

VIDEOCONFERENCE MEETING  
STATE OF CALIFORNIA  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
BOARD OF ADMINISTRATION  
BOARD GOVERNANCE COMMITTEE

ROBERT F. CARLSON AUDITORIUM  
LINCOLN PLAZA NORTH  
400 P STREET  
SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 15, 2020  
1:46 P.M.

JAMES F. PETERS, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

A P P E A R A N C E S

COMMITTEE MEMBERS:

Mr. Henry Jones, Chairperson  
Ms. Lisa Middleton, Vice Chairperson  
Mr. Rob Feckner  
Ms. Fiona Ma, represented by Mr. Frank Ruffino  
Ms. Stacie Olivares  
Ms. Eraina Ortega  
Mr. Jason Perez

BOARD MEMBERS:

Ms. Theresa Taylor, Vice President  
Ms. Margaret Brown  
Mr. David Miller  
Mr. Ramon Rubalcava  
Ms. Shawnda Westly  
Ms. Betty Yee

STAFF:

Ms. Marcie Frost, Chief Executive Officer  
Mr. Doug Hoffner, Chief Operating Officer  
Mr. Matt Jacobs, General Counsel  
Mr. Robert Carlin, Senior Attorney  
Mr. Kelly Fox, Chief, Stakeholder Relations

A P P E A R A N C E S C O N T I N U E D

STAFF:

Ms. Pam Hopper, Committee Secretary

Ms. Anne Simpson, Board Governance and Strategy Director

ALSO PRESENT:

Mr. Tim Behrens, California State Retirees

Mr. Terry Brennand, Service Employees International Union

Mr. Al Darby, Retired Public Employees Association

Mr. Jerry Fountain, California State Retirees

Mr. Dillon Gibbons, California Special Districts  
Association

Dr. Robert Girling, California State University, Emeritus  
and Retired Faculty and Staff Association

Mr. Jeff Hewitt, Supervisor, County of Riverside

Mr. J.J. Jelincic

Ms. Cathy Jeppson

Mr. Derek Lennox, Association of California School  
Administrators

Mr. Bijan Mehryar, League of California Cities

Mr. Bill Slaton

Mr. Ben Vernazza, Portfolio Institute for Diversification

Mr. Larry Woodson, California State Retirees

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## P R O C E E D I N G S

1  
2 CHAIRPERSON JONES: I call the Board Governance  
3 Committee to order. And the first order of business is  
4 roll call.

5 Ms. Hopper, please.

6 COMMITTEE SECRETARY HOPPER: Henry Jones?

7 CHAIRPERSON JONES: Here.

8 COMMITTEE SECRETARY HOPPER: Rob Feckner?

9 CHAIRPERSON JONES: Your muted, Rob.

10 COMMITTEE MEMBER FECKNER: Good afternoon.

11 COMMITTEE SECRETARY HOPPER: Thank you.

12 Frank Ruffino for Fiona Ma?

13 ACTING COMMITTEE MEMBER SAHA: Sorry. Hi. This  
14 is Matt, Pam. Frank is on a phone call, I believe, so I'm  
15 just sitting in for him for the moment. Thank you.

16 COMMITTEE SECRETARY HOPPER: Okay. Thank you.

17 Lisa Middleton?

18 VICE CHAIRPERSON MIDDLETON: Present.

19 COMMITTEE SECRETARY HOPPER: Lisa Middleton?

20 VICE CHAIRPERSON MIDDLETON: Present.

21 COMMITTEE SECRETARY HOPPER: Stacie Olivares?

22 COMMITTEE MEMBER OLIVARES: Here.

23 COMMITTEE SECRETARY HOPPER: Eraina Ortega?

24 COMMITTEE MEMBER ORTEGA: Here.

25 COMMITTEE SECRETARY HOPPER: Jason Perez?

1 COMMITTEE MEMBER PEREZ: Here.

2 CHAIRPERSON JONES: Okay. Thank you. The first  
3 item -- next item on the agenda is approval of the  
4 September 15 Board Governance Committee timed agenda.

5 Do I have a motion?

6 COMMITTEE MEMBER PEREZ: Raise hand.

7 CHAIRPERSON JONES: Moved by Mr. Perez.

8 COMMITTEE MEMBER OLIVARES: I second.

9 CHAIRPERSON JONES: Second by Ms. Olivares.  
10 Ms. Hopper, roll call, please.

11 COMMITTEE SECRETARY HOPPER: Rob Feckner?

12 COMMITTEE MEMBER FECKNER: Aye.

13 COMMITTEE SECRETARY HOPPER: Matthew Saha for  
14 Fiona Ma?

15 ACTING COMMITTEE MEMBER SAHA: Aye.

16 COMMITTEE SECRETARY HOPPER: Lisa Middleton?

17 VICE CHAIRPERSON MIDDLETON: Aye.

18 COMMITTEE SECRETARY HOPPER: Stacie Olivares?

19 COMMITTEE MEMBER OLIVARES: Aye.

20 COMMITTEE SECRETARY HOPPER: Eraina Ortega?

21 COMMITTEE MEMBER ORTEGA: Aye.

22 COMMITTEE SECRETARY HOPPER: Jason Perez?

23 COMMITTEE MEMBER PEREZ: Aye.

24 CHAIRPERSON JONES: Okay. Thank you.

25 COMMITTEE SECRETARY HOPPER: Mr. President, I

1 have Jason making the motion and Stacie Olivares seconding  
2 it.

3 CHAIRPERSON JONES: Okay. And the item is  
4 approved.

5 Okay. Thank you. And before I go to Mr. Jacobs  
6 to -- for the executive report, I just wanted to mention  
7 that the agenda items today is in response to a number of  
8 Board members requesting items to be placed on the agenda.  
9 And these items are information for discussion at this  
10 time.

11 And also, I wanted to mention that in the event  
12 there are questions for fiduciary counsel. She will be  
13 available, Ms. Ashley Dunning. I've also invited Mr.  
14 Funston who helped develop the Board Governance Policy  
15 sometime ago to be available in case there are questions  
16 on -- from him -- for him. And also, I asked Mr. Toth  
17 from Wilshire Consulting to be available in case there are  
18 any questions from him regarding these items.

19 So with that background information, I'll turn it  
20 over to Mr. Jacobs.

21 GENERAL COUNSEL JACOBS: Very good. Good  
22 afternoon. Good afternoon, President Jones and Board  
23 members. The agenda today consists of four substantive  
24 Board Governance items for your consideration. They are  
25 set forth in the agenda, and of course in the materials.

1 Anne Simpson will set the stage for each of them and then  
2 turn it over to the Committee for your discussion and  
3 debate.

4 As President Jones mentioned, also president --  
5 also present is Rick Funston, an expert on the governance  
6 of public pension funds, and Ashley Dunning, your  
7 fiduciary counsel. Ms. Dunning I should note is here  
8 primarily on item 5a, the proposed change to the Board  
9 Governance Policy regarding reporting investigations to  
10 the Board, but she is available for the other items if you  
11 think she can contribute something on those.

12 And with that, I will turn it back to you,  
13 President Jones.

14 CHAIRPERSON JONES: Okay. Thank you, Mr. Jacobs.

15 So we do have one action item, approval of the  
16 Board Governance Committee meeting minutes. So do we have  
17 a motion on that?

18 VICE CHAIRPERSON MIDDLETON: So moved.

19 CHAIRPERSON JONES: It's been moved by Ms.  
20 Middleton.

21 COMMITTEE MEMBER OLIVARES: I second.

22 CHAIRPERSON JONES: Second by Ms. Olivares.

23 The roll call on that, Ms. Hopper.

24 COMMITTEE SECRETARY HOPPER: Rob Feckner?

25 COMMITTEE MEMBER FECKNER: Aye.



1 COMMITTEE SECRETARY HOPPER: Matthew Saha for  
2 Fiona Ma?

3 ACTING COMMITTEE MEMBER SAHA: Aye.

4 COMMITTEE SECRETARY HOPPER: Lisa Middleton?

5 VICE CHAIRPERSON MIDDLETON: Aye.

6 COMMITTEE SECRETARY HOPPER: Stacie Olivares?

7 COMMITTEE MEMBER OLIVARES: Aye.

8 COMMITTEE SECRETARY HOPPER: Eraina Ortega?

9 COMMITTEE MEMBER ORTEGA: Aye.

10 COMMITTEE SECRETARY HOPPER: Jason Perez?

11 COMMITTEE MEMBER PEREZ: Aye.

12 COMMITTEE SECRETARY HOPPER: Mr. President, Lisa  
13 Middleton made the motion Stacie Olivares seconded it, and  
14 I have all ayes.

15 CHAIRPERSON JONES: Okay. Than you, Ms. Hopper.

16 Then we go to Item 5a, proposed changes to Board  
17 Governance Policy, reporting investigations to the Board.  
18 Ms. Simpson, please.

19 You're muted, Ms. Simpson.

20 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

21 There we go.

22 CHAIRPERSON JONES: Okay.

23 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

24 My apologies. Thank you very much.

25 This Item, 5a, has been provided at the request

1 of the Board President. And the purpose of this  
2 information item is to make clear that under the Board's  
3 powers reserved, it includes oversight of all activities  
4 where the Board or a Committee has delegated. So what you  
5 will see in the attached language on page 9 of 25 in the  
6 Governance Policy, you'll see some language which is there  
7 for the Board to consider. This has been drafted in its  
8 broadest possible form as a starting point for the  
9 discussion. But to emphasize, this is about clarifying  
10 the Board's authority which exists under its policy.

11 The other point to mention in this regard is that  
12 in the current practice regarding the Board being notified  
13 of investigations, the Chief Executive notifies the Board  
14 President and the Chairs of the committees -- of any  
15 committees -- the chairs of any committees which are  
16 impacted when an executive member is subject to an  
17 investigation.

18 And the full Board is notified when that  
19 investigation is completed and contains findings. So the  
20 purpose of today's discussion is to look at the current  
21 practice, consider the language for discussion in the  
22 Governance Policy, which reads as follows:

23 It clarifies that the Board retains  
24 responsibility to oversee investigations into allegations  
25 of misconduct by the Chief Executive Officer, Chief

1 Actuary, Chief Compliance Officer, Chief Financial  
2 Officer, Chief Health Director, Chief Investment Officer,  
3 Chief Operations Officer, or General Counsel. And  
4 furthermore, CalPERS management will inform the full Board  
5 upon commencement of such an investigation.

6           So this is for the Committee's discussion. Thank  
7 you, Chair.

8           CHAIRPERSON JONES: Okay. Okay. Very good. We  
9 have several requests to speak on this. I -- just one  
10 observation before we get into the discussion, I think the  
11 way it's worded is rather broad. I think we need some  
12 parameters around this to talk about what types of  
13 investigations that the Board wants to see.

14           With that background, I'll go ahead and call on  
15 the first one, Ms. Taylor.

16           VICE PRESIDENT TAYLOR: Thank you, Mr. Jones.

17           So I'm going to reiterate what you said, which is  
18 I do believe it's overbroad. I think that maybe we  
19 should -- I mean, I don't know if we want to look at an  
20 investigation of misuse State assets. I don't know if  
21 that's something that would go to the level of the Board.  
22 Do we want to see something that's more meaty, like  
23 conflict of interest, anything that questions the  
24 integrity of the person and puts in light the integrity of  
25 CalPERS, because use of State assets unfortunately happens

1 all the time.

2 (Laughter.)

3 VICE PRESIDENT TAYLOR: But I think it's overly  
4 broad. And then -- and my comments also -- I also feel  
5 like it's important for good governance before the -- I  
6 don't know that it's necessary to have the entire Board  
7 informed at the onset of an investigation.

8 I get the seriousness of whether or not it's a  
9 conflict of interest, or sexual harassment, or -- but say  
10 it's an anonymous complaint, and we -- as I understand it,  
11 with all State agencies, they have to investigate that.  
12 But it could be an anonymous complaint that's really not  
13 valid. And does the Board want to know right away, and  
14 then thereby -- you're -- you're hurting that person's  
15 reputation. So say Theresa Taylor gets a complaint by  
16 Jason Perez who sits next to her at work. And he's  
17 accusing her of sexual harassment, but none of that  
18 actually ever happened. So we're going to go through the  
19 whole investigation to determine whether or not it had  
20 merit. And now you've ruined Theresa Taylor's reputation,  
21 so -- because you've told the entire Board.

22 Chances are it will get out into the press. I  
23 just -- I have a problem -- I'm very concerned about  
24 privacy of a civil servant. And in those investigations  
25 when it -- when I have participated as a steward in those

1 investigations, those investigations are kept incredibly  
2 confidential. So I think it's important that we  
3 understand if the CEO has informed the appropriate Board  
4 Chairs and the Board President, until we have finding -- I  
5 mean, before we'd even put out those findings, it hit the  
6 press.

7           So I think -- I think it's important that we take  
8 into consideration the employee's privacy rights as well.  
9 I just want to make sure that we're taking that into  
10 consideration. But general, at the very bare minimum, I  
11 think that we should at least curtail the broadness of  
12 this. So that's my comment.

13           CHAIRPERSON JONES: Okay. Thank you.

14           Mr. Perez.

15           COMMITTEE MEMBER PEREZ: Thank you, sir. On the  
16 item to be discussed, page 9 of 25, Item 18, I don't think  
17 that's a broad enough inclusion of personnel. I think we  
18 need Deputy CIO, the MIDs, a lot of things, global fixed  
19 income, opportunistic -- opportunistic strategies, private  
20 equity, real assets. There's a lot of funds available to  
21 them at their level to invest in without rising to the CIO  
22 level. And I wouldn't -- I wouldn't mind seeing Board  
23 members and their designees included in that as well.

24           CHAIRPERSON JONES: Ms. Middleton.

25           VICE CHAIRPERSON MIDDLETON: Okay. Thank you,

1 Mr. Chair. I do have a few comments on this. As I read  
2 this, and using the word "oversee", I interpret that  
3 personally to be a word that is consistent with the  
4 oversight responsibilities of the Board. It is not the  
5 responsibility though of the Board, and should not be the  
6 responsibility of the Board, to manage an investigation.  
7 That should be carried out by professionals. And unless  
8 the General Counsel is the individual that's involved in  
9 the investigation, it should be carried out under the  
10 direction of the General Counsel and of counsel.

11 I think there's some elements that we need to  
12 introduce into this language to clarify responsibilities.  
13 I also believe that we need to be very clear in this that  
14 due process must be followed, that all of these  
15 investigations and all of the work in the investigation  
16 must be confi -- confidential, it must be impartial in  
17 terms of how it is carried out, and it has to be carried  
18 out without any influence -- not any undue influence,  
19 without any influence by the part of the Board or by the  
20 executives of the organization.

21 The individuals entrusted with the responsibility  
22 of carrying out investigations of this level of  
23 sensitivity must be able to act without any influence  
24 whatsoever.

25 In picking up somewhat on the theme of Mr. Perez,

1 I see the reason for identifying specific individuals and  
2 I think that's important, because of the level of  
3 responsibility that they have. But I would extend this to  
4 a notification of the Board wherever an invest -- there is  
5 an investigation that would pose significant reputational  
6 or operational risk to the organization.

7 And I appreciate that we're going through the  
8 process of clarifying this. And as I understand it -- Ms.  
9 Simpson talked about the CEO reporting to the President  
10 and the appropriate chairs. As I understand it, that is a  
11 practice that Ms. Frost has initiated which I believe is  
12 an extremely good practice, but not one that is found  
13 within the black and white lettering of our Governance  
14 Policy, and it is one that we should further define in the  
15 Governance Policy.

16 And with that, I'll end my comments and look  
17 forward to hearing from my colleagues. Thank you, Mr.  
18 Chair.

19 CHAIRPERSON JONES: Thank you, Ms. Middleton.

20 We now have Mr. Feckner.

21 COMMITTEE MEMBER FECKNER: Thank you, Mr. Chair.

22 I just want to add to the comments. I agree with  
23 a lot of what's been said, with the inclusion of perhaps  
24 even more positions, et cetera. My concern isn't that.  
25 My concern is with the fact that until an investigation

1 has been completed, too many people having information  
2 could do harm to the individual and to the organization.  
3 I think that's why you should consider strongly who you  
4 elect as your President, your Vice President, and your  
5 Committee chairs. These people you've entrusted to do  
6 this work. So if you don't think that they can do that,  
7 then you should re-consider that.

8           But since we put them in place with the knowledge  
9 that they're going to be able to continue moving this  
10 organization and leading us, we should be give them that  
11 leniency, that they get that information. There's a  
12 direct line of communication between the CEO and the  
13 President and/or the Committee chairs, so that every --  
14 those are -- they're all kept apprised.

15           But at the end of the day until the investigation  
16 is complete, I think it needs to stay in that enclosed  
17 circle. Once the investigation is complete, no matter  
18 what the outcome is, the entire Board should be brought  
19 in, should share the entire investigation with them.  
20 Whether it's a false claim or if it's a real claim, you  
21 need to have that information.

22           But I think, again, it -- you put a leadership in  
23 place for a reason. I think you need to give them the  
24 benefit of doing that job.

25           Thank you, Mr. Chair.



1 CHAIRPERSON JONES: Mr. Miller.

2 BOARD MEMBER MILLER: Yeah. I would defer to  
3 Committee members until they've all had a chance to  
4 comment, President Jones.

5 CHAIRPERSON JONES: Okey-dokey. Then we have Ms.  
6 Olivares.

7 COMMITTEE MEMBER OLIVARES: Thank you, Mr. Chair.  
8 I would like to follow up on Ms. Middleton's comments. I  
9 agree with them. In addition, I think we should take a  
10 look at the role of the consultants that we have. So in  
11 the investment world, consultants have so much influence  
12 over the investments we select, manage, and dispose. And  
13 if there happens to be an investigation of one of those  
14 consultants, I would feel more comfortable if the Board  
15 had oversight over that, given the very close relationship  
16 between consultants and staff.

17 I also think if there are conflicts of interest,  
18 that are being investigated that the Board should be  
19 notified, because those are very material and represent  
20 reputational risk.

21 CHAIRPERSON JONES: Okay. Ms. Yee.

22 BOARD MEMBER YEE: Thank you, Mr. Chair. I think  
23 there were others ahead of the queue before I was.

24 CHAIRPERSON JONES: They want to let the  
25 Committee members speak first and go back.

1 BOARD MEMBER YEE: Oh, I'm not on the Committee.

2 CHAIRPERSON JONES: Oh, you're not, that's right.  
3 Okay. Well, I don't see anyone else on the Committee that  
4 has requested to speak, so I'll go back up to Mr. Miller.

5 BOARD MEMBER MILLER: Thank you, Mr. President.

6 I concur with a lot of the comments. I think  
7 that it needs to be broader than just those listed  
8 executives. But I also think that we need to be mindful  
9 of our role in oversight of investigations, and at what  
10 point do we have a role in any investigation. And so to  
11 me, there needs to be some level of additional detail  
12 about what is material, what is substantive, what does the  
13 Board need to know beyond the President and the relevant  
14 committee chairs, how is that determined?

15 And certainly, when an investigation gets to the  
16 point where there is findings that something is  
17 substantiated that could be material, then the Board  
18 should be informed.

19 But I still think we need to define this more  
20 carefully and it should be a little bit more of a staged  
21 deployment, where it doesn't -- just any investigation at  
22 all triggers notification of the entire Board, whether  
23 those -- whether the investigation is into something that  
24 would not be very meaningful or substantive, whether it  
25 may not be something that we would expect to be

1 substantiated. There's just too many factors to just  
2 automatically, you know, be notifying the entire Board  
3 over any kind of allegation or investigation until it's  
4 been a little further fleshed out, and until there's a  
5 little more information to be able to determine when --  
6 what's the appropriate point to inform the entire Board.

7 CHAIRPERSON JONES: Thank you, Mr. Miller.

8 Ms. Ortega.

9 COMMITTEE MEMBER ORTEGA: Thank you, Mr. Chair.

10 Similar to the comments Mr. Miller made, I would recommend  
11 that we word this in a way that makes it very clear that  
12 the investigation that's coming to the Board is in fact a  
13 complete investigation, an official, formal -- whatever  
14 the right definition is. I'm not sure at this moment, but  
15 in my experience overseeing investigations, there are  
16 allegations that you assign an investigator to do some  
17 preliminary work to determine if a full investigation is  
18 necessary.

19 If you eliminate that kind of preliminary --  
20 those investigations that don't make it past that  
21 preliminary stage, I think you get away from some of the  
22 things that we, as a Board, likely do not want to hear  
23 about, which can often just be disputes that are unfounded  
24 or misunderstandings that get resolved one way or another.  
25 So I would suggest a way to do that and keep those types

1 of issues from coming to the Board is to make very clear  
2 what we mean by an investigation. So I think  
3 that addresses somewhat Ms. Taylor's comments too about it  
4 not being too expansive in terms of the number of items  
5 that might come to the Board.

6 On Mr. Perez's point about expanding the list of  
7 staff, I would caution against going too deep into the  
8 staff, in terms of what the Board oversees. And I  
9 would -- I think of that in terms of the relationship  
10 between executive staff and the other employees at  
11 CalPERS. So I would think that if a member of the  
12 Investment team, for example, that's the example that was  
13 used, if there serious allegations against a member of  
14 that team and they raised to that same level of  
15 reputational -- reputational or operational risk, as Ms.  
16 Middleton defined it, that -- we would hear about that  
17 from the executive management.

18 So we would hear about that from the Chief  
19 Investment Officer or if it was someone in Mr. Mould's  
20 shop, we would hear about that from Mr. Moulds and not  
21 have those staff level management issues coming to the  
22 Board. I think that's -- I think that's too much. I  
23 don't think that's appropriate in terms of the way the  
24 Board's oversight of staff is structured.

25 And I would concur with all of Ms. Middleton's

1 comments.

2 Thank you.

3 CHAIRPERSON JONES: So in order to keep this  
4 going, I'm going to -- now that all of the members, except  
5 one who has not requested to speak, I'm going to now call  
6 on the non-members and then I'll take another round for  
7 the members.

8 So, Ms. Westly.

9 BOARD MEMBER WESTLY: Thank you. I just want to  
10 as -- as the representative from State Personnel Board, I  
11 would be remiss if I didn't pipe in here, even though this  
12 isn't my committee. I want to caution everyone to  
13 remember the rights that the civil service employees have  
14 in this discussion. Are we a policy board at CalPERS or  
15 are we an administrative board? Are we a combo of both?

16 Every employee that we're talking about, I  
17 believe, and someone can correct me if I'm wrong, is a  
18 civil service employee, and they have certain rights. And  
19 what concerns me is that we are going to risk their right  
20 to privacy, based on the fact that we do have for probably  
21 a number of reasons information that is considered  
22 confidential being put forth to the press outside of the  
23 walls of CalPERS.

24 So what happens if an employee is investigated  
25 for something that turns out to be meritless, will CalPERS

1 be on the hook for that? Is it their right to privacy  
2 that we're now violating, because this information is in  
3 the public domain and may not have any merit?

4           That's a concern for me. It also affects the  
5 CalPERS, in general. When something like that goes out  
6 into the public and is meritless, then we're giving out  
7 the wrong impression that something is wrong with a  
8 certain employee's job performance, when we find out later  
9 it's not. Because just as much as it can be true, it may  
10 not be true. And so if we're taking a certain number of  
11 employees and applying a new standard to them, and they  
12 are civil service, are we creating two sets of employees  
13 with two sets of rights? And if we are, I don't know if  
14 that is a place on this Board where we can make that  
15 decision.

16           We hire the CEO. We can, with all due respect,  
17 fire the CEO. We elect the Board President. We can  
18 unelect the Board President. But to dive deeply into how  
19 the staff has managed an investigation I think will create  
20 a liability for this organization. And so that really  
21 does concern me.

22           I have run a large organization before, clearly  
23 not as large as CalPERS. But we had many investigations,  
24 and we did not provide those investigation results until  
25 the investigation was complete, because I answered to a

1 very political board, which is what we have at CalPERS.

2           So if I had made these investigations that were  
3 pending, without any merit yet and the investigation was  
4 not complete, to the board, those board members would have  
5 opinions about the investigation, talk within -- you know,  
6 between themselves and then also out in public. It was  
7 inevitable.

8           And so that's what concerns me, because that was  
9 an organization without civil service employees. This is  
10 an organization with pretty much all civil service  
11 employees. And unless they have their rights intact and  
12 they're allowed to appeal any kinds of disciplines along  
13 the correct route, then we could end up putting ourselves  
14 in a position of being liable for those decisions that we  
15 made and those leaks that come out.

16           So on behalf of the SPB, I think this is  
17 something that I would not like to see land on our desk,  
18 if we make a -- a misstep in this conversation.

19           That's it.

20           CHAIRPERSON JONES: Okay. Ms. Yee.

21           BOARD MEMBER YEE: Thank you very much, Mr.  
22 Chair. I appreciate your placement of this item on the  
23 agenda of the Board Governance Committee, and especially  
24 since some time has lapsed since the idea was to bring it  
25 before the Committee. And I would say that, you know, in

1 terms of what's been proposed on page nine of 25 of the  
2 Governance Policy, I appreciate that it's broad enough, so  
3 that we can air out all of our concerns here today as  
4 well.

5 I want to align myself with the comments of Ms.  
6 Ortega, Ms. Westly, and Ms. Middleton. I do think that  
7 one of the things we don't want to do as a result of  
8 looking at revising this Governance Policy is to set up  
9 another set of unintended consequences that really aren't  
10 going to get to the -- I think the root issue that we were  
11 all trying to look at resolving and that has to do with  
12 what -- what this Board does with investigations.

13 I do think that the levels of positions that are  
14 identified here are appropriate. These are our top  
15 executives and I don't know that -- I think there are  
16 other mechanisms for really ensuring conduct and --  
17 appropriate conduct and compliance with some of the  
18 positions deeper down into the organization.

19 But I also want to come back as to why we were  
20 even talking about this. And it had to do with really the  
21 commencement of an investigations on trading violations.  
22 And I know this is being written broadly, but it seems to  
23 me if we're going to try to address the issue that was at  
24 hand, that gave rise to this discussion altogether, that  
25 perhaps we could narrow it with respect to just focusing



1 on the commencement of investigations on trading  
2 violations.

3           However, I would say that the Board should be  
4 informed not upon commencement of an investigation, and it  
5 really depends on the nature of the investigation, as Ms.  
6 Ortega really spoke about. We don't want to create  
7 unintentionally our own reputational risk as a result of  
8 what is shared in term -- as far as information. But I  
9 think there's a way to narrow this and also a way to just  
10 be sure that we are getting to the root of the issues that  
11 brought rise to this particular issue.

