

Section 2.0 GOVERNING STATUTES

2.1 Los Angeles City Charter, Section 1106

Added to Board Governance Statement on May 14, 2013

Pursuant to the City Charter and consistent with Article XVI, Section 17 of the California Constitution, and other governing laws, the Board has responsibility for the following:

- a) **Administration of the Pension or Retirement System.** Have sole and exclusive responsibility to administer its system for the following purposes:
 - (1) to provide benefits to system participants and their beneficiaries and to assure prompt delivery of those benefits and related services;
 - (2) to minimize City contributions; and
 - (3) to defray the reasonable expenses of administering the system.

The duty to system participants and their beneficiaries shall take precedence over any other duty.
- b) **Assets.** Have sole and exclusive fiduciary responsibility over the assets of its system which are held in trust for the exclusive purposes of:
 - (1) providing benefits to system participants and their beneficiaries; and
 - (2) defraying the reasonable expenses of administering the system.
- c) **Prudent Person Standard.** Discharge its duties with respect to its system with the care, skill, prudence, and diligence under circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.
- d) **Investments.** Diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.
 - (1) **Investment Statement.** The board of each pension and retirement system shall adopt a statement of investment objectives and policies for the system. The statement shall include at least the desired rate of return and acceptable levels of risk for each asset class, asset allocation goals, guidelines for the delegation of authority, and information of the types of reports to be used to evaluate investment performance. At least annually, the board shall review the statement and change or reaffirm it. After each annual review, the board shall forward the statement to the Mayor and Council for informational purposes.
 - (2) **Performance Evaluation.** At least annually, the board of each pension and retirement system shall retain an outside performance evaluation firm to calculate the returns on all of the system investments.
- e) **Actuarial Services.** Have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of its systems in accordance with recognized actuarial methods.
- f) **Rules and Regulations.** Have the power to adopt any rules, regulations, or forms it deems necessary to carry out its administration of a pension or retirement system or assets under its control.

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2.2 California Constitution Article XVI, Section 17

Added to Board Governance Statement on May 14, 2013

Key sections:

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

- a. The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.
- b. The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.
- c. The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.
- d. The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.
- e. The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.
- f. The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

2.3 General Laws

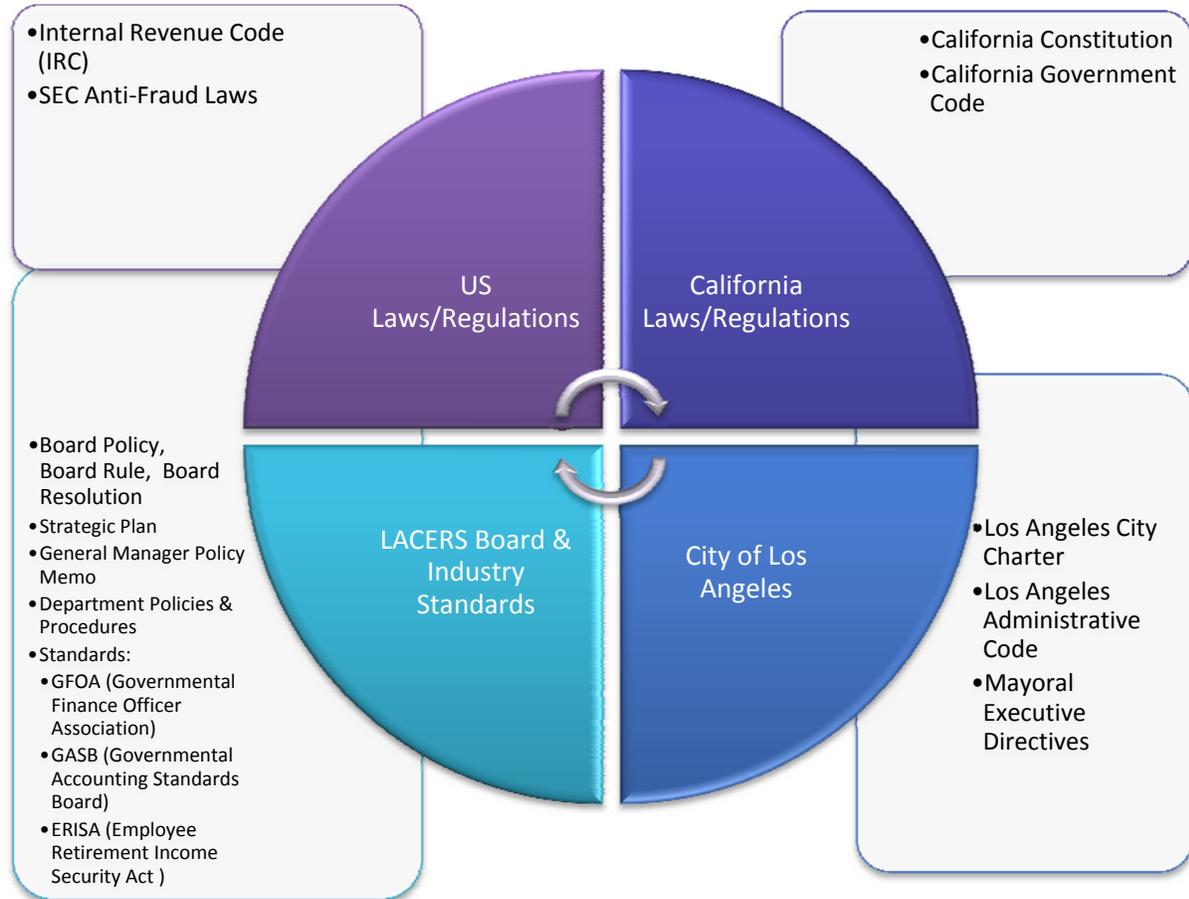
Added to Board Governance Statement on May 14, 2013

