 and they approved the Charter for the Division of Internal Audit Administration. Ms. Pendergrass indicated that they also had a long discussion regarding the Charter for the Audit Committee, and there have been some changes made to that one since the Committee met, so she has asked that we take those changes back to the Committee for approval before proceeding with to the Boards for their approval. Ms. Pendergrass recommends that this Board approve the Charter for the Division of Internal Audit Administration. Ms. Pendergrass made a motion and Dr. Milkman seconded to approve the recommendation by the Joint Audit Committee regarding the Charter for the Division of Internal Audit Administration. The motion passed unanimously.

Ms. Pendergrass introduced Ms. Connie Davis to give an update on Fiscal Year 2021 External Audit. Ms. Davis indicated that the external auditors are doing number census data testing today

onsite. Ms. Davis stated that they are working on having a draft copy of the financial section of the Annual Report to the auditors by the end of this week. Ms. Davis indicated that the auditors also have draft copies of the GASB 67 and 74 Reports for review.

Ms. Pendergrass introduced Ms. Kristen Coffey to give an update on the Internal Audit operations. Ms. Coffey indicated that another audit report has been finalized since the last meeting. The completed report will go to the audit committee in November. Ms. Coffey stated that there are 21 different projects ongoing, including audits and reviewing the Annual Report.

Ms. Pendergrass introduced agenda item *KPPA Board Update*, and stated that this update is being provided so that all CERS Board members are aware of the actions taken at the KPPA Board meeting. Ms. Pendergrass stated that the KPPA Board deferred action on the Administrative Investment Policies as work was continuing on these documents.

Ms. Pendergrass noted that Mr. William O'Mara had joined the meeting and to notate his attendance on the roll.

Ms. Pendergrass stated that there was a bit of an oversight with regard to the Administrative Cost Allocation. The KPPA staff had brought a recommendation but they had not had an opportunity to meet with the Ad Hoc Committee that was formed at the last KPPA Board Meeting. Ms. Pendergrass indicated that this is another item that will be brought on a later date for review and action.

Ms. Pendergrass indicated that there were many questions and discussions held regarding the Kentucky Administrative Regulations, and this matter has been deferred to a later date for further review and discussions. Ms. Pendergrass stated that since we have already discussed the Audit and Internal Audit Charters, we would pass this portion of the agenda.

Ms. Pendergrass introduced agenda item *Administrative Policies*. Ms. Pendergrass introduced Ed Owens, III, CERS CEO, who will be discussing these policies and the changes to each of those. Ms. Pendergrass indicated that mainly the changes are editing the items that are unique to CERS,

but there are also some basic principles that will be discussed further. Mr. Owens indicated that he would be reviewing the policies individually. Mr. Owens began with the Confidentiality Policy and Trustee Form, which is designed to indicate that there is going to be no disclosure of information related to the members and no disclosure of information related to material included or discussion had in closed sessions. This policy will be applied to individuals or organizations with either a statutory, contractual or a working relationship with CERS. In addition, that will be inclusive of employees and contractors of KPPA. Mr. Owens indicated that the policy lists those things that will be considered confidential information. This policy states that within 60 days of you being sworn into your position as Trustee, you are to sign the Confidentiality Form. Mr. Owens indicated that this would be the process for any new Trustees, but for the current Board, it will be due within 60 days of the policy being adopted. Mr. Owens stated that within the policy it lists a detailed process should there be a perceived breach of the policy. There being no questions or discussion, Ms. Pendergrass opened the floor for a motion regarding this policy. Mr. Foster made a motion and Mr. Fulkerson seconded to adopt the CERS Confidentiality Policy and related Trustee Form as presented. The motion passed unanimously. Mr. Owens stated that now that the Policy has been adopted, the Trustee Form would be sent to each Trustee at their KPPA email address for their electronic signature.

