



# *Board Elections Policy*

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## I. PURPOSE

To provide for a fair and efficient process for the nomination and election of the Second, Third, Seventh, Eighth, and Alternate Members of the Board of Retirement.

## II. ELECTIONS PROCESS

- A. The Chief Executive Officer shall serve as the elections official charged with the duty of conducting all elections. The Chief Executive Officer may delegate powers and duties to other ACERA staff members and/or to consultants, as appropriate. Any reference to the Chief Executive Officer herein shall mean the Chief Executive Officer or his/her Designee.
- B. Election shall be by secret ballot conducted by the Chief Executive Officer and canvassed by the designated election vendor in the manner outlined by this Policy. State and federal law may be used for guidance in resolving any challenges to elections procedures.
- C. The Chief Executive Officer shall develop a written election schedule at the beginning of each year in which an election is held that substantially complies with the timeframes set forth in this Policy, with the elections to be held in December of each election year. The election or publication schedule may deviate from the timelines provided in this Policy when the Chief Executive Officer determines that impossibility, impracticability, improved efficiency, unreasonable expense, or other circumstances warrant such a deviation. The Chief Executive Officer shall be responsible for publishing a Notice of Election on or before the first Monday in August of the election years, which shall include the election schedule and other relevant information.
- D. The Chief Executive Officer shall be responsible for providing Nomination Petitions to qualified candidates, certifying the candidates, creating a list of eligible voters, preparing and distributing ballots to eligible voters, providing a canvassing site and machines for tabulating ballots, storage of election materials, transmitting the election results certification provided by the designated election vendor to the Board of Supervisors and

swearing-in newly elected members of the Board of Retirement. ACERA will contract with a designated election vendor to perform many of the aforementioned functions.

- E. The Chief Executive Officer shall respond to any challenges to the election in compliance with applicable law.
- F. The designated election vendor shall be responsible for preparing and mailing ballots and voter pamphlets to eligible voters, providing a canvassing site and machines for tabulating ballots, canvassing the election, including receiving voted ballots, comparing voted ballots with the list of eligible voters, setting aside questionable ballots, repairing or transferring damaged ballots, certifying the accuracy of all ballot counting machines and certifying the results of all elections.
- G. The Chief Executive Officer and the designated election vendor shall be jointly responsible for determining the disposition of all questionable ballots set aside by the designated election vendor.

### III. ELIGIBILITY TO VOTE

A member is eligible to vote for a candidate designated as a safety, general or retired member, only if the member belongs to the same category of membership during the entire pay period immediately preceding the month in which the election is held. Deferred members are eligible to vote in the applicable safety or general member elections and are not eligible to vote in the retired member elections.

### IV. NOTICE OF ELECTION PERIOD

The Notice of Election period is specified in the election schedule and continues for an interval of twenty (20) business days excluding County holidays. The Notice of Election shall include the election schedule and other relevant information. The Notice shall be posted on ACERA's website, [www.ACERA.org](http://www.ACERA.org), and in the lobby of ACERA's office during this period.

### V. NOMINATION PERIOD

The Nomination Period is specified in the election schedule and continues for an interval of twenty (20) business days excluding County holidays. The Nomination Period immediately follows the Notice of Election Period. Qualified applicants may obtain a Board Election Information Packet containing the nomination documents from the ACERA

Election Coordinator beginning on the first date of the Nomination Period and through the last date of the Nomination Period.

## VI. NOMINATION DOCUMENTS

During the Nomination Period specified in the elections schedule, qualified applicants must submit all the following required nomination documents, with the applicant's original signature, to the Chief Executive Officer to be considered for certification as a candidate. The last day for filing nomination documents is no later than 5:00 p.m. on the deadline stated in the elections schedule. An applicant cannot submit any required nomination documents after the deadline.