12           CHAIRPERSON JONES: Thank you. Okay.

13           Ms. Taylor.

14           VICE PRESIDENT TAYLOR: Yes, thank you.

15           I do agree with Ms. Ortega, Ms. Westly, and Ms.  
16 Middleton, I will say that deepening this into other  
17 classifications does bring a whole bunch of other  
18 problems. In civil service, those employees have a right  
19 to their own due process hearings and such. So I don't  
20 know if they're called Skelly hearings. They are for our  
21 rank and file employees. But it -- so it becomes really  
22 dangerous for us to get involved even down at the MID  
23 level.

24           And I just want to make sure that -- the verbiage  
25 here that I think we need to be careful of is oversee

1 investigations into allegations. I think the allegations  
2 issue is where we're really wrong here.

3 I think we need -- I think we need to make sure,  
4 like Ms. Westly and Mr. Ortega said, that we're looking at  
5 a real investigation. If we're first investigating just  
6 the allegations, right, then the -- it's not appropriate  
7 for the Board to know at that point. But if we have  
8 determined by the investigation of those allegations that  
9 a full investigation needs to take place, at that point, I  
10 can understand that we need to inform the Board.

11 But again, I do want us to be very, very  
12 conscious of due process rights, of civil service rights,  
13 so it's really important. I appreciate it.

14 Thank you.

15 CHAIRPERSON JONES: Okay. Mr. Rubalcava.

16 BOARD MEMBER RUBALCAVA: Thank you. Thank you.  
17 Yes, I also want to speak a little bit to this. And I  
18 appreciate you giving me the opportunity to speak to it,  
19 Mr. Jones, even though I'm not on the committee.

20 I would just say that -- I was looking at -- the  
21 whole purpose of this Governance Policy is that we have to  
22 maintain our consistent -- we have to be consistent with  
23 our fiduciary duties. And the new language, like many  
24 have raised, I think it's written -- I think it needs to  
25 be a little bit more defined. Oversee investigations. We

1 have a -- I think what we need to make sure is -- which we  
2 do. I think we have a clear -- we need to have a clear  
3 process that does three things. One, it has to safeguard  
4 employee rights and due process. It has -- more  
5 important -- but also importantly, it has to protect  
6 CalPERS interests.

7           And by that, it means institution, it means  
8 fiduciary duty, and also be respectful of our role, which  
9 is not to micromanage. We have executive staff, the CEO  
10 as -- that everybody reports to. Although, the CE --  
11 although Ben has also seems to report to us.

12           But and the last -- third point is we want to  
13 make sure it's a timely resolution. So if there's an  
14 opportunity for things to be leaked or infor -- or an  
15 opportunity for things to be misstated, or slow down or  
16 interfere with the proper investigation, it my prohibit  
17 the timely resolution, you know, in an appropriate way.

18           So I would say our role is to -- we -- perhaps we  
19 do need Item number 18 to clearly outline our authority in  
20 this area and our role, but we have to be careful that we  
21 respect the Chief Executive Officer's role and the  
22 processes in place not only in our policy, but other  
23 places like people have talked about.

24           So that will be my contribution to this  
25 discussion. And I'll listen. Thank you, Mr. Jones.

1 CHAIRPERSON JONES: Okay. Thank you.

2 Ms. Olivares.

3 COMMITTEE MEMBER OLIVARES: Thank you, Mr. Chair.

4 I think there's a distinction to be made between  
5 protections of civil service workers and concerns about  
6 conflicts of interest when it comes to investments and  
7 confidentiality. So I understand that civil service  
8 employees have protections. And I know that we will do  
9 our best to maintain those, as we have.

10 If we are notified of trading violations, for  
11 example, those notifications don't have to come with a  
12 person's name. We could just be notified of the  
13 classification and the potential type of trading  
14 violation.

15 It's critical with trading violation that we  
16 need -- be notified immediately, because of the size of  
17 CalPERS portfolio. In many cases, CalPERS could be a  
18 market maker. And a trade we make could affect numerous  
19 institutional investors and we could see very -- various  
20 ramifications from unauthorized trades, from conflicts of  
21 interest. So I want to make that distinction very clear.

22 And then secondly, I would like us to further  
23 review the avoidance of conflicts of interest section,  
24 especially IV. B, and how we're defining conflict of  
25 interest for Board members, particularly when it comes to

1 holding investments.

2 Thank you.

3 CHAIRPERSON JONES: Okay. Okay. Ms. Brown.

4 BOARD MEMBER BROWN: Thank you, Mr. Chair. I  
5 want to say I appreciate everyone's comments here today.  
6 I do agree with Ms. Ortega about how we don't need to know  
7 necessarily when allegations are made, sort of that first  
8 initial step when maybe our own Legal Office looks into  
9 the issue and decides there's nothing here or there is  
10 some merit here.

11 But once we have determined there's merit and an  
12 official investigation has started, I think the full Board  
13 needs to be informed. And what can happen in these  
14 investigations is for -- there can be interference and  
15 investigations can also be stalled. So if we say an  
16 investigation has to wait until its completed, you know,  
17 I've been in senior management for a long time and  
18 investigations can be stalled. And I don't want that to  
19 happen.

20 And I don't want a month to go by before the Board  
21 is informed. And so I kind of like that idea that we  
22 don't need to know necessarily about allegations. But  
23 once there's been some confirmation of that there is an  
24 issue and we're going to go sort of into the next step,  
25 then I think the Board needs to be informed.

1 I also agree with Ms. Olivares about trading  
2 violations. You know, typically this Board is informed  
3 with a little bar chart, a little graph. And it doesn't  
4 involve -- we never know the name, but we also never know  
5 the position and we never know if it's -- except this last  
6 time with the violations in March, we did find out that  
7 something like 90 percent were one person.

8 But typically, we don't even get that  
9 information. And so I do agree with Ms. Olivares that we  
10 at least need to know the level of that person and so we  
11 can find out what's really going on.

12 To not have that information means we cannot do  
13 our oversight role. And I really think that the full  
14 Board needs to be informed when there is an investigation,  
15 sort of I'll call it step two. I don't know what Ms.  
16 Ortega called it, but that a -- that appears to have  
17 happened. An initial investigation has confirmed that  
18 there's an issue and that it moves on and I think that's  
19 when the Board should be informed.

20 Thank you.

21 CHAIRPERSON JONES: Okay. Mr. Perez.

22 COMMITTEE MEMBER PEREZ: Thanks. I'd like to  
23 hear Ms. Dunning's opinion and also Wilshire, please.

24 CHAIRPERSON JONES: Okay. Okay. Let us finish  
25 with the Board members. I have a couple more requests and

1 then I'll -- okay. Ms. Taylor.

2 VICE PRESIDENT TAYLOR: I didn't think I was  
3 next.

4 (Laughter.)

5 VICE PRESIDENT TAYLOR: Thank you. I appreciate  
6 the notification on trading violations. We get that every  
7 month. When we know that there's trading violations or if  
8 there are trading violations, those are reported to us at  
9 Board meetings on -- regularly. So now that we have,  
10 what, six Board meetings a year, those violations do get  
11 reported timely, so -- and since we're saying we don't  
12 need to have names, I don't see the problem with that. So  
13 we already get those reports.

14 I don't know that -- and I think -- I hope we're  
15 not losing site of, there's a couple of things, good  
16 governance, right? We want to make sure we're -- we have  
17 good governance. And I'd like Anne to opine a little bit  
18 on what typical practice of corporate good governance is  
19 when it comes to something like this, but also I want us  
20 to not lose sight of what's the root issue we're trying to  
21 solve here?

22 If we had all known about a conflict of interest,  
23 would that have changed the outcome? That's -- I just  
24 want you all to think about that. Okay. So we all found  
25 out about it. Would that have changed the outcome? So

1 that's what I want you all to think about? Anne, if you  
2 don't mind, could you give us a little bit on good  
3 governance when it comes to this process.

4 CHAIRPERSON JONES: Ms. Simpson.

5 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

6 Thank you, Ms. Taylor. Thank you, Chairman  
7 Jones. My understanding of leading practice in this area  
8 is that the chief executive would have, through their  
9 reporting line to the Board, in the normal course of  
10 events, would inform the Board leadership. So, for  
11 example, if this was a company, it would be the board  
12 chair or the relevant committee that has oversight. So,  
13 for example, if it's a compliance violation, it might be  
14 the Committee that oversees compliance. But my  
15 understanding of normal practice in governance is the  
16 current arrangements are pretty closely aligned to that.

17 And obviously, it's for this Board to decide how  
18 it wants to conduct that, but just as a reference point,  
19 through our work with other bodies on governance.

20 Thank you.

21 CHAIRPERSON JONES: Thank you, Ms. Simpson.

22 Ms. Middleton.

23 VICE CHAIRPERSON MIDDLETON: Thank you, Mr.

24 Chair.

25 I would like to hear from Ms. Dunning regarding



1 any recommendations that --

2 CHAIRPERSON JONES: Okay.

3 VICE CHAIRPERSON MIDDLETON: -- she might have  
4 regarding good practices in this area.

5 CHAIRPERSON JONES: Right. Okay. I do have one  
6 more request from a Board member, then we'll move to  
7 Dunning and also Wilshire.

8 Ms. Yee.

9 BOARD MEMBER YEE: Thank you, Mr. Chair.

10 As I'm listening to everyone's comments, I mean,  
11 in some ways, I'm thinking about how I hope we're spending  
12 more time on this issue than the actual incidences of  
13 problematic situations arising. So I would like to think  
14 that these are going to be rare types of activities. And  
15 so to that extent -- and I think this really came up when  
16 Ms. Brown was speaking, that I would like to see the  
17 provision narrowed, you know, whether it's trading  
18 violations, conflict of interest, fraud, you know,  
19 potential criminal activity as it relates to the top  
20 executives. I think that is one way of trying to narrow  
21 the scope of this particular revision.

22 But to the extent that these instances, I hope,  
23 are rare, and with respect to our -- and I'm just thinking  
24 about the accountability of this Board. I certainly would  
25 want to be notified as a member of the Board, and not for

1 anything else but to know that this is -- this is a  
2 potential issue with respect to our top executives, and  
3 however that gets communicated. But I just think this --  
4 these are going to be rare instances. And so, in some  
5 ways, we're kind of solving to lot of perceived  
6 hypotheticals, but I hope that -- I mean, I don't foresee  
7 that we're going to be facing situations like this very  
8 often or I hope we don't.

9 But certainly narrowing it down to those types of  
10 activities of misconduct and looking at, I think, full  
11 Board -- notifying the full Board I think is going to be a  
12 rare situation that I would like to, at least from an  
13 accountability standpoint, have the full Board be notified  
14 in those rare narrow instances.

15 CHAIRPERSON JONES: Okay. Thank you. I'm going  
16 to now -- I guess Mr. Jacobs can we get Mr. -- Wilshire  
17 and also Ms. Dunning into the loop.

18 GENERAL COUNSEL JACOBS: Yes, I believe that Ms.  
19 Dunning at least is ready to address the group. There she  
20 is.

21 CHAIRPERSON JONES: Ms. Dunning.

22 MS. DUNNING: Yes, I'm here. Good afternoon.  
23 Can you hear me?

24 CHAIRPERSON JONES: Yes, we can.

25 MS. DUNNING: All right. Thank you, Mr. Chair

1 and members of the Committee.

2           The Committee has had a good discussion so far of  
3 the various considerations that should inform you on this  
4 topic. From a fiduciary duty perspective, this implicates  
5 your duty of prudence. As a prudent fiduciary, you are to  
6 oversee this system in a way that you are able to make  
7 responsible decisions that are within your authority. You  
8 also are to prudently delegate that responsibility where  
9 it is more appropriately performed by others.

10           And I think both of those principles have a role  
11 to be considered here. With respect to the delegation  
12 point, it is -- it is very common, and I think strong  
13 fiduciary practice, to delegate to your senior executive,  
14 your CEO and your General Counsel, the basic oversight  
15 responsibility with respect to investigations. It is also  
16 prudent and good governance for your CEO and your General  
17 Counsel to report to those whom the Board has or committee  
18 have determined are their leaders on a particular topic,  
19 so that they are fully informed of matters of  
20 organizational importance.

21           So the way that CalPERS currently has been  
22 operating I believe is a prudent one that your President  
23 and the Chairs of the appropriate committees are informed  
24 of the allegations to let the investigation proceed in a  
25 manner that is most fair to those who are being

1 investigated and that is most likely to preserve the  
2 confidentiality of those investigations.

3 I also fully appreciate that as fiduciaries, you  
4 do not want to be surprised by matters that are of  
5 organizational importance. And that is where judgment  
6 calls need to be made about what is reported, to whom it's  
7 reported, how it's reported. And I'm afraid that one size  
8 will not fit all in terms of the language that one comes  
9 up with for this type of a policy.

10 The Committee is making clear and the Board is  
11 making clear through this most recent experience that it  
12 was not acceptable to you to not have known about this  
13 when you -- given how these circumstances evolved. But I  
14 don't know that that was a given, in light of the  
15 particulars of what was being investigated here.

16 So what I'd say in terms of the language, if you  
17 do wish to specify more directly how the topic of  
18 investigations is to be relayed to the Board, that you  
19 consider a point that a number of Committee members and  
20 others have mentioned here, which is perhaps only those  
21 formal investigations, perhaps even those that are  
22 performed by say an outside investigator as opposed to a  
23 more informal internal investigation process you may have  
24 at CalPERS, would be ones that would be reported to the  
25 Board.

1           Perhaps, you would limit the types of topics that  
2 are being investigated to ones that raise questions of  
3 operational and organizational risk. Although, the  
4 concern there is that I think it's in the eyes of the  
5 beholder what becomes an organizational risk. So I'm not  
6 sure that you can come up with language that satisfies  
7 that desire.

8           And -- and that it be fully clear in the -- be  
9 very clear in the context of these communications to the  
10 full Board of an investigation, that you are not the  
11 investigators, that the process is ongoing and must be  
12 done fairly in a way that does not result in pressure that  
13 would influence the outcome. And as with your other  
14 confidential communications, it may not be shared with  
15 others.

16           So if you can satisfy those various prongs to  
17 make sure that you are engaging in a prudent process in  
18 terms of demanding additional oversight, but also  
19 respecting the fact that there are reasons why typically  
20 these sorts of matters are delegated, then perhaps --  
21 perhaps a fiduciary -- it would be an appropriate  
22 fiduciary step to include that language in your governance  
23 policy.

24           But as Anne Simpson said, I think a strong  
25 practice is to typically operate through your chosen

1 leaders with respect to these sorts of matters. And so  
2 you are not violating, in my view, any level of prudence  
3 or required prudence by having operated the way you have.  
4 But again, as I said, a prudent fiduciary also may wish to  
5 insist on more reporting of these sorts of matters.

6 I'm happy to respond to specific questions.

7 CHAIRPERSON JONES: Okay. Okay. Thank you, Ms.  
8 Dunning. Why don't we go ahead and while we are hearing  
9 from our consultants and counsel, Mr. Toth, are you there?

10 MR. TOTH: Yes, sir, I am.

11 CHAIRPERSON JONES: Okay.

12 MR. TOTH: Can you hear me?

13 CHAIRPERSON JONES: Yes, we can. And also is Mr.  
14 Funston available, Matt?

15 GENERAL COUNSEL JACOBS: I do not see him on the  
16 panel here.

17 MR. FUNSTON: I am here.

18 CHAIRPERSON JONES: Okay. Good.

19 GENERAL COUNSEL JACOBS: There you go.

20 CHAIRPERSON JONES: Okay. Thank you. Okay. Go  
21 ahead Tom.

22 VICE PRESIDENT TAYLOR: Henry. Henry.

23 CHAIRPERSON JONES: Yes.

24 VICE PRESIDENT TAYLOR: It looks like Jason  
25 wanted to comment before Ashley talked. I don't know if

1 he still does.

2 CHAIRPERSON JONES: Okay. I -- Jason had asked  
3 for Wilshire also, so I'm going down the list try to -- do  
4 you want to talk now Jason or do you want to wait until  
5 afterwards?

6 COMMITTEE MEMBER PEREZ: I have specific  
7 questions for Ms. Dunning, if that's all right.

8 CHAIRPERSON JONES: Okay. Go ahead then.

9 COMMITTEE MEMBER PEREZ: So something happens,  
10 something pops off, the executives are made aware of it,  
11 and the Committee hears them. The President of the Board  
12 is made aware of it. Does that indemnify the rest of the  
13 Board if something is found afoul during that time?

14 MS. DUNNING: I'm sorry. Does the fact that you  
15 were apprised of it indemnify you?

16 COMMITTEE MEMBER PEREZ: No.

17 MS. DUNNING: I'm sorry.

18 COMMITTEE MEMBER PEREZ: Other than the three  
19 Board leadership people that are informed of something,  
20 are we -- the rest of us, are we indemnified? Are we --  
21 are we off scot-free?

22 MS. DUNNING: You are all -- you all have  
23 fiduciary responsibilities on the Board. You're  
24 co-fiduciaries in that you are responsible as individuals  
25 and as part of the collective.

1           Typically, actions that are taken within the  
2 course and scope of your responsibilities on the Board are  
3 well protected under California law, in terms of your  
4 discretionary authority to exercise judgment in terms of  
5 both how you've delegated matters and how you've overseen  
6 them.

7           I would never be one to say that there's no risk  
8 with respect to any course of action in the important  
9 roles that you all have on this Board. But I think that  
10 the various courses of action that have been discussed  
11 here all have a level of risk associated with them.

12           I think none of you who are exercising good faith  
13 in the course and scope of your responsibilities as  
14 trustees on the Board who do not have persona financial  
15 interests in the operations of the organization should,  
16 under California law, be held liable personally for your  
17 actions on the Board.

18           You're held liable if you personally have a  
19 conflict of interest. You're held liable if you engage in  
20 supporting another who has a prohibited conflict of  
21 interest. However, what we have here is an allegation of  
22 a conflict of interest that I do not understand to rise to  
23 the level of creating liability for Board members.

24           COMMITTEE MEMBER PEREZ: So I don't know if I got  
25 that answered. Am I -- am I off scot-free?



1 MS. DUNNING: I can't answer that yes or no.  
2 I'll tell you if there's speculation --

3 COMMITTEE MEMBER PEREZ: Matt.

4 MS. DUNNING: -- of a criminal statute, like a  
5 Government Code section 1090 that I talk with the Board  
6 about in my fiduciary orientation, that's a whole nother  
7 matter, in terms of aiding and abetting of 1090  
8 violations. If you're talking about other sorts of  
9 allegations into misconduct, it's a different standard.

10 So I cannot give a yes or no answer to that. I'm  
11 sorry, Trustee Perez. But I can say that the fact that  
12 you have knowledge also doesn't -- doesn't get you off  
13 scot-free, because you're not the investigator. So what  
14 matters is the integrity of how the organization responds  
15 to the topic. Is the organization investigating it  
16 properly? Are they delegating the investigation to a  
17 appropriate professionals who are able to conduct a  
18 reasonable investigation? Are they doing so within the  
19 parameters of the law? That all matters. That's the  
20 process by which you will be judged --

21 COMMITTEE MEMBER PEREZ: I will say --

22 MS. DUNNING: -- (inaudible) to the Board later.

23 COMMITTEE MEMBER PEREZ: I will say I am  
24 satisfied on -- I don't know that happy is the right word,  
25 but I'm satisfied and comforted to know that CalPERS took

1 the -- almost immediate action with the investigation. So  
2 that -- that's not an issue.

3           The issue is -- is, I guess, a little more of a  
4 broad issue than -- and I need it -- I need it put in  
5 boxes, so my brain can understand it. So I can't see the  
6 whole thing, but if -- if we're charged with trust -- if  
7 I'm charged as a trustee for this Board, that's a huge  
8 umbrella. So what -- what takes priority of all that, my  
9 priority as to the -- not to CalPERS as an organization,  
10 as a CalPERS -- it's the pension fund, from the way I read  
11 the Constitution. So I think that's my first duty is to  
12 protect the fund of the retirees and the members of  
13 CalPERS.

14           All the other are subordinate issues, fair  
15 representation. And nothing in this document or in our  
16 discussions have we said that we're going to violate an  
17 employee's rights or that any of those rights are not  
18 going to be afforded to them. Simply notification of  
19 some -- of a higher body is not at all any kind of  
20 violation or even an eyebrow raise.

21           So how does that all fit in? What's -- when  
22 we're talking scope and broadly, what is my first duty,  
23 because the Constitution again says plenary, and that's  
24 absolute.

25           MS. DUNNING: It's absolute, subject to your

1 fiduciary obligations and subject to judicial oversight as  
2 to your actions. Your primary fiduciary obligation is to  
3 the overall best interests of your members and  
4 beneficiary. The rights of your members and beneficiaries  
5 are defined by the terms of the plan that you administer,  
6 which is why it takes us back to the legal rights of those  
7 involved in the matters that you have authority and  
8 responsibility over, which is why this is a very  
9 complicated topic.

10           When we discussed the rights of your members and  
11 beneficiaries, they will have different interests among  
12 one another. There are cross-cutting interests of your  
13 membership. And California law and trust law generally  
14 afford you quite a bit of discretion in terms of balancing  
15 all of those interests. And that's what you're talking  
16 about now in terms of governing the plan in a prudent way.  
17 And that is your ultimate goal with respect to this topic  
18 of governance, what is the most prudent way from the  
19 perspective of those of you on this Committee and the  
20 Board ultimately to govern yourselves?

21           And one aspect of governing yourselves well is in  
22 your selection of those to whom you delegate  
23 responsibility, which is why I started out with prudent  
24 oversight and prudent delegation being sort of twin prongs  
25 here that you're managing. So that's how it fits into

1 fiduciary obligation.

2 COMMITTEE MEMBER PEREZ: So it kind of sounds  
3 like to me it boils down to need to know and right to  
4 know.

5 MS. DUNNING: I think that's fair.

6 COMMITTEE MEMBER PEREZ: And I think all 13 of us  
7 fit that category.

8 MS. DUNNING: I think you all have a right to  
9 know. The question is know what, when, how, and from  
10 whom? And that is really the rub with respect to this  
11 topic. Do you have an obligation to know or is it  
12 potentially more detrimental to your membership if you are  
13 all apprised of every single allegation that may be made  
14 against those on your senior staff? That's for you to  
15 decide.

16 COMMITTEE MEMBER PEREZ: No. As far as the  
17 scope, I agree with everyone on the Board, where they're  
18 saying we need a pretty narrow scope as far as what  
19 allegations we're made aware of, but a broader scope  
20 and -- and respect all the rest of the members who spoke,  
21 a broader scope -- broader scope as to whose involved in  
22 that. But that's fine, I'm done.

23 CHAIRPERSON JONES: Okay. Okay. Thank you.

24 Mr. Toth.

25 MR. TOTH: Thanks for the opportunity to comment,

1 Chair Jones. I think I can provide a little bit of  
2 context and hopefully also to respond to some of the  
3 earlier Board member questions.

4 First, just a statement. I think that the  
5 well-rounded discussion going on right now is a -- is a  
6 testament to good governance looking at both sides of the  
7 situation and trying to come to -- to a fair framework to  
8 deal with multiple types of situations.

9 I think specifically as it relates to the  
10 relationship that a vendor or a consultant might have with  
11 the Board, it's probably useful to get a sense for how we  
12 handle this internally for these types of conflicts.

13 Typically, potential conflicts, whether they're  
14 conflicts of interest with clients or potential trading  
15 violations, which you would find in any financial --  
16 potentially find in any financial services firms, those  
17 investigations are generally handled by the executive  
18 staff. And that could be the Chief Compliance Officer and  
19 meet with the legal department and the CEO. There's at  
20 least some investigation done to see if there is merit to  
21 the complaint or the issue.

22 And then that is subsequently reported up to the  
23 Board. And I think that tries to straddle the -- both  
24 sides of the situation that's been the topic of discussion  
25 here of the rights of the employee to a fair and impartial

1 hearing, as well as the right to make sure that the Board,  
2 who's ultimately responsible for management of the  
3 program, or in my case, our organization, isn't surprised.

4 So just a very quick summary. Typically,  
5 investigations handled certainly on a preliminary basis,  
6 but could be in case to a final resolution by the  
7 executive staff, and then subsequently provided  
8 information to the Board.

9 You know, I take the fiduciary duty that we have  
10 with CalPERS, really with all our clients, incredibly  
11 seriously. And it's our obligation if there is an  
12 investigation of an employee to make sure, not just that  
13 our employees know, but also that the financial regulators  
14 oversee our activity also know. And so we have the  
15 obligation to report those, and which is subsequently  
16 available to all of our clients in our form ADV.

17 I'll stop there to see if there are any specific  
18 questions I can be helpful with.

19 CHAIRPERSON JONES: Okay. Any questions for Mr.  
20 Toth? Raise you hand, if it is.

21 Mr. Perez.

22 COMMITTEE MEMBER PEREZ: Tom, here's the  
23 difference though, and the way I look at it, we are not a  
24 corporation.

25 MR. TOTH: Fair point.

1           COMMITTEE MEMBER PEREZ: We are a government  
2 body. So how do you -- how do you reconcile that or are  
3 you saying then it's the same, you're just --

4           MR. TOTH: Mr. Perez, that is an absolutely fair  
5 point. And I won't attempt to reconcile it, because you  
6 are -- you are correct, there are different governing  
7 structures of a corporation relative to CalPERS as a  
8 government body. So I did not mean to make the two equal.  
9 Just providing a different perspective for another  
10 financial services organization and how we would handle  
11 those types of potential conflicts of interest or  
12 compliance violations.

13           CHAIRPERSON JONES: Okay. I'm going to now ask  
14 Mr. Funston to make any comments that he may have.

15           MR. FUNSTON: Thank you, Mr. Chair, and members  
16 of the Committee. I have -- first of all, I'd like to say  
17 I agree with a lot of what has already been. Said I'll  
18 try to encapsulate that. Picking up on what Ms. Dunning  
19 said, I would perhaps phrase it a little differently that  
20 one size fits one.

21           And I think that's the challenge that you face.  
22 I think you face many definitional challenges, as you  
23 said, in terms of the seniority of the personnel being  
24 involved, the order of magnitude of the potential  
25 infraction, that there should be due process allowed, and

1 with respect to the privacy rights of the individuals  
2 involved.

3           And that due process would involve either an  
4 internal investigation or as the Board well knows if  
5 there's an external investigation, the Board has the right  
6 to retain counsel -- independent counsel at any point in  
7 time.

