

BOARD OF EDUCATION RETIREMENT SYSTEM

Board Meeting Agenda

October 25, 2022

1. Calendar Item 1: Noting of the Minutes of the Meeting of the Board of Education Retirement System held on October 18, 2022 – **FOR CONSIDERATION AND ACTION.**
2. Calendar Item 2: Executive Session.
3. Calendar Item 3: Adoption of a Policy Regarding Compensation for Board of Education Retirement System Managerial Employees – **FOR CONSIDERATION AND ACTION.**
4. Calendar Item 4: Amendment to the Authority and Procedure of the Executive Committee of the Board of Education Retirement System – **FOR CONSIDERATION AND ACTION.**
5. Calendar Item 5: Written Regulations and Guidance for BERS Executives Concerning Fiduciary Duties and Conflicts of Interest – **FOR DISCUSSION.**
6. Calendar 6: Composition of the BERS Board of Trustees – **FOR DISCUSSION.**

Board of Education Retirement System
SUMMARY MINUTES
Meeting of the Board of Trustees
October 18, 2022

Appearances via WebEx:

Tazin Azad
Geneal Chacon
Marjorie Dienstag
Gregory Faulkner
Sheree Gibson
Angela Green
Alison Hirsh
Ruth Maria Kenley

Kyle Kimball
Anthony Lopez
John Maderich
Donald Nesbit
Alan Ong
Kaliris Salas-Ramirez
Seritta Scott
Thomas Sheppard

Ms. Azad joined the meeting at approximately 4:04 PM.

Agenda Item 1 - Calendar Item 1: Noting the Minutes of the Meeting of the Board of Retirement Held on September 20, 2022. On a motion by Mr. Sheppard and a second by Ms. Salas-Ramirez, this item was unanimously approved.

Agenda Item 2: Executive Director's Update.

Mr. Kimball joined the meeting at approximately 4:10 PM.

Agenda Item 3 - Calendar Items 2-17: Ordinary Business. On a motion by Mr. Lopez and a second by Mr. Sheppard, these items were unanimously approved.

Agenda Item 4 - Calendar Item 18: Authorization to Extend an Agreement with Aksia CA LLC to Provide Private Markets Investment Consulting Services. On a motion by Mr. Sheppard and a second by Mr. Maderich, this item was approved with Mr. Kimball voting to oppose.

Agenda Item 5: Investment Strategy Quarterly Performance. On a motion by Mr. Sheppard and a second by Ms. Azad, Antonio Rodriguez, BERS Director of Investment Strategy, made a presentation to the Board.

Agenda Item 6: Noting Receipt of Fiscal Year 2022 GASB 67/68 Report dated September 23, 2022. On a motion by Mr. Sheppard and a second by Ms. Chacon, Marek Tyszkiewicz, Chief Actuary of the City of New York, made a presentation to the Board.

Agenda Item 7: Noting Receipt of Fiscal Year 2022 GASB 74/75 Report dated September 9, 2022. On a motion by Mr. Sheppard and a second by Mr. Maderich, Mr. Tyszkiewicz, made a presentation to the Board.

Agenda Item 8: Executive Session. On a motion by Mr. Kimball and a second by Mr. Lopez, the Board moved into Executive Session to discuss a disciplinary matter affecting two employees.

On a motion by Ms. Hirsh and a second by Ms. Scott, the Board considered whether to invite representatives from the New York City Law Department to the Executive Session. The motion failed to pass, with Ms. Hirsh, Mr. Kimball, and Ms. Scott voting in favor, and Ms. Azad, Ms. Chacon, Ms. Dienstag, Mr. Faulkner, Ms. Gibson, Ms. Green, Ms. Kenley, Mr. Lopez, Mr. Maderich, Mr. Nesbit, Mr. Ong, Ms. Salas-Ramirez, and Mr. Sheppard voting to oppose.

On a motion by Mr. Maderich, and a second by Mr. Faulkner, the Board voted unanimously to invite Alexander Kazazis, General Counsel and Sharon Koppula, Deputy General Counsel to the Executive Session.