Mr. Owens then reviewed the Trustee Education Policy, by pointing out 5.e., that continuing education for your professional certifications will be accepted as an approved activity. The policy just states the steps needed to go through to make sure it is captured correctly. Mr. Owens pointed out in section IV. 4, it speaks to conferences and workshops. These will need to be approved by the CERS general counsel for their compliance with 11A and 45A. Therefore, if you are contemplating going to a conference or workshop, contact me with the information and I will get it to our general counsel for approval. Mr. Owens then moved to the New Trustee Orientation Program, there are 8 hours of approved educational activity. In 5. 8., which states that on a quarterly basis, a report will be given to the Board on where each Trustee stands with regard to their orientation program. In VI. it states that for annual training, there will be an additional 4 hours that will be required, so a total of 12 hours. Your new orientation will count toward those 12 hours of annual training. Mr. Owens then moved to the Board Education Program, and this is to let you know what it is in the policy and to notify you that Staff Assistant, Ashley Gabbard, will

be responsible for tracking Trustee education. Her contact information is located on this form. Mr. Owens then reviewed the Initial Orientation Acknowledgement Form and stated that we will develop that orientation packet to give new Trustees to be able to walk them through several pieces of information related to the system. Mr. Owens stated that this packet will be complete and within the next 60 days, will ensure that you as Trustees have this information as well. Mr. Owens then reviewed the External Training Verification Form, as being the form you would submit when you have completed training that will allow us to track the number of hours you have completed toward your 12 hours of annual training. Dr. Milkman questioned the three videos that he has been asked to view since he is a new Trustee and wondered if this form is what he needs to fill out for those. Mr. Owens was not sure what videos he was referring to, but Ms. Pendergrass responded that those 3 videos were the first three, 2-hour sessions, that we had for New Trustee Orientation, one being an orientation of the Systems as a whole, one on Investment, and the last one on actuarial topics. Each of those has the 2-hour video rather than repeat those sessions for one new trustee, she suggested that he watch these videos to hear the same information everyone else heard, and then submit the form that we use for External Training. Since we can use this form for viewing videos that have already been recorded, this would be the form Dr. Milkman would use to submit after watching the three videos. Ms. Pendergrass mentioned that she is not sure that the documents loaded into the board material are the same as what is being presented today, and she feels like more edits may be needed on these policies and forms. Mr. Owens voiced his concern that this policy needs to be adopted as the time for compliance has already started for the Trustees and he wants to ensure that the time limit does not expire. Ms. Pendergrass stated that the 12-month time line would be different for each trustee, as it is based on when you were sworn in. She indicated this is why she suggested the change in the policy, 5.8. to indicate that each Trustee would receive a quarterly report regarding their hours. Mr. Powell stated that maybe the first year the term would begin from the day you are sworn in, but after the first year, it will be the Trustee's term date that would control the timeline for the trustee education. Dr. Milkman asked if conferences would count as Trustee Education. Ms. Pendergrass noted that she has asked for two additional provisions. Under 3.5, there is a list of workshops and conferences presented by four different pension organizations. She would like to add a fifth one to that and it would read "other associations that provide continuing education for a Trustee's professional certification, such as CPA, CFA, CGFM, CFE, or LLB" and will match that list of conferences with item 4.D. Dr.

Milkman indicated that he does not have any of those certification, however, he is an economist and wondered if he attended a conference with the Southern Economic Association, would that suffice. Mr. Owens indicated that this would be an example of providing the information to him for the review of the general counsel to ensure that it qualifies for an approved education activity. Dr. Milkman then asked if CERS pays the fees to attend a conference or are the Trustees responsible for their own. Ms. Pendergrass responded that she does not ask for CERS to pay for classes that she attends for continuing education classes for her CPA license, or AGA classes for her CGFM license, but she does claim those hours toward her 12 hour required training. Ms. Pendergrass indicated that CERS does pay for attendance at the NCPERS and the four organizations listed under Section 3.5. If you are getting certification that relates to both your professional activities and your participation as a Trustee, then you will pay for the registration costs, but could claim the hours. Mr. Cheatham stated that for clarification in the policy, it may be worth detailing that CERS would pay for registration costs for those four particular conferences, but other conferences that you would want to have credited to your education requirement, would need to go through our approval process. Ms. Pendergrass agreed and asked that Section 3.5 be amended to include these details. Seeing no additional questions, Ms. Pendergrass indicated that the Board Education Program and the Initial Orientation Acknowledgement Form are for informational purposes, but the Board needs to approve the CERS Education Policy with the one edit regarding reimbursement of registration fees and the External Training Verification Form. Mr. Cheatham made a motion and Mr. Fulkerson seconded to approve the CERS Education Policy with edits and the External Training Verification Form. The motion passed unanimously.