- Nomination Petition,
- Ballot Designation,
- Candidate's Statement of Qualifications,
- Statement of Intent to Serve, and
- California Form 700 Statement of Economic Interests

### A. Nomination Petition

Each Nomination Petition filed by or on behalf of an eligible candidate shall contain:

1. The name and address of the candidate;
2. The designation of the seat on the Board of Retirement to which the candidate seeks election;
3. Nomination Petitions shall be signed by not less than twenty-five (25) members of the Association. Only signatures of members eligible to vote for the seat designated in the Nomination Petition at the time of signing said petition shall be counted. Signatures may be originals or copies of originals and may appear on multiple copies of the approved form (e.g., 12 signatures on one copy of the form and 13 signatures on another copy of the form).
4. Candidates shall file Nomination Petitions with the Chief Executive Officer no later than 5:00 p.m. on the deadline stated in the elections schedule. Candidates who file Nomination Petitions after the deadline will be disqualified.

5. If a candidate is nominated for more than one seat on the Board of Retirement, the candidate must designate the seat to which the candidate seeks election when filing nomination papers. Elections for the Seventh Member and the Alternate Seventh Member are considered elections for the same seat. Elections for the Eighth Member and the Alternate Eighth Member are considered elections for separate seats. A candidate may not be certified for more than one seat on the Board of Retirement.

B. Ballot Designation

A Ballot Designation shall include the candidate's name as it is to appear on the ballot, and, at the option of the candidate, one of the following designations to be printed immediately after or below his/her name on the ballot:

1. Words designating the elected government office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people;
2. The word "incumbent" or "incumbent alternate" if the candidate is a candidate for the same office which his/her holds at the time of filing the nomination papers, and was elected to that office by a vote of the members;
3. No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents.
4. The phrase "appointed incumbent" if the candidate holds an office by virtue of appointment, and the candidate is a candidate for election to the same office.

The Chief Executive Officer shall not accept a Ballot Designation that violates the restrictions set forth above. If the Chief Executive Officer finds the designation to be in violation, the Chief Executive Officer shall notify the candidate by email or registered or certified mail return receipt requested, addressed to the mailing address provided on the candidate's nomination petition. The candidate shall be notified within three (3) working days from the date of submission of any violations. The candidate shall, within three (3) working days from the date of notice of the violation, provide a designation that complies with the above requirements. However, if the violation is discovered less than six (6)

calendar days from the end of the nomination period, the candidate shall have only the time from the date of notice through the end of the nomination period to remedy the violations. In the event the candidate fails to provide a Ballot Designation that complies with the above requirements within the three-day period or before the end of the nomination period if the violation was discovered with less than six days to the end of the period, no designation shall appear after the candidate's name.

C. Candidate's Statement of Qualifications

A Candidate's Statement of Qualifications ("Candidate Statement") shall be included in the voter pamphlet that is distributed with the ballot. (Elec. Code §13307.) The Candidate Statement shall be submitted in an appropriate format provided by the Chief Executive Officer as follows:

1. The Candidate Statement shall include no more than 400 words starting with the candidate's name. For the purpose of counting the 400 words, ACERA uses the word count as calculated by Microsoft Word.
2. The Candidate Statement may also include the age and occupation of the candidate and a brief description of the candidate's education and qualifications.
3. The Candidate Statement shall not include the party affiliation of the candidate, or membership or activity in partisan political organizations.
4. The Candidate Statement shall be limited to a recitation of the candidate's own personal background and qualifications and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities.
5. The Chief Executive Officer shall not cause to be printed or circulated any Candidate Statement that the Chief Executive Officer determines is not so limited or that includes any prohibited reference.
6. Such statement of qualifications shall be included in a voter's pamphlet, in type of uniform size, font and darkness and with uniform spacing, and distributed with ballots at no charge to the candidate.

