

BOARD OF EDUCATION RETIREMENT SYSTEM

Board Meeting Agenda

May 26, 2022

1. Calendar Item 1: Noting of the Minutes of the Meetings of the Board of Retirement held on April 12, 2022 and April 20, 2022 - **FOR CONSIDERATION AND ACTION.**
2. Executive Director Update - **FOR DISCUSSION.**
3. Calendar Items 2-17: Ordinary Business - **FOR CONSIDERATION AND ACTION.**
4. Calendar Item 18: Appointment of an Alternate Audit Committee Member – **FOR CONSIDERATION AND ACTION.**
5. Calendar Item 19: Presentation of Preliminary Budget for Fiscal Year 2023 – **FOR DISCUSSION.**
6. Calendar Item 20: Amendment to the Authority and Procedure of the Disability Committee – **FOR CONSIDERATION AND ACTION.**
7. Calendar Item 21: Adoption of the Disability Committee’s Recommendations – **FOR CONSIDERATION AND ACTION.**
8. Calendar Item 22: Determination Regarding the State of Emergency Due to COVID-19 – **FOR CONSIDERATION AND ACTION.**
9. Calendar Item 23: Authorization for the Rebalancing of Funds of the New York City Board of Education Retirement System – **FOR CONSIDERATION AND ACTION.**
10. Calendar Item 24: Noting Receipt of the Fiscal Note Report – **FOR DISCUSSION.**
11. Calendar Item 25: Discussion Regarding the Proposed Equity for Surviving Spouses Act – **FOR DISCUSSION.**
12. Calendar Item 26: Adoption of Videoconferencing Procedures – **FOR CONSIDERATION AND ACTION.**

Board of Education Retirement System
SUMMARY MINUTES
Meeting of the Board of Trustees
April 12, 2022

Appearances via WebEx:

Dr. Vasthi Acosta
Tom Allon
Tazin Azad
Russell Buckley
Geneal Chacon
Deborah Dillingham
Gregory Faulkner
Dr. Angela Green

John Maderich
Donald Nesbit
Alan Ong
Dr. Kaliris Salas-Ramirez
Thomas Sheppard
Karina Taveras
Gladys Ward

Agenda Item 1- Calendar Item 1: Noting of the Minutes of the Meeting of the Board of Retirement held on March 15, 2022. On a motion by Ms. Ward and a second by Mr. Nesbit, this item was approved with abstentions by Ms. Azad and Dr. Acosta.

Agenda Item 2: Executive Director Update.

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

Agenda Item 4- Calendar Item 18: Appointment of an Alternate Disability Committee Member. On a motion by Ms. Dillingham and a second by Mr. Nesbit, Dr. Acosta was unanimously appointed as Alternate to Ms. Chacon.

Agenda Item 5 - Calendar Item 19: Authorization to Extend an Agreement with SkillDirector to Provide Competency Assessment and Development Services to the Board of Education Retirement System. On a motion by Mr. Faulkner and a second by Mr. Maderich, this item was unanimously approved.

Agenda Item 6 - Calendar Item 20: Authorization to Enter into an Agreement with Industrial Staffing Services Inc. to Provide Temporary Staffing Services to the Board of Education Retirement System. On a motion by Ms. Dillingham and a second by Mr. Maderich, this item was unanimously approved.

Agenda Item 8- Calendar Item 22: Divestment from Russian Securities. On a motion by Mr. Sheppard and a second by Dr. Green, this item was unanimously approved.

Agenda Item 7- Calendar Item 21: Authorization to Amend an Agreement with the Burgiss Group, LLC to Provide Quantitative Portfolio Technology to the Board of Education Retirement System. On a motion by Ms. Ward and a second by Mr. Maderich, this item was unanimously approved.

Mr. Ong and Dr. Salas-Ramirez arrived at approximately 4:30PM.

Agenda Item 9- Calendar Item 23: Quarterly Performance Update. On a motion by Mr. Sheppard and a second by Ms. Dillingham, Antonio Rodriguez, Director of Investment Strategy, made a presentation to the Board.

Agenda Item 10- Calendar Item 24: Authorization to Enter into an Agreement with D.W. Simpson & Co. to Provide Actuarial Recruiting Services. On a motion by Mr. Maderich and a second by Mr. Sheppard, this item was unanimously approved.

Agenda Item 11- Calendar Item 25: Noting Receipt of the Fiscal Note Report. On a motion by Mr. Ong and a second by Mr. Sheppard, this item was unanimously approved.

Agenda Item 12- Calendar Item 26: Instructions Regarding the Reinstatement of an Administrative Expense Fee for Participants of the BERS TDA Program. On a motion by Ms. Azad and a second by Mr. Maderich, this item was discussed. On a motion by Mr. Sheppard and a second by Ms. Ward, the Board moved unanimously to table this item.