On a motion by Ms. Hirsh, and a second by Mr. Kimball, the Board considered a resolution entitled "Proposal Regarding the Management of the Board of Education Retirement System." This resolution failed to pass, with Ms. Hirsh, Mr. Kimball, and Ms. Scott voting in favor, Ms. Azad, Ms. Dienstag, Ms. Gibson, Mr. Maderich, Mr. Nesbit, and Mr. Sheppard voting to oppose, and Ms. Chacon, Mr. Faulkner, Ms. Green, Ms. Kenley, Mr. Lopez, Mr. Ong, and Ms. Salas-Ramirez voting to abstain.

On a motion by Mr. Sheppard, and a second by Mr. Faulkner, the Board moved back into Public Session, with an abstention from Ms. Gibson and a vote by Mr. Kimball to oppose.

On a motion by Mr. Sheppard and a second by Mr. Lopez, the Board voted to table Agenda Items 9 through 11 until the next meeting of the Board with Ms. Hirsh, Mr. Kimball, and Ms. Scott voting to oppose.

Agenda Item 9 – Calendar Item 19: Adoption of a Policy Regarding Compensation for Board of Education Retirement System Managerial Employees.

Agenda Item 10: Calendar Item 20: Amendment to the Authority and Procedure of the Executive Committee of the Board of Education Retirement System.

Agenda Item 11: Written Regulations and Guidance for BERS Executives Concerning Fiduciary Duties and Conflicts of Interest.

Agenda Item 12: Composition of the BERS Board of Trustees. On a motion by Mr. Sheppard and a second by Ms. Gibson, the Board unanimously tabled this item until the next meeting of the Board.

Agenda Item 13: Human Resources Update. On a motion by Mr. Sheppard and a second by Ms. Chacon, Michelle Pyram, BERS Director of Human Resources, made a presentation to the Board.

Ms. Azad left the meeting at approximately 6:17 PM.

Ms. Salas-Ramirez left the meeting at approximately 6:30 PM.

Mr. Lopez left the meeting at approximately 6:48 PM.

No other items of business were presented. On a motion by Mr. Sheppard and a second by Ms. Chacon, the meeting was adjourned at approximately 7:19 PM.

**ADOPTION OF A POLICY REGARDING COMPENSATION
FOR BOARD OF EDUCATION RETIREMENT SYSTEM MANAGERIAL EMPLOYEES**

WHEREAS, the Board of Education Retirement System (“BERS”) has identified an ongoing need to maintain competitive rates of compensation for its employees, so as to attract and retain a qualified workforce; and

WHEREAS, Chapter 307 of the Laws of 2002 authorizes the Retirement Board to establish a budget sufficient to fulfill the powers, duties and responsibilities set forth in the BERS rules and regulations and any other provision of law which sets forth benefits of members of the Retirement System and may draw upon the assets of the Retirement System to finance said budget; and

WHEREAS, the Board of Trustees has authorized the Executive Committee of the Retirement Board (“the Executive Committee”) to review the BERS annual operating budget proposed by management, which includes the compensation of all employees, and submit a recommendation to the full Retirement Board for adoption; and

WHEREAS, the Retirement Board delegates to the Executive Director the determination of compensation for employees excepting himself, within the parameters of the annual operating budget, as well as applicable laws, regulations, and collective bargaining agreements; now therefore be it

RESOLVED, that when considering an increase to the compensation of any BERS managerial employee, management shall observe the following requirements:

- (1) Any increase in compensation in excess of \$25,000, or 10% of the managerial employee’s current salary, shall require the express approval of the Retirement Board;
- (2) The Executive Committee shall review such requests and advise the Retirement Board accordingly;
- (3) In any case where a managerial employee represents that he or she has received a job offer elsewhere, management shall make best efforts to confirm the validity of the purported job offer and the expected starting salary.