8           I gather that you -- the Board already does  
9 receive compliance or noncompliance reports, which comment  
10 on -- perhaps on the frequency of certain types of  
11 incidents and the severity. And I think that that's  
12 something that perhaps you could improve possibly in terms  
13 of the way those events or incidents are classified while  
14 still respecting the rights of the individuals.

15           And I would say that with respect to how this  
16 gets reported to the Board, certainly that would satisfy  
17 the information requirements at a high level while still  
18 respecting the rights of the individual. But I would also  
19 say that when an investigation of a particular magnitude  
20 is, let's say, is underway, our recommendation would be is  
21 that it should come to the President of the Board and to  
22 the Chair of the Audit and Risk Committee, as opposed to  
23 whichever committee may be affected by the particular  
24 infraction.

25           To give consistency to that, whistleblower, I



1 believe, procedures are already reported and coordinated  
2 through the Audit and Risk Committee. And I think this  
3 would be a more consistent process, so that those two  
4 chairs, the President and the Chair of the Audit and Risk  
5 Committee would be notified when there was a significant  
6 material investigation underway.

7 But again, the particulars of that would not have  
8 to be known until the due process had been completed and  
9 then it would be appropriate then for the rest of the  
10 Board to be notified.

11 CHAIRPERSON JONES: Okay. Thank you, Mr.  
12 Funston.

13 Are there any questions for Mr. Funston?

14 Raise your hand, if you do.

15 Seeing none, now we -- I think we're going to  
16 have two more questions and I think we need to then move  
17 on to the next agenda item. But we'll have to give some  
18 direction. But we have Ms. Westly.

19 BOARD MEMBER WESTLY: Thank you. And I just want  
20 to be clear about one of the things that I had said  
21 earlier, when we were talking about our liability. What  
22 concerns me for this body and for this organization, that  
23 should an employee's right to privacy be violated, that  
24 employee potentially would have a lawsuit against CalPERS.  
25 That is a possibility and that goes to our role as

1 stewards of the this organization.

2 And I feel, based on the information that I have  
3 seen from Orrick, that we cannot confirm and feel  
4 comfortable that that would not happen. So for that  
5 reason, I am concerned about this

6 CHAIRPERSON JONES: Ms. Westly, you should not be  
7 commenting on a report that hasn't been discussed in  
8 public.

9 BOARD MEMBER WESTLY: Gotcha. Thank you.

10 CHAIRPERSON JONES: Okay. Thank you.

11 I think -- Mr. Miller, I think that's the last  
12 one. Yeah.

13 BOARD MEMBER MILLER: Yeah.

14 CHAIRPERSON JONES: And then we do have some  
15 public members that have requested to speak on this before  
16 we give direction.

17 So, Mr. Miller.

18 BOARD MEMBER MILLER: Yeah. Thank you, Mr.  
19 President. This is for -- probably for Ms. Dunning, but  
20 also Mr. Funston and Mr. Toth may have some opinion or  
21 even Mr. Jacobs.

22 As a fiduciary, when I think about these  
23 difficult topics, not to put too fine a point on it, but I  
24 also have to think about, you know, my right as a Board  
25 member to see information versus the risks and liabilities

1 that poses if I, and other Board members, or anything, are  
2 getting information that implies some of these  
3 liabilities, as Ms. Westly pointed out.

4 Frankly, if I've got a leaky bucket, I should not  
5 be dumping more water in it, if I don't need to, because I  
6 know it's going to leak. And when we have concerns about  
7 confidential information, information that can hurt the  
8 integrity of organizational integrity, the integrity of  
9 our processes, perhaps even of an investigation that's  
10 ongoing, how do we weigh that against, you know, the  
11 desire, inquiring minds wants to know, and none of wants  
12 to get caught off guard with, you know, a press inquiry or  
13 something, if that's something we don't know about?

14 So how do we balance that versus the risk that we  
15 make it easier for information to get out of the  
16 organization. It shouldn't.

17 MS. DUNNING: That's an outstanding question,  
18 because what it really highlights is -- is the point that  
19 each of you, as a trustee, is a member of a whole who  
20 collectively have a fiduciary responsibility relating to  
21 your administration of the plan.

22 And to the point that Ms. Westly made about  
23 potential liability of CalPERS, that's different from the  
24 question posed by Mr. Perez about the individual liability  
25 of each of you and individually. I responded to the

1 individual question. I didn't respond to the question of  
2 liability of CalPERS, which, of course, matters, to the  
3 extent that that means that assets of the retirement  
4 system are spent defending privacy-based lawsuits brought  
5 against retirement plans.

6           So you, as a Board, I recommend that you think  
7 about this from an organizational perspective, from a  
8 governance perspective more than thinking about it from  
9 your personal interest in knowing. While I appreciate  
10 that you don't want to be surprised, it's most important,  
11 as you think about this, to think about how this system is  
12 going to and how the Board is best going to proceed  
13 forward with respect to future investigations in the  
14 context of future boards who may or may not be able to  
15 preserve confidentially as well as you may view yourself  
16 being able to do at this time.

17           Very good question. I hope I answered it  
18 sufficiently.

19           CHAIRPERSON JONES: Okay. Mr. Miller?

20           BOARD MEMBER MILLER: (Nods head.)

21           CHAIRPERSON JONES: Okay. Thank you.

22           Okay. Cheree or Mr. Fox, we have requests for  
23 members of the public to speak on this item.

24           STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
25 President. This is Kelly Fox. We do have speak --

1 commenters on Item 5a --

2 CHAIRPERSON JONES: Okay.

3 STAKEHOLDER RELATIONS CHIEF FOX: -- the first of  
4 which is Tim Behrens from CSR.

5 MR. BEHRENS: Thank you, Kelly.

6 President Jones, members of the Committee,  
7 members of the Board, very interesting conversation. I'm  
8 sitting here bouncing back and forth as the president of a  
9 corporation wondering how we take care of business like  
10 this.

11 A couple of things I would say is I would get rid  
12 of the sentence that says Board oversees investigations.  
13 I don't think the Board should have anything to do with  
14 the investigation, period. I think that you can identify  
15 a narrow scope of the most egregious things that have gone  
16 on in CalPERS in the last 20 years, and I think that would  
17 be a real short list, to give you some guidance in what  
18 should be reported to the Board members.

19 I like the narrow scope of employees that you  
20 listed. I think Ms. Yee is right on. She says she does  
21 not anticipate, and as a stakeholder I don't anticipate,  
22 several more of these issues to come up in the future. So  
23 I would just urge you to keep on talking and come up with  
24 the best language that protects the employee, as well as  
25 protects yourselves and CalPERS.

1 Thank you.

2 CHAIRPERSON JONES: Thank you, Mr. Behrens.

3 Next.

4 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
5 we have -- the next speaker is Mr. Al Darby.

6 MR. DARBY: Mr. President and Board members,  
7 Committee members, Al Darby, RPEA.

8 My first issue is that related to internal  
9 people, anyone across the enterprise who can -- can you --  
10 my clock isn't running, is that the case or am I on -- not  
11 being heard?

12 CHAIRPERSON JONES: We hear you, Mr. Darby.

13 MR. DARBY: All right. The clock is now running.  
14 All right. Anyone within the enterprise who can award  
15 sole source contracts or investments should be clearly  
16 within the scope of these investigations. However,  
17 recognizing the issues raised by the person from -- the  
18 Board member from -- Ms. Westly and also Ms. Ortega, but  
19 what about your HR Department, don't they handle these  
20 civil service employee issues, investigations of  
21 allegations of these sorts? I didn't hear anything about  
22 the HR Department.

23 Also, there wasn't much said about investigations  
24 of outside manager and consultant skulduggery. We had  
25 some of that in the early 2000s and it involved the CEO.

1 So there's questions of how you would deal with that  
2 particular situation, the outside managers and consultants  
3 that are not covered by civil service or any other area  
4 that could be considered a problem related to civil  
5 service.

6 So those are the comments I had to make. Thank  
7 you.

8 CHAIRPERSON JONES: Okay. Thank you, Mr. Darby.

9 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
10 the next caller is Jerry Fountain from CSR.

11 MR. FOUNTAIN: This is Jerry Fountain from CSR.  
12 Can you hear me?

13 CHAIRPERSON JONES: Yes, we can.

14 MR. FOUNTAIN: Okay. Thank you. In listening to  
15 the conversations so far, there's a distinct amount of  
16 concern having to do with liability, with the rights of  
17 employees and things of this nature. And those concerns  
18 are genuine concerns. But I believe having the Board,  
19 even as an informational item, go out on this limb without  
20 any assistance with the -- your legal department  
21 establishing parameters to work within, it almost appears  
22 to me that they will step in once you make an error in  
23 judgment, but not before.

24 You need to get advice from your Legal  
25 department, HR department prior to sitting down and

1 drafting language having to do with this issue.

2 Thank you.

3 CHAIRPERSON JONES: Thank you, Mr. Fountain.

4 And by the way, the executive of this Committee  
5 is our General Counsel, Mr. Fountain. So Legal is  
6 apprised of it.

7 Next. Anyone else, Mr. Fox?

8 STAKEHOLDER RELATIONS CHIEF FOX: Yes, on this  
9 item, 5a, two more speakers.

10 CHAIRPERSON JONES: Okay.

11 STAKEHOLDER RELATIONS CHIEF FOX: Mr. Larry  
12 Woodson from CSR.

13 MR. WOODSON: Good afternoon. Larry Woodson,  
14 CSR. Thank you for the opportunity to comment, Mr. Chair.  
15 And I'd also thank -- like to thank Board Member Yee for  
16 her perseverance and for her September 2nd letter, which  
17 really pushed these four issues into discussion. And I  
18 appreciate CalPERS allowing them to be discussed.

19 So I -- Tim has already stated our overall  
20 position. Just a couple of observations. I think maybe  
21 there's one Board member that seems to be just  
22 maintaining -- for maintaining the status quo on this  
23 issue. I think stakeholders would strongly oppose that.  
24 I think there are ways to fashion the current language  
25 and -- as Ms. Yee and others have identified, you can get



1 into greater specificity on what misconduct you can  
2 consider egregious enough to include and maybe list that.

3 I think also the distinction between preliminary  
4 investigation and, yeah, we've got enough evidence to dive  
5 into this is important to make. And at that point, I  
6 think informing the full Board is important. Three  
7 members is really not enough. And I think -- and I'm not  
8 under the restraint that the Board members probably have  
9 here to name the situation, which is the abrupt exit and  
10 resignation of Mr. Meng precipitated a lot of this and the  
11 way it was handled. And I think that the additional ten  
12 Board members needed to be informed.

13 Certainly, there was stuff released to the press  
14 that seemed to be very, you know, revealing. And, of  
15 course, he has already left, so it's a -- there's a little  
16 different situation. He's not a current employee, but --  
17 and then lastly, you know, I'd just point out, of which  
18 everyone knows, these are executive officers not subject  
19 to civil service rules. So I appreciate if you -- you  
20 dive, down too deeply in the organization with reporting,  
21 you would run into that, but that would not be the case  
22 with this level. And I -- I hope that you can fashion  
23 something that addresses this and that it's to the whole  
24 Board.

25 Thank you.

1 CHAIRPERSON JONES: Okay. Thank you.

2 Mr. Fox.

3 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
4 President. One final speaker on Item 5a, Mr. Bijan  
5 Mehryar from the Association -- League of California  
6 Cities.

7 MR. MEHRYAR: Good afternoon. Good afternoon,  
8 President Jones, and Board, and Committee members. Bijan  
9 Mehryar with the League of California Cities. I'm  
10 grateful to speak with all of you about this agenda item.  
11 I would say broadly, there are a number of items that you  
12 all are looking at both today and tomorrow that deal with  
13 transparency, and the governance, and the relationship  
14 between the Board and the staff.

15 And I would say, from our organization's  
16 perspective, we don't necessarily take a position on the  
17 being any right or wrong answer for all of you, but we  
18 would like to opine that as far as the framework that you  
19 all should be using as you evaluate the decisions in your  
20 transparency and in your governance decisions, we highly  
21 encourage you all to consider what does stability mean; in  
22 the context of the Board?

23 I think frankly there's a lot of consternation  
24 among my members, given the poor performance of the fund  
25 as far as the investment returns and then coupled with the

1 confusion and concern following Mr. Meng's departure. So  
2 we strongly encourage you to think really through a  
3 stability lens. As was mentioned before you transitioned  
4 to public comment, what do the changes that you all adopt  
5 mean for your relationship with your staff and what do  
6 they mean for the stability of future boards to deal with  
7 challenges that may be like this, and may not be like any  
8 of these at all?

9           And so we think those issues are -- we think this  
10 is an issue that's worthy of your consideration. We think  
11 whether it's this, whether it's the relationship between  
12 the CIO and the CEO, that we encourage you all to really  
13 just think about how you can provide and demonstrate  
14 stability to all stakeholders, whether that's employers,  
15 employees, or retirees. And anything and anything that  
16 you all need from the employer community, speaking from  
17 the city's perspective, we're always happy to partner and  
18 share any kind of best practices that we can to ensure  
19 that you all are having the best informed discourse you  
20 can on how to support the system as a whole, not just for  
21 the current generation of employers, employees, and  
22 retirees, but for those future generations as well.

23           So thank you very much, Mr. Chair.

24           CHAIRPERSON JONES: Okay. Thank you very much  
25 for your comments.

1           Okay. Ms. Olivares, had to step away. She's  
2 back and she has a question for Ms. Dunning and I think  
3 who else, Ms. Olivares?

4           COMMITTEE MEMBER OLIVARES: And Mr. Toth.

5           CHAIRPERSON JONES: Okay. Go ahead.

6           COMMITTEE MEMBER OLIVARES: My first question is  
7 for Mr. Toth. Mr. Toth, could you talk about how a  
8 conflict of interest in terms of personal investment  
9 holdings or some disallowed activities or conflicts of  
10 interest with consultant firms regarding trades could  
11 affect CalPERS and could affect the overall markets,  
12 please?

13           MR. TOTH: Sure, I'd be happy to provide some  
14 general comments. So, you know, specifically as it  
15 relates to conflicts of interest between consultants and  
16 come -- and clients, oftentimes, there's discussion about  
17 potential opportunities. If the -- whatever that  
18 opportunity might be that a client is going forward with  
19 or is considering could positively impact the personal  
20 holdings of a consultant, they might be so inclined to  
21 recommend that that opportunity is -- is pushed forward,  
22 increasing its value hence -- increasing the value of  
23 those of -- of those personal holdings.

24           So in order to mitigate that, typically, there  
25 are conflicts of interest disclosures and personal trading

1 policies in place, which require either pre-approval or  
2 outright restrictions on the holdings of individual  
3 securities, and then in many cases, compliance processes  
4 in order to monitor and manage the personal holdings of --  
5 I can speak specifically to my firm, all of the acces  
6 persons, as they're called, across the organization.

7 COMMITTEE MEMBER OLIVARES: And what about how  
8 trades could potentially affect the market?

9 MR. TOTH: So for -- for an investor like CalPERS  
10 with the size of the trades, if you -- a consultant - I'll  
11 use that as an example again - has knowledge about  
12 potential trades within the market, given CalPERS size, to  
13 trade in front of those trades and the potential market  
14 impact that those trades will ultimately have, that what's  
15 called front-running, would be detrimental to our clients  
16 and certainly a violation of our fiduciary duties. So  
17 something that naturally needs to be monitored by  
18 Compliance.

19 COMMITTEE MEMBER OLIVARES: Who regulates that?

20 MR. TOTH: Who regulates -- within the firm or  
21 broader?

22 COMMITTEE MEMBER OLIVARES: Broader, please.

23 MR. TOTH: Like the Form -- Form ADVs and the SEC  
24 have regulations, you know, covering the front-running of  
25 securities for fiduciaries and relative to their clients.

1           COMMITTEE MEMBER OLIVARES: I think that's where  
2 it would be helpful for you to provide a brief overview,  
3 so that we also understand the liability that we have in  
4 an organization if there is front-running.

5           MR. TOTH: Okay. I'd be happy to provide some  
6 addition information.

7           COMMITTEE MEMBER OLIVARES: Thank you.

8           And for Ms. Dunning, I want to understand what  
9 role expertise is in terms of how a board or who is  
10 notified on a board about incompatible activities about  
11 conflicts of interest. As we look at this particular  
12 incident, and I hopefully -- this is just isolated to one  
13 incidence.

14           This is regarding investment holdings. And I  
15 understand as Board members we're supposed to provide our  
16 expertise. And I'm wondering how we can do that -- do our  
17 job, if we don't have access to this information, or if we  
18 don't understand the nuance of holding these investments  
19 and how these trades are made.

20           MS. DUNNING: So California law defines pretty  
21 broadly what constitutes a personal financial interest in  
22 a type of asset or property. And if you all think about  
23 the Statement of Economic Interest, so the Form 700, that  
24 you fill out annually, that's where those interests are  
25 disclosed. And it's not simply disclosure obligation.

1 It's not a -- sort of a meaningless act of going through  
2 the process of identifying those items. It's disclosure  
3 and then determining when it's appropriate to recuse. And  
4 that's all tied together. And you have training at  
5 CalPERS. And many of us, including myself, file those  
6 forms and they are public. It's all out there. So  
7 everyone has a responsibility to fill those out in a  
8 timely and accurate way, and to keep track of what that  
9 means, in terms of their ability to act on certain topics  
10 or requirement that they recuse.

11 And if there is a circumstance where now they  
12 can't do their job, because they'd have to recuse to  
13 frequently, that's an appropriate context to no longer  
14 have those holdings or put them into a different form.

15 But I think that's what I'd say under California  
16 law that it's -- it's not -- there's no mystery to this.  
17 It's a -- it's a -- it's a form that we all fill out, that  
18 is very broad, that identifies what we're supposed to  
19 disclose. And that dictates to, in large part, what we  
20 have to be careful about in terms of how we conduct  
21 ourselves in our public roles on public retirement boards  
22 or advising public retirement boards.

23 COMMITTEE MEMBER OLIVARES: I'm sorry, I think  
24 the question was a little bit different. So in terms of  
25 the Board being notify of a potential violation or of an

1 investigation that is underway regarding investments, and  
2 not having that investment expertise, but perhaps others  
3 do, I want to understand if there is a duty to understand  
4 the nuance behind that and to share that information with  
5 someone on the Board who has the expertise.

6           For example, let me -- let's just say it was a  
7 different situation, and there's an investigation, and it  
8 was regarding public benefits and the this notification  
9 was made to the Board Chair and to a Committee Chair or  
10 two, but they didn't know about public benefits. That  
11 wasn't their area of expertise. And they might not be  
12 familiar with the nuance that's really critical to  
13 understanding the severity of the issue and the  
14 implications to the organization. At what point does  
15 expertise have a determining role in who is notified and  
16 when?

17           MS. DUNNING: Interesting question. So I think  
18 there are two -- two aspects to a complete answer. One is  
19 that each of you come to the Board with different levels  
20 of expertise and you are to share that with one another.  
21 So the fact that some of you may be -- have more knowledge  
22 and experience with different aspects of CalPERS business,  
23 in fact, is, in a sense, why you're on the Board, why you  
24 have such a diverse Board of membership in terms of where  
25 you all come from.



1           But that does not make each of you the expert  
2 advisor to the Board on those particular subject matters.  
3 And that's where it's important that you consult with  
4 others who are not Board members, who can advise you in a  
5 particular area of expertise, whether it's retirement  
6 benefits, or conflict of interest law, or whatever else is  
7 implicated, actuarial matters, real estate matters. You  
8 may have people who are experts on those on the Board, but  
9 they are not the actuary for the Board. They're not the  
10 lawyer for the Board. You're to consult with others who  
11 are not on the Board who are experts in those fields.

12           And that's where, if -- if the reporting  
13 responsibility is say to the President and either to a  
14 committee chair for the committee that's implicated by a  
15 matter, or as Mr. Funston suggested, the Chair of the  
16 Audit Committee, that's when they bring in the experts to  
17 advise them, and they should, on what's the applicable  
18 law. And if the feeling, the conclusion for that, is that  
19 there hasn't been sufficient training for Board members or  
20 for senior staff, you also couldn't -- that's also an  
21 appropriate response to provide additional training.

22           But it's not for the Board to sort of  
23 self-identify who's the -- who's the expert on the Board  
24 on this particular topic and now I'm going to be the one  
25 who's -- to whom all of these things are reported. That's

1 not an appropriate way to manage the Board from my  
2 perspective, although each of you should share with one  
3 another in the appropriate context your knowledge base.

4 COMMITTEE MEMBER OLIVARES: Thank you. I  
5 appreciate you clearing that up. You mentioned the role  
6 of disclosing our conflicts of interest on the FPPC forms  
7 and how we're responsible for doing that individually.

8 As Mr. Toth discussed there are also other  
9 regulations that govern conflict of interest, particularly  
10 SEC regulations. How do you view Board individual  
11 holdings or individual holdings by Board members, in light  
12 of those SEC regulations?

13 MS. DUNNING: There have been circumstances where  
14 the SEC has looked at public retirement funds, as I'm sure  
15 you're all aware, in terms of insider trading concerns.  
16 So you're all subject to all of those laws. This isn't an  
17 area where I'm an expert on federal securities law, but  
18 most certainly you are all subject to them and may not  
19 engage in insider trading, for example, or front-running.

20 COMMITTEE MEMBER OLIVARES: Thank you.

21 MS. DUNNING: I'm sorry, I can't give you a more  
22 sophisticated answer than that, but that's high level.

23 CHAIRPERSON JONES: Okay. Thank you.

24 COMMITTEE MEMBER OLIVARES: Thank you. And  
25 what -- Mr. -- sorry, Chair Jones, who does advise us on

1 that?

2 MS. DUNNING: Is that a question for me? I  
3 think --

4 COMMITTEE MEMBER OLIVARES: Or -- or for Chair  
5 Jones. I'm not sure.

6 MS. DUNNING: Maybe your General Counsel can  
7 advise you.

8 COMMITTEE MEMBER OLIVARES: Okay.

9 GENERAL COUNSEL JACOBS: I'm sorry, Ms. Olivares,  
10 who would advise us on what?

11 COMMITTEE MEMBER OLIVARES: On SEC regulations as  
12 to conflicts of interests by Board members or with Board  
13 members.

14 GENERAL COUNSEL JACOBS: If we had an issue, in  
15 that regard, we have specialized counsel who we would turn  
16 to for that, outside counsel.

17 COMMITTEE MEMBER OLIVARES: But we don't have  
18 somebody that's advising the Board on that right now is my  
19 understanding, is that correct?

20 GENERAL COUNSEL JACOBS: I'm not aware of any  
21 issue in that regard, so, yes, that's correct.

22 COMMITTEE MEMBER OLIVARES: Okay. Thank you.

23 CHAIRPERSON JONES: Okay. Okay. Thank you.

24 I think we're going to now move on. I think this  
25 has been a very --

1           VICE PRESIDENT TAYLOR: Henry, can I say  
2 something real quick?

3           CHAIRPERSON JONES: Okay. If you can make it  
4 short, Theresa. Go ahead.

5           VICE PRESIDENT TAYLOR: It will be real quick. I  
6 just wanted to answer to -- I can't remember who it was  
7 now that was talking about executive officers not being  
8 civil servants. They actually are. The only executive  
9 officer at CalPERS who is not is Marcie.

10           And then finally, I think Mr. Toth gave some  
11 information about how investments work in his office and  
12 who gets preclearance and all that stuff. And I think  
13 it's important that maybe Marcie or Dan, at some point,  
14 get with Stacie and talk about that, because we have a  
15 process. And I swear we just talked about it in  
16 Investment Committee, but I could be wrong. Maybe I'm  
17 thinking of something else, but there is a very fulsome  
18 process with our ICOR and Compliance folks before we can  
19 sign deals. So I want to make sure that everybody is  
20 aware of that. Maybe we can share that with the entire  
21 Board.

22           CHAIRPERSON JONES: Okay. Okay. Sobeit.

23           Okay. I think -- listening to the discussion, I  
24 think unless anybody have a different viewpoint, I think  
25 that the next step is for -- to have the CEO come back

1 with a pared down policy around this area. And also, I  
2 would suggest that we get input from State Personnel Board  
3 and CalHR on the language that we could use to address the  
4 concerns of not violating any rights of our employees,  
5 since we do know that all of our employees are civil  
6 service, except the CEO and so we want to be sure that  
7 whatever language that is going to be discussed next time,  
8 it has an opportunity to have that view.

9 But I think what I heard is that the -- and also,  
10 I think it's a good suggestion about adding the Chair of  
11 the Audit Committee to -- to bring that person or that  
12 position into the process, Ms. Frost, when you develop the  
13 new guidelines that come back to us. And so I didn't hear  
14 anyone wanting to remove any of the other affected chairs,  
15 but also to add the Chair of the Audit Committee and bring  
16 back a pared down suggestion to us, that -- and I think  
17 what I heard is that information may be shared if an  
18 investigation is initiated, but not who or what.

19 I don't know how we characterize that in a  
20 written statement, because as soon as you send someone --  
21 something saying an investigation has started, then the  
22 next question is what. So we need to be very careful on  
23 what we allude to in terms of that investigation.

24 So if that's enough direction Ms. Frost and Mr.  
25 Jacobs, I think that we will move on to the next item.

1           And let me hear from Mr. Jacobs and Ms. Frost  
2 first.

3           GENERAL COUNSEL JACOBS: Yeah, I think that's  
4 sufficient guidance. I think what we will do is bring  
5 back some options.

6           CHAIRPERSON JONES: Okay.

7           GENERAL COUNSEL JACOBS: And I don't know that I  
8 heard any -- any agreement on any particular thing, but I  
9 heard a lot of different things with respect to some  
10 specific items like the breadth, who it ought to apply to,  
11 the type of investigation, and the particular time during  
12 the investigation at which more members should be  
13 informed. So we'll bring you back some options for each  
14 of those different factors. And I think it would require  
15 some further discussion on behalf of the Committee and the  
16 Board on that -- on those.

17           CHAIRPERSON JONES: Yes. Ms. Olivares.

18           COMMITTEE MEMBER OLIVARES: I would also like to  
19 just -- and thank you for that direction, but I'd like to  
20 add to that they be consistent with federal investment  
21 regulations.

22           CHAIRPERSON JONES: Okay. Well, I think -- yeah,  
23 everything we do should be consistent with State and  
24 federal laws, so I'm not sure --

25           COMMITTEE MEMBER OLIVARES: Investment

1 regulations are their own separate entity, so if we would  
2 consult with counsel that could look at SEC regulations to  
3 ensure that we are following everything appropriately,  
4 that would be great.