7. Information contained in the Candidate Statement is the responsibility of the candidate and ACERA accepts no responsibility for the validity of the statement or the contents thereof.
8. The voter's pamphlet shall contain the following statement: "This handout may not contain a complete list of candidates. A complete list of candidates appears on the ballot. Each candidate's statement is volunteered by the candidate and is printed as submitted."
9. The candidate must provide a hard copy of the Candidate Statement with the candidate's signature and an electronic copy in a format compatible with Microsoft Word to the ACERA Election Coordinator.
10. Candidate statements may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period, as specified in the election schedule. Candidate statements shall remain confidential until the expiration of the filing deadline.

D. Statement of Intent to Serve

The Statement of Intent to Serve ("The Statement") sets out the oath of office. The Statement states that if elected to the position for which the candidate was nominated, the candidate intends to serve on the Board of Retirement. The Statement shall be signed and dated by the candidate.

E. California Form 700 Statement of Economic Interests

California Government Code §§87200 and 87201 requires that candidates for an elected office who manage public investments file a Form 700, unless a candidate is a current trustee and has already filed a Statement of Economic Interests with ACERA for the election year. If the candidate cannot be certified by the last date of eligibility, ACERA will return the Form 700 to the candidate unfiled.

## VII. CERTIFICATION

- A. In order for a candidate to be certified the following documents must be submitted and must meet the requirements as outlined in the Board of Retirement Election Information Packet and Board Elections Policy:

- Nomination Petition

- Ballot Designation
- Candidate's Statement of Qualifications
- Statement of Intent to Serve
- California Form 700 Statement of Economic Interests

The documents are due no later than the last date of the Nomination Period at 5:00 p.m. as stated in the election schedule, and there is no opportunity to amend the documents after that time.

- B. With respect to the nomination petition, within five (5) working days after the filing of a nomination petition (or as revised pursuant to the election schedule), the Chief Executive Officer shall validate that the petition is complete and bears at least twenty-five (25) valid signatures.

Candidates may resubmit their nomination petitions, if necessary, until the last date of the Nomination Period at 5:00 p.m. Candidates are encouraged to obtain more than the minimum number of required signatures, or file petitions early so that they have ample opportunity to obtain additional signatures, in the event a petition is insufficient.

- C. If only one candidate is certified for any designated seat, the Board of Supervisors shall order that no election be held and shall direct the Clerk of the Board of Supervisors to cast a unanimous ballot in favor of such nominated member. (Gov. Code §31523.)
- D. If no candidate is certified, the Chief Executive Officer shall notify the Board of Retirement, which shall reschedule the election.

#### VIII. PUBLIC REVIEW PERIOD OF CANDIDATE STATEMENTS

After all nomination documents are received and eligible candidates are certified, the Chief Executive Officer shall make a copy of the Candidate Statements available for public examination on ACERA's website, [www.ACERA.org](http://www.ACERA.org) and in the lobby of ACERA's Office for a period of ten (10) calendar days. The Chief Executive Officer shall also distribute all Candidate Statements to each candidate in the respective contest. During the ten (10) calendar day public examination period, any voter or the Chief Executive Officer may seek a writ of mandate or an injunction requiring any or all material in the Candidate Statements to be amended or deleted.

#### IX. CAMPAIGNING

## A. Campaign Guidelines

1. Candidates shall comply with all Participating Employer rules and regulations concerning the use of equipment and resources (i.e., e-mail, inter-office mail, etc.) in the course of their campaign. Violations of this section may result in disqualification.
2. The provisions of the Civil Code relating to libel and slander are fully applicable to any campaign advertising or communication.
3. Candidates may voluntarily subscribe to the Code of Fair Campaign Practices found at Elections Code §20440. A copy of the Code of Fair Campaign Practices shall be distributed by ACERA to all persons requesting an Election Information Packet for each election. In no event shall any candidate be required to subscribe to or endorse the Code of Fair Campaign Practices.