LACERS is one of a handful of California systems which are governed by its own City Charter and not State statutes*. The Los Angeles City Charter along with the California Constitution, as described in the preceding sections, establish the governing provisions for the retirement system. However there are other laws and regulations which apply to various aspects of LACERS administration. Information provided in this section is meant to be introductory and not exhaustive. Consult the City Attorney for citation of specific laws.

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Public retirement boards are responsible for oversight of the system's administration, including ensuring compliance with the following:

- Federal laws and regulations (primarily those administered by the Internal Revenue Service and the US Treasury Department)
- State and local laws and regulations
- Industry standards, such as those set forth for accounting, financial reporting, and actuarial valuations, and
- The system's own strategic plan; policies, rules, and procedures.



*Note: Key California public pension laws include:

1. California Public Employees Retirement Law ("PERL") – Applicable to CalPERS, CalSTRS, but not the UC Regents
2. County Employee Retirement Law ("CERL") – Applicable to 20 county public employee retirement systems in California
3. California Public Employees' Pension Reform Act of 2013 (PEPRA). PEPRA applies to all California systems except those under their own city or county charter. Effective January 1, 2013, PEPRA implements significant public pension reform in efforts to reduce the cost of the public employee pension benefits.

While private sector pensions are subject solely to federal regulation under ERISA (Employee Retirement Income Security Act of 1974)*, government pension plans are governed through state and local statutes. As such, governmental plans must comply with applicable state and local constitutional and statutory requirements and case law; in addition to federal tax qualification laws; and governmental accounting and reporting standards. [\[http://wikipension.com/wiki/Public_retirement_system_organizations_and_governing_bodies\]](http://wikipension.com/wiki/Public_retirement_system_organizations_and_governing_bodies)

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Federal Laws and Regulations

Governmental plans are subject to federal regulations relating to Federal tax qualification, enforced by the U.S. Treasury Department and the Internal Revenue Service; and anti-fraud laws promulgated by the U.S. Securities and Exchange Commission (SEC).

Internal Revenue Code

LACERS, like most governmental retirement systems, have been established and maintained as qualified governmental retirement plan under the Internal Revenue Code ("IRC" or "Code") § 401(a). Ensuring compliance with 401(a) qualification requirements protects the favorable tax treatment for members' benefits under this status.