5 CHAIRPERSON JONES: Okay. Okay. I don't see a  
6 problem with looking at that.

7 GENERAL COUNSEL JACOBS: Ms. Olivares, if you  
8 have some specific concern about a particular type of  
9 regulation, we don't have to do it now, but if you could  
10 get back to me online, that would be helpful.

11 CHAIRPERSON JONES: Okay.

12 COMMITTEE MEMBER OLIVARES: I will. Thank you.

13 CHAIRPERSON JONES: Okay. Well, thank you,  
14 Committee members and Board for a very robust discussion.  
15 We now will move to the next item on the agenda, which is  
16 5b, Ms. Simpson. Thank you, Mr. -- Ms. Dunning, and Mr.  
17 Toth, and Mr. Funston, if you will hang on, because we  
18 have some additional items that may require your response.

19 Okay. Thank you.

20 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

21 Thank you -- thank you very much, Chair Jones and  
22 all.

23 So Item 5b provides an opportunity for the  
24 Committee to revisit its decision last year on the  
25 composition of the Investment Committee. And Board

1 members will recall that as part of the routine  
2 self-assessment, which the Board goes through, there was a  
3 recommendation that the structure of the Investment  
4 Committee be brought in line with the structure of the  
5 other five committees, which the Board delegates to.

6           Specifically, this meant rather than having a  
7 Committee of the whole, for Investment, instead moving to  
8 a Committee with nine members. The recommendation came  
9 from one of the workstreams, which was established by the  
10 Board President to look at the question of roles and  
11 responsibilities. There was several workstreams coming  
12 out of the NACD's survey -- confidential survey and  
13 interviews within individual Board members. The purpose  
14 of all of that was to identify areas for improving Board  
15 governance in order to improve performance.

16           And during the year-long process of this most  
17 recent self-assessment, there was some research published,  
18 which the Committee Chair and Board President, Henry  
19 Jones, referred to in his summing up after the process was  
20 complete. It came out of Boston College, which showed  
21 that, much as we might expect, those public pension funds  
22 with the best governance also were delivering the best  
23 performance. So searching for improvements in governance  
24 is something that's very important to this Board. And  
25 that's why the alternate year self-assessment process is



1 in place.

2           The other point that I would just like to mention  
3 is that within the Board's Powers Reserved, you're all  
4 familiar with this, the Board delegates to committees, and  
5 to consultants, and to the Chief Executive Officer, but at  
6 no point does this mean that the plenary authority of the  
7 Board is undermined. And as is the tradition at CalPERS,  
8 all Board members, the policy says, are encouraged to  
9 attend all committees and to participate, which has been,  
10 I think, the normal practice throughout and includes even  
11 today.

12           So I'd be happy to answer any questions. And the  
13 item is before you for the Committee's discussion.

14           Thank you.

15           CHAIRPERSON JONES: Okay. Thank you, Ms.  
16 Simpson.

17           And I also would remind the Committee members and  
18 the Board that we're in a cycle of Board evaluation. We  
19 do this every two years and we were scheduled to do it  
20 this -- this year we're in -- this past year, but we had  
21 not implemented all of the recommendations, so we decided  
22 to move it to the beginning of March -- around March of  
23 next year. So we do have a process in place to evaluate  
24 previous actions that have been taken by the Board. And  
25 this is one action that could come back to that Committee

1 when we evaluate, not just Board -- committee makeup, but  
2 also a number of committees. So that's on our -- our  
3 every two-year evaluation of ourselves of. So just be  
4 aware of that as we start this discussion on this  
5 particular item.

6 So with that, I call on the first Committee  
7 member Mr. Perez.

8 COMMITTEE MEMBER PEREZ: Sir, I think Theresa a  
9 was before me.

10 CHAIRPERSON JONES: Yeah, but she's --

11 COMMITTEE MEMBER PEREZ: Okay. All right. So  
12 this -- the committee structure to me is very, very  
13 confusing when we're all watching or participating in it  
14 in the same fashion.

15 I wonder what -- what it would take to get the  
16 team to look at the effectiveness of a committee structure  
17 as opposed to it being -- all the items being brought to  
18 us as the Board or Directors or Board of Administration  
19 rather, and each agenda item can just be part of that. I  
20 think it would be more efficient on our end, and more  
21 efficient for the team if they only had to present things  
22 once, and we didn't have to report back -- individual  
23 committees didn't have to report back to the larger Board  
24 and hash it out all again.

25 So I wonder if, Mr. Jones, you can ask the team

1 to look into that, maybe compare us to some of the other  
2 larger pension funds and see what the potential looks  
3 like.

4 CHAIRPERSON JONES: Okay. Yes. And, Mr. Perez,  
5 if you're okay if this be rolled over to our next  
6 evaluation when they look at the committee structures, if  
7 they could --

8 COMMITTEE MEMBER PEREZ: I'd rather not.

9 CHAIRPERSON JONES: -- do that, that would be  
10 part of that process?

11 COMMITTEE MEMBER PEREZ: I'd rather not, sir.  
12 I'd rather look at it sooner rather than later. In  
13 addition, I think the Investment Committee -- you know,  
14 absolutely, Investment and Pension and Health should be  
15 all of us. I've asked before not to be put on that and I  
16 appreciate you obliging that, but I attend everything,  
17 because I need to learn all that stuff. And I think with  
18 all of us attending all the meetings, it just gives a  
19 broader -- broader understanding of the system as a whole.

20 CHAIRPERSON JONES: Yeah. Well, you know, when  
21 we bring back the item that that we just discussed for  
22 Board consideration, of course, you know, my  
23 recommendation would be we hold that until March. But if,  
24 at that time, when we bring these other items back, you  
25 want to make a motion for that, then we could certainly

1 entertain, but I would direct that we hold it until we can  
2 have staff do some research, because the -- you know,  
3 it's -- some of the items are going to be more urgent than  
4 others. But, of course, whatever you want to do is fine,  
5 but I would just suggest that you allow staff time to do  
6 the research and get the information that may be important  
7 for the decision for the full Committee.

8 COMMITTEE MEMBER PEREZ: Very good, sir. Then,  
9 in the meantime, I'll motion that the Investment Committee  
10 is a committee of the whole.

11 CHAIRPERSON JONES: Okay. Is there a -- there's  
12 a motion. Is there a second?

13 If you're a second, raise your hand.

14 Okay. So I don't see a second from the  
15 Committee, so the motion fails.

16 Okay. So that was Mr. Perez. Now, we can go  
17 back to Ms. Yee.

18 BOARD MEMBER YEE: Thank you, Mr. Chair. I  
19 appreciate you placing this item on this agenda. You  
20 know, I just wanted to remind the members, my colleagues,  
21 that while we did have discussions about the various  
22 workstreams, all -- all of those discussions happened  
23 before the situation that we find ourselves in today.  
24 Certainly with the pandemic and the recession that we are  
25 really trying to continue to be more -- stay on top of in

1 terms of our duties to this fund.

2           Yeah, I really wanted to have this discussion  
3 today, because given what is happening, and certainly the  
4 privilege that I have of serving on both of our pension  
5 funds here in California, I really do see a need to think  
6 about how can strengthen our fiduciary duty and oversight.

7           As Mr. Perez just mentioned, the Investment  
8 Committee is now comprised of only nine of us, nine of the  
9 13 Board members. And the most pressing issue right now  
10 is the ability of CalPERS to earn a seven percent return.  
11 I don't think anybody disagrees with that. And so when we  
12 look at the market volatility, the uncertain economic  
13 recovery from the pandemic, new private asset strategy,  
14 this just -- it just begs more careful oversight from all  
15 of the Board members. And especially as we're preparing  
16 to start the ALM process in 2021, I do believe that all of  
17 the Board members need to sit on the Investment Committee  
18 and ensure that they have an understanding of the  
19 investment issues, since they will be required to vote on  
20 the final proposal at the Board meeting and oftentimes we  
21 don't have that full discussion at the Board meeting, once  
22 the Committee reports out.

23           And I appreciate Mr. Simpson's reminder about the  
24 Board evaluation process that we had and certainly the  
25 involvement of NACD in terms of helping us work through

1 these workstreams. And I remember at the July -- I think  
2 it was -- yeah, it was the July 2019 off-site, there was a  
3 long discussion with the Board and staff. And one of the  
4 PowerPoint presentations talked about -- one of the key  
5 opportunities identified was strengthening fiduciary duty,  
6 ethics, and code of conduct culture that, one, facilitates  
7 candid, active, and collegial engagement, and two,  
8 protects confidentiality and builds trust, and three,  
9 emphasizes mutual respect and relationship building.

10 And I think this is difficult to do when not all  
11 the Board members have the opportunity to make motions and  
12 to vote in Investment Committee. And I would say, and I  
13 would agree with Mr. Perez on this, also the Pension and  
14 Health Benefits committee as well.

15 So the NACD process also stated another goal, and  
16 that was to strengthen fiduciary duty, which again is  
17 difficult when not all the Board members are seated on  
18 both Investment and Pension and Health committees.

19 So it really makes the most crucial of decisions  
20 of the fund, you know, ones where we all don't have the  
21 ability to fully participate in them. And I'll just  
22 contrast with this, not to say we need to be identical in  
23 terms of the governance of both funds, but, you know, at  
24 CalSTRS, all of the Board members do sit on Investment  
25 Committee and all the Board members sit on Benefits and

1 Services -- on the Benefits and Services Committee.

2 The Board President appoints the Board member to  
3 a Committee at any time upon request. And however, the  
4 Board members are not allowed to ask questions or comment  
5 at a Committee meeting that they do not sit on, although  
6 they may attend those meetings.

7 But I think, as we look at important items such  
8 as the CEO and CIO annual evaluation, discount rate  
9 changes, and the funding plan, they are all at CalSTRS  
10 discussed at full Board meetings, so everyone has the  
11 opportunity to participate equally. And I know hear at  
12 CalPERS, we discuss the CEO annual evaluation in  
13 Performance and Comp Committee, the discount rate is  
14 discussed in Finance and Administration Committee, before  
15 those items are sent to the Board.

16 So you can see and just kind of the contrast with  
17 respect to, you know -- and I don't think we should ever  
18 discourage anything less than robust engagement. But for  
19 those who aren't sitting on Investment Committee and  
20 Pension and Health Benefits Committee, there really, I  
21 think, is not an opportunity to be fully engaged on some  
22 of the most crucial issues coming before this body.

23 CHAIRPERSON JONES: Okay. Ms. Ortega. Ms.  
24 Ortega.

25 COMMITTEE MEMBER ORTEGA: Sure. Yeah, I had a

1 question that's a clarification about this agenda item.  
2 So I was taken a little surprised by Mr. Perez's motion,  
3 because I was unclear if this was an action item, and  
4 whether the -- so I just wanted to get a clarification on  
5 type of item this is and whether the appropriate action is  
6 to refer this to -- to have the staff bring this back as  
7 an action item, if that's where the will of the Committee  
8 is. So just a clarification on the process here.

9 CHAIRPERSON JONES: Yeah. No, this is the --  
10 this particular item is the -- is talking to the number of  
11 members on the Investment Committee. Mr. Perez's comments  
12 related to all committees be committees of the whole. And  
13 that's the motion he was making, not just related to this  
14 item. He was saying that --

15 VICE PRESIDENT TAYLOR: But this is an  
16 information item, right?

17 CHAIRPERSON JONES: Yeah, this is an information  
18 item, exactly, but Mr. Perez --

19 COMMITTEE MEMBER ORTEGA: Right. So I'm looking  
20 for a clarification on how if the members of this  
21 Committee would be interested in having an action item for  
22 discussion, either by this Committee or by the Board, what  
23 the appropriate mechanism is for that --

24 CHAIRPERSON JONES: Okay. You can request --

25 COMMITTEE MEMBER ORTEGA: -- in the context of



1 this item.

2 CHAIRPERSON JONES: Yeah, you can request that  
3 and we will be responsive to that at a future agenda item.

4 CHIEF EXECUTIVE OFFICER FROST: And perhaps --  
5 yeah, Chair Jones, perhaps we can have Mr. Jacobs comment  
6 on information items and the way that the agenda documents  
7 an action item, right.

8 CHAIRPERSON JONES: Okay.

9 CHIEF EXECUTIVE OFFICER FROST: Can you talk  
10 about that, Matt, please?

11 GENERAL COUNSEL JACOBS: Sure. Sure. Yeah, this  
12 has been noticed as an information item, but that does not  
13 mean that action cannot be taken on it. So action could  
14 be taken on it, or you could discuss it and ask that it  
15 come back with further definition, or information, or  
16 delineation, or whatever else you might want on it at a  
17 later time. So it's really anything that the Committee  
18 would like to do at this point.

19 COMMITTEE MEMBER ORTEGA: Okay. Well --

20 GENERAL COUNSEL JACOBS: But the original --  
21 original idea was it was an information item. As I said,  
22 that doesn't necessitate limiting it to that.

23 COMMITTEE MEMBER ORTEGA: Okay. Thank you, Mr.  
24 Jacobs. I think what -- what I think is appropriate on  
25 this topic is that the full Board have the opportunity to

1 have the conversation. It doesn't seem to me that this  
2 Committee should decide whether or not the members of --  
3 of the Investment or the Pension and Health Benefits  
4 are -- are expanded. It feels like this is a conversation  
5 for the full Board.

6 So I would move an item -- I guess I would say I  
7 will make a motion to expand the membership of the  
8 Investment and the Pension -- the Health Benefits  
9 Committee to the full membership of the Board for the  
10 purpose of letting the Board have that conversation at the  
11 Board of Administration meeting tomorrow.

12 GENERAL COUNSEL JACOBS: Well --

13 COMMITTEE MEMBER PEREZ: I'll second.

14 GENERAL COUNSEL JACOBS: -- I'm not sure that  
15 would work with respect to the Governance Committee,  
16 because the way that the item has been agendized is with  
17 respect to the Investment Committee. And so while you  
18 could move -- the motion would be appropriate as to the  
19 Investment Committee. It would not be -- we would have to  
20 notice it. If you wanted to make it apply to the  
21 Governance -- excuse me, to the Pension and Health  
22 Benefits Committee, we'd need to notice that for a  
23 subsequent meeting.

24 COMMITTEE MEMBER ORTEGA: Okay. So I will modify  
25 my motion to be only to the Investment Committee.

1 CHAIRPERSON JONES: Okay. So is there a second?

2 COMMITTEE MEMBER PEREZ: I'd second, sir.

3 CHAIRPERSON JONES: Second by Mr. -- okay. Ms.  
4 Hopper, will you take --

5 BOARD MEMBER BROWN: Wait, more comment, please.

6 CHAIRPERSON JONES: Oh, comments. Go ahead.

7 Okay. Wait just a minute. Comments on this particular  
8 motion. My comments section is for previous, so Ms.  
9 Brown.

10 BOARD MEMBER BROWN: Thanks, Henry. Thanks for  
11 the scare. I just want to thank Ms. Ortega for bringing  
12 up that issue and having this -- this should potentially  
13 be decided by the full Board, because it does affect the  
14 Board. You know, I want to remind the Committee that the  
15 Board was split on the number of meetings, the makeup of  
16 the Investment Committee. And it took several failed  
17 motions for Ms. Ortega to come up with the winning  
18 combination that actually ended up having Mr. Feckner and  
19 Mr. Rubalcava vote no. So it was kind of interesting how  
20 that -- how that worked.

21 But it's been problematic the -- this entire  
22 time, because I think that we do not have real oversight,  
23 because by the time a committee acts and makes a motion --  
24 by the time it comes back to the full Board, it's --  
25 it's -- it's been decided. It's been decided. And unless

1 you're on the committee, you cannot make a motion, you  
2 cannot make a second, and you don't have a vote. And you  
3 really are a second class citizen.

4           And I think it is too critical, not only for our  
5 investments, but for Pension and Health Benefits that  
6 every member of this -- of the Board should sit on those  
7 committees, and -- and it needs to be decided by the full  
8 Board, not just by a little subsection of the Board.

9           Thank you.

10           CHAIRPERSON JONES: Okay Ms. -- Ms. Taylor.

11           VICE PRESIDENT TAYLOR: Yeah. My comments  
12 wouldn't have been any different either way. I believe --  
13 we've -- I've been here the whole time and we had a  
14 committee of the whole Investment Committee. I don't  
15 really care, but I think to say that we're not fulfilling  
16 our fiduciary duty isn't quite where that's at, because  
17 everyone sits in. No, they can't vote, but they certainly  
18 can voice their opinion. And I think the other Board  
19 members who aren't on the Committee have a good say,  
20 because a lot of times they change our minds. Let's be  
21 clear.

22           I don't sit on this Committee, but I feel like I  
23 have a say. No, I can't vote, but it goes to the full  
24 Board, so then I can do my due diligence and finish voting  
25 at that point. But I -- the Committee of nine, it's not a

1 little committee. It's a committee of almost everybody.  
2 We're only missing three more -- four more votes. So I  
3 don't know what we're resolving here. We went down to the  
4 nine just for better governance. But also, we've never  
5 been a Committee -- or at least since I've been here,  
6 we've never been a Committee of the whole for the Pension  
7 and Health Benefits, and I never knew that was a complaint  
8 before.

9           And I think we all have had an opportunity on  
10 Pension and Health Benefits to make comments, to change  
11 people's minds. And I think our fiduciary duty is to make  
12 sure that we -- yes, yes, we're absolutely read in on  
13 what's going on, but that is also our duty as well. So if  
14 you don't attend, because you're not on the Board -- or on  
15 the Committee, that's on you. But I think everybody  
16 attends. Everybody is interested.

17           So I think we all are fulfilling our fiduciary  
18 duty. The difference is that you're not -- we don't all  
19 get to vote. We don't get to second. We don't get to  
20 vote. You know, one way or the other, Investment  
21 Committee, if you guys want it to be a Committee of the  
22 whole -- back to Committee of the whole, I'm not sure what  
23 that accomplishes.

24           But sure, I mean, the ALM with all have to  
25 participate. It's at the Board anyway. It's not just the

1 Investment Committee. It's the Board anyway, because  
2 that's also our educational credits. So that's the  
3 difference there. It is the whole Board participates in  
4 the ALM.

5 But it's up to you guys. I just think -- I'm not  
6 sure what we're resolving for again. We're -- I'm -- I  
7 don't see it as a problem. I just -- I just know that we  
8 all voted on it and we felt that it was a good governance  
9 issue. But there's my comment, I don't see the necessity  
10 to take it in front of the full Board because, in my  
11 opinion, the Board Governance Committee is the one that  
12 talks about the structure of the Board committees.

13 So I'm not sure that that should go to the whole  
14 Board, but it does eventually get voted on at the whole  
15 Board, so it's up to you guys.

16 CHAIRPERSON JONES: Okay. Mr. Miller.

17 BOARD MEMBER MILLER: Yeah. I worry about a  
18 couple of things. One, if any time we have a split  
19 decision, we're going to come back and try to undue it,  
20 and revisit it, when we haven't even gone through a full  
21 cycle with this new governance approach. That worries me  
22 when I haven't seen any evidence whatsoever that this  
23 isn't working as well or better than not having Investment  
24 Committee, which is basically what we had. We had a Board  
25 that, as a body of the whole, and we added -- it was

1 additive. It was adding an Investment Committee of nine  
2 people who could do the work and bring things to the  
3 Board. All the decisions are made by the full Board. All  
4 Board members can sit in on all the committees and speak  
5 just as I'm sneaking when I'm not a member of this  
6 Committee. That concerns me, because that's not an  
7 efficient way to govern an organization. We should wait  
8 until it comes back around.

9           The other thing is, as Theresa said, everyone can  
10 participate, everyone can make decisions. And I think  
11 we're just creating a problem where there isn't one,  
12 because if by Ms. Brown's logic I'm a second class citizen  
13 on this Committee, all of our committees should then be a  
14 committee of the whole, which is not sensible, and is not  
15 efficient, and is not good governance, and does not allow  
16 you to do that extra level of consideration and depth the  
17 committee structure exists for.

18           So that's how I feel about that.

19           CHAIRPERSON JONES: Okay. Ms. Middleton.

20           VICE CHAIRPERSON MIDDLETON: All right. Thank  
21 you, Mr. Chair. We've spent an awful lot of time talking  
22 about process. And I gather that's important.

23           I want to though second some comments that Ms.  
24 Yee said. It is incredibly important that we be seen as  
25 showing full and complete oversight and -- as a full Board

1 (inaudible) responsibility.

2 I take exception to the argument that because one  
3 can't make a motion or one cannot vote that there's second  
4 class citizenship or lack of ability to exercise one's  
5 fiduciary responsibility. I have seen over and over again  
6 great deference given in committee meetings to individuals  
7 who are Board members who are not a member of that  
8 particular committee.

9 All of that said, a year ago -- a little over a  
10 year ago, when I was relatively new to the Board I agreed  
11 to the decision to reduce the Investment Committee to nine  
12 members from a committee of the whole. Based on year's --  
13 a little over a year's experience now, I'm not sure I'm  
14 going to come to the same conclusion I came to in July of  
15 last year on this issue.

16 I'm intrigued by the Mr. Perez's argument that  
17 all committees should be committees of the whole. I just  
18 don't want to rush into a decision like that. I would  
19 like to have that presented to us as options after we have  
20 had an opportunity to complete a full cycle of -- under  
21 this system.

22 So I'm going to encourage that we be open to  
23 doing things differently, but also encourage that we not  
24 rush to a decision.

25 CHAIRPERSON JONES: Thank you.



1 Ms. Olivares.

2 COMMITTEE MEMBER OLIVARES: I didn't have  
3 anything.

4 CHAIRPERSON JONES: Okay. Thank you.

5 Mr. Feckner.

6 COMMITTEE MEMBER FECKNER: Thank you, Mr. Chair.

7 I want to say that I appreciated the comments of  
8 Mr. Miller and of Ms. Middleton. I really don't have that  
9 big of a concern about the committee being a committee of  
10 the whole. But what I want to point out to make sure we  
11 all realize that, one, we all are able to sit in on any of  
12 the meetings. I've never seen any Board member denied the  
13 opportunity to ask questions or speak in any committee. I  
14 also want to point out, if you look at the Investment  
15 Committee agenda, 80, 85 percent of that agenda item is  
16 all informational item. It's not voted on anyway.

17 So I just want to keep that in perspective. It's  
18 not like things are being Hidden from people or anything  
19 else. I think that it's all there. We all have the  
20 opportunity to get the information. But whether or not  
21 it's the committee of the whole or not, I really don't  
22 have heartburn with that.

23 I just want to make sure we're all doing this for  
24 the right reasons. Thank you.

25 CHAIRPERSON JONES: Okay. Ms. Yee.

1           BOARD MEMBER YEE: Thank you, Mr. Chair.

2           You know, I think -- you know, when I think about  
3 this issue and why I brought it forward that it was really  
4 a reflection of, you know, these unprecedented times that  
5 we're in for sure. But also, you know, I think about what  
6 our ultimate accountability is as the governing body of  
7 this system, and it's obviously to our members and  
8 beneficiaries.

9           And I appreciate certainly the courtesy that's  
10 been extended to me today with this Committee, of which I  
11 am not a member, that everyone can participate in any  
12 committee, as they so chose. And I just want to be sure  
13 that as we're venturing into obviously new strategies and  
14 ensure that as we cast our vote as a member of this Board,  
15 that we are all just fully informed about what it is that  
16 we're voting on. And there is a lot information. And I  
17 think the -- for me, why I chose to come to every  
18 Investment Committee is because I learn so much from my  
19 colleagues. And I think the interaction is really part of  
20 that learning process, and certainly give a richness, and  
21 better comprehension about, you know, just what we're  
22 trying to achieve.

23           And I frankly respect all of you for the  
24 disciplines that you bring to this Board. And we don't  
25 get to have that on the two major committees that are the

1 bread and butter of our work to serve our members and  
2 beneficiaries. And that's what I'm asking for, just to  
3 strengthen our fiduciary duty. How can we do oversight  
4 really, if there's not the ability just to kind of have,  
5 you know, those -- that kind of robust interaction. It  
6 sets up an expectation.

7           And I agree that anybody can join any kind -- any  
8 Committee discussion, member or not. But when you're a  
9 member, it's a heightened -- it's a heightened  
10 responsibility. And I think it just changes the dynamic  
11 about what the expectations are from each of us as a  
12 fiduciary.

13           CHAIRPERSON JONES: Okay. I see Ms. Taylor had  
14 to step away. She wanted to comment, so we'll pick her up  
15 when we come back.

16           We do have a motion and a second on the floor,  
17 but I'm going to wait and -- I guess we need to go ahead  
18 and listen to our public speakers, and then we will hear  
19 Ms. Taylor when she returns. Oh, there she is. Okay.  
20 Ms. Taylor.

21           VICE PRESIDENT TAYLOR: I didn't have any  
22 comments.

23           CHAIRPERSON JONES: Oh, you're just notifying  
24 that you'll be back. Okay.

25           (Laughter.)

1 CHAIRPERSON JONES: Okay. Okay. We do have a  
2 number of people to speak on this item, I think.

3 Before we do that --

4 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
5 President. We have --

6 CHAIRPERSON JONES: Before we do that, we're  
7 going to have Ms. Dunning, Mr. Funston, and Mr. Toth make  
8 any comments, and then we'll go to the public, and then  
9 we'll entertain the motion and a second.

10 Okay. Ms. Dunning, Mr. Funston, Mr. Toth, do you  
11 have any comments on this Item.

12 Ms. Dunning.

13 MS. DUNNING: From the fiduciary perspective, you  
14 can manage as prudent fiduciaries, whether you have a  
15 committee of the whole or a committee of less than the  
16 whole, because all of -- if you have a committee of less  
17 than the whole, the final decisions are made by the Board.

18 And I advise boards who operate under both  
19 structures. I do think it's more common to have an  
20 Investment Committee be a committee of the whole than  
21 other standing committees, but I really think this is  
22 within your -- it falls squarely within your good judgment  
23 as the board, in terms of how you want to operate. I'm  
24 not inclined to tip the scales one way or the other as  
25 your fiduciary counsel. I think either approach is

1 prudent.

2 CHAIRPERSON JONES: Okay. Mr. Funston.

3 MR. FUNSTON: Yes. Thank you, Mr. Chair.

4 Having listened to the discussion, I would say  
5 that at least in our experience, obviously there are  
6 committee, there are organizations, going back to Mr.  
7 Perez's comment, that -- I'm not aware of any organization  
8 that does not have committees of the Board. And the  
9 purpose of those committees is to expedite the work of the  
10 Board.

11 The -- I think the discussion clearly has  
12 reflected that everyone understands that the Investment  
13 Committee is there solely for the purpose of making --  
14 gathering information and making recommendations based on  
15 an informed discussion.