Respectfully Submitted,

Sanford R. Rich
Executive Director

**AMENDMENT TO THE AUTHORITY AND PROCEDURE OF THE EXECUTIVE
COMMITTEE OF THE BOARD OF EDUCATION RETIREMENT SYSTEM**

WHEREAS, the Retirement Board (“the Board”) adopted the Authority and Procedure of the Executive Committee of the Board of Education Retirement System (BERS) in January 2017 to more efficiently and effectively manage its duties; and

WHEREAS, the Board thereafter amended the Authority and Procedure of the Executive Committee in February 2020, December 2021, June 2022, and September 2022; and

WHEREAS, the Board seeks to amend the Authority and Procedure of the Executive Committee to add review of employee compensation to the duties of the Executive Committee; now therefore be it

RESOLVED, that the Board hereby amends the Authority and Procedure of the Executive Committee as follows:

1. Statement of Purpose

The purpose of the Executive Committee (“Committee”) is to assist the Board of Trustees by (1) providing oversight of BERS assets, strategy, and investment guidelines, (2) representing the Board of Trustees at Meetings, (3) authorizing certain types of investment decisions, as described below, (4) providing oversight of BERS budget matters and ensuring sufficient resources are available to fund operations and (5) performing such related functions as may be designated by the Board of Trustees.

2. Appointment and Membership

Appointment of the members of the Executive Committee shall occur on an annual basis at the first meeting of the Board of Trustees each calendar year.

The Executive Committee shall consist of five (5) members of the Board of Trustees, including the Chancellor of the Board of Education (or designee), the two (2) employee members of the Board, and two (2) other members of the Board.

For each member appointed by the Board to the Committee, the Board may designate an alternate Committee member to serve for the member’s duration on the Committee in the event of the death, disability, disqualification or withdrawal of the Committee member. In the event of a Committee member’s absence from a meeting of the Committee, the respective alternate Committee member shall possess all of the power and responsibilities of said Committee member for the duration of the meeting, and the alternate Committee member’s presence at the meeting shall be counted for the purpose of establishing a quorum.

In the event of a Committee member's absence from a meeting of the Committee, and the absence of that Committee member's alternate, another alternate Committee member may assume all of the powers and responsibilities of said Committee member for the duration of the meeting. The alternate Committee member's presence at the meeting shall be counted for the purpose of establishing a quorum-however, in no event shall an alternate Committee member attend a meeting on behalf of more than one Committee member. Notwithstanding the foregoing, the powers and responsibilities of the Chancellor may be assumed only by a Chancellor's designee, the powers and responsibilities of the Comptroller may be assumed only by a Comptroller's designee, and the powers and responsibilities of an employee member may be assumed only by that employee member's respective alternate employee member.

3. Conflicts of Interest

Potential conflicts of interest on the parts of the Committee members are addressed by Chapter 68 of the New York City Charter and the Rules of the New York City Conflicts of Interest Board. Members are required to recuse themselves from any Committee activities related to the conflict of interest on a case by case basis.

4. Procedure

(a) Executive Committee Policies and Procedures

The Board of Trustees shall have the power to adopt rules for the conduct of the business of the Executive Committee.

(b) Chair

- a. The Committee Chair shall be the Chair of the Board of Trustees.
- b. If the Chair is unable to attend a meeting, Committee members will be polled prior to that meeting and a substitute Chair, for the purposes of that meeting only, will be identified among those members who have indicated that they will be present.

(c) Meetings

- a. The Executive Committee shall meet as often as it may deem necessary or appropriate to accomplish the purposes of the Executive Committee.
- b. Notice of the meetings of the Executive Committee may be given by hand delivery, by deposit in the U.S. Mail, by express mail, by electronic facsimile, or by electronic mail.
- c. The Executive Committee shall undertake any measures necessary for conducting its meetings in compliance with Article 7 of the New York Public Officers Law, also known as the Open Meetings Law.
- d. Members of the Executive Committee will be provided with an agenda in advance of each Meeting.

(d) Quorum

- a. A majority of the members of the Executive Committee shall constitute a quorum.

- b. In the absence of a quorum, a lesser number may adjourn the meeting.
- c. The following shall be necessary for any act of the Executive Committee:
 - (a) the presence of a quorum; (b) an vote in favor by a majority of members present; and (c) the concurrence of one employee member of the Board.