The laws/regulations that most commonly affect defined benefit (DB) pension plans include:

- IRC 401(a)(17): qualified DB plans must use pay that is the smaller of actual pensionable pay versus a dollar limit (called the 401(a)(17) limit) that changes yearly
- IRC 415: qualified DB plans must limit the dollar amount of the benefit paid from the plan under certain circumstances
- Non discrimination rules: IRC 410(b), IRC 401(a)(4), IRC 401(a)(26) Broadly speaking, forbids qualified DB plans from giving large amount of benefit to highly compensated employees
- Rules on distributions: lump sum must be no smaller than the lump sum calculated using mandated mortality and interest rate (IRC 417(e)), spouse consent necessary for any non joint and survivor form of benefit (joint and survivor percent must be 50% or larger)
- Rules against assignment, garnishment
- Top heavy rules (IRC 416): benefits for all non highly compensated employees must be increased if the benefits for highly compensated employees are too large
[\[http://en.wikipedia.org/wiki/Defined_benefit_pension_plan\]](http://en.wikipedia.org/wiki/Defined_benefit_pension_plan)

Federal Securities Laws

Federal Securities Laws require adequate compliance policies and procedures to prevent wrongdoing in their money management functions. While public pension funds are exempt from most of the federal securities laws governing other money managers, they are not exempt from important anti-fraud provisions that prohibit insider trading and other manipulative and dishonest behavior. When public pension funds come into possession of material non-public information, they must have safeguards specifically designed to prevent the misuse of inside information, and avoid any personal gain from such transactions.

[\[http://www.sec.gov/news/press/2008/2008-35.htm\]](http://www.sec.gov/news/press/2008/2008-35.htm)

State Laws and Regulations

Article XVI of the California State Constitution (aka "Proposition 162" or "The California Pension Protection Act of 1992")

The California Pension Protection Act of 1992 amended Section 17 of Article XVI of the California State Constitution and made several changes to California's public retirement systems; the Act:

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- Provided the authority for the board of each public pension system to administer the system's assets and actuarial function
- Established that each public pension board is to make providing benefits to members and beneficiaries its' highest priority
- Set forth the conditions under which the terms and conditions for board membership may change; no changes may be made unless a majority of voters in the jurisdiction of the retirement system in question approve.

California State Constitution, Article 1 §9

California case law recognizes that public pension rights are governed by statute and not contract principles. "A public employee's pension constitutes an element of compensation, and a vested contractual right to pension benefits accrues upon acceptance of employment. Such a pension right may not be destroyed, once vested, without impairing a contractual obligation of the employing public entity [Gutierrez v. Board of Retirement, 72 Cal Rptr 2d 837(1998); Betts v. Board of Admin., 582 P.2d 614 (Cal. 1978)].

<http://www.nasra.org/content.asp?contentid=59>

California Government Code Section 7500-7514.5

Various provisions are contained in this section including: enabling the State Controller to gather information to compare and evaluate the financial condition of pension systems and to make such comparisons and evaluations; requiring the availability of direct deposit to members; enacting the California Actuarial Advisory Panel; addressing divestiture of plan assets; restricting use of placement agents; prohibiting lobbying within two years of leaving a retirement system; permitting purchase of fiduciary liability insurance; requiring an annual financial audit.

City Laws and Regulations

Charter of the City of Los Angeles

Statutes establishing the authority assigned to LACERS are contained in the City Charter.

The City Charter has two volumes. The first volume establishes governance of the City, establishing departments, their assignments and authorities. The second volume establishes the employment provisions for the management of City employees, assignment of their civil service rights, and benefits including pension benefits.

Los Angeles Administrative Code (LAAC)

The benefits promised to LACERS members by the City are detailed in the LAAC. The LAAC is the guiding document for staff to determine such things as the City's contribution, member's contribution, eligibility for membership in LACERS for Tier 1 and Tier 2, calculation of the service retirement, rules on spousal/domestic partner benefits, the disability benefit, service purchase rules, reciprocal benefits with other retirement systems; and parameters of optional programs such as the Limited Term Retirement Plan, larger annuity program, family death benefit plan.

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Generally the LAAC provides detailed provisions to accompany the broader Charter provisions. City Charter provisions may only be changed by the voters while the LAAC is revised through ordinances adopted by the City Council and Mayor. The LAAC describes the powers and duties of the City Council and Mayor, and the various categories of Departments and their authorities. It contains general provisions applicable to the operation of all departments including the Governmental Ethics Ordinance, provisions on finance, purchasing, contracting, and records.

Executive Directives

Through Executive Directives, the Mayor directs City Department actions in a variety of topic areas including guidance on City employee actions; participation in efforts to promote Mayoral goals such as emergency planning/coordination; improving traffic, census counts, sustainability practices; to supporting the bike plan, good food purchases, and business inclusion.

LACERS Policies and Rules

Board Policies

The Board adopts policies to ensure consistent treatment of a particular matter in a direction stated by the Board.