16 And so, the question really, as I've seen it in  
17 other cases where there are problems, is that there hasn't  
18 been good communication between the Investment Committee,  
19 or any committee, and the Board necessarily. But I'm not  
20 seeing any evidence of that. In fact, I'm hearing quite  
21 the opposite, that there is excellent communication, there  
22 is an opportunity for participation, and a common  
23 understanding.

24 I think by having both an Investment Committee  
25 that makes recommendations, and cannot make decisions, to

1 bring it back to the Board, I think you -- the full Board,  
2 then you give the opportunity for the discussion to be  
3 heard twice and to have -- for those who have an opposing  
4 opinion or a defending opinion to be able to express that.

5           So it would seem to me that, particularly given  
6 that you are not through a full cycle yet of this -- of  
7 the new role of a down-sized Investment Committee, that  
8 you allow the time to see whether or not that can -- that  
9 can work, and have a very good reason as to why one might  
10 want to change that as you had reasons, I believe, and as  
11 Ms. Simpson said at the beginning, to have good governance  
12 be the guide in terms of improving the overall performance  
13 of the organization.

14           So it seems that in the absence of any striking  
15 incident to me that would show that it is being  
16 ineffective, I would just suggest you stay the course, and  
17 go through a full cycle, and reevaluate it at the  
18 appropriate time.

19           CHAIRPERSON JONES: Okay. Thank you.

20           Mr. Toth.

21           MR. TOTH: Just, I think, a little bit to add  
22 here from my perspective in working with a variety of  
23 different plan sponsors. I think the -- the answer is  
24 that there's no answer, which I really -- I admit is maybe  
25 less than helpful to some of the Committee members. I

1 work with clients who have committees of the whole. I  
2 work with clients whose investment committees are a subset  
3 of their entire board. And I can't think of a correlation  
4 between those structures and performance on -- that I can  
5 say with any -- with any great confidence. I really do  
6 think it comes back to the view that the government -- the  
7 Governance Committee and the Board has on the level of  
8 oversight and ensuring that the lines of communication  
9 flow strongly.

10 I just echo, I think, what Mr. Funston said about  
11 where you do see challenges is when the Board doesn't have  
12 access to the same level of information that the Committee  
13 has, and ultimately ends up like they are working with one  
14 hand tied behind their back. And given the communication  
15 that I see in regular interactions with the Investment  
16 Committee, that doesn't seem to be the case here.

17 So it's just a little bit of hopefully additional  
18 perspective from other plan sponsors.

19 CHAIRPERSON JONES: Okay. Thank you for that  
20 comment. Those comments.

21 Now, we will go to Mr. Fox, public members who  
22 have requested to speak on this item.

23 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
24 President. We have, I believe, five speakers on 5b, the  
25 first of which is Terry Brennand SEIU.

1 MR. BRENNAND: Good afternoon, Board and -- Chair  
2 and Board. This is Terry Brennand with SEIU California.  
3 I -- I actually wanted to talk about the last item, so I  
4 will address this one briefly.

5 There's very little difference between the two.  
6 I think you guys made a decision. I agree with Mr.  
7 Funston's comments. Let's see it play out. There's  
8 nothing dramatically that's happened that justifies making  
9 a change.

10 But having said that, I'm more concerned about  
11 the proposals that were brought to light about robbing  
12 civil servants of their due rights, basically making more  
13 public unfinished investigations. And in light of that, I  
14 would suggest you be very narrow, very delicate, and  
15 certainly apply those same standards to each and every  
16 Board member. It's unfair to suggest that only staff  
17 would be subject to the release of unfinished, uncompleted  
18 investigations, and that not apply to the -- those who are  
19 responsible for holding them accountable.

20 And so for that reasons, we'll be very involved  
21 and interested in seeing what comes back to the Board in  
22 that manner. I wish you luck. Bye.

23 CHAIRPERSON JONES: Thank you.

24 Mr. Fox.

25 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,



1 the next caller is Dillon Gibbons with the California  
2 Special Districts Association.

3 MR. GIBBONS: -- Districts Association -- can you  
4 hear me now?

5 CHAIRPERSON JONES: Yes, we can.

6 MR. GIBBONS: Yeah. So Dillon Gibbons Special  
7 Districts Association. You know, as far as the membership  
8 of this Committee, I don't know entirely whether or not my  
9 members have significant concerns with changing it to the  
10 full Board. I think where my concern and my issues are  
11 right now are with taking informational items and making  
12 them action items kind of on the fly. I think it's a --  
13 for me, it's a transparency issue. You have a lot of  
14 things that come on your Board agendas, your committee  
15 hearing agendas packed into three days. And really where  
16 I have to work with my members is focusing on those key  
17 significant issues, which are typically the action items.

18 While we're prepared to listen to these items,  
19 it's -- typically, we need more feedback. We need to hear  
20 the direction of the Board before we can provide input on  
21 action items.

22 And so making a quick shift from a -- an  
23 informational item to an action item is a real challenge,  
24 and I think it's -- it goes against the transparency  
25 efforts that CalPERS has been making and I think has been

1 very successful in making. And so I just caution you in  
2 taking that action today.

3 Thank you very much for your time.

4 CHAIRPERSON JONES: Thank you.

5 Mr. Fox.

6 STAKEHOLDER RELATIONS CHIEF FOX: Mr.  
7 President -- Mr. President, the next caller is Mr. Ben  
8 Vernazza.

9 MR. VERNAZZA: -- I'm the managing director --  
10 this is Ben Vernazza. I'm managing director of the  
11 Institute for Portfolio Diversification. We suggest that  
12 the Risk and Audit Committee be one of the members -- or  
13 the Chair of the Investment Policy -- Investment  
14 Committee.

15 And also should have oversight over whether or  
16 not uncompensated risk is being prudently reduced in the  
17 CalPERS investment portfolio. As you know, CalPERS  
18 governor Policy is set -- s to set forth Board policies  
19 consistent with fiduciary responsibilities, and your  
20 authority is the California Constitution provides the  
21 Board shall have authority and fiduciary responsibility  
22 for the investment of monies, and is charged with the sole  
23 and exclusive responsibility over the assets of the  
24 system.

25 The Constitution also says the retirement board

1 shall diversify the investments, so as to minimize the  
2 risk of loss and to maximize the rate of return.

3           The Uniform Prudent Investor Act is the basis for  
4 the California Constitution and the Restatement of Trust  
5 Third is the authoritative guidance applying fiduciary  
6 law. Within the third restatement is the following  
7 degree. Failure to diversify on a reasonable basis in  
8 order to reduce uncompensated risk is ordinarily a  
9 violation of both the duty of caution and the duties of  
10 care and skill.

11           Now, there's two types of investment risk,  
12 compensated risk, which represents one-third of total  
13 risk, and is unavoidable. And it's the expectation of  
14 being compensated for making investment in a security.  
15 It's the price of admission. It cannot be diversified  
16 away.

17           Uncompensated risk represents two-thirds of total  
18 risk. And it's risk that can be eliminated with  
19 diversification. It is the inherent risk of concentration  
20 of investments and industries, sector groupings and  
21 individual firms and industries that are closely price  
22 correlated.

23           In April 2017, Stewart Frank, CPA, accredited  
24 investment fiduciary analyst in a letter to CalPERS and to  
25 the Governor concluded it by saying, "By CalPERS omitting

1 a procedural process or a plan to manage uncompensated  
2 risk, this causes every fiduciary responsible to be in  
3 breach of their fiduciary duties".

4 Our 2016 study of five California county PERS and  
5 CalPERS, we estimated that CalPERS range of loss  
6 diversification alpha was between 1.2 to 3.6 billion  
7 dollars during the year-ending September 16. That's a  
8 equivalent to 37 basis points to 111 basis points.

9 CHAIRPERSON JONES: Sir, your time --

10 MR. VERNAZZA: Usually --

11 CHAIRPERSON JONES: Sir, your time is up. Your  
12 time is up. Thank you for your comments.

13 Mr. Fox, next person.

14 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
15 the next caller is Tim Behrens with CSR.

16 MR. BEHRENS: Thank you, Kelly. Chairman Jones,  
17 members of the Committee, members of the Board, boy, what  
18 a difference between 5a and 5b. I was really happy with  
19 the lively debate in 5a and people were not throwing  
20 stones, and then along came 5b. I really support the  
21 whole Board being on this particular committee of all the  
22 committees we have.

23 One of the things that Betty Yee said that got my  
24 attention was fiduciary responsibility and developing a  
25 working relationship between the Board members. I think

1 what we saw, at least what I saw on my laptop here in my  
2 backyard, was just the opposite of that. It seems like  
3 there's a natural division between members of the Board  
4 who aren't willing to have the same kind of positive  
5 debate they had in 5a over an issue of numbers for 5b.

6 Thank you.

7 CHAIRPERSON JONES: Okay. Thank you.

8 Mr. Fox.

9 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
10 President. The next caller is Mr. Larry Woodson.

11 MR. WOODSON: Good afternoon. Larry --

12 (Phone cut out.)

13 CHAIRPERSON JONES: Can't hear him.

14 STAKEHOLDER RELATIONS CHIEF FOX: Okay. Standby.  
15 Okay. Mr. Woodson.

16 MR. WOODSON: Okay. Okay. Didn't get on the  
17 first time. Larry Woodson California State Retirees,  
18 echoing what Mr. Behrens said. We do support full  
19 membership in the Investment Committee. Just a couple of  
20 statements. You know, Mr. Miller's comment that, you  
21 know, there had -- the exclusion of the four members  
22 currently seems to be working fine. I would counter that  
23 with for years full membership by all Board members in  
24 that committee was working fine in terms of governance.

25 Also, the -- you know, it was stressed by a

1 couple of board members that anyone attending could  
2 comment, whether they were a committee member or not,  
3 and -- but they cannot vote and that's important, and also  
4 they can't introduce a motion.

5           And so on any issues that have some differences  
6 of opinion, I think it's very important for all the  
7 members to have the opportunity to vote, and to introduce  
8 motions, and then it makes the Board meeting the following  
9 day go a little smoother, because you don't really have to  
10 get into the same level of detail.

11           Thank you.

12           CHAIRPERSON JONES: Okay. Thank you, Mr. Fox.

13           STAKEHOLDER RELATIONS CHIEF FOX: Mr. Girling.

14           CHAIRPERSON JONES: Yeah, I can hear you now.

15           STAKEHOLDER RELATIONS CHIEF FOX: Go ahead Dr.

16 Girling.

17           CHAIRPERSON JONES: Can't hear him.

18           DR. GIRLING: Can you hear me now?

19           CHAIRPERSON JONES: Yes, I can.

20           DR. GIRLING: Can you hear me now?

21           CHAIRPERSON JONES: Yes.

22           DR. GIRLING: I'm speaking for Cal ERFSA. Our  
23 position is that Investment Committee is the most critical  
24 committee across the board and it is important on that  
25 committee to have as much professional opinion and

1 information as possible prior to making decisions. It's  
2 important for members of the -- all members of the Board  
3 to be able to vote and introduce motions for careful  
4 consideration and to meet the considerations of fiduciary  
5 responsibility.

6 Now, you may not agree with me, but our view is  
7 that by -- if a member is not a -- if a member of the  
8 Board is not a member of that Investment Committee, and an  
9 issue is brought up to the entire Board for consideration  
10 with a recommendation from the Investment Committee, it  
11 raises a barrier against that individual who's not a  
12 member of the Investment Committee that they have to go  
13 over. They have to argue over a decision that was  
14 immediate by the entire Investment Committee, so any -- it  
15 discourages careful consideration of unpopular points of  
16 view, which are very important oftentimes for getting --  
17 arriving at the right decision.

18 So I also believe that if you have the entire  
19 Board making these kinds of decisions in the Investment  
20 Committee, that the Board meetings will move more  
21 smoothly, because there is an agreement. You don't have  
22 to rehash all the information for a second time. So it  
23 seems to me, it would facilitate more effective Board  
24 meetings.

25 Finally, it is very important in terms of

1 stakeholder confidence in the decisions. And we believe  
2 that for that reason alone, it requires full Board  
3 participation in the Investment Committee. So we strongly  
4 encourage you to change your policy and have the  
5 Investment Committee comprised of the entire Board, so  
6 that you get the full value, the full benefit of all  
7 points of view, and the professional experience of all  
8 members of the Board.

9 Thank you.

10 CHAIRPERSON JONES: Thank you.

11 Mr. Fox.

12 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
13 President. The final speaker on this item is Cathy  
14 Jeppson.

15 CHAIRPERSON JONES: Thank you.

16 MS. JEPPSON: Can you hear me?

17 CHAIRPERSON JONES: Yes, we can.

18 MS. JEPPSON: Good afternoon. This has been a  
19 wonderful discussion, but I am going to have to agree that  
20 I think that the Investment Board be a committee of the  
21 whole. And I never really understood why it was changed  
22 to make it smaller. Where you want your robust  
23 discussions is in the -- in the discussion in the  
24 Investment Committee. And it is true, that I think  
25 everybody should be able to vote everybody should be able



1 to make a motion, because we really have a dynamic board.

2 I -- to be very honest, and I never thought about  
3 the Pension Benefits and Health -- Pension and Health  
4 Benefits Committee also being a committee of the whole.  
5 But as a retiree, there are two things that are very  
6 important to me, as I'm sure there is to other retirees,  
7 and that is that we do everything possible to get the rate  
8 of return that we need and in the Pension and Health  
9 Benefits, because as you get older, the benefits become  
10 more and more important. So I would urge you to make the  
11 Committee as a whole for both the Investments and Pension  
12 and Health Benefits.

13 And I think that if -- I happen to really like  
14 how CalSTRS does things. And I don't think they have ever  
15 not had this as a committee of the whole.

16 Thank you very much.

17 CHAIRPERSON JONES: Thank you.

18 Mr. Fox.

19 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
20 that concludes public comment on Item 5b.

21 CHAIRPERSON JONES: Okay. Thank you, Mr. Fox.

22 Okay. So we have a motion by Ms. Ortega and  
23 seconded by Mr. Perez to return the Investment Committee  
24 to a committee of the whole.

25 So with that motion, Ms. Hopper, please call the

1 roll.

2 COMMITTEE SECRETARY HOPPER: Rob Feckner?

3 COMMITTEE MEMBER FECKNER: Aye.

4 COMMITTEE SECRETARY HOPPER: Frank Ruffino for  
5 Fiona?

6 ACTING COMMITTEE MEMBER RUFFINO: Aye.

7 COMMITTEE SECRETARY HOPPER: Lisa Middleton?

8 VICE CHAIRPERSON MIDDLETON: Aye.

9 COMMITTEE SECRETARY HOPPER: Stacie Olivares?

10 COMMITTEE MEMBER OLIVARES: Aye.

11 COMMITTEE SECRETARY HOPPER: Eraina Ortega?

12 COMMITTEE MEMBER ORTEGA: Aye.

13 COMMITTEE SECRETARY HOPPER: Jason Perez?

14 COMMITTEE MEMBER PEREZ: Aye.

15 COMMITTEE SECRETARY HOPPER: Mr. Chair, I have  
16 Eraina Ortega making the motion, Jason Perez seconding it,  
17 and I have the motion being to turn Investment Committee  
18 to a committee of the whole.

19 CHAIRPERSON JONES: Okay. Thank you, Ms. Hopper.

20 And so this will move forward to the full Board  
21 tomorrow as a recommendation from the Board Governance  
22 Committee.

23 And at this time, I think we need to take a  
24 break. So let's -- what is that? Return at -- what about  
25 4:30? Okay. We will reconvene at 4:30.

1 (Off record: 4:19 p.m.)

2 (Thereupon a recess was taken.)

3 (On record: 4:31 p.m.)

4 CHAIRPERSON JONES: I will reconvene the Board  
5 Governance Committee meeting and we will move to Agenda  
6 Item 5c, review of the Chief Executive Officer's  
7 delegation reporting relationship of CIO.

8 Ms. Simpson.

9 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

10 Thank you very much, Chair Jones, Committee  
11 members and Board members. This is an information item,  
12 which is looking at a review of the Chief Executive  
13 Officer's delegation, and specifically the reporting  
14 relationship of the Chief Investment Officer.

15 As the summary explains, and as you are all very  
16 well aware, the full Board of Administration annually  
17 reviews and approves its delegation to the Chief Executive  
18 Officer. And this was most recently deny in June of this  
19 year.

20 The Board did agree to bring in an enterprisewide  
21 delegation to the CEO with a goal of fostering efficiency  
22 and accountability. And it was implemented by the Board  
23 in 2014. However, the discussions around the advantages  
24 and the benefits of doing this date back to 2011, when  
25 this is, I understand, discussions that the Board had at

1 the time. And Rick Funston was advising the Board on its  
2 governance self-assessment at that time, so I'm sure he  
3 can add some color there.

4 The decision that was made in 2011 was to move to  
5 this structure of having an enterprisewide delegation to  
6 the Chief Executive, but to move on that when either one  
7 or other of the two offices was vacated. And very, very  
8 sadly, that took place when -- with Joe Dear's death in  
9 2014 and the new appointment of the Chief Investment  
10 Officer was into this new reporting relationship.

11 It's very important to emphasize that the Chief  
12 Investment Officer operates under the policy direction of  
13 the Board and the administrative direction of the Chief  
14 Executive Officer.

15 I do though, Chair, just want to, from the  
16 analysis section say that in the discussions in the  
17 Board's self-assessment and the governance thinking around  
18 having this form of delegation to the Chief Executive  
19 Officer that CalPERS has, there are three main points for  
20 the Board's consideration.

21 The first is that CalPERS is a complex  
22 organization. It houses Investment, Health, but also  
23 Pensions. And these three functions share a lot of  
24 administrative resources technology, finance, obviously  
25 budgeting and procurement, legal, and actuarial services,

1 compliance, accounting, and, of course, stakeholder  
2 relations, communications, and very importantly talent  
3 management.

4           So the other point that -- for the Board's  
5 consideration is that the delegation through the CEO is to  
6 allow for efficient deployment of resources across these  
7 three functions and also timely prioritization within an  
8 enterprisewide strategic plan.

9           This is particularly important as well, because  
10 CalPERS across the three functions has assets,  
11 liabilities, and also cash management, which require  
12 integrated risk management. So having the overall  
13 delegation in this format is intended to help there.

14           The third element that I understand from those  
15 discussions at the time back in 2011 was a further  
16 consideration of the Board was that the delegation to the  
17 Chief Executive Officer was intended to protect the  
18 investment decision-making process from undue influence  
19 whilst ensuring the Chief Executive's accountability to  
20 the Board, which, of course, continues to retain full  
21 plenary authority.

22           So with that, Chair, this item is for Committee  
23 discussion. Thank you.

24           CHAIRPERSON JONES: Thank you, Ms. Simpson.

25           We have a request to speak. Ms. Yee.

1           BOARD MEMBER YEE: Thank you very much, Mr. Chair  
2 and thank you, Anne, for the introduction and the  
3 overview. And I'm particularly happy that Mr. Funston is  
4 here to join us just for a little bit of historical  
5 perspective as necessary.

6           I appreciate this being agendized here today. I  
7 really wanted the discussion to take place prior to the  
8 Chief Investment Officer's search process, you know,  
9 really getting underway in a robust way, partly because,  
10 you know, as I think about, you know, my duties on other  
11 boards -- and again, I'm going to make a comparison to  
12 CalSTRS in a moment, that I know one of the earlier  
13 justifications, at least by this Board, about why we  
14 wanted to have the delegation -- to looking at the CEO's  
15 sole authority over the CIO, in terms of hiring,  
16 evaluating, and terminating - and this is the one issue I  
17 do want to focus on - is that it had to do with the  
18 evaluation of the CEO, in part being based on fund  
19 performance. And so it seemed to make sense that the CEO  
20 would be given full reporting responsibility for the CIO.

21           I do think there is -- there's an issue with  
22 respect to kind of Board accountability here, and that is  
23 I think the shared responsibility for hiring, evaluating,  
24 and terminating a CIO makes sense here, and where the  
25 duties of the CIO -- or the reporting structure, excuse

1 me, really is both to the CEO and to the Board.

2           And much of that just really has to do with a  
3 little bit more of an open, I guess, stream of  
4 communication, particularly publicly, and then also just  
5 with respect to accessing information when we're not in a  
6 public Board meeting with the Investment -- the Chief  
7 Investment Officer.

8           You know, the undue influence aspect of this I  
9 would say, I hope again, is not an issue or a problem, if  
10 we have proper safeguards in place. And I think that's  
11 what we're all, you know, really trying to ensure is the  
12 issue. But I just look at the dynamic of the Board not  
13 being involved, I guess, in the hiring and the evaluation  
14 of the CIO, to me, seems problematic. And it is probably  
15 one of the most important decisions any Board can make in  
16 terms of these key hires, and in this case both the CEO  
17 and the CIO.

18           So I would actually propose that we consider  
19 looking at a dual reporting structure, and where  
20 investment performance and -- is reported to the Board,  
21 and then the CIO then continues to report to the CEO on  
22 business operations relating to staffing, budgeting,  
23 technology, and the like, and that the Board would retain  
24 the ability to hire and terminate -- evaluate and  
25 terminate the CIO on a -- and doing the evaluation on an

1 annual basis in consultation with the CEO.

2           It's a structure that has worked well frankly at  
3 CalSTRS. And again, that's given that we have proper  
4 safeguard in place, good communication mechanisms in  
5 place. But to the extent that we have just tremendous  
6 responsibility with respect to being able to meet our  
7 seven percent return, I think we need a more direct  
8 relationship with the CIO. So I'm going to just ask for  
9 consideration of that at this time.

10           CHAIRPERSON JONES: Okay. Ms. Taylor.

11           VICE PRESIDENT TAYLOR: Thank you. And thank  
12 you, Ms. Yee, for bringing this up. I think I remember --  
13 for some odd reason I thought I was part of this decision.  
14 I that it was because I was sitting in on Board meetings  
15 at the time the decision was finally made, because I do  
16 remember the arguments. And I think one of the things  
17 that I saw as a problem that -- was that we weren't  
18 getting information that we should have been getting from  
19 the Chief Investment Officer from what understand, because  
20 it wasn't being reported. And there was the reporting  
21 structure that they report directly to us. And then the  
22 Chief Investment Officer would choose to keep things out  
23 of the Board's view.

24           I do remember that it's -- some of the reasoning  
25 behind this was, number one, there was -- it undermines



1 this CEO's the authority to oversee and manage the entire  
2 organization. So it kind of weakens the internal  
3 controls. So by that, I mean, if we had a direct report  
4 to the -- from the CIO to us would we even have heard  
5 about anything, when it comes to trading violations or  
6 anything else? Would that have come to the Board level or  
7 would that benefit the CIO to not report that, because of,  
8 you know -- not benefit structures, but bonus structures.

9           It hurts the CI -- the CEO's ability to set  
10 priorities for the entire enterprise and manage resources.  
11 It limits the CEO's ability to manage the organization's  
12 reputation and legislative and stakeholder and other  
13 relations, because she's not getting a direct report,  
14 she's not getting those reports, she'll have to ask for  
15 those reports before she goes out, rather than getting  
16 them on a regular basis.

17           There was an issue back in the day where -- with  
18 emerging managers where the Investment Office was  
19 reluctant to produce data regarding emerging manager  
20 allocation and prolong the legislative and public  
21 discussions.

22           The current reporting structure, which was at the  
23 time, the CIO reporting directly to the Board, undermines  
24 the one organization or the enterprisewide. So I just --  
25 these are all issues that it under -- it makes -- then the

1 rest of the organization feels like it's not treated as  
2 well as Investment Office. It silos the Investment  
3 Office. And now that we're trying to work towards a total  
4 fund process, it could further silo the Investment Office.

5 I'm just concerned -- and then finally, my last  
6 concern is when this happened, we had a female CEO and a  
7 male CIO and there was more than a little bit of sexism  
8 involved. It possibly works at CalPERS[SIC], because it's  
9 two males in those or -- in those organizational  
10 structures. But there was definitively, from what I could  
11 see based on just sitting in the audience and listening,  
12 some sexism involved.

13 So I would speak against taking the delegation  
14 of -- authority away from the CEO. But those are my  
15 comments for now. Thank you.

16 CHAIRPERSON JONES: Okay. Mr. Feckner.

17 COMMITTEE MEMBER FECKNER: Thank you, Mr. Chair.

18 I have a few comments on this issue. Back in the  
19 day, when the CIO reported to the Board, so did the Chief  
20 Actuary, so did the General Counsel. They were all direct  
21 reports to the Board. And I'm interested to hear Mr.  
22 Funston weigh in on this and get his -- get his opinion,  
23 because he and I worked closely on these items back in  
24 that day and I'm sure he can tell you that I -- I fought  
25 very hard against doing it the way that we currently have

1 it.

2 But, you know, wisdom does prevail over time and  
3 I will tell you that I think that -- and I believe Mr.  
4 Funston even used the term before, it's hard to serve two  
5 masters. You know, you have to have someone in charge.  
6 That's the CEO. You -- we have delegated responsibility  
7 to hold the CEO responsible.

8 What brought this to the forefront over the last  
9 couple months would not have changed a bit, as Ms. Taylor  
10 said, had we had a different reporting structure. None of  
11 that would have come forward anyway. So what are we  
12 trying to fix here? So we have to think about that.

13 And I think the main thing is for us to realize  
14 that it's the responsibility of us to hold the CEO  
15 accountable. If we want certain things from the  
16 Investment Office or the CIO, we give that direction to  
17 the CEO who passes that on.

18 If it's not achieved, we hold the CEO  
19 accountable. I, for one, think the CEO is doing a  
20 fantastic job making sure that everybody is on guard and  
21 being taken care of. At the same time, we have to do our  
22 job. And throwing the baby out with the bathwater is not  
23 the way to do this. We need to look at what's been going  
24 on again. What brought this to our -- to the forefront  
25 today would not have changed a bit had we changed the

1 reporting structure.

2 So, again, Mr. Chair, I'd be happy to hear from  
3 Mr. Funston.

4 CHAIRPERSON JONES: Okay. Well, we'll get to  
5 that. Okay. Mr. Miller.

6 BOARD MEMBER MILLER: Oh, I was going to comment  
7 after the other Committees members and consultants, so I  
8 wanted to hear from the consultant first as well.

9 CHAIRPERSON JONES: Okay. Ms. Yee, are you  
10 waiting also or you want to hear from consultants?

11 BOARD MEMBER YEE: Actually, I just wanted to ask  
12 a -- be sure Mr. Funston addresses this as to what --  
13 because we did have I think two direct reports to the  
14 Board after the change was made when there were four  
15 direct reports. I think it went from four to two, so I  
16 wanted to just see if Mr. Funston can address that as to  
17 what the rationale was there.