Agenda Item 13- Calendar Item 27: Authorization to Amend an Agreement with Parsons Floors to Furnish, Deliver, and Install Carpeting for the Board of Education Retirement System. On a motion by Ms. Azad and a second by Mr. Maderich, this item was unanimously approved.

No other items of business were presented. On a motion by Mr. Maderich and a second by Mr. Sheppard, the meeting was adjourned at 5:24 PM.

Board of Education Retirement System
SUMMARY MINUTES
Meeting of the Board of Trustees
April 20, 2022

Appearances via WebEx:

Tom Allon
Tazin Azad
Russell Buckley
Geneal Chacon
Deborah Dillingham
Gregory Faulkner
Dr. Angela Green

John Maderich
Donald Nesbit
Alan Ong
Dr. Kaliris Salas-Ramirez
Thomas Sheppard
Gladys Ward

Agenda Item 1- Calendar Item 1: Institutional Investors Letter to Amazon Shareholders. On a motion by Ms. Dillingham and a second by Ms. Ward, this item was unanimously approved.

No other items of business were presented. On a motion by Mr. Sheppard and a second by Mr. Maderich, the meeting was adjourned at 5:14 PM.

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

- WHEREAS,** the Board has established a Disability Committee to assist the Board in overseeing the disability application process; and
- WHEREAS,** in June 2017, the Board adopted the Authority and Procedure of the Disability Committee (“Authority and Procedure”); and
- WHEREAS,** the Board thereafter amended such Authority and Procedure in July 2019, November 2018, and February 2020; and
- WHEREAS,** the Board seeks to further amend the Authority and Procedure of the Disability Committee; now therefore be it
- RESOLVED,** that the Authority and Procedure of the Disability Committee be as follows:

1. Statement of Purpose

The purpose of the Disability Committee (Committee) is to assist the Board of Trustees (Board) by making recommendations to the Board to approve or deny a member’s application for disability retirement.

2. Appointment and Membership

Appointment of the members of the Disability Committee shall occur on an annual basis at the first meeting of the Board of Trustees each calendar year. The Disability Committee shall consist of five (5) members of the Board of Trustees, including the Chancellor’s Designee and both employee members.

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.

3. Procedure

(a) Disability Committee Policies and Procedures

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

(b) Chair

- a. The Committee Chair shall be appointed by the ~~Board of Trustees~~ **members of the Disability Committee**.
- b. If the Chair is unable to attend a meeting, the 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 Disability Committee shall meet as often as it determines is necessary to evaluate member applications for disability retirement.
- b. Notice of the meetings of the Disability 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 Disability 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. The Committee may enter into executive session pursuant to Section 105 of the New York Public Officers Law. Any and all discussion pertaining to a particular member's medical or employment history shall take place in executive session.
- e. Members of the Disability Committee will be provided with an agenda and supporting materials in advance of each meeting.

(d) Review of Disability Applications

- a. The Medical Board shall provide the Board of Trustees with a report as to a member's application for disability retirement.
- b. The Disability Committee shall review each member's application for disability retirement, including the report of the Medical Board and any supporting documentation, and make a recommendation to the entire Board of Trustees.
- c. The Board of Trustees shall consider the recommendations of the Disability Committee and make a final determination as to the member's application for disability retirement.

Respectfully Submitted,

Sanford R. Rich
Executive Director

May 2022

ADOPTION OF THE DISABILITY COMMITTEE'S RECOMMENDATIONS

- WHEREAS,** the Disability Committee of the Board of Trustees ("Disability Committee") held a meeting on May 17, 2022; and
- WHEREAS,** the Disability Committee reviewed 9 applications for disability retirement; and
- WHEREAS,** the Disability Committee has made recommendations to the Board of Trustees regarding 8 applications; now therefore be it
- RESOLVED,** that the Board of Trustees hereby adopts the recommendations of the Disability Committee with regard to the applications reviewed on May 17, 2022.

Respectfully Submitted,

Sanford R. Rich
Executive Director

**DETERMINATION REGARDING THE STATE OF EMERGENCY
DUE TO COVID-19**

- WHEREAS,** Article 7 of the Public Officers Law, also known as the Open Meetings Law (“OML”), generally requires all members of a public body who are attending a meeting of that public body to be physically present at a location open to the public; and
- WHEREAS,** Chapter 56 of the Laws of 2022 includes an amendment to the OML (“amendment”) that outlines the circumstances under which a public body may use videoconferencing to conduct open meetings through June 30, 2024¹; and
- WHEREAS,** this amendment further states that the in-person participation requirements of the OML shall not apply during a state disaster emergency declared by the governor, or a local state of emergency proclaimed by the chief executive of a city, county, village, or town, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting²; and
- WHEREAS,** the COVID-19 pandemic has been declared a “Public Health Emergency of International Concern” by the World Health Organization since early 2020; and
- WHEREAS,** the COVID-19 pandemic continues to severely threaten and impact the City of New York, including its public bodies and employees, necessitating a state of emergency; and
- WHEREAS,** on May 15, 2022, Governor Kathy Hochul issued Executive Order No. 11.6 extending the state of emergency in the State of New York originally declared by Executive Order 11; and
- WHEREAS,** on May 18, 2022, Mayor Eric Adams issued Emergency Executive Order No. 95 extending the state of emergency in the City of New York, originally declared by Emergency Executive Order No. 98 under Mayor Bill de Blasio; and
- WHEREAS,** the Executive Director has determined that the circumstances necessitating the COVID-19 state of emergency continue to

¹ See Public Officers Law §103-a (2)(c).