Board Rules

The Board will adopt rules when the statutes or laws are unclear or silent, and consistency is required; or when designated by statute that the Board adopt rules and regulations for a specified program.

Board Resolutions

Board resolutions serve to document a specific decision of the Board in a standalone document.

In accordance with LAAC Sec. 21.16, “The powers conferred upon each board shall be exercised by order or resolution adopted by a majority of its members and recorded in the minutes with the ayes and noes at length. Such action shall be attested by the signatures of the President or Vice-President, or two members of the board, and by the signature of the Secretary of the board.”

Strategic Plan

The Strategic Plan documents the Board’s long-term goals for the System and sets the priority and direction for which the Board, staff, and key consultants should strive. In accordance with the Board’s Strategic Plan Policy, progress on accomplishment of the plan is analyzed annually, and a comprehensive review of the plan is conducted triennially.

General Manager Policy Memos

The General Manager will issue policy memos to instruct staff on various matters.

Department Policies and Procedures

Department policies and procedures are established and updated regularly to ensure that all staff will perform functions uniformly and for a consistent purpose.

Section 2.0 GOVERNING STATUTES**2.4 Standards of Practice**

Added to Board Governance Statement on May 14, 2013

LACERS acknowledges that the following entities establish sound professional standards and that LACERS is not necessarily required to follow these standards of practice but will endeavor to meet these standards when in the best interest of LACERS members.

Governmental Accounting Standards Board (GASB)

GASB is an independent, non-governmental organization whose purpose is to establish standards and guidelines for state and local government accounting principles. GASB issues accounting standards governing how public pension assets and liabilities are measured and reported.

Under the new standards issued in 2012, LACERS' will have new disclosure and note requirements as well as needing to provide supplemental information in their accounting and financial reporting documents. The new standards will have greater impact on the City who will be required to report the amount of unfunded pension obligations in their balance sheets. The liability that must be recognized, the "net pension obligation," is the total pension liability less the amount of plan assets formally set aside for payment of benefits as of the reporting date.

Government Finance Officers Association (GFOA)

The goal of GFOA is to enhance and promote the professional management of governments for the public benefit by identifying and developing financial policies and best practices and promoting their use through education, training, facilitation of member networking, and leadership.

LACERS adheres to GFOA guidelines in preparation of its annual Comprehensive Financial Report. LACERS will also monitor GFOA issued policy statements which establish best practice standards in such areas as: asset allocation, member communications, retiree health benefits, pension fund risk, retirement plan design, system governance, and investment policies.

Employee Retirement Income Security Act of 1974

Private sector plans are governed by the Employee Retirement Income Security Act (ERISA) of 1974. While ERISA requirements are not applicable to plans of state and local government, LACERS recognizes ERISA standards as a high standard and will endeavor to meet ERISA standards when possible. ERISA, rooted in the principles of trust law, governs the fiduciary conduct and reporting requirements of private sector employee benefits plans through a system of exclusively Federal rights and remedies. It also contains provisions governing employee benefit plans that preempt state laws.

[\[http://en.wikipedia.org/wiki/Defined_benefit_pension_plan\]](http://en.wikipedia.org/wiki/Defined_benefit_pension_plan)

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2.5 Key Documents by Reference

Added to Board Governance Statement on May 14, 2013; Addendum - September 23, 2014

The following are considered key documents whose guidelines/rules apply to LACERS. These documents are incorporated into the manual only by reference. An introduction to the documents is provided below and a full copy is available to the Board on the Board website and by request.

Board Procedural Rules

“Brown Act”

The Ralph M. Brown Act is California's open meeting law. The law's intent is to promote transparency and public access to government by requiring that the deliberations and actions of public bodies be conducted openly.

This law prohibits such acts as Board members having discussions of a quorum of the Board without public notice and public access; as well as having serial discussions which are conducted outside of a public meeting.

Governmental Ethics

State - California Political Reform Act of 1974 – “Form 700” Filing

Because LACERS Trustees make decisions on investment of fund assets, you are placed in a special category by the California Government Code Section 87200-87210. As an “87200 filer” you must disclose certain financial interests that may pose a potential conflict between your personal interests and your public duties.

LACERS Trustees must file a “California Form 700” by April and October of each year.