18 I just do want to say, this is an accountability  
19 issue. And you can -- and we can hold the CEO  
20 accountable, but frankly, I think as it -- when it comes  
21 to things like hiring our top level executive staff, and  
22 particularly this CIO, that there should -- it should be a  
23 shared responsibility. And let's face it, we have not had  
24 the strongest track record on hiring in the recent past.  
25 And I want to share in that responsibility. And we're

1 ultimately accountable for those decisions that we haven't  
2 had a hand in.

3           So I'm just trying to figure how to align,  
4 particularly as it relates to the hiring of the CIO. And  
5 I would like this somehow -- somewhat resolved before we  
6 go out to -- for the next CIO search, but how we align --  
7 I mean obviously we have the authority to do this if we --  
8 if we decide that that's where it should be reside. I  
9 think we certainly have a responsibility to weigh in on  
10 who we hire, and the evaluation, and whether they're doing  
11 a good job, and whether issues of termination are  
12 properly -- should properly come before us, but also as it  
13 relates to accountability, as I said.

14           So I'm just trying to align all of that, because  
15 right now it doesn't seem as though they're properly  
16 aligned. And, I mean, frankly, there are times that I  
17 come to a Board meeting and I think, you know, why -- why  
18 didn't we have a -- why didn't we have more of a say about  
19 that. It's not to say we don't get to be on interview  
20 panels. We do get to be on interview panels, but it's  
21 just not a weighted responsibility that really gives the  
22 Board kind of that -- that -- you know, just fully -- just  
23 fully making that decision, where even if we -- and even  
24 if we -- we have even veto authority over the CEO's hiring  
25 decisions.

1           So I just wanted to hear from Mr. Funston about,  
2 you know, just the thinking about going to -- from four  
3 direct reports to two and then just what the thinking is  
4 with respect to kind of the share responsibility.

5           CHAIRPERSON JONES: Okay. I think I will offer a  
6 comment at this stage, because I hear both sides, and the  
7 benefits, and issues from either way we go, but I also  
8 would suggest that we add this language to the -- as part  
9 of the delegation to the CEO in terms of a direct report.  
10 And I would -- and this was in a board governance and  
11 delegated authority some years ago and somehow it was  
12 removed. So I'm suggesting that it be put back.

13           And it would read, "The Board and the CEO share  
14 responsibility for hiring, evaluating, and, if necessary,  
15 terminating the Chief Investment Officer". And therefore,  
16 the Board would be involved if the -- in the actual  
17 hiring, making the decision, the Board would be actually  
18 involved in the evaluation and the Board would be involved  
19 in the actual -- if it comes to a termination. So that  
20 would be my suggestion to deal with that issue.

21           So with that, I think we go -- we want to hear  
22 from Mr. Funston. I heard that request.

23           MR. FUNSTON: Yes, Mr. Chair. Thank you.

24           Yeah, it's very interesting for me to look back  
25 over the course of the last nine or ten years and to see

1 the kinds of changes and the events that have been  
2 affecting CalPERS. And to go back to answer Ms. Yee's  
3 original question, and as Mr. Feckner said and as you  
4 know, there were four direct reports at the time, the  
5 Chief Actuary, the General Counsel, the Chief Investment  
6 Officer, and the CEO.

7 And the problems that Ms. Taylor identified in  
8 terms of a divided organization, silos, competing, lack of  
9 shared infrastructure, classism, I think, between the  
10 various departments and so on, those seem to me to have  
11 been addressed, largely as a result of the unification.  
12 And it was our recommendation at the time, and Mr. Feckner  
13 is certainly right that we did have many animated  
14 discussions about whether this was the right direction to  
15 go in. But we felt ultimately that there should be a  
16 single point of accountability.

17 Having said that, when we look across the systems  
18 today, out of the 57 largest integrated systems, of which  
19 CalPERS is obviously the largest, right, only five have  
20 dual reporting. In other words, 90 percent of the  
21 integrated systems have a single CEO to which the CIO  
22 reports.

23 Now, obviously, the CEO serves at the pleasure of  
24 the Board and is not a civil servant as was identified  
25 earlier. So that has both advantages and disadvantages.

1 Advantages for the Board, because if you're not satisfied  
2 with the performance of the chief executive, then you can  
3 replace the chief executive.

4 I think the question then becomes is the  
5 consultation between the CEO and the Board on many issues,  
6 which takes place, I think, across a wide range of  
7 matters. And so I think it's advised and advisable for  
8 the Chief Executive Officer to consult with the Board,  
9 particularly when it comes to major decisions like this,  
10 as the CEO would consult with you with respect to other  
11 decisions. I think that's just simply good management  
12 practice.

13 And so, as I kind of alluded to earlier in one of  
14 the other discussions, one size fits one. I think given  
15 the situation where the organization is today and the  
16 kinds of pressures that Ms. Yee has correctly  
17 identified -- and I really -- it's hard to imagine a more  
18 difficult circumstance than the one that you find yourself  
19 in today, I think stability of the organization is  
20 extremely important and having a singular leadership is  
21 also an important part of that to continue to maintain  
22 unity in the organization.

23 And as we know in the past, and again we're all  
24 hopeful that we won't have the same kind of Board  
25 involvement unduly in shaping the investment decisions,



1 there is a protection now against that and also that  
2 there's really two kinds of reporting. The Board has the  
3 right to information from the Chief Investment Officer and  
4 they should have unfettered access to that information.

5 But it doesn't mean that the -- in order to have  
6 that unfettered access to the information that the CIO  
7 needs to report to the Board in terms of a reporting  
8 accountability relationship, if you will.

9 And I think this was pointed out earlier by Ms.  
10 Simpson, you have the policy direction is set by the Board  
11 with respect to investment and the Chief Investment  
12 Officer must comply with that.

13 And then on the other hand, you have the  
14 administrative policy, which again the Chief Investment  
15 Officer, and all other executives and staff must comply  
16 with. So I think that you have potentially the best  
17 combination there, because you should have ready access to  
18 the information, while at the same time being able to hold  
19 the Chief Executive accountable for the performance of the  
20 entire organization.

21 Otherwise, I think you risk division at a time  
22 when you can least afford it. I think my earlier comments  
23 too were about the stability of the organization in these  
24 times and the commitment to kind of the -- to stay the  
25 course to see -- to see it through, because I think

1 creating instability would probably be one of the worst  
2 things that one could do for the organization, given the  
3 current circumstances.

4 I'll stop there and just take any questions.

5 CHAIRPERSON JONES: Okay. Thank you.

6 Mr. Perez?

7 COMMITTEE MEMBER PEREZ: Thank you, sir.

8 I don't know what the process would be, but I'm  
9 wondering if we could have this -- a more in-depth  
10 conversation about this in a closed session setting.

11 CHAIRPERSON JONES: Mr. Jacobs, it could be  
12 calendared, evaluation of the CEO. Mr. Jacobs.

13 GENERAL COUNSEL JACOBS: Yeah. I'm not seeing  
14 any basis for having this in a closed session. I'll reflect  
15 on that a little bit, but we're talking about a  
16 governance --

17 COMMITTEE MEMBER PEREZ: I'll text you, Matt.

18 GENERAL COUNSEL JACOBS: I'm sorry, Mr. Perez?

19 COMMITTEE MEMBER PEREZ: I'll email or I'll text  
20 you.

21 GENERAL COUNSEL JACOBS: Okay.

22 CHAIRPERSON JONES: Okay. All right. Okay.  
23 We'll get Mr. Jacobs' opinion on that.

24 Ms. Middleton.

25 VICE CHAIRPERSON MIDDLETON: Thank you, Mr.

1 Chair. And I want to thank all -- everyone who has  
2 already spoken. These are -- have been really good  
3 conversations and I appreciate Ms. Yee bringing this issue  
4 forward. And I've had mixed feelings on this as to what's  
5 the best way to go forward.

6 But I think the Chair raises a very good point  
7 that a shared responsibility for the hiring, evaluation  
8 and firing is an appropriate balance to strike.

9 It's one I'm very familiar with in a municipal  
10 context, in which in most medium-sized cities with a city  
11 manager, the city manager reports to the city council, but  
12 the city council has significant involvement in making a  
13 determination as to who the city attorney is going to be.  
14 And that's generally a shared responsibility in the hiring  
15 and a shared responsibility in the evaluation.

16 But I do think it's important there were -- that  
17 we get to a place where we have some stability. It's a  
18 word that Mr. Funston used and it is a word that Mr.  
19 Mehryar used, and it is a word that I hear over, and over,  
20 and over again from my colleagues in other cities, the  
21 employers that are responsible for paying the bills. They  
22 want to see CalPERS as a stable organization that is a  
23 reliable organization. And frankly, an awful lot of them  
24 want to see us get out of the news.

25 And so I think we -- we need to have that one

1 voice that represents this organization. That has to be  
2 the CEO. I've gone to any number of employer programs  
3 where Marcie has been present and she is the voice and the  
4 face of CalPERS. She's not standing there saying, well,  
5 I'll have to get back to the CIO. I'm not responsible for  
6 the CIO as to what his or her projections are going to be  
7 on our investment returns or what the strategy was or that  
8 strategy was. It's the one person who has to stand up and  
9 take the responsibility, whether it goes well or it goes  
10 poorly.

11 So I want to see us play a larger role in working  
12 with the CEO, so that we have a common understanding of  
13 who's the right person, who's the right fit. But  
14 ultimately, I think that -- once we make that decision,  
15 together as to who is the right individual, the reporting  
16 relationship should be directly to the CEO with constant  
17 involvement and cooperation with the full Board.

18 CHAIRPERSON JONES: Thank you, Ms. Middleton.

19 Mr. Miller.

20 BOARD MEMBER MILLER: Yeah. I won't repeat much  
21 here, but I -- I really -- you know, having the CIO report  
22 in a dual reporting or reporting to us, I think it would  
23 undermine stability, I think. And for all the reasons that  
24 Theresa, and Ms. Middleton, and others have mentioned, I  
25 really don't support changing that structure. Certainly,

1 there could be room for improvement if the Board feels we  
2 need to improve how we have a dialogue with our CEO. I  
3 think our CEO has done a great job. I have great  
4 confidence in her.

5 In coming into a CIO search, I just have to ask  
6 myself, and I would ask Mr. Funston and anyone else who  
7 wants to weigh in, how would our candidates look at the  
8 prospect of reporting to Marcie Frost versus reporting in  
9 a dual leadership structure, in terms of a reporting  
10 relationship with this Board, especially given the way our  
11 last CEO, you know, was dealing directly with Marcie, and  
12 we were able to really allow him to really work  
13 effectively and to relieve some of the burdens of kind of  
14 the care and feeding of Board, and Board meetings, and  
15 everything that would be on the table, if we had a new CIO  
16 with dual reporting relationship and kind of that serving  
17 not two masters but you know 13, 14 masters? So I think  
18 that really would be challenging.

19 CHAIRPERSON JONES: Mr. Funston, you want to  
20 respond to Mr. Miller's request of you?

21 MR. FUNSTON: Yes, thank you. It's hard for me  
22 to anticipate how your candidates might respond to that.  
23 But I think the concern -- I think it would be fair to say  
24 that any candidate would be concerned about stability in  
25 the organization going back to that theme again, and would

1 there be consistency, would there be the potential for  
2 interference, as there had been previously with pretty  
3 disastrous consequences.

4           So I think, again, the idea of being in  
5 consultation with the Board -- and I guess I have a  
6 question in turn. It's my understanding that the Board  
7 itself cannot be involved in the discipline, firing, or  
8 hiring of civil servants. That's a question that I have.  
9 And I don't know whether Mr. Jacobs would be able to  
10 comment on that. But to what extent -- to be consulted is  
11 one thing, but to be responsible for it is another. And I  
12 would just raise that question back.

13           CHAIRPERSON JONES: Mr. Jacobs or Ms. Ortega, do  
14 you have any comments on that comment?

15           GENERAL COUNSEL JACOBS: If Ms. Ortega has one, I  
16 will defer to her.

17           COMMITTEE MEMBER ORTEGA: I was going to say the  
18 same thing.

19           (Laughter.)

20           COMMITTEE MEMBER ORTEGA: You know, I think the  
21 issue is, as we discussed at the last meeting about the --  
22 really the -- that Board and CalPERS the entity are one  
23 entity. However, the employees have rights, in that  
24 they're -- who they report to, what the appropriate  
25 disciplinary processes, all those things that they have

1 explained to them as part of their hiring process, they  
2 have -- I would characterize it as having a right to that.  
3 So I think -- I think it's really important to think  
4 through if you're talking about having the Board having  
5 that type of role with employees other than the CEO. I  
6 think that you would really have to think that through.

7           However, I think, you know, as Ms. Yee has  
8 mentioned, the model at CalSTRS, the CIO does, in fact,  
9 report directly to the Board. The Board determines the  
10 CIO's performance, does the performance evaluation,  
11 determines the appropriate incentive compensation. All of  
12 those actions are taken by the Board directly. So there  
13 clearly is a model for that that has not been challenged  
14 or does not appear to violate anybody's civil service  
15 rights.

16           CHAIRPERSON JONES: Okay. Can we also ask Ms.  
17 Westly to chime in on this.

18           BOARD MEMBER WESTLY: I actually had written down  
19 that I had question at the beginning of this, because I  
20 was -- have -- I'm new, relatively. And I had so many  
21 questions. But after listening to Mr. Funston, and then  
22 also Mr. Miller, and the Controller, and especially you,  
23 Ms. Middleton, it really has helped clarify this for me.  
24 And I actually don't -- I don't have any question after  
25 all. So you can take my name off.

1 CHAIRPERSON JONES: Okay. Thank you. Okay. Ms.  
2 Taylor.

3 VICE PRESIDENT TAYLOR: Thank you. I had a  
4 question. I cannot remember -- this has been, what, over  
5 18 months since we hired our CIO. We had two interview  
6 panels, if I remember correctly. And some of us were on  
7 the first one and some of us were on the second one. And  
8 then we had a meeting, I remember -- like a separate like  
9 dinner meeting, I believe, if I'm -- I can't remember for  
10 sure.

11 But anyway, when we had our interview, didn't we  
12 have the ability to grade? And I don't know who -- who  
13 can answer that here. But I thought we had a say in the  
14 grading of how our interview went with the Chief  
15 Investment Officer. Is that a Marcie question maybe?

16 CHAIRPERSON JONES: Marcie.

17 CHIEF EXECUTIVE OFFICER FROST: Yeah. Thank you.  
18 I can at least explain the process of hiring the Chief  
19 Investment Officer, when we hired Mr. Meng.

20 Yes, so the Board President at the time - I  
21 believe that was Priya Mathur - designated certain  
22 individuals who would be involved in the hiring process,  
23 which ended up mostly being the interviews and then  
24 obviously collecting feedback from those individuals about  
25 whether they could see the candidates -- the top



1 candidates, how they could see those candidates  
2 interacting with the Board in the Investment Committee and  
3 whether they believe that that would be a good hire for  
4 the system.

5           So, yes, there were three Board members and these  
6 were publicly noticed agendas. Because we had three Board  
7 members, we had essentially a subcommittee, three Board  
8 members on interview panel one, three Board members on  
9 interview panel two. And then as it relates to Mr. Meng,  
10 there was a unanimous conclusion by all of the hiring  
11 panels the most qualified candidate to move forward with  
12 background checking and reference checking, et cetera.  
13 That was the process that we used to hire the last Chief  
14 Investment Officer.

15           VICE PRESIDENT TAYLOR: Okay. So if we had  
16 decided that -- whether or not he was your top pick, I  
17 don't know. But say we decided to pick somebody that  
18 wasn't your top pick, but we decided out of those three --  
19 two interview panels, three and three, right, that here's  
20 unanimously, or however, we -- here's who we want, would  
21 that be who you would go with, based on our  
22 recommendation?

23           CHIEF EXECUTIVE OFFICER FROST: I mean, I don't  
24 believe -- at least in any experience that I've had with  
25 this Board, typically, we are on the same page with the

1 factors or the talent that we're trying to acquire. And I  
2 don't really see that likelihood happening. But if we had  
3 a situation where, you know, the six Board members felt it  
4 needed to be candidate A and I felt it needed to be  
5 candidate B, if I didn't have enough information and data  
6 to explain why I didn't think candidate A was preferable  
7 or why candidate B was not preferable, then, you know,  
8 more likely than not, the majority of the panelists, at  
9 that point in time, would be how we would move forward.

10 And how we evaluate that particular individual  
11 would have to take into consideration any issues or  
12 weaknesses that I felt that that candidate had. And we  
13 would take care of that through the evaluation process,  
14 and the fact that they hold a trial service period. This  
15 is a civil service employee. And so we'd have an  
16 opportunity to evaluate on those weaknesses or frankly  
17 those strengths that we thought that that candidate had  
18 had.

19 VICE PRESIDENT TAYLOR: Okay. So -- so we do --  
20 our weight on the interview panel does make a difference?

21 CHAIRPERSON JONES: Oh, yeah.

22 CHIEF EXECUTIVE OFFICER FROST: Absolutely.

23 VICE PRESIDENT TAYLOR: Okay. So then --

24 CHIEF EXECUTIVE OFFICER FROST: Absolutely.

25 VICE PRESIDENT TAYLOR: So then in addition, we

1 do set the parameters for pay. We don't -- you're the one  
2 that does the review process and I understand that. But  
3 we set the parameters. And it comes to the Board, so I --  
4 as I understand it again, we look at what you -- your  
5 review says. And I know for a fact that we changed Ted's  
6 when he was here, so --

7 CHIEF EXECUTIVE OFFICER FROST: I would say that  
8 the Board has -- certainly has veto authority on any of  
9 the incentive payouts or any of the evaluations that  
10 happen for any of the two 0098 positions of which you have  
11 the authority over.

12 VICE PRESIDENT TAYLOR: Okay. Okay. Because I  
13 think it wasn't only Ted. I think there was someone else  
14 and I cannot remember who, but, yes, I do remember that an  
15 evaluation was brought forward. And that also happened  
16 under the previous CEO with a couple of her people too, so  
17 -- and we overruled her on her evaluation.

18 Now, never having to have -- excuse me, having to  
19 have fired anybody, I don't think we've experienced that,  
20 so -- but I would imagine if the CEO sought to terminate  
21 somebody is it my -- it's my impression that you would  
22 bring that to the Board, correct?

23 CHIEF EXECUTIVE OFFICER FROST: Yes. Of course,  
24 I would talk with the Board about a termination of a  
25 senior level position like that.

1           VICE PRESIDENT TAYLOR: Okay. Okay. That's why  
2 I was thinking whether or not we changed the delegation  
3 for interviews, because I don't know that it's necessary.  
4 But, I mean, if that makes people feel more comfortable,  
5 then that's fine with me. But it seems like we do have an  
6 impact on both hiring and the review process.

7           CHAIRPERSON JONES: Okay. Mr. Rubalcava.  
8           Mr. Rubalcava, where are you?

9           BOARD MEMBER RUBALCAVA: I'm here. Thank you,  
10 Mr. Jones. Thank you, Mr. Chair -- I mean, Mr. President.  
11 Yes, I did want to comment also on this. I'm not on the  
12 Committee, so I appreciate ability to speak. I appreciate  
13 the discussion from the fellow trustees and also from the,  
14 if I could use the term, subject matter experts, the  
15 people who understand governance and what have you.

16           And I think what I want to sort of throw out  
17 there is that I think one thing that's said a lot in some  
18 of the literature that Anne Simpson put together and some  
19 other things we all share is also that we want to make  
20 sure that there's undue -- there's not undue influence.

21           And I think the best way to do that is to  
22 concentrate at a point. I mean remember one discussion,  
23 perhaps last year, about -- that we wanted to make sure  
24 that we provide enough -- the Investment Office with the  
25 space or the ability to focus on their job, which is to

1 get the seven percent.

2           And I think that should be the key criteria.  
3 What is the most effective structure to deliver that seven  
4 percent, so they can focus on what their job is. And as  
5 others have said, and I think Ms. Frost's last example  
6 about the hiring process, an effective CEO will ensure,  
7 and I'm sure our Board, will require that the Board  
8 continue to be involved in the hiring process and any  
9 evaluation process.

10           So I think there's enough process and safeguards  
11 in there to make sure that everything works -- works --  
12 and by works, I mean that the CEO, like the Chief  
13 Investment Officer, just like the CEO follows a directive  
14 in the big policy that's been adopted by the Board.

15           So I am comfortable with the current delegation.  
16 Thank you.

17           CHAIRPERSON JONES: Okay. Ms. Olivares.

18           COMMITTEE MEMBER OLIVARES: Thank you, Mr. Chair.

19           I think this question would be for Eraina. How  
20 is it that the CIO at CalSTRS reports into the Board and  
21 is that not a civil service position?

22           COMMITTEE MEMBER ORTEGA: Okay. So, Mr. Chair,  
23 if I could respond.

24           CHAIRPERSON JONES: Yes.

25           COMMITTEE MEMBER ORTEGA: I was going to raise

1 this question about the -- what seems to be going back and  
2 forth, just thinking back to the last meeting as well and  
3 today's meeting about what the authority is around civil  
4 service employees and the Board's authority. And I think  
5 that we would benefit from Mr. Jacobs maybe at our next  
6 meeting bringing some clarity around -- around this, or  
7 Mr. Jacobs working with CalHR legal as well, however we  
8 want to do it.

9 I think it would be helpful to have that clearly  
10 defined. You know, of course, I'm operating from my  
11 understanding of things. And my understanding goes back  
12 to the conversation that the Board is CalPERS. And that  
13 is the same way that it operates at CalSTRS, the Board is  
14 CalSTRS. And so the Board is functioning as the employer  
15 for purposes of evaluating, again at CalSTRS, the CIO's  
16 performance, and presumably would be involved directly in  
17 the hiring of that CIO, because the Board's authority is  
18 plenary. It is an extension of the entire entity.

19 So those are all kind of legal and structural  
20 bases for how people operate. It doesn't mean that you  
21 can't carve out a different approach, which is what we  
22 have at CalPERS, where we have the CIO reporting to the  
23 CEO. My understanding at CalPERS, the only position that  
24 is exempt from civil service is the CEO's position. All  
25 the other positions are civil service positions, meaning

1 their classifications are adopted by the State Personnel  
2 Board. And that means they are afforded all the  
3 Constitutional protections that exist in the merit system.

4 So any -- any adverse action that the Board were  
5 to take against a -- the CIO or any of the other executive  
6 staff positions would be subject to appeal at the State  
7 Personnel Board. Those individuals have the same due  
8 process rights under the merit system as any other  
9 rank-and-file position at CalPERS. The only difference  
10 between them is that they are not represented. They are  
11 excluded from bargaining unit membership.

12 But that -- that protection as a civil service  
13 member is the same. Again, the only exempt position I'm  
14 aware of is Ms. Frost's position.

15 But I think it would be helpful to really  
16 understand kind of what the Board's authority is in terms  
17 of reviewing investigations, reviewing -- having these  
18 discussions about personnel matter -- matters. I think it  
19 would be helpful if everybody had the same understanding  
20 and we were all sure that we were right about that.

21 CHAIRPERSON JONES: Okay. Thank you, Ms. --

22 COMMITTEE MEMBER ORTEGA: I hope that -- I hope  
23 that answers the question.

24 CHAIRPERSON JONES: And, Mr. Jacobs, that will be  
25 a direction, if you could follow up on that dialogue and

1 have that discussion, so --

2 GENERAL COUNSEL JACOBS: Sure. But let me make a  
3 couple of comments, which are, one, I mean, I don't think  
4 there's any question that as a me -- as a legal matter,  
5 the Board can hire the CIO and the CIO can legally report  
6 to the Board. I mean, they do it at STRS. We used to do  
7 it at CalPERS. I don't think there's -- there's any kind  
8 of legal issue.

9 And with respect to what Ms. Ortega said on the  
10 consonance between the Board and the agency, it's  
11 absolutely true. I mean, this is -- you know, the  
12 Board -- if you look at the PERL, just to take an example,  
13 the PERL talks about the Board, the Board, the Board, and  
14 the Board does this and the Board can do this. And that's  
15 the agency. And it delegates most of those  
16 responsibilities to the staff, as it must, and everybody  
17 understands that.

18 So, you know, I don't think the issue that we're  
19 talking about here is the legality of a CIO reporting to  
20 the Board. I think it's legal. I mean, I'm happy to  
21 confirm that and report back, but that's my take on it, as  
22 I sit here today.

23 CHAIRPERSON JONES: Okay. Okay.

24 COMMITTEE MEMBER ORTEGA: Mr. Chair.

25 CHAIRPERSON JONES: Yes.



1 COMMITTEE MEMBER ORTEGA: Sorry. This is Eraina  
2 again. One other thing I -- in that kind of line of  
3 thinking I was going to mention is the earlier  
4 conversation, where Ms. Taylor was talking about the Board  
5 overriding incentive compensation item is further evidence  
6 of the Board having the ability to go into employment  
7 matters. So it works both ways. It could be the -- on  
8 the positive side, on the hiring, it can also be on the  
9 Board as overruling an evaluation that came from another  
10 staff person of person subordinate to them.

11 So some of those -- some of those actions over  
12 time, they all indicate that the Board has the ability to  
13 have that direct authority over the staff. So obviously,

14 I think as we've talked about earlier today, we  
15 don't favor having deep reach of the Board into the  
16 organization. That's not a good way to manage and  
17 operate, but the Board ultimately has that authority to  
18 review what comes before it in terms of staff and  
19 employment matters.

20 CHAIRPERSON JONES: Well, let me ask the  
21 question, is there a sense of the Committee that the CIO  
22 continue to report to the CEO with the language that I  
23 suggested, that we will share in the responsibility for  
24 hiring, evaluating, and, if necessary, terminating the  
25 CIO? Is there any sense of agreement along those lines?

1 VICE CHAIRPERSON MIDDLETON: Henry, I --

2 CHAIRPERSON JONES: Yeah. Okay. Ms. Middleton,  
3 you're okay. Other committees members?

4 Mr. Perez.

5 Mr. Perez?

6 COMMITTEE MEMBER PEREZ: I'm still trying to  
7 figure it out in my head, so I'm leaning towards no right  
8 now, but I don't -- I don't have enough info.

9 CHAIRPERSON JONES: Okay. Okay. Ms. Ortega.

10 COMMITTEE MEMBER ORTEGA: Yes, I support that Mr.  
11 Jones.

12 CHAIRPERSON JONES: Ms. Olivares.

13 COMMITTEE MEMBER OLIVARES: I'm deliberating  
14 this. As a CIO --

15 CHAIRPERSON JONES: Unless I sense an  
16 overwhelming disagreement, I'm going to give that  
17 direction. So that's what I'm trying to get a sense of.

