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**March 20, 2018**

**Item Name:** Policy to Require Board Member Use of a “Views Expressed” Disclaimer

**Program:** Board Governance

**Item Type:** Information

**Recommendation**

This agenda item asks Committee members to consider and discuss whether to add a requirement to the Board Governance Policy that when speaking at conferences, constituent meetings, and the like, Board members expressly disclaim that they are speaking on behalf of CalPERS.

**Strategic Plan**

This agenda item supports the 2017-2022 Strategic Plan’s goals to cultivate a risk-intelligent organization and reduce complexity across the enterprise.

**Background and Analysis**

Many organizations require that when their employees or board members speak at conferences or meetings, or when they publish articles, they use a “views expressed” disclaimer. This disclaimer informs the audience or reader that the views, thoughts, and opinions of the speaker or author belong solely to that person, and not necessarily to her employer, organization, board, or other group.

Perhaps the most widely-known “views expressed” disclaimer is the Security Exchange Commission’s (SEC). As a matter of official policy, the SEC disclaims responsibility for any private publication or statement by any of its commissioners or employees. While the specific verbiage used in any SEC commissioner’s or employee’s speech or article varies, the basic thrust is that “the views expressed are my own, and do not necessarily represent the views of the Commission, the individual Commissioners, or the Commission staff.” See <https://www.sec.gov/news/speeches> (collecting speeches of SEC commissioners and employees, all of which contain some variation of this basic disclaimer).

The words of the “views expressed” disclaimer manifest its purpose, i.e., to make clear that this is just one person speaking, and that though she may serve as a representative or on the board of an organization, she is not speaking in an official capacity on behalf of that organization. Or, in the words of the National Institute of Health, which also explicitly requires the use of “views expressed” disclaimers, “The Standards of Ethical Conduct for Employees of the Executive Branch...restrict use of official titles to avoid the appearance of inappropriate endorsement by the United States government and use of public office for private gain.” <https://ethics.od.nih.gov/topics/Disclaimer.htm>.

Without a disclaimer, what one person says may be construed as being the official position of the entire organization, and this may be inaccurate or confusing and potentially damaging. It could be inaccurate in that the single representative is not, in fact, expressing the collective or official view of the body; confusing in that the audience or reader may not understand that, for example, a “member of the CalPERS Board” does not necessarily speak for CalPERS; and damaging in that it could arguably be used against the organization in other contexts.

While the Board’s Statement of Incompatible Activities (<https://www.calpers.ca.gov/docs/statement-incompatible-activities.pdf>) prohibits Board members from purporting to represent CalPERS’ position on any matter before the Board has adopted a policy or position on the matter, the Board does not have a more generalized “views expressed” disclaimer. This agenda item asks Committee members to consider and discuss whether to add such a disclaimer requirement to the Board Governance Policy. If the Committee opts to do so, the team will bring back proposed language at the next Committee meeting.

### **Budget and Fiscal Impacts**

Not applicable.

### **Benefits and Risks**

Adding a “views expressed” disclaimer requirement to the Governance Policy would reduce the risk that one Board member’s statements will be misconstrued as the official statement of CalPERS.

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General Counsel

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**Marcie Frost**  
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