² See Public Officers Law §103-a (3).

affect and/or impair the ability of the Board to hold in-person meetings; now therefore be it

RESOLVED,

that the Board hereby adopts the Executive Director's determination that the circumstances necessitating the COVID-19 state of emergency continue to affect and/or impair the ability of the Board to hold in-person meetings.

Respectfully Submitted,

Sanford R. Rich
Executive Director

**AUTHORIZATION FOR THE REBALANCING OF FUNDS OF THE BOARD OF EDUCATION
RETIREMENT SYSTEM**

- WHEREAS,** the BERS' Rules Sections 9(b)(F) and 45 require the Actuary, for purposes of determining funded status and rebalancing adjustments, to determine the actuarial value of assets and liabilities of BERS' Qualified Pension Plan (QPP) and the BERS' Tax-Deferred Annuity (TDA) Program as of each fiscal year; and
- WHEREAS,** BERS' Rules Section 45 states that where the assets of either the TDA or the QPP exceed its respective value, there shall be a transfer from such fund to the other where such value exceeds its assets; and
- WHEREAS,** the Actuary, by letter dated May 18, 2022, determined that as of July 1, 2021, the TDA was underfunded compared to its value by \$184,615,893, and that such amount should be transferred from QPP's Contingent Reserve Fund to the TDA; and
- WHEREAS,** the Actuary, by letter dated May 18, 2022, determined that as of July 1, 2021, the QPP Variable Fund was underfunded compared to its value, by \$5,123,346, and that such amount should be transferred from the QPP's Contingent Reserve Fund to the QPP Variable Fund; now therefore be it
- RESOLVED,** that the Board adopts the Actuary's recommendation and authorizes BERS staff to effectuate the internal rebalancing described above in accordance with such recommendation.

Respectfully Submitted,

Sanford R. Rich
Executive Director

ADOPTION OF VIDEOCONFERENCING PROCEDURES

WHEREAS, on April 9, 2022, Governor Kathy Hochul signed legislation enacting Chapter 56 of the Laws of 2022 (the Law), amending the Open Meetings Law to add §103-a of the Public Officers Law, establishing requirements for how and when a public body may use videoconferencing when conducting its meetings; and

WHEREAS, Part WW of Chapter 56 goes into effect on June 9, 2022 and sunsets on July 1, 2024; and

WHEREAS, Part WW provides that if the City of New York does not enact a local law defining the procedures for videoconferencing for all City boards and commissions, individual boards and commissions may define their own videoconferencing procedures in compliance with the law; and

WHEREAS, no local law has been enacted by the City of New York to date; and

WHEREAS, Part WW provides that a public body and/or its committees and subcommittees may use videoconferencing when conducting meetings if they adopt a resolution and procedures to that effect; and

WHEREAS, the Board foresees the potential need to use videoconferencing in compliance with the Open Meetings Law and Chapter 56; now therefore be it

RESOLVED, that the Board adopts the following on behalf of itself and its committees:

1. A quorum of Trustees must be present at one or more noticed physical locations where members of the public may attend in person. Notice of a meeting shall state the physical location(s) where the meeting will be held, where in-person attendance is possible, and state that the meeting will include a videoconferencing component and indicate where members of the public may view and, if applicable, participate in the meeting.
2. A Trustee not needed for a quorum may attend a meeting via videoconferencing in a location that is not accessible to members of the public under “extraordinary circumstances,” including, but not limited to, a disability, illness, caregiving responsibilities, or any “other significant or unexpected factor(s) or event(s).” Should a Trustee qualify to attend a meeting via videoconferencing at a location that is not accessible to members of the public, they may participate in the meeting and vote.
3. Should the Board choose to use videoconferencing in a particular meeting, it will include audio and visual components that ensure that participants can be heard, seen and identified during the meeting. If a Trustee participates in a meeting by videoconference at a location which is not accessible to members of the public, members of the public will also be allowed to attend the meeting by videoconference.
4. Public sessions of Board meetings will be webcast for public viewing to the extent practicable.
5. Minutes of each meeting shall list all members of the Board who attended remotely at a location not accessible to members of the public.

6. Meetings conducted using videoconferencing will be recorded and the public session will be posted on BERS' website within five business days of the meeting and remain available for at least five years.
7. Procedures governing member and public attendance of Board meetings via videoconference will be posted on BERS' website.

Respectfully Submitted,

Sanford R. Rich
Executive Director