- **California Fair Practices Act**
<http://www.fppc.ca.gov/index.php?id=51>
- **California Fair Political Practices Commission (FPPC) Webpage**
<http://www.fppc.ca.gov/>

City of Los Angeles - Governmental Ethics Ordinance

The Governmental Ethics Ordinance overlay California state law, but imposes various additional provisions and restrictions on City officials and employees. Among these are a ban on use of resources for private benefit; misuse of position and resources; the disclosure of economic interests by City officials; and restrictions on gifts, outside income, honorariums for making speeches, post employment lobbying, and political activities.

LACERS Trustees must file a City addendum to their California Form 700, known as the City Ethics Commission Form 11. This form helps Trustees comply with the additional requirements under the City's Governmental Ethics Ordinance.

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- **Governmental Ethics Ordinance (February 2014)**
http://ethics.lacity.org/PDF/laws/law_geo_february2014.pdf
- **City Ethics Commission – Governmental Ethics Webpage**
<http://ethics.lacity.org/govethics/>

City of Los Angeles Code of Ethics

All City Officials and employees must abide by this Code of Ethics.

- **City Code of Ethics** (August 23, 1979)
<http://ethics.lacity.org/PDF/MayorExecDir/CityCodeofEthics.pdf>
- **Mayoral Executive Directive 1 – Ethics in Government** (October 20, 2005)
http://ens.lacity.org/mayor/villaraigosa/mayorvillaraigosa331283115_07032013.pdf
- **Mayoral Executive Directive 7 – Governmental Ethics: Departmental Liaison, Training, and Compliance** (July 12, 2006)
http://ens.lacity.org/mayor/villaraigosa/mayorvillaraigosa331283121_07122006.pdf

Financial and Funding Reports

Comprehensive Financial Annual Report (CFAR)

As a means to demonstrate LACERS' commitment to transparency, LACERS annually produces a CFAR which presents a broad view of our financial condition including the System's financial statements, investment performance results, and actuarial valuations for retirement and health benefits.

The report is prepared in conformance with accounting principles generally accepted in the United States, the reporting guidelines set forth by the Government Accounting Standards Board (GASB), and the Los Angeles City Charter.

Actuarial Valuations for Retirement and Health Benefits (Annual)

An actuarial valuation can be thought of as a financial check-up for a pension or retiree health benefit plan. It measures current costs and contribution requirements to determine how much employers and employees should contribute to maintain appropriate benefit funding progress. The primary purpose of a valuation is to determine how much employers and employees should contribute to the plan during the upcoming year. The second key purpose of a valuation is to determine the plan's funding progress by examining how the plan's assets compare with its liabilities.

The LACERS Board selects the actuary to perform the actuarial studies; approves the actuarial methodologies and certain key assumptions; and monitors the funded status for both retirement benefits and health care benefits.

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The purpose an experience study is to compare the actual experience of the system against the current assumptions and to recommend new actuarial assumptions if necessary. The study reviews retirement rates, termination rates, mortality rates and rates of salary increase.

LACERS Benefits**Summary Plan Description**

A Summary Plan Description is a document written for plan members which contains a comprehensive summary of a retirement plan, including the terms and conditions of participation.

LACERS' prepares and distributes to members separate summary plan descriptions for Tier 1 members and Tier 2 members.

Audit Reports**Annual Financial Audit**

Each year an external auditor retained by the Board will conduct a financial audit of the System in accordance with standards promulgated by the American Institute of Certified Public Accountants (AICPA). An external audit report provides assurances to the Board that LACERS' accounting records are complete and in adherence with generally accepted accounting principles, industry standards and regulatory requirements.

Actuarial Audit

Every five to seven years, the Board may direct an audit of our actuarial findings. A second actuarial firm is retained to validate the results of the retirement and health benefits valuations conducted by the consulting actuary, and to ensure the reasonableness of the underlying actuarial assumptions and the actuarial cost method utilized in performing such actuarial valuations.

City's Management Audit

Pursuant to City Charter Section 1112, the Los Angeles City Controller, the Office of the Mayor, and the Los Angeles City Council jointly cause, once every five years, a management audit to be conducted of LACERS by an independent qualified management auditing firm. The first such management audit report was issued in 2007, and a second management audit report is scheduled in 2013.

The management audit report provides insight into perceived strengths and weaknesses of the pension system in comparison to industry best practices from the management audit firm's perspective.