

PUBLIC RECORDS POLICY

I. PURPOSE AND BACKGROUND

The Board of Retirement of the Mendocino County Employees Retirement Association (MCERA) adopts this Policy to establish guidelines and procedures regarding responses to requests made under the California Public Records Act (PRA).

The Board is committed to the principle of transparency. The Board recognizes that it has an obligation to balance its members' right to privacy with the public's right to information regarding public business. This Policy is not intended to cover all of the complex legal and factual issues that may arise in responding to a PRA request. However, the Board has determined that it would be useful to establish certain guidelines for MCERA to consider when a request is made under the PRA, and to publish these guidelines for the benefit of its members, their beneficiaries, and the public at large.

In many circumstances, these guidelines will enable staff to respond to requests without the need for substantial analysis or the assistance of legal counsel. However, given the complexities of the law, situations may arise where a simple application of the general guidelines will not provide a definitive answer. When such a situation arises, staff should confer with counsel and, if necessary, present a recommendation to the Board.

II. POLICY GUIDELINES

Generally, subject to the PRA exemptions referenced below, a member or benefit recipient is entitled to access their records and may authorize, in writing, equivalent access by another.

The PRA generally requires MCERA to disclose "public records" unless the particular information is exempt from disclosure. MCERA will not disclose records exempt from disclosure under the PRA, including, but not limited to, the following:

- A. Records pertaining to pending litigation to which MCERA is a party until the litigation or claim has been finally adjudicated or otherwise settled;
- B. Records for which disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, the provisions of the Evidence Code related to privilege;
- C. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by MCERA in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

Government Code section 31532 provides as follows: “Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter [the ’37 Act] or upon order of a court of competent jurisdiction, or upon written authorization by the member.”

As described below, MCERA will respond to production requests in accordance with applicable law interpreting Section 31532.

MCERA will publicly release the following information in response to a PRA request, to the extent available:

1. Member of benefit recipient name
2. Current gross monthly benefit amount
3. Original gross monthly benefit amount
4. Cost of living adjustments
5. Total final compensation
6. The components of total final compensation
7. Total years of credited service
8. Effective date of retirement
9. Information regarding the member’s former employment department, agency and/or job class

10. Statutory basis for benefit calculation formula

11. Type of retirement (e.g. service, service connected disability, non-service connected disability)

MCERA will not publicly disclose the following information:

1. Social Security number

2. Date of birth

3. Age at any time

4. Address

5. Telephone and fax numbers

6. Email address

7. Disability information and medical records

8. Spouse or registered domestic partner and beneficiary designations

9. Member contributions

10. Individual accounts

11. Gross refund amount

12. Personal retirement option election

13. Individual benefit calculation formula rate

14. Components of credited service

15. Personnel records

16. Non-public correspondence with MCERA

17. Non-public information provided to MCERA by the member

Requests for information not listed above will be determined on a case-by-case basis, in accordance with applicable law. Also, a request for disclosable records may be objectionable if it is unreasonably burdensome. In such situations, staff should consult with counsel.

III. PROCEDURE

A. Initial Review/Response Letter

Upon receiving a PRA request, MCERA will follow the guidelines set forth above and determine whether the request seeks disclosable records. Under normal circumstances, MCERA will give written notification within 10 calendar days after receipt of the request to the person making the request whether some or all of the requested records will be disclosed. If circumstances are not normal, MCERA should notify the requester explaining when a response can be expected, which must be no more than 24 days after receipt of the request. Factors indicating that circumstances are not normal include the need to search other locations, the need to consider voluminous records, the need for consultation with another agency, the need to compile data or develop programming to extract data. If any records will not be disclosed, MCERA should explain why those records are being withheld. If some or all of the requested records will be disclosed, MCERA will provide an estimated date when the records will be made available.

B. Producing the Records

The logistics and timing of providing the requested records should be worked out on a case-by-case basis in cooperation with the person making the request.

Under the PRA, MCERA is entitled to charge a fee for the direct costs of duplicating any record. If the production will require substantial copying, MCERA will not commence copying until the requesting party pays MCERA the estimated cost. Because MCERA operates a trust fund for the exclusive benefit of its members and their beneficiaries, MCERA will seek to recover any costs associated with responding to the production requests that are permitted by law. For example, if a request is made which requires MCERA to construct a new record in electronic form, and the request would require data compilation, extraction, or programming, MCERA will ordinarily charge for the actual cost of constructing the new record, including any necessary costs for programming and computer services; see Government Code section 6253.69(b). For records that require detailed manual file review or processing, MCERA may propose an alternative for accelerating the process

through the use of extra help staff at the requester's expense, if that alternative is reasonably available.

MCERA is only required to provide public records in its possession or reasonably available to it which it prepared, owned, used or retained; see Government Code section 6252(e). MCERA is not required to create a record that does not already exist at the time of the request.

IV. POLICY REVIEW

This Policy is subject to change in the exercise of the Board's judgment. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate and consistent with state and federal laws and regulations. In the event of legislative changes to the pertinent sections addressed in this policy, the Board will review the policy as appropriate.

V. POLICY HISTORY

The Board adopted this policy on February 17, 2016.

The Board reviewed this policy on October 16, 2019.