B. *What's Up Newsletter*

1. ACERA will produce and distribute a *What's Up Newsletter – Election Edition* as close in time as possible to the distribution of the ballots. The purpose of this special *What's Up Newsletter – Election Edition* is to provide an opportunity to a candidate for an elected position on the Board of Retirement to communicate with his/her constituency, free of charge.
2. ACERA will inform each candidate that he/she may submit campaign materials to ACERA and that ACERA will include the material in the *What's Up Newsletter – Election Edition* publication. The Election Information Packet and the election schedule will include the deadline for submission of campaign material for the *What's Up Newsletter*. A candidate shall not make any changes to campaign material after the deadline nor submit campaign material after the deadline.
3. All submissions will be limited to no more than 500 words starting with the candidate's name. For the purpose of counting the 500 words, ACERA uses the word count as calculated by Microsoft Word. Candidates will be informed that ACERA will assume no liability for the contents of the submitted materials and candidates will be required to sign a waiver of liability and indemnification agreement prior to acceptance of any materials.

4. While ACERA does not intend to censor the contents of the submitted materials, at no time will ACERA include materials that it deems to be inappropriate for distribution to ACERA members. Any dispute that arises regarding the content of submitted materials will be decided by the Chief Executive Officer and his/her decision will be final. Any additional communications, other than the information included in this publication, by the candidates to their constituency will be the responsibility of the candidates.
5. The *What's Up Newsletter – Election Edition* shall include the following disclaimer with respect to the campaign material: “This statement solely presents the views of the Candidate and does not represent an official statement of ACERA or its Board of Trustees. ACERA has neither approved nor confirmed the accuracy or the contents of this statement.”

## X. BALLOTS

- A. The designated election vendor, with guidance from the Chief Executive Officer shall prepare the ballots for the election. Ballots shall state that it is illegal to reproduce the ballot in any manner whatsoever. Any reproduction or distribution of ballots other than as allowed for by this Policy is expressly forbidden and shall render the ballots void. Ballots may include the option to vote using an electronic voting system.
- B. The ballot for the Retiree Board Member position shall also contain the names of candidates certified for the Retiree Alternate Board Member position under a separate heading.
- C. Except as expressly authorized herein, no other designation may be printed on the ballot.
- D. The Chief Executive Officer shall determine the order in which the names of the candidates are printed on the ballot by drawing lots after the deadline for filing Nomination Petitions.
- E. The designated election vendor shall mail a ballot, voter’s pamphlet and self-addressed identification/return envelope first class to each eligible member no less than thirty-five (35) calendar days prior to the date established in the election schedule as the end of the election (or as revised pursuant to the elections schedule) to his/her last-known mailing address as it appears on the retirement record or other official record.

- F. The designated election vendor shall make replacement ballots (stamped with the word “reissue”) available on an individual basis to members claiming under penalty of perjury the loss or non-receipt of a ballot.
- G. When voting with paper ballots (not electronic voting), each voter shall sign the identification/return envelope and place his/her voted ballot into the identification/return envelope, which shall be mailed or delivered to the designated election vendor.
- H. The designated election vendor must receive all ballot submissions, paper or electronic, no later than 5:00 p.m. on the third Wednesday in December (or as revised pursuant to the elections schedule), except as otherwise provided by law, or this Policy.
- I. Ballots shall be void if:
  - 1. Received after Election Day;
  - 2. A duplicate ballot is cast;
  - 3. The signature of the voter is not on the return envelope underneath the pull tab on paper ballots;
  - 4. The signature or initials of the voter is on the paper ballot itself;
  - 5. It is not possible to determine who submitted the ballot;
  - 6. It was submitted in the same envelope with other ballots;
  - 7. The voter’s intent cannot be determined; and/or
  - 8. an electronic vote raises any particular security violation concern.
- J. Ballots determined to be void under section X.I., above, shall be marked as such and shall not be counted by the designated election vendor in the canvassing process. The designated election vendor will deliver ballots marked as void to the Chief Executive Officer on the day designated for counting ballots.