18 COMMITTEE MEMBER OLIVARES: Well, I think  
19 we're --

20 CHAIRPERSON JONES: Unless you're willing to take  
21 a vote.

22 COMMITTEE MEMBER OLIVARES: Is this --

23 VICE PRESIDENT TAYLOR: So are you --

24 GENERAL COUNSEL JACOBS: Mr. Jones, the -- I'm  
25 sorry.

1 CHAIRPERSON JONES: Yes.

2 GENERAL COUNSEL JACOBS: Mr. Jones, the direction  
3 would be to come back with that language in a revised  
4 either Governance Policy, or CEO delegation, or both?

5 CHAIRPERSON JONES: Yes, yes.

6 COMMITTEE MEMBER OLIVARES: Mr. Jones, could you  
7 repeat that once more, please.

8 CHAIRPERSON JONES: Okay. It said that, "The  
9 Board and the CEO share responsibility for hiring,  
10 evaluating, and if necessary, terminating the Chief  
11 Investment Officer".

12 Mr. Feckner says -- okay. Committee members.  
13 Okay. I got a sense that -- at least I don't see any  
14 strong objection. Are any other Board members --

15 COMMITTEE MEMBER OLIVARES: Can I --

16 BOARD MEMBER BROWN: I haven't made my comments  
17 yet. Thank you.

18 CHAIRPERSON JONES: Okay. Okay. Let's -- Ms.  
19 Olivares, you want to comment before I go to Ms. Brown?

20 COMMITTEE MEMBER OLIVARES: Well, I would also  
21 like to explore making the CIO role an exempt position,  
22 not civil service.

23 CHAIRPERSON JONES: That's a different path  
24 though from what we're talking about here. So let's --

25 COMMITTEE MEMBER OLIVARES: But as we're

1 looking -- as we're looking into things, I think that's  
2 important too. I mean, this is a very highly compensated  
3 position. If we're talking about needing to determine  
4 whether there are conflicts of interest and civil service  
5 protections, I would want to make sure whoever is setting  
6 and implementing the Investment Policy for the  
7 organization is able to provide adequate transparency into  
8 their holdings.

9 CHAIRPERSON JONES: Yeah. Okay. Let's see, I  
10 have Ms. Yee. No, Ms. Brown. I'm sorry. Ms. Brown

11 BOARD MEMBER BROWN: Thank you. I was trying to  
12 be patient. You know, in hearing, I think it was, Ms.  
13 Taylor go over the last process of hiring Mr. Meng, of  
14 course, as a Board member I was left out entirely of the  
15 process. And this is what I'm talking about, if the full  
16 Board doesn't have the opportunity to have that process,  
17 by the time it came to the full Board, of course, it was  
18 unanimous. It was already decided. And you want to be  
19 supportive of the pick, of the CEO.

20 And so I would prefer what Ms. Olivares just  
21 said, which is looking at making the CIO position exempt  
22 or report directly to the Board. This position makes  
23 three times more than the CEO, a different set of skills,  
24 and I'd like us to at least take a look at that.

25 The way the system worked the last time did not

1 work for me as a Board member. Although, I will tell you  
2 it leaked to the press. I had no idea who the guy was,  
3 and it worked for me, because I didn't know his name,  
4 so -- but it doesn't work for me as a Board member.

5 Thank you

6 CHAIRPERSON JONES: Okay. Okay. Ms. Yee.

7 BOARD MEMBER YEE: Excuse me.

8 Thank you, Mr. Chairman. Appreciate you just  
9 bringing that language back that was in the prior policy.  
10 I wanted to see if you also would be open, just apropos of  
11 Ms. Brown's statement -- obviously the issue Ms. Olivares  
12 brought up is going to be a longer term issue that we're  
13 going to have to deliberate around.

14 But there was prior language also about the Board  
15 retaining veto authority over CEO decisions for hiring,  
16 evaluating and terminating. And at that -- I think the  
17 prior language had to do with more than just the CIO, but  
18 can we restore that language as well? I'm just thinking  
19 about Ms. Brown's concerns about -- and others concerned  
20 about not being robustly involved in the process.

21 CHAIRPERSON JONES: Yeah. Mr. Jacobs, I think  
22 the board always -- we have delegated authority. We could  
23 overturn that delegated authority at any time as a full  
24 Board, is that correct, any item?

25 GENERAL COUNSEL JACOBS: Yeah. I mean, you

1 reserve all authority. So if you ever decided to change  
2 the delegation, you could absolutely change it.

3 CHAIRPERSON JONES: Yeah. And so that  
4 includes --

5 GENERAL COUNSEL JACOBS: Is that your question?  
6 I'm not sure.

7 CHAIRPERSON JONES: Yeah. Well, it includes an  
8 item coming -- a decision that has been made that comes to  
9 the Board, the Board has the right to overturn that  
10 decision is my question, at any -- at any time, by the  
11 CEO?

12 GENERAL COUNSEL JACOBS: I don't know. I mean,  
13 if it's already made, I'm not sure, if it's already been  
14 made. I'd have to think about that.

15 BOARD MEMBER YEE: I mean, I guess I would  
16 question whether that language is --

17 GENERAL COUNSEL JACOBS: In other words, if you  
18 delegated the authority to the CEO, or to anybody, and the  
19 CEO makes a decision based on that delegation, would you  
20 be able to change it? I don't know. I mean, it makes  
21 sense that you would. I guess -- I guess it makes sense  
22 that you would. It might have already been -- it might be  
23 moot.

24 CHAIRPERSON JONES: Because it may have been  
25 implemented or something.

1           GENERAL COUNSEL JACOBS: Right.

2           CHAIRPERSON JONES: Yeah.

3           BOARD MEMBER YEE: All right.

4           GENERAL COUNSEL JACOBS: Right. If it's not been  
5 implemented, then you would have the authority overturn  
6 it.

7           BOARD MEMBER YEE: Overturn it. Okay. That  
8 doesn't deal with what the origin of that language was  
9 previously, so -- okay, just in case we don't missing  
10 anything.

11           All right. Thank you.

12           CHAIRPERSON JONES: Okay. You're welcome.

13           Ms. Middleton.

14           VICE CHAIRPERSON MIDDLETON: Yeah. I support the  
15 concept behind what Ms. Yee is talking about in terms of  
16 veto responsibility. When I talked in terms of shared  
17 responsibility, I think this is going to be a tricky  
18 process to define, but it has to be one in which the full  
19 Board believes they are sharing in the responsibility.  
20 And finding a confidential avenue whereby the full Board  
21 can be involved is not something I think is going to be  
22 easy, as we are trying to make hiring decisions. But I  
23 think it is important that -- that all 13 of us feel that  
24 we are participating in the decision around hiring,  
25 evaluation, and a decision, if necessary, of termination.

1 CHAIRPERSON JONES: Okay.

2 VICE CHAIRPERSON MIDDLETON: In supporting this,  
3 I'm supporting it under an understanding that shared is --  
4 is fully across all 13 of us.

5 CHAIRPERSON JONES: Okay. Okay. Ms. Ortega.

6 COMMITTEE MEMBER ORTEGA: Thank you. I just  
7 wanted to clarify that related to Ms. Olivares's comment,  
8 the position does not need to be exempt from civil service  
9 in order to report to the Board, so -- and establishing  
10 the position as an exempt position -- exempt means exempt  
11 from civil service. And so the Constitution lays out  
12 where the exempt positions are within State government.  
13 So every department has an exempt, director with an  
14 exempt, chief deputy director. And that's essentially how  
15 CalPERS has the exempt CEO.

16 So it's kind of -- it would be an involved  
17 process to establish the CIO position as an exempt  
18 position. And I'm not sure that it's necessary to  
19 accomplish some of the other ideas that have been  
20 discussed today. So just putting that out there, that  
21 it's not a prerequisite to some of the changes that are  
22 being talked about here.

23 CHAIRPERSON JONES: Okay. Any other?

24 Ms. Middleton, you're up again or is that before?

25 Okay. Okay. Seeing no further questions. So,



1 Mr. Perez, you said come back to you and do you have any  
2 other thoughts on what we were talking about?

3 Okay. Okay. We do have -- if there are no  
4 further questions, we do have requests to speak on this  
5 from the public.

6 So, Mr. Fox.

7 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
8 President. We have some folks that have been waiting for  
9 a while. We have Mr. Jeff Hewitt, County Supervisor,  
10 Board of Supervisors from Riverside, Fifth District.

11 CHAIRPERSON JONES: Thank you.

12 RIVERSIDE COUNTY SUPERVISOR HEWITT: Hello.

13 CHAIRPERSON JONES: Hello.

14 RIVERSIDE COUNTY SUPERVISOR HEWITT: Yeah. Okay.  
15 Great. You can hear me. Yeah.

16 CHAIRPERSON JONES: Yes.

17 RIVERSIDE COUNTY SUPERVISOR HEWITT: Yeah. This  
18 is Supervisor Hewitt. And I've been listening. It's been  
19 very, very -- been very, very interesting. But my  
20 experience, not only as being a mayor on a city council,  
21 but also now as a county supervisor, it's very laid out  
22 that you have a city manager who pretty much does all of  
23 the hiring and firing, except for the city attorney as Ms.  
24 Middleton was correct on it.

25 And then here at the County with our CEO, if we

1 start micromanaging, what happens is it's kind of like  
2 trying to build a camel, you know, by committee. It's  
3 tough.

4 Ms. Frost represents, you know, not only the  
5 mission and the desire of the Board, and she serves at  
6 your pleasure for sure, but if she is going to be  
7 successful, then putting her team together -- and the CIO  
8 is probably one of the most important, if not the most  
9 important, of her -- of her team to have that relationship  
10 and go forward -- like I say, not too many cooks spoiling  
11 the broth.

12 But in my experience, that's what's worked best.  
13 And being one of your largest accounts, maybe second only  
14 to the State, I would really like to see it continue on as  
15 it -- as it has been, and you guys find a CIO that works  
16 so well with your CEO. And remember, she is the face of  
17 the organization. I think that -- I think that you should  
18 continue on the way it is, and especially have her have  
19 the last decision on who she's going to be working with.

20 And that's all I've got to say right now.

21 CHAIRPERSON JONES: Mr. Fox.

22 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
23 President. The next caller is Derek Lennox from the  
24 Association of California School Administrators.

25 MR. LENNOX: Good evening, Board Chair and

1 members. This is Derek Lennox from the Association of  
2 California School Administrators.

3           So, first of all, on this item, I fully recognize  
4 that sometimes you've got to rock the boat to get things  
5 done. That's a preferred way to do it in many  
6 organizations. It makes a lot of sense. And you've done  
7 it from time to time over at CalPERS.

8           But I'm happy to hear that the Board is  
9 potentially moving away from this concept of dual CIO  
10 reporting. And I'm concerned that that model impairs the  
11 ability of the fund to do the two things we care most  
12 about at this time, first is achieving the seven percent  
13 return, and second is maintaining its stability among the  
14 public and field.

15           And truthfully, the timing doesn't really help  
16 here. Excuse me. At this time, our public schools are in  
17 the midst of recession and are deeply concerned about  
18 whether we have the financial resources to adequately  
19 support our students, our families, and our incredible  
20 staff. Unfortunately, this year's State budget makes  
21 clear that we should almost certainly brace for  
22 significant deferrals in the current year, potential cuts  
23 in the next fiscal year.

24           So as a stakeholder, we do have a number of  
25 reservations about dual reporting and whether it's the

1 right time to rock the boat. The questions we have of  
2 whether this level of intervention will help CalPERS reach  
3 seven percent, whether this change improves the quality of  
4 the candidates you're going to be evaluating in your CIO  
5 search, and whether this change helps our public schools  
6 manage the unprecedented fiscal crisis we're currently  
7 facing and are about to face even more.

8 So if any of these questions yield an answer,  
9 other than a resounding yes, we would strongly encourage  
10 the Board to evaluate whether this is the right time to  
11 take such a significant change.

12 Thank you.

13 CHAIRPERSON JONES: Thank you.

14 Mr. Fox.

15 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
16 President. The next caller is Dillon Gibbons with the  
17 California Special Districts Association.

18 MR. GIBBONS: Hi, Chair. This is Dillon Gibbons  
19 with the California Special Districts Association. I just  
20 really wanted to thank the -- the full Board for the  
21 discussion on this item. I think that there was a lot of  
22 great points. I thought that bringing it up from Member  
23 Yee, it was really important to have this discussion. But  
24 I would -- I would say, you know, from the Special  
25 Districts perspective, we would like no change in the

1 reporting as it -- going forward.

2 We agree completely with the comments from Board  
3 Member Taylor and really appreciate the comments from  
4 Board Member Middleton regarding stability. I think  
5 that's what we're looking for most from CalPERS right now.  
6 And I think that one of the things that -- that under the  
7 current model that has been -- its incredibly effective is  
8 the CEO bringing all of the parts of the organization  
9 together and reporting out and working with stakeholders.

10 And I think that, you know, by changing the  
11 reporting and the authority of the CEO, you know,  
12 essentially making the CEO a middle manager, but, you  
13 know, having 100 percent accountability for the operations  
14 of CalPERS is -- would be unfair. It would be an  
15 injustice to the Board. It would hurt stability. And I  
16 think it would -- as the previous speaker mentioned, I  
17 think it would not help your efforts to reach seven  
18 percent.

19 As a result, we're just urging you to continue on  
20 with the -- with the program as it is in place now.

21 CHAIRPERSON JONES: Thank you.

22 MR. GIBBONS: Thank you.

23 CHAIRPERSON JONES: Mr. Fox.

24 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
25 President. The next caller is Tim Behrens, California

1 State Retirees.

2 MR. BEHRENS: Thank you, Chairman Jones, members  
3 of the Committee and the Board. You guys are wearing me  
4 out.

5 I've got to thank Board Member Taylor for  
6 teaching me a new word, sexism. I had never heard of that  
7 word before, so I did learn that today. I support the  
8 current system. Although, I think it's very important  
9 that the Board be part of the hiring process with the CIO.

10 After that, I think something another board  
11 member said an hour ago and that is hold your CEO  
12 responsible. I don't think you can go wrong with that. I  
13 think it shows stability. I think if I were applying for  
14 the job, I would much rather be directly under the CEO  
15 than have another 12 people looking at me in the room  
16 asking me questions.

17 Thank you

18 CHAIRPERSON JONES: Thank you. Mr. Fox.

19 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
20 the next caller is Larry Woodson, California State  
21 Retirees.

22 MR. WOODSON: Good afternoon. Larry Woodson.

23 And I -- I want to, you know, just make a  
24 distinction between hiring, evaluation, and termination,  
25 which interestingly wasn't even mentioned in the analysis.

1 But -- and it seems like you could have some shared  
2 responsibility there, but full operational reporting for  
3 the CEO.

4           And just from a historical standpoint, if this  
5 would create instability, it seems like since 2014, there  
6 was relative stability, at least by one measure, our  
7 funding status of the PERF was much higher than it is  
8 today, so it seemed to work for decades. But I understand  
9 the -- you know, the ambivalence, and I understand both  
10 sides, and I just thought I'd throw those points out.

11           Thank you.

12           CHAIRPERSON JONES: Thank you.

13           Mr. Fox.

14           STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,  
15 the last caller on this subject is former Board member  
16 Bill Slaton.

17           CHAIRPERSON JONES: Okay. Hello. Welcome. Mr.  
18 Slaton.

19           MR. SLATON: Hi. Hi, Chair Jones and members of  
20 the Board. It's nice to hear your -- all your voices  
21 again.

22           I did serve in the -- on the Board as an  
23 appointee of Governor Brown for almost seven years until  
24 April of 2019. And during that time, I chaired the  
25 Governance Committee for a while and also the Investment

1 Committee for a short while.

2           When I was on the Governance Committee, I also  
3 was on the CIO interview panel, one of the panels, that  
4 participated in the hiring of the prior CIO.

5           So I'm speaking today in favor of retaining the  
6 current reporting structure with the CEO being the sole  
7 report to the Board. And let me give you a few reasons,  
8 some of which have been said before, so I'll shorten my  
9 remarks.

10           You know, the CEO is hands on every day. And  
11 when you have the CIO and the CEO reporting to you, it  
12 adds complexity and inefficiency to all the shared  
13 resources that are used by both the Investment Office and  
14 the rest of the organization. And I saw that firsthand  
15 when I joined the Board, when that dual reporting  
16 structure was in place.

17           The -- when you had the dual -- if you had the  
18 dual reporting structure in place, and I think Mr. Feckner  
19 pointed this out, it -- without changing -- without any  
20 changes to policies or procedures, it wouldn't have  
21 prevented what occurred with your former CIO.

22           In addition to organizational integrity, one of  
23 the major values of having the CIO report to the CEO, and  
24 I think Mr. Rubalcava pointed this out, is to insulate the  
25 CIO from pressure, particularly political pressure. The



1 Investment Office needs to be shielded from that, so they  
2 can do their jobs. I do want to point out the  
3 organizational structure that you have in place works, if  
4 you look at the recent performance.

5 Now, I know that you didn't reach seven percent,  
6 but you had a return last fiscal year of 4.7, while the  
7 U.S. pension mean was about 3.1. You outperformed your  
8 own benchmark. And I have heard that you actually  
9 outperformed CalSTRS, which I know is always an issue with  
10 the Board in trying to see -- make that happen.

11 Ms. Middleton I think made some great comments,  
12 particularly about stability. You know, you exist on a  
13 world stage. And if I could refer to Chair Jones's  
14 suggestion about including language, you know, the issue  
15 is whether it's -- those -- those powers to participate in  
16 the hiring, evaluation, and termination, whether they're  
17 explicit or implicit.

18 By definition, they're implicit. You have CI --  
19 a CEO that serves at the pleasure of the Board. I don't  
20 know any CEO worth their salt who's not going to consult  
21 with his or her board in making these kinds of decisions.  
22 So you want to think through that, because it's imperative  
23 that you continue to attract the best professionals in the  
24 industry to work for CalPERS. And your way of doing  
25 business will have a great deal to do with recruitment and

1 retention.

2 And so your job is to liberate, speak with one  
3 voice. I encourage you not to change the reporting  
4 structure.

5 Thank you very much. And it's a pleasure to get  
6 a chance to talk with all of you again.

7 CHAIRPERSON JONES: Okay. Thank you, Mr. Slaton.  
8 Mr. Fox.

9 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President  
10 that concludes public comment on Agenda Item 5c.

11 CHAIRPERSON JONES: Okay. And last request to  
12 speak, Ms. Yee.

13 Ms. Yee?

14 BOARD MEMBER YEE: Yes. Thank you, Mr. Chairman.  
15 I just wanted to thank you for placing this item on the  
16 agenda, if, for nothing else, I just wanted to be sure we  
17 all felt confident about just our responsibilities, our  
18 authority, our duty with respect to our relationship with  
19 the CIO. I respect the fact that, particularly during  
20 this time, where there is so much instability, that we  
21 don't want to exacerbate that, and really appreciate the  
22 comments around that.

23 I just wanted to be sure that where we landed  
24 relative to this shared responsibility it's going to be  
25 effective with -- immediately with this next CIO search.

1 So that was just to clarify that.

2 CHAIRPERSON JONES: Okay.

3 BOARD MEMBER YEE: And I think in terms of the  
4 Board just all 13 members being, you know, part of that  
5 full shared responsibility.

6 CHAIRPERSON JONES: Okay. That's the plan to  
7 bring this to the Committee -- to the Board tomorrow.  
8 Okay.

9 Okay. Seeing no further requests, that's enough  
10 direction, Mr. Jacobs, to bring this -- add that language  
11 to -- for tomorrow?

12 You're muted, Mr. --

13 GENERAL COUNSEL JACOBS: Can you hear me?

14 CHAIRPERSON JONES: Yeah, now we can.

15 GENERAL COUNSEL JACOBS: Yeah, I think it is.

16 One thing I wanted to mention, as -- because I'm going to  
17 need to sign off, and I really apologize here, but I've  
18 got 40 law students waiting to hear my great wisdom on  
19 items this evening. And so I'm going to pass this over to  
20 my colleague Robert Carlin to finish up the meeting.

21 And so, Jared, if you could elevate Robert, that  
22 would be great. He's been involved in these issues and is  
23 well versed in them, and has been following along  
24 throughout this session.

25 And so I think we may need a little bit more

1 clarification on that. It was to bring back the language,  
2 Mr. Jones, that you put on the record a short while ago,  
3 and that would be in which document?

4 CHAIRPERSON JONES: That would be when we  
5 report -- maybe we should have a motion. Maybe I could  
6 ask Ms. Middleton to make -- as the Vice Chair of the  
7 Governance to make that motion by adding that language and  
8 it would come to the full Board tomorrow for adoption.

9 GENERAL COUNSEL JACOBS: Okay. And that would  
10 be -- let me ask my colleague, Mr. Carlin, what would be  
11 the best document for that to go into.

12 SENIOR ATTORNEY CARLIN: I think at this -- can  
13 everyone hear me?

14 CHAIRPERSON JONES: Yes.

15 GENERAL COUNSEL JACOBS: Yes.

16 SENIOR ATTORNEY CARLIN: I think the best  
17 document, at this point, would be to start with the  
18 governance policy. And then once we get the language down  
19 from that, we could consider other documents, such as  
20 Committee delegations, et cetera, that we could then add  
21 the same kind of language to.

22 CHAIRPERSON JONES: Okay.

23 GENERAL COUNSEL JACOBS: Okay. Very good. So  
24 that would be -- the direction would be that we would  
25 place that into the Governance Policy.

1 CHAIRPERSON JONES: Okay.

2 GENERAL COUNSEL JACOBS: And I think we can  
3 accomplish that this evening and have it ready for the  
4 Board tomorrow, right, Robert?

5 CHAIRPERSON JONES: Okay. So I don't need a  
6 motion. Direction is sufficient. And that -- Committee  
7 members okay with that direction?

8 Seeing no noes, so that's the direction then.

9 VICE PRESIDENT TAYLOR: Henry, I just have a --  
10 I'm confused.

11 CHAIRPERSON JONES: Yeah.

12 VICE PRESIDENT TAYLOR: What does that mean?

13 CHAIRPERSON JONES: That means that the language  
14 that I read --

15 VICE PRESIDENT TAYLOR: Uh-huh.

16 CHAIRPERSON JONES: -- the Governance Policy  
17 document, they would bring that to the Board tomorrow by  
18 adding that language. Currently, it would be part of 9a.  
19 There would be another sentence under 9a in the Governance  
20 Policy.

21 VICE PRESIDENT TAYLOR: Okay. So -- but if we  
22 accept it tomorrow, then it's in the Governance Policy --

23 CHAIRPERSON JONES: Right.

24 VICE PRESIDENT TAYLOR: -- and it changes the  
25 policy so that we --

1 CHAIRPERSON JONES: It adds that paragraph --  
2 that statement.

3 VICE PRESIDENT TAYLOR: Okay. Thank you.

4 CHAIRPERSON JONES: Okay. Okay. Thank you, Mr.  
5 Carlin and Mr. Jacobs. Matt, you should bring it. I  
6 mean, we moved something. Bring them more often.

7 Okay. All right.

8 GENERAL COUNSEL JACOBS: That's right. All  
9 right. Goodbye, everybody. Sorry about this.

10 CHAIRPERSON JONES: Thank you. Thank you, Matt.  
11 Okay. That concludes that item. We will now --  
12 Ms. Middleton.

13 VICE CHAIRPERSON MIDDLETON: Yeah. Do we need to  
14 take a vote on that item in the Committee to move it  
15 forward to -- for tomorrow?

16 CHAIRPERSON JONES: It would be safe to go ahead  
17 and make a motion. Okay.

18 VICE CHAIRPERSON MIDDLETON: I'll make a motion  
19 in support of that the CIO will be a shared responsibility  
20 of the Board and the CEO for hiring, firing and  
21 evaluation.

22 CHAIRPERSON JONES: Thank you. Is there a  
23 second?

24 COMMITTEE MEMBER ORTEGA: Second.

25 CHAIRPERSON JONES: Okay. Second by who was

1 that?

2 COMMITTEE MEMBER ORTEGA: Ms. Ortega.

3 CHAIRPERSON JONES: Ortega. Okay. Moved by Ms.  
4 Middleton, second by Ms. Ortega.

5 Ms. Hopper, please take the roll.

6 COMMITTEE SECRETARY HOPPER: Rob Feckner?

7 COMMITTEE MEMBER FECKNER: Aye.

8 COMMITTEE SECRETARY HOPPER: Frank Ruffino for  
9 Fiona Ma?

10 ACTING COMMITTEE MEMBER RUFFINO: Aye.

11 COMMITTEE SECRETARY HOPPER: Lisa Middleton?

12 VICE CHAIRPERSON MIDDLETON: Aye.

13 COMMITTEE SECRETARY HOPPER: Stacie Olivares?

14 COMMITTEE MEMBER OLIVARES: Aye.

15 COMMITTEE SECRETARY HOPPER: Eraina Ortega?

16 COMMITTEE MEMBER ORTEGA: Aye.

17 COMMITTEE SECRETARY HOPPER: Jason Perez?

18 COMMITTEE MEMBER PEREZ: Aye.

19 CHAIRPERSON JONES: Okay. Thank -- thank you  
20 very much.

21 Okay. We move to the next item on the agenda,  
22 5d, Board Committee meeting schedule. Ms. Simpson.

23 BOARD GOVERNANCE AND STRATEGY DIRECTOR SIMPSON:

24 Thank you very much, Chair, Committee members,  
25 and Board members who are attending. This item is to

1 provide an opportunity for the Board to look again at the  
2 decision it made, after its most recent self-assessment,  
3 to move to a new Board and Committee meeting calendar.

4           This recommendation came out of the same process  
5 we talked about earlier, so I won't repeat it, as the hour  
6 is late. But the recommendations were to really harness  
7 the effort and the focus of both the Board, and  
8 management, and staff to really have that shared goal of  
9 improved performance.

10           The recommendations were that we have a new  
11 Stakeholder Forum and the first was held in January, that  
12 there be one Board off-site instead of two, that the Board  
13 of Administration meet six times a year, and that each  
14 committee meet at least quarterly with additional meetings  
15 to be scheduled as needed at the Chair's discretion.

16           A parallel recommendation on the meeting calendar  
17 was developed by a different group of participants on the  
18 Board in the beta testing for the new Insight Tool. I  
19 think it was mentioned earlier that when we were looking  
20 back at all the Board items that had been produced in the  
21 last two years, prior to the Board self-assessment, we  
22 found there were 511 separate items for the Investment  
23 Committee, but that 80 percent of them were information  
24 items.