Mr. Owens then presented the Funding Policy. Mr. Owens began by stating that this is the first year that the Funding Policy has been presented for adoption by the Board. Mr. Owens explained that the policy simply states that the Board of Trustees has a goal of achieving a 100% funding levels for its plans. Mr. Owens referenced Section IV. B., it says that every five years an actuarial investigation comparing our experience with the actuarial assumptions would be completed and the Funding Policy would be reviewed thereafter. Ms. Pendergrass stated she would like to add one additional benchmark to that section, to come after section D, and that would be for the actuarial audit. Ms. Pendergrass indicated that we just had one completed and that report was given to the Board in December 2020. Ms. Pendergrass suggested that Section E read as follows,

“Periodically, but no less than every five years, the Board shall employ an actuarial firm who is a fellow of the Conference of Consulting Actuaries or the member of the American Academy of Actuaries to conduct an actuarial audit of the most recent actuarial evaluation. The purpose of this audit is to conduct a review of the actuarial methods, assumptions and procedures employed by the Board and the actuary selected by KPPA. This review should also include an analysis of the most recent experience study”. Ms. Pendergrass stated that it is a little different focus than the experience study listed in Section B. Mr. Owens asked for any other questions or edits to the policy. Ms. Pendergrass referred to Section I. B. and stated that she feels it may need to clarify how the plans are organized and funded. She stated that this wording is a little confusing and does not indicate that the plan that is noted in (), is funded by a Trust Fund, when in fact, it is. She indicated that the health insurance is also a qualified plan that is approved by the Internal Revenue Service criteria. She would like to change the wording in Section B as outlined in the version she sent out yesterday, so it clearly defines as, “A public employee retirement system with a non-hazardous plan and a hazardous plan that provides pension and health insurance benefits for eligible members and beneficiaries. Both the pension and health insurance benefits are funded through an irrevocable trust funds”. Dr. Milkman asked if we should designate a short-term goal. Ms. Pendergrass responded by indicating that this policy came from research that the KPPA legal staff conducted and as Mr. Owens indicated none of the systems have had a Funding Policy. She stated that she finds this one a little confusing because there is so many of the key factors that are determined not by the Board, but Kentucky General Assembly. If you look in item 2, you see the list of the areas where the General Assembly controls key factors for how the system is funded. She indicated that she would be a little reluctant to look at specific short-term goals because we can be overruled by the General Assembly on a specific topic. For instance, during the 2020 session, we had already talked about the notion of being in year 25 of a 30-year amortization period. But the General Assembly looked at the uncertainties with state and local government employers given the COVID pandemic, and decided that the one change they could make might help in the short term, would be to reset the amortization period back to 30 years. The amortization period is something that is not controlled by the Board, so when the General Assembly changed the amortization period, they changed the funding status. Mr. Powell stated that this is true also with the phase in of the insurance and employer contribution, it really does make it difficult to set short-term goals when you have the influences of the legislature. Mr. Cheatham indicated that you

could go back and look on a 2, 3, or 5 year and match up where you are actually at versus what the projection or goal was, so he feels there is a short-term number out there that you can gauge your performance against, it is just not necessarily a goal, but rather a benchmark. Ms. Pendergrass agreed and stated that we do look at that after the annual evaluation. We do an actuarial evaluation every year and we look at the projection table that the actuary gives us each year to see how that short run is changing and what types of funding levels are likely to happen in that short run. Ms. Pendergrass stated that is not certain that it needs to be included in this particular policy due to the many factors that are outside of the Board's control. After no further questions or comments, Ms. Pendergrass asked if there were any questions or comments on her suggested edits for Sections I. B. and IV. D., and opened the floor for a motion. Mr. O'Mara made a motion and Mr. Fulkerson seconded to approve the Funding Policy with the addition of the two edits. The motion passed unanimously.