5. Responsibilities and Duties of the Executive Committee

The responsibilities and duties of the Executive Committee shall include the following:

- (a) Review BERS investment policy and strategies and provide policy guidance to management and to the Board of Trustees. Such guidance shall include but not be limited to:
 - a. Overall investment strategy and guidelines for BERS funds;
 - b. Evaluation of asset classes for investment;
 - c. Selection of new investment managers;
 - d. Termination of existing investment managers; and
 - e. Review of the performance of BERS funds and its investment managers.
- (b) Represent the Board of Trustees at Investment Meetings;
- (c) Subject to annual authorization by the Board of Trustees as described in Section 7 below, the Committee will have the power to:
 - i. Approve new index fund managers for inclusion in the BERS Investment Portfolio (the "Portfolio");
 - ii. Approve new active public market managers and programs for inclusion in the Portfolio (up to \$250 million per manager or program);
 - iii. Approve new private market managers and programs for inclusion in the Portfolio (up to \$50 million per manager or program);
 - iv. Approve additional investments in funds previously approved by the Board, or their successor funds, on substantively identical terms; and
 - v. Reauthorize BERS participation in previously approved strategic initiatives of the Office of the Comptroller, in instances where the prior time limit has expired or the prior dollar threshold has been surpassed.
- (d) Review the annual operating budget as recommended by BERS management;
- (e) Recommend the proposed budget to the Board of Trustees annually;
- (f) Periodically review the budget process and format with BERS management;
- (g) Provide oversight of the BERS financial reporting process, system of internal controls, internal and external audit processes;
- (h) Approve the annual Shareholder Engagement Plan as proposed by the NYC

Comptroller's Office of Corporate Governance;

- (i) Periodically review, modify, and approve proxy voting guidelines;
- (j) Review and approve shareholder letters and other engagements proposed by the NYC Comptroller's Office of Corporate Governance on behalf of the BERS Board of Trustees;
- (k) Authorize the Executive Director to enter into contracts on behalf of BERS, subject to thresholds that the Board shall determine from time to time;
- (l) **Review any management proposals for increases to BERS managerial employee compensation which would exceed the thresholds set in the Policy Regarding Compensation for BERS Managerial Employees**; and
- (m) Perform any other duties that are assigned to it by the Board.

6. Communications

The Committee will report orally or in writing to the Board of Trustees on other matters discussed at the most recent Committee meeting. Meeting minutes will be provided to the Board.

In addition, the Committee will submit quarterly written reports of its activities to the Board of Trustees, and will render special reports whenever requested by the Board of Trustees.

7. Periodic Review

As part of its duties to assist the Board of Trustees, the Executive Committee may propose changes to these Rules. The Committee will review and assess the adequacy of the Executive Committee Rules as may be required. The Committee will submit proposed revisions to the Board of Trustees for its approval.

The Committee's authority to approve certain transactions, as described in Section 5(c) above, will expire at the end of each calendar year unless affirmatively extended by a resolution of the Board. The length of each such extension shall not exceed one calendar year. Notwithstanding the foregoing, should the Board fail to vote on whether to extend the Committee's authority to approve such transactions prior to the end of a calendar year, the Committee's authority shall continue until the next meeting of the Board, when the Board shall vote on whether to extend such authority.

While the authority described under Section 5(c) remains in force, the Board must also review the following factors at least once per year, in considering whether to extend the grant of such authority:

- i. the present holdings in the Portfolio;
- ii. any marked changes in the Portfolio during the preceding period;
- iii. the reasons for such changes and the results achieved thereby;
- iv. the investment activity in the Portfolio, including the rate of turnover; and
- v. any other factors the Board considers pertinent to an analysis of the financial performance and planning, consistent with its obligation as a

fiduciary.

8. Effect

This amended Authority and Procedure of the Executive Committee of the Board of Education Retirement System shall be effective immediately upon its adoption by the Board of Trustees.

Respectfully Submitted,

Sanford R. Rich
Executive Director