25           And I know Dan Bienvenue is able to speak to



1 this, but certainly one of the concerns that was expressed  
2 by the Board working group is that the Investment Office  
3 needed to be able to spend more time on the day job of  
4 working towards improved returns. And the new cycle was  
5 intended to maintain the opportunities for Board oversight  
6 to allow for extra meetings as needed called by the Chair  
7 and to make sure there was an improved timely flow of  
8 information through the Insight Tool.

9 So with that, Chair, I'll finish. And this is an  
10 item as before for Committee discussion.

11 Thank you.

12 CHAIRPERSON JONES: Ms. Yee.

13 BOARD MEMBER YEE: Thank you very much, Mr.  
14 Chair, and appreciate you agendaizing this as well. So  
15 again, my comments, similar to the accomplish of the  
16 Committee earlier, relates to the workstream discussions  
17 that led to this particular decision around committee  
18 meetings schedule happening before the economic crisis,  
19 the pandemic.

20 And, you know, to reduce the Investment Committee  
21 meetings probably was the most impactful I think from  
22 eight to four. And I'm just thinking about looking ahead  
23 with respect to, you know, our meeting schedule now. So  
24 we will meet in November and then not meet again until  
25 March.

1           And I just think that's -- four months is just  
2 way to long for the Investment Committee not to meet,  
3 given everything that is happening. You know, we're kind  
4 of in an economic meltdown. We're -- it's -- and I just  
5 feel like the -- and the Insight Tool, while it has been  
6 fine with respect to the expanded reports, it really  
7 hasn't been, I think, a substitute for the meetings.

8           And again, I'm going to just say I really value  
9 the input and the deliberations among my colleagues. And  
10 I actually think that having the engagement -- again, we  
11 just had this conversation about not having a dual  
12 reporting system, which I'm fine with, but I do think  
13 there is -- just to be fair to our stakeholders, our  
14 employers, our members who just want to know that their  
15 fund is being managed appropriately, it just cries out for  
16 having more, particularly Investment Committee meetings,  
17 than the four that we have schedule now.

18           And I know at the prerogative of the Chair more  
19 can be schedule. But I think the expectation has to be  
20 that we are staying on top of this fund and that we ought  
21 to be agendizing more meetings during the course of the  
22 year.

23           So that's why this is here. And I think our  
24 fiduciary duty just demands that we have additional  
25 Investment Committee meetings during the year. I think,

1 as was evidenced at how late the Committee went yesterday,  
2 I think that also -- the workplan for the Investment  
3 Office, in terms of what comes to the Board with I think  
4 can be certainly managed and facilitated better as well.

5 CHAIRPERSON JONES: Okay. Okay. Mr. Perez.

6 COMMITTEE MEMBER PEREZ: I want to -- Betty said  
7 everything I wanted to say, so that's where it's at.

8 CHAIRPERSON JONES: Okay. Ms. Middleton.

9 VICE CHAIRPERSON MIDDLETON: Thank you, Mr.  
10 Chair. I'm going to try to keep this short. I agree with  
11 Controller Yee. I was supportive of reducing the number  
12 of meetings a year ago. And 2020 has demonstrated to us  
13 how frequently we do have to meet. I think all of us are  
14 hoping that 2021 bears absolutely no resemblance to 2020.  
15 But we just -- we made a decision to take more breaks to  
16 allow staff to concentrate more on their day job. I  
17 thought it was very important, but we were not able to  
18 execute the plan that we had.

19 We have met multiple times because of issues that  
20 have come up during the course of this year, and there's  
21 every reason to believe that next year we will continue to  
22 have to meet more frequently. So I hope it's not every  
23 month, but somewhere between what we had previously done  
24 and what we had scheduled for 2020 I hope is a happy  
25 medium that we could all agree to, but it's going to have

1 to be more frequent than this year.

2 CHAIRPERSON JONES: Okay. Mr. Miller.

3 BOARD MEMBER MILLER: I would echo the comments  
4 of my colleagues. I agree that -- and I think that's  
5 precisely why what we did has worked, it said -- it set up  
6 the minimum of regular scheduled meetings with more or  
7 less a standing agenda and it gave us the flexibility to  
8 add meetings when we need to and not necessarily have the  
9 burden on staff preparing the entire gamut of reports that  
10 we are doing when we -- with those kind of standing  
11 quarterly meetings.

12 And I do anticipate we're certainly going to need  
13 to meet before March. And I think our current approach  
14 allows us to do that and I would encourage us to start  
15 thinking about when we schedule that next meeting after  
16 the one coming up, because we're in -- and to be prepared  
17 to add, more or less, ad hoc meetings as needed, because  
18 we've got the CIO search. We've got a lot of things going  
19 on and the current policy gives us the flexibility to do  
20 that.

21 Thank you.

22 CHAIRPERSON JONES: Thank you.

23 Ms. Brown.

24 BOARD MEMBER BROWN: Thank you. I want to echo  
25 the comments of Controller Yee and of Ms. Middleton. I

1 have got to say yesterday was a horrifically long day. I  
2 didn't ask -- I probably only asked a third of my  
3 questions in the closed session as we were coming up to  
4 8:00 p.m. And I really don't think that we can fulfill  
5 our duty with just having these four meetings.

6 And so I just think we need to increase the  
7 meetings, get them set, and let us -- let us do our job.  
8 Let us do our job.

9 Thank you.

10 CHAIRPERSON JONES: Okay. Ms. Taylor.

11 Ms. Taylor, you're muted.

12 BOARD MEMBER MILLER: Unmute.

13 VICE PRESIDENT TAYLOR: I did. It just didn't  
14 work. Okay. I agree with what folks are saying about the  
15 fact that we've got a lot of information to cover that we  
16 need more meetings. Certainly, we do -- I'm a little  
17 concerned that we're meeting in November not December with  
18 Investment Committee. I thought that's a little weird,  
19 because that's only two months away, but whatever.

20 I think that because it is -- it's minimum four  
21 meetings. Next year, we're going to start our ALM  
22 process. I certainly see us having at least two meetings  
23 more next year for sure. But also if we need to have more  
24 meetings because we have the CIO search going on, at any  
25 time we can make sure that we have an ad hoc meeting.

1           If that's not sufficient, then I say we move to a  
2 total of -- so the Board meets six times a year. Why  
3 don't we have Investment Committee six times a year.

4           If it's not sufficient to have the ad hoc  
5 meetings added when necessary -- and again, I would agree  
6 waiting till March is too long, we would have to have -- I  
7 would think we would have to have a meeting in between,  
8 but also additionally we should be having extra meetings  
9 because of the ALM process.

10           But as to last night, I was thinking about that  
11 after we got off. And I'm wondering if we could figure  
12 out, because that's not going to -- that is till going to  
13 happen when we have total fund review, I think. So I'm  
14 wondering if maybe we can have -- end it at 5:30 and then  
15 take it up at the first half of Tuesday and finish  
16 Investment Committee Tuesday, and then have the rest of  
17 our Committee meetings. And we may end up spilling over  
18 into Wednesday as well, but we usually only have a half  
19 day on Wednesday, anyway.

20           So, I mean, I think we need to think about these  
21 things, because it's not necessarily just -- I think -- I  
22 remember sometime when we did Risk and Audit interviews  
23 and we were here -- we were there till 9:00 o'clock at  
24 night. So we've got to figure out a way that we don't  
25 have to be 15 hours at a Board meeting. So I agree with

1 that.

2 But I certainly think that if it's not sufficient  
3 to have the ad hoc meetings and everybody is in agreement  
4 on that, then the bare minimum then -- I don't think we  
5 should go over six. I want to make sure that our  
6 Investment Office can focus, especially in this time when  
7 the stock market is crazy. It's going up. It's going  
8 down. The pandemic drove it way down. I really think we  
9 need to focus on our seven percent solution and in getting  
10 our funding levels up.

11 So that's my two cents worth. But again, we can  
12 set policy -- or set meetings this week, extra meetings,  
13 or we can set policy. It's up to you guys.

14 CHAIRPERSON JONES: Okay. Okay. Ms. Yee.

15 BOARD MEMBER YEE: I think Ms. Olivares was ahead  
16 of me. Committee member.

17 COMMITTEE MEMBER OLIVARES: Oh, go -- go ahead.

18 BOARD MEMBER YEE: Okay.

19 COMMITTEE MEMBER OLIVARES: That's fine,  
20 Controller Yee.

21 BOARD MEMBER YEE: Thank you. Okay.

22 I -- I hope we're not embarking on kind of a new  
23 era of where, you know, just kind of every year has things  
24 coming at us sideways. But I just thought I'd put forth  
25 for comparison's sake what we do at CalSTRS.

1           The Investment Committee meets six times a year.  
2     So January, March, May, July, September, and November.  
3     And we have an off-site in October. And generally, one of  
4     the days at the off-site is completely devoted to  
5     investment-related topics.

6           The Board recently also authorized one day  
7     meetings as necessary to ensure that the Board is kept  
8     up-to-date on market conditions and other issues. So  
9     we've actually felt the need to have more meetings.

10           I think Ms. Taylor's point about splitting the  
11     Investment Committee over a couple days may actually be  
12     good. I'd rather that we have, as a matter policy, more  
13     meetings set in the policy. We can always cancel them.  
14     It's easier to take them off the calendar than it is to  
15     put them on.

16           And if we have more accomplished and if things  
17     should change for better, we won't have the need to have  
18     those scheduled meetings. But I think just as an  
19     expectation that, you know, for our stakeholders and for  
20     our employers and members to actually have it as a matter  
21     of policy that we meet X number of times a year. And I  
22     would suggest devoting part of our off-site to  
23     investment-related topics as well, as we have done.

24           CHAIRPERSON JONES: Okay. Thank you.

25           Ms. Olivares.



1           COMMITTEE MEMBER OLIVARES: Thank you, Mr. Chair.  
2 This question is for Ms. Frost. I think when we discussed  
3 reducing the frequency of Investment Committee meetings,  
4 we talked about the Insight Tool. And so I would want --  
5 I want to know kind of what the roadmap of that is going  
6 forward.

7           CHIEF EXECUTIVE OFFICER FROST: Yeah. And I  
8 don't know if we have Doug Hoffner that -- who we could  
9 promote. I'm not sure. But yes, so the Insight Tool is a  
10 tool that was developed in-house. Many of the agenda  
11 items that we, as the Investment Committee, we present to  
12 you are really information items. And part of the  
13 discussion related to the workstreams that the two leads,  
14 as well as the rest of the Board, had had last year was  
15 that we can -- we can accept information in different  
16 ways. We don't need to be sitting necessarily in a Board  
17 meeting or a Committee meeting to receive information  
18 about what's happening with the fund. And so the idea  
19 there was to create a tool that would ultimately replace  
20 Diligent, which you're using now, to manage the meetings.

21           But this would be more of a dashboard or, you  
22 know, a set of information that you as the Board have  
23 requested that you want to know on a more regular basis,  
24 and that you would have an easy way to access that at any  
25 point in time, and that we would generate that on either a

1 daily basis, if the data is available on a daily basis.  
2 But most of the data really is available on a -- on a  
3 monthly basis.

4           So we have continued through phase one and phase  
5 two. Remember, there's a workstream dedicated to creating  
6 this tool and what was the type of information that the  
7 Board wanted to see. And so the first phase of that is  
8 done. And at any point in time, we could set up and  
9 agenda item where we could get, you know, deeper or  
10 further input on how well that Insight Tool is working, is  
11 it the correct data, the right data, is the -- you know,  
12 the frequency of which that information is updated, is  
13 that meeting the needs of the Board?

14           And then once we have the Board fully trained and  
15 it's meeting and satisfying your expectations and your  
16 needs, then the roadmap would be that we would make it  
17 available to the stakeholders and we'd make it publicly  
18 available on the CalPERS website.

19           So that would be the next step in the roadmap is  
20 that we would have this check-in point with all of you,  
21 likely through the self-assessment process that Ms.  
22 Simpson spoke with you about. And if that product was  
23 ready for the next phase of its release, then it would be  
24 moving forward to that stakeholder and more public  
25 accessibility to that data.

1 Most of the --

2 COMMITTEE MEMBER OLIVARES: Thank you.

3 CHIEF EXECUTIVE OFFICER FROST: Yeah, most of the  
4 data in Insight is public -- publicly available.

5 COMMITTEE MEMBER OLIVARES: Thank you. Are we  
6 scheduled to get an update on Insight tomorrow or when are  
7 we scheduled to get the next update.

8 CHIEF EXECUTIVE OFFICER FROST: There's, Mr.  
9 Hoffner. So let's check in. When is the next update  
10 scheduled for the Board to get a status on Insight? And  
11 if it isn't scheduled, how quickly could we do that?

12 CHIEF OPERATING OFFICER HOFFNER: Yeah, I  
13 don't -- I don't think it's scheduled currently. We  
14 finished the last phase at the end of the fiscal year.  
15 But we'd be happy to agendize that, and bring it back, and  
16 really try to get your feedback and input. Right now, it  
17 essentially houses the investment-related information  
18 that's publicly available.

19 The goal, as Ms. Frost has indicated, was to be  
20 adding additional material from other committees as well,  
21 and really move that from documents that will provide  
22 you -- and then replace the Diligent product that we have  
23 in place today, so we don't have a parallel system. And  
24 going forward we'd be getting into the ability to post  
25 confidential closed session material, et cetera.

1           So right now, it's just publicly available  
2 information, but we'd be happy to work with Tim Taylor,  
3 and myself, and Christian Farland to schedule either  
4 additional information related to the tool, but really to  
5 provide a demonstration as to the next phase and be happy  
6 to do that. And we'll work on the appropriate policy  
7 committee to bring this back too.

8           COMMITTEE MEMBER OLIVARES: Thank you. I  
9 appreciate that. And I think a couple of concerns. So I  
10 understand the need to -- for the board to have as much  
11 information as possible. And it takes us awhile to get  
12 through things, as we saw yesterday.

13           On the other hand, we're going to be recruit --  
14 we are recruiting a CIO. And as a CIO, I mean the idea of  
15 reporting to such an active board in terms of meeting  
16 several times -- let's say it's six times a year, I would  
17 hope that there are informative tools that we have  
18 available to the Board, so they can be consistently  
19 updated, push notifications, that type technology, so that  
20 we can have these meetings, but the Board has already had  
21 ample time to review the materials, like 30 days in  
22 advance, and then discuss the questions. That way we can  
23 really focus on getting through the agenda item.

24           CHIEF EXECUTIVE OFFICER FROST: You may have  
25 noticed that we did back up the publish date for all

1 agenda items. So you are now receiving them almost two  
2 weeks in advance, and you are receiving them in advance of  
3 the public notice and printing of the agenda.

4 COMMITTEE MEMBER OLIVARES: Yes. Thank you.

5 CHIEF EXECUTIVE OFFICER FROST: -- so that's -- I  
6 believe that's in the right direction.

7 COMMITTEE MEMBER OLIVARES: Yes.

8 CHIEF EXECUTIVE OFFICER FROST: And then Diligent  
9 itself is -- is a tool that can continue to be adapted to  
10 your needs. And then once we make it available to the  
11 stakeholders, obviously we want to go through a listening  
12 period with them as well to make sure that they're having  
13 access to information, when they come for public comment,  
14 they can ask regarding particular agenda items or  
15 particular initiatives that we're doing at CalPERS.

16 So this is a very early adoption of a tool that  
17 we believe will be quite comprehensive in the long run, so  
18 we look forward to getting more feedback.

19 COMMITTEE MEMBER OLIVARES: Great. Thank you.

20 CHAIRPERSON JONES: Okay. I think that's the  
21 last question on this item.

22 So we do have a couple of public members who  
23 wanted to speak on this item. So before we talk about  
24 direction, we'll hear -- and maybe we should talk about  
25 direction before we hear from the public. So it seems

1 that what I've heard that there's an agreement that there  
2 needs to be more meetings. So, Ms. Taylor, could you  
3 bring to the November meeting some recommendations for  
4 when those additional meetings were to occur?

5 VICE PRESIDENT TAYLOR: Absolutely.

6 CHAIRPERSON JONES: Is that okay with the  
7 direction of the rest of the Committee members?

8 VICE PRESIDENT TAYLOR: And that way we can get  
9 them scheduled for the following year, since November is  
10 our last one.

11 CHAIRPERSON JONES: Yeah.

12 VICE PRESIDENT TAYLOR: And we can also, since it  
13 doesn't really take Committee direction from this. If I  
14 feel like we're going too far -- too long in November's  
15 meeting, I'll move us into the next day, but we can  
16 discuss that with Investments and Marcie.

17 CHIEF EXECUTIVE OFFICER FROST: We would have to  
18 publicly notice that potential.

19 CHAIRPERSON JONES: Yeah.

20 VICE PRESIDENT TAYLOR: Okay.

21 CHAIRPERSON JONES: Yeah, the focus is to have  
22 additional meetings. That's what we're looking to -- for  
23 you to bring back of what would be the subject matter of  
24 those additional meetings.

25 VICE PRESIDENT TAYLOR: You got it.

1 CHAIRPERSON JONES: Okay. Is that -- seeing no  
2 objection to that direction then, I think that is it. Let  
3 me -- Mr. Funston, Ms. -- our fiduciary counsel, do you  
4 have any last moment comments or -- before we hear from  
5 our public speakers.

6 I guess not.

7 Okay. So we --

8 MR. TOTH: I'm very sorry. This is Tom.

9 CHAIRPERSON JONES: Oh, yeah, Tom.

10 MR. TOTH: I think I would just bring -- try  
11 to -- sorry, trying to start my video here and it's --  
12 there we go.

13 I think the direction you're moving is a -- is a  
14 positive one in the sense that we want to make sure that  
15 you've got the time to ask all the questions that you need  
16 to ask and just to give you broader perspective in terms  
17 of plan sponsor meeting schedules. I think the quarterly  
18 meetings cycle is far and away the most common, but  
19 they're almost always supplemented with -- somewhere  
20 between one and maybe three other meetings inclusive of  
21 off-site -- off-sites to provide really focused time to do  
22 education, and discussion, and deliberation around the  
23 most important strategic topics like -- like asset  
24 allocation. So I think that the decision to have some  
25 additional meetings here in 2021 in concert with the ALM

1 cycle is a positive one.

2 CHAIRPERSON JONES: Okay. Thank you.

3 Ms. Dunning, any comment, parting comments?

4 MS. DUNNING: Only that it's important that  
5 you're all expressing your need to have -- or your feeling  
6 that you need to have more meetings to discuss these  
7 important matters. And given that that's the case, it's  
8 appropriate that you adjust your meeting schedule.

9 CHAIRPERSON JONES: Thank you.

10 Mr. Funston, is he there or is he --

11 Okay. We've got -- do we have any speakers on  
12 this item, Mr. Fox?

13 STAKEHOLDER RELATIONS CHIEF FOX: Yes. Mr.  
14 President, we have three callers.

15 The first one would be Mr. Behrens from CSR.

16 MR. BEHRENS: Thank you, Kelly. I'm speaking in  
17 support of adding additional meetings. I hope we never  
18 have all the committees during Board week again. And I  
19 also support the off-site meeting. It was one of the  
20 most -- one of the best meetings that CalPERS provided  
21 last year.

22 Thank you and have a good evening.

23 CHAIRPERSON JONES: Thank you.

24 Mr. Fox.

25 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,



1 the next caller is Larry Woodson, CSR.

2 MR. WOODSON: Good evening and thank you for the  
3 opportunity to comment again, Mr. Chair.

4 We at -- and I second Tim Behrens direction. And  
5 having sat through yesterday's entire meeting and stuck  
6 speck it out, I would certainly appreciate more and  
7 shorter meetings. And I applaud all of your endurance. I  
8 could at least take a break and you couldn't see me.

9 And I would also like to see -- this is something  
10 that I know you're focused on the Governance Committee --  
11 I mean, I'm sorry, on the Investment Committee, but  
12 Pension and Health Benefits Committee I think the same  
13 principle applies. There's a huge amount of  
14 decision-making and information that pours and comes  
15 through that committee.

16 And there was some discussion I know at  
17 stakeholder breakfast, at least a couple of you Board  
18 members said that you thought quarterly wasn't enough for  
19 that. And I looked back and I saw a few years back there  
20 were seven or eight of those meetings scheduled per year.  
21 So I hope that maybe, Mr. Chairman, you might change your  
22 Board direction there to include Pension and Health  
23 Benefits in the discussion.

24 And then lastly, I think Mr. Behrens didn't  
25 necessarily mean the off-site, but the Stakeholder Forum,

1 which was like an off-site. But we're hoping that you  
2 continue the Stakeholder Forum, and -- as well as the  
3 off-site, which is beneficial as well. But Stakeholder  
4 Forum was really a great opportunity for us to mix with  
5 Board members, and staff, and executive staff at the same  
6 time, and even the networking at lunch was get. So I  
7 would hope that this doesn't bump that. Although, it  
8 might, you know, need to move it to a different month. So  
9 thank you for the opportunity to comment.

10 CHAIRPERSON JONES: Okay. Thank you. Yeah, and  
11 Mr. Woodson, the reason we couldn't have further  
12 discussion on Health Benefits, because it's not noticed on  
13 our agenda. So I'm sure at some time in the future, we  
14 will have additional discussion in that regard.

15 Okay. Mr. Fox.

16 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.  
17 President. For your information, we are planning for a  
18 Stakeholder Forum next year, depending on your schedule as  
19 you set it as a Board.

20 CHAIRPERSON JONES: Okay.

21 STAKEHOLDER RELATIONS CHIEF FOX: Lastly, the  
22 final caller is Mr. -- former Board Member J.J. Jelincic.

23 MR. JELINCIC: Hi. This is J.J. Jelincic. And I  
24 was actually on public comment, which is after, but I'll  
25 go ahead.

1           To quote President Jones, there was no lack of  
2 transparency. When the President and the CEO knew in  
3 April that there were FPPC and conflict of interest  
4 violations, and the Board was not informed until August  
5 after the story hit the press, there was no lack of  
6 transparency.

7           When the Controller Betty Yee raised policy and  
8 oversight issues and the President tells her to bring the  
9 issues up in closed session in violation of the  
10 Bagley-Keene Act, there was no lack of transparency.

11           When the CEO confirms publicly that those policy  
12 issues were discussed in closed session in violation of  
13 the Open Meeting Act, there was no lack of transparency.

14           When the President opposed an examination of the  
15 process by which the CEO was hired, there was no lack of  
16 transparency.

17           When the Board President opposed an examination  
18 of the background in the hiring process of the former  
19 CEO -- CFO, there was no lack of transparency.

20           When the Board members were denied access to the  
21 resignation letter of senior members of the executive  
22 staff, there was no lack of transparency.

23           When Margaret Brown was attacked by other Board  
24 members for complaining that Mr. Meng misled the Board,  
25 there was no lack of transparency.

1           It's especially troubling now that it's been  
2 revealed that several of the attackers knew Mr. Meng was  
3 being investigated for filing in conflict of interest  
4 violations.

5           When investment policies, not investment  
6 decisions, are developed in closed session, there was no  
7 lack of transparency.

8           When employer audits are posted on the website,  
9 but internal audits are classified as attorney-client  
10 privilege, there was no lack of transparency.

11           When the CEO refuses to disclose who made the  
12 decision to make the August 17th Board meeting a closed  
13 session, there was no lack of transparency.

14           When it comes to Board Election, however, we do  
15 have transparency. CalPERS has put bar codes on the  
16 actual ballot to identify the specific voter. CalPERS has  
17 had voter signatures on the actual ballots in violation of  
18 the California Election Code. California has used  
19 translucent ballots envelopes. So truly, at least for  
20 elections, there is no lack of transparency.

21           You also had a discussion about leaks. And I  
22 want to point out when I was on the Board every leak was  
23 me. I was even accused of -- by Ms. Slaton and Mr. Jacobs  
24 of leaking an SEC investigation.

25           CHAIRPERSON JONES: Mr. Jelincic -- Mr. Jelincic,

1 your time is up.

2 MR. JELINCIC: (Inaudible) the SEC --

3 CHAIRPERSON JONES: Mr. Jelincic you time is up.

4 MR. JELINCIC: -- after the SEC had reported it.

5 CHAIRPERSON JONES: Would you --

6 MR. JELINCIC: Now, it's Margaret Brown.

7 CHAIRPERSON JONES: Would you cut the mic off.

8 Mr. Jelincic, you time is up.

9 CHAIRPERSON JONES: Okay. We will now go to  
10 Committee direction. Mr. Carlin, I guess you came it -- I  
11 guess have to talk to Matt to get the rest of it, but any  
12 comments.

13 SENIOR ATTORNEY CARLIN: What I have right now  
14 Chair Jones is for Agenda Item 5a to bring back revised  
15 language after obtaining input from CalHR and SPB. And  
16 looking into adding the Chair of the Audit Committee into  
17 the notification process as well. I think that's --  
18 that's what I have.

19 CHAIRPERSON JONES: Okay. Okay. And I guess the  
20 other one we don't need, because it's coming tomorrow as  
21 an action item.

22 SENIOR ATTORNEY CARLIN: There was a motion, yep.

23 CHAIRPERSON JONES: Okay. Well, thank you then.

24 The last item on the agenda is public comment.

25 Any additional public comments, Mr. Fox?

1           STAKEHOLDER RELATIONS CHIEF FOX: No, Mr.  
2 President. That concludes our business for today.

3           CHAIRPERSON JONES: Well, thank you all and thank  
4 you all for your endurance.

5           And what time? 8:00 o'clock tomorrow, Mr.  
6 Feckner?

7           8:00 o'clock tomorrow morning.

8           Okay. We'll see you all and thank you all for  
9 your support.

10          Okay. Appreciate it.

11          Good night.

12          (Thereupon California Public Employees'  
13 Retirement System, Board Governance Committee  
14 meeting adjourned at 6:20 a.m.)

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## 1 C E R T I F I C A T E O F R E P O R T E R

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the  
5 foregoing California Public Employees' Retirement System,  
6 Board of Administration, Board Governance Committee  
7 meeting was reported in shorthand by me, James F. Peters,  
8 a Certified Shorthand Reporter of the State of California,  
9 and was thereafter transcribed, under my direction, by  
10 computer-assisted transcription;

11 I further certify that I am not of counsel or  
12 attorney for any of the parties to said meeting nor in any  
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 22nd day of September, 2020.

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22 JAMES F. PETERS, CSR  
23 Certified Shorthand Reporter  
24 License No. 10063  
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