

Section 2.0 GOVERNING STATUTES

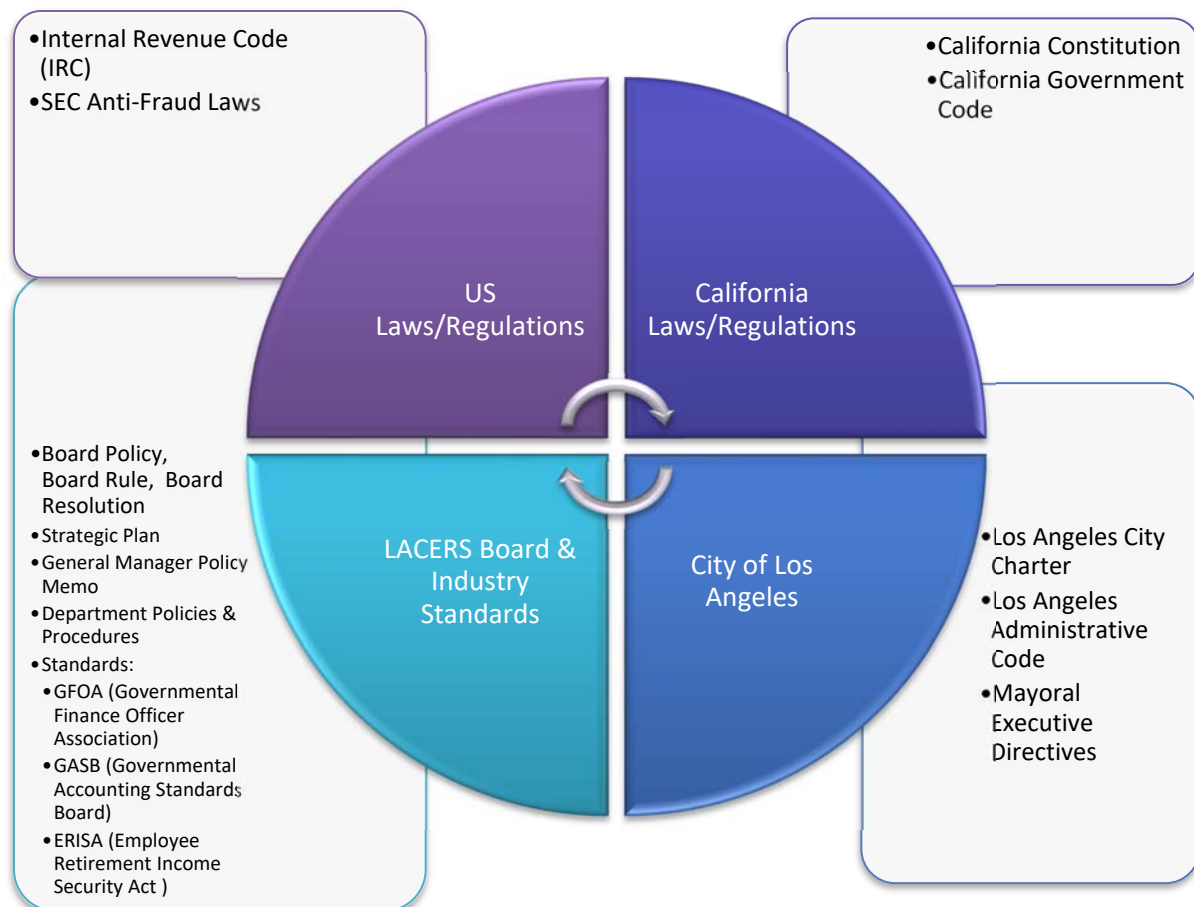
2.3 General Laws

Added to Board Governance Statement on May 14, 2013; Revised: July 24, 2018

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

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

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



*Note: Key California public pension laws include:

1. California Public Employees Retirement Law ("PERL") – Applicable to CalPERS, CalSTRS, but not the UC Regents
2. County Employee Retirement Law ("CERL") – Applicable to 20 county public employee retirement systems in California

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3. California Public Employees' Pension Reform Act of 2013 (PEPRA). PEPRA applies to all California systems except those under their own city or county charter. Effective January 1, 2013, PEPRA implements significant public pension reform in efforts to reduce the cost of the public employee pension benefits.

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

Federal Laws and Regulations

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

Internal Revenue Code

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

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

- IRC 401(a)(17): qualified DB plans must use pay that is the smaller of actual pensionable pay versus a dollar limit (called the 401(a)(17) limit) that changes yearly
- IRC 415: qualified DB plans must limit the dollar amount of the benefit paid from the plan under certain circumstances
- Non discrimination rules: IRC 410(b), IRC 401(a)(4), IRC 401(a)(26) Broadly speaking, forbids qualified DB plans from giving large amount of benefit to highly compensated employees
- Rules on distributions: lump sum must be no smaller than the lump sum calculated using mandated mortality and interest rate (IRC 417(e)), spouse consent necessary for any non joint and survivor form of benefit (joint and survivor percent must be 50% or larger)
- Rules against assignment, garnishment
- Top heavy rules (IRC 416): benefits for all non highly compensated employees must be increased if the benefits for highly compensated employees are too large
[\[https://www.irs.gov/pub/irs-pdf/p7002.pdf\]](https://www.irs.gov/pub/irs-pdf/p7002.pdf)

Federal Securities Laws

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

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

State Laws and Regulations

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

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

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

California State Constitution, Article 1 §9

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

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

California Government Code Section 7500-7514.5

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

City Laws and Regulations

Charter of the City of Los Angeles

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

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

Los Angeles Administrative Code (LAAC)

The benefits promised to LACERS members by the City are detailed in the LAAC. The LAAC is the guiding document for staff to determine such matters as the City's contribution, member's contribution, eligibility for membership in LACERS for Tier 1 and Tier 3, calculation of the service retirement, rules on spousal/domestic partner benefits, the disability benefit, service purchase

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rules, reciprocal benefits with other retirement systems; and parameters of optional programs such as the Limited Term Retirement Plan, larger annuity program, family death benefit plan.

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

Executive Directives

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

LACERS Policies and Rules

Board Policies

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

Board Rules

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

Board Resolutions

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

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

Strategic Plan

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

General Manager Policy Memos

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

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Department Policies and Procedures

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