Mr. Owens then reviewed the Open Records Request Policy. Mr. Owens stated this is a policy that has been in place for KRS, now KPPA, for some time. Mr. Owens referred to the procedures for accessing public records in Section 3. 6., indicates that only residents of the Commonwealth of Kentucky can inspect public records and it gives a very detailed definition of who is considered to be a resident of the Commonwealth. Ms. Hale indicated that Section 3. G. includes the changes from the new law that took effect at the end of June 2021. Before then, anyone could request open records and now it must be a resident of the Commonwealth of Kentucky. In addition, the law defines who a resident is and does not specifically mean someone who lives within Kentucky, it can also mean someone who works in Kentucky, or has a business in Kentucky, and it includes all journalists. Mr. Cheatham asked if legal could get more clarification. He stated that there are states he does not go to, but he has clients who live there, therefore he has to pay income tax in those states, and secure a state business license. So, he questions the way this section reads, it doesn't sound like if you have a vendor who is purchasing a business license in Kentucky, markets in Kentucky, but does not have a physical location or a owns or rents real estate, that they would not be able to request open records. He questions is that or is that not the case. Ms. Hale responded that if they are registered with the Kentucky Secretary of State, which enables them to do business in the Commonwealth of Kentucky, then they are considered a resident. However, if they just pay taxes here but are not registered with the Secretary of State, then they would be excluded. Ms.

Hale stated if they do own real property here, so if they actually have a business presence here, then they would also be considered a resident. Mr. Powell stated that he was under the impression that it would also apply to those authorized to act on behalf of an individual. Ms. Hale agreed and stated that if, for instance, if someone out of state hires an attorney, and that attorney is allowed to do business in the state of Kentucky, then you are authorized to act on behalf of that individual and would be considered a resident. Ms. Pendergrass then indicated Sections G. C. and G. F. would address those questions. Ms. Hale then indicated that in reality if they check the box on the form, then we accept it, without asking for verification. Mr. Cheatham then asked if that would cause problems if we give out information to someone that was not entitled to receive it. Ms. Hale responded with a no, and indicated because the law does not prohibit you from giving the information; the law just protects you if you choose not to give the information. Mr. Board stated that the point Ms. Hale just made has been clarified by the Attorney General's office, because when this law was passed and before it became effective. In his previous position, he reached out to the Attorney General's office regarding that exact point of concern on whether or not we could be liable for that very reason. The Attorney General's office made that clarification clear and further made that clear in other trainings that they have conducted since the law went into effect. Ms. Pendergrass asked for any questions or concerns, and opened the floor for a motion regarding this policy. Dr. Milkman made a motion and Mr. Powell seconded to approve the Open Records Request Policy. The motion carried unanimously.

Mr. Owens reviewed the Conflict of Interest Policy. He indicated the purpose of this policy is to establish who is covered and to lay out the standard of conduct that is expected. Again, all statutory, contractual and working relationships with CERS and vendors with CERS and KPPA will be covered. Mr. Owens referred to Section 3, it states that by no later than December 1st of each calendar year, this statement will be sent to the Board for it to consider. Mr. Owens indicated that he would be responsible for collection the CERS statements, and Mr. David Eager will be responsible for collection of those sent to the KPPA personnel. Mr. Owens stated that the forms must be completed by December 31st. He indicated that the policy states in detail what failure to comply would mean and how to handle complaints filed against a covered individual. Dr. Milkman asked if this was the same form that he signed within a month after being added to the Board. Ms. Pendergrass indicated that the one he is referencing is the statement that you file with