## XI. COUNTING OF BALLOTS

- A. Upon receipt of the voted ballots, the designated election vendor shall verify the names on the identification/return envelopes, or as they appear as electronic votes, by checking the names against the Association's list of eligible members.
- B. The designated election vendor shall count all ballots substantially in accordance with applicable statutes and procedures. The designated election vendor shall certify the results of the election no later than the day following the canvassing of the ballots (or as revised pursuant to the elections schedule) and deliver the certified results to the Chief Executive Officer who shall transmit said certification to the Board of Supervisors.
- C. The candidate receiving the highest number of votes for the seat designated on the ballot shall be declared elected to that seat, except for the seat of the Alternate Seventh (Safety) Member.

The Alternate Seventh Member must be a safety member from a group other than a group represented by the Seventh Member. The Alternate Safety shall be that candidate, if any, from the group as described in §§31740.2 and 31740.4, and any other eligible safety member if there is no eligible candidate from the groups under §§31470.2 and 31470.4. If there is no eligible candidate there may not be an alternate member. (Gov. Code §31520.1(b).)

The duly elected candidate shall serve for a term of three (3) years from and after January 1st of the year following the election.

## XII. RECOUNT

Within five (5) calendar days of certification of the election results by the designated election vendor (or as revised pursuant to the elections schedule), a candidate may upon written application to ACERA request a recount of all ballots to be conducted by the designated election vendor. Prior to the requested recount, the designated election vendor shall determine the cost for conducting such a recount. The candidate requesting the recount shall deposit this amount with the designated election vendor prior to the recount. Money so deposited shall only be returned to the depositor if, upon the completion of the recount, the candidate requesting the recount is found to have received a plurality of all votes cast. The recount shall be conducted in the same manner as the original count.

## XIII. OATH OF ALLEGIANCE AND SWEARING IN ELECTED MEMBERS

- A. Newly elected members of the Board of Retirement shall sign the Oath or Affirmation of Allegiance in the presence of a notary public at ACERA's office prior to serving on any Committee and/or Board meeting in January. Alternatively, the Oath can be signed at the Alameda County Clerk of the Board of Supervisors office.
- B. Newly elected members of the Board of Retirement shall be sworn in by the Alameda County Clerk of the Board of Supervisors or his/her representative, a notary public, Judge or Commissioner no sooner than January 1 and no later than the first regularly scheduled Board meeting in January.

#### XIV. FILLING VACANCIES

If a vacancy in an elective seat on the Board of Retirement occurs, a successor shall be elected in the same manner as his/her predecessor at the earliest possible date. Upon official notification of a vacancy, the Board of Retirement shall adopt a resolution calling for an election, unless the Board determines that holding an election before the next regularly scheduled election for the vacant seat is not reasonably possible. The vacancy shall be filled for the duration of the current term except that, if the remaining portion of the current term is six months or less on the date of the election, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term. (Gov't Code §31523). Nominations and voting shall be substantially in the manner prescribed for a regular election. The candidate receiving the highest number of votes for the vacated seat shall be declared elected to that seat. Such candidate shall serve for the remainder of the unexpired term from and after the first day of the first month following the declaration of his/her election.

#### XV. POLICY REVIEW

The Operations Committee shall review this Policy at least every three (3) years. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

## XVI. POLICY HISTORY

- A. The Board reviewed and revised this Policy on November 16, 2023.<sup>1</sup>
- B. The Board changed the reviewing Committee from the Governance Committee to the Operations Committee on August 17, 2023

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<sup>1</sup> The Board adopted this Policy on July 17, 2003. Amendment dates were October 19, 2006; August 16, 2007; August 21, 2008; August 20, 2009; December 15, 2011; March 21, 2013; April 17, 2014; June 18, 2015; July 20, 2017 and April 21, 2022. Review date without revisions was August 15, 2019.