the Ethics Branch, and that is in addition to this form. Ms. Pendergrass stated that this policy was originally written when we had a temporary change to the Board of Directors, so there are references to CERS Board Members that should be changed to CERS Board Trustee for clarification. In addition, there is a section that speaks to who is notified of a complaint, and she would like the Board Chair and Board Vice-Chair to be added to all of those subsection points. Dr. Milkman asked what happens if the complaint pertains to the Chair or Vice-Chair. Ms. Pendergrass answered that it would need to go to our general counsel. Mr. Owens stated that this does not address if the complaint was on the Chair and Vice-Chair, but rather if it was against the Chair, it would go to the Vice-Chair, and vice versa. Ms. Pendergrass referred to Section 7 that states it would be in consultation with the CERS Board of Trustees not implicated in the complaint. She suggested that the general counsel be included so that with the CERS CEO and general counsel's involvement, so they have the leadership authority to take it where it needs to go. Section 7 requires an Ad Hoc Special Committee to investigate and/or refer to the Executive Ethics Branch Commission. Ms. Pendergrass suggested adding some language to cover that possibility. She then referenced the "General Statement Concerning Executive Branch Ethics" section and stated earlier conversations were held about asking our Trustees to file a copy of their Executive Branch Ethics Statement with CERS. There is currently no statutory requirement to do so, but thought it might be helpful if the Board, not individual Trustees, housed somewhere for the benefit of CERS. That way Mr. Owens has an easy way to check and make sure that each Trustee has complied with the provisions of KRS Chapter 11A. There being no further questions or comments, Ms. Pendergrass opened the floor for a motion to approve the Conflict of Interest Policy and Form with edits including changing the word "Members" with "Trustees", adding the Chair and Vice-Chair to the notifications in Section 4, numbers 4 through 8, and then under the general statement, adding a sentence that just asks the Trustees to file a copy of their statement supplied to the Executive Branch Code of Ethics to the CERS CEO. Dr. Milkman made a motion and Mr. Foster seconded to approve the Conflict of Interest Policy and Form with the edits presented today. The motion passed unanimously.

Mr. Cheatham wanted to address something in the Open Records Request Policy that was just passed. He mentioned the section regarding providing the information on a CD, and with the current technology as it is, can other media options such as flash drives or cloud link be included

in this section. Ms. Hale indicated that the policy being presented to KPPA has been expanded to include that language, and she will get that language to Mr. Owens for inclusion in the CERS policy. Dr. Milkman revised his motion and Mr. Powell seconded to update the approved Open Records Request Policy to include language on electronic records. The motion passed unanimously.

Ms. Pendergrass introduced agenda item *Closed Session*. Mr. Cheatham made a motion and Dr. Milkman seconded to go into closed session for the purpose of litigation. The motion passed unanimously.

Ms. Pendergrass read the following closed session statement, "A motion having been made in open session to move into a closed session for a specific purpose, and such motion having carried by majority vote in open, public session, the Board shall now enter close session to consider litigation, pursuant to KRS 61.810(1)(c), because of the necessity of protecting the confidentiality of the Systems' litigation strategy and preserving any available attorney-client privilege".

Ms. Pendergrass stated that there was no action taken on the discussions from closed session.

Dr. Milkman made a motion and Mr. Powell seconded to adjourn the meeting. The motion passed unanimously.

Copies of all documents presented are incorporated as part of the Minutes of the Board of Trustees held September 29, 2021 except documents provided during a closed session conducted pursuant to the open meetings act and exempt under the open records act.

Remaining page intentionally left blank

CERTIFICATION

I do certify that I was present at this meeting, and I have recorded the above actions of the Trustees on the various items considered by it at this meeting. Further, I certify that all requirements of KRS 61.805-61.850 were met in conjunction with this meeting.


Recording Secretary

I, the Chair of the Board of Trustees of the County Employees Retirement System, do certify that the Minutes of Meeting held on September 29, 2021 were approved on November 10, 2021.


Chair of the Board of Trustees

I have reviewed the Minutes of the September 29, 2021 Board of Trustees Meeting for content, form, and legality.


Executive Director
Office of Legal Services