



San Bernardino County Employees' Retirement Association

Origination:	5/5/2016
Effective:	7/1/2021
Last Approved:	7/1/2021
Last Revised:	7/1/2021
Next Review:	6/30/2024
Area:	General
References:	
Applicability:	SBCERA systemwide

## Board of Retirement Elections

POLICY NO. 006

### 1. Purpose

The purpose of this Board of Retirement Elections Policy (Policy) is to establish a transparent and accessible process for the election of Members to the Board of Retirement, as well as for filling Elected Member vacancies, and recounting ballots. In addition, the Policy is intended to mitigate the appearance, or risk, of any corruption of the election process for elected Board member seats. This policy is intended to implement, and be consistent with, applicable statutes governing the subject matter hereof, and should be construed accordingly. To the extent of any inconsistency between this policy and governing statutes as they exist on the date of this policy's adoption in its current form or as they may later be amended, the governing statutes shall control.

### 2. Objectives

- Transparent, secure and accessible nominations and elections
- Preserve the privacy of Members' home addresses
- Recount procedures

### 3. Background

The composition and length of membership on the Board of Retirement is mandated by the County Employees Retirement Law of 1937 (CERL). The Policy is intended to serve as guidance in accomplishing the task of initiating the required elections and appointments of the Members of the Board of Retirement in an objective and standardized manner.

Government Code section 31520.1 establishes the composition of the Board of Retirement. The Members for which elections are conducted are found in Government Code sections 31520.1 and 31520.5 and, as amended through the effective date of this policy, include:

- Two "General" Members of the Board of Retirement elected by active and deferred non-safety members, also referred to as the Second and Third Members of the Board.
- One "Safety" Member of the Board of Retirement elected by the active and deferred safety membership, also referred to as the Seventh Member of the Board.
- One "Alternate Safety" Member of the Board of Retirement elected by the active and deferred safety membership, also referred to as the 7A Member of the Board.

- One "Retired" Member of the Board of Retirement elected by the retired membership, also referred to as the Eighth member of the Board.
- One "Alternate Retired" Member of the Board of Retirement elected by the retired membership, also referred to as the 8A Member of the Board.

There are also four members of the Board of Retirement who are appointed by the County Board of Supervisors (Fourth, Fifth, Sixth and Ninth Members). One of the appointed members may, but need not be, an elected County Supervisor. The final member is the County Treasurer-Tax Collector who serves as an Ex-Officio Member (First Member).

All Members serve three year terms except the Ex-Officio Member.

Because the CERL does not prescribe procedures for nominating and electing candidates, filling vacancies, or conducting recall elections, and does not incorporate the California Elections Code, the guidelines contained in this Policy are hereby adopted by the Board of Retirement to provide clear direction for the election process.

Elections will be conducted by mail ballot as nearly as practicable in accordance with California Uniform District Election Law (UDEL), except that the notice of the election is to be posted rather than published. (Elections Code Sections 10500, et seq.; 3000, et seq.; 4002; and 4004.)

## **4. Eligibility and Certification of Candidates**

Any active general member or any deferred general member of SBCERA, is eligible to run for the position of second or third member of the Board. To be eligible to run as a safety member, the member must be among the group classified as safety. The alternate safety member shall be that candidate for the seventh member from the group classified as safety, which is not represented by the seventh member who received the highest number of votes of all candidates in that group.

Candidates for the eighth member and alternate eighth member on the Board of Retirement shall be retired members of SBCERA. The alternate eighth member of the Board shall be elected separately by the retired members of SBCERA in the same manner and at the same time as the eighth member is elected.

These eligibility standards shall be deemed to be amended to comply with current provisions of the County Employees Retirement Law of 1937 or other applicable law relating to eligibility requirements for members of the Board of Retirement, or as determined by a court of competent jurisdiction.

In accordance with the receipt of the official candidate list provision, the SBCERA Chief Executive Officer (CEO), in consultation with Chief Counsel, shall certify a candidate's eligibility no later than the 81st day before the election in election years. In the event a candidate is not eligible, notice shall be provided to the Registrar of Voters or Contracted Independent Election Provider and to the ineligible candidate.

## **5. Elections Procedure and Schedule**

Elections are to be held on the first Tuesday in December of the election years in accordance with this Policy and the contract or agreement with the County Registrar of Voters or other entity conducting the election (Contracted Independent Election Provider). Special elections will be held only when a vacancy occurs and in accordance with the provisions in this Policy.

A Notice of Election will be posted in accordance with the election calendar at all SBCERA plan sponsors, the San Bernardino County Government Center and on the SBCERA website.

The "Outline of Election Events" for all regularly scheduled elections per the UDEL is as follows.

DATE	RESPONSIBLE PARTY	EVENT
-120th thru -90th from election day	Registrar of Voters and SBCERA	<b>NOTICE OF ELECTION:</b> Post Notice of Election at SBCERA, SBCERA plan sponsors, the Registrar of Voters office, the San Bernardino County Government Center, and on the SBCERA website
-113 <sup>th</sup> day thru -88 <sup>th</sup> day	Registrar of Voters	<b>DECLARATION OF CANDIDACY:</b> Eligible SBCERA Members may obtain Declarations of Candidacy and procedural information from the office of the Registrar of Voters, 777 East Rialto Avenue, San Bernardino during normal business hours. (Sec. 10510, Elec. Code)
5:00 p.m. -88 <sup>th</sup> day		Last day and hour for eligible candidates to file candidacy papers. (Sec. 10510, Elec. Code)
5:00 p.m. -83 <sup>rd</sup> day	Registrar of Voters	<b>NOMINATION EXTENSION:</b> If an incumbent elected officer for the Board of Retirement does not file a Declaration of Candidacy by 5:00 p.m. on the 88th day before the election, any other eligible SBCERA member shall have until 5:00 p.m. on the 83rd day before the election to file candidacy papers for such elective office. (Sec. 91523 Gov't Code, 10516 Elec. Code)
-83 <sup>rd</sup> day	Registrar of Voters	<b>CANDIDATE LIST</b> The Registrar of Voters will provide the SBCERA CEO with an unofficial list of candidates for the election.
-83 <sup>rd</sup> day	SBCERA	<b>INSUFFICIENT NOMINEES:</b> If only one Member has been duly nominated in accordance with the rules established for the holding of the election, no election will be held in that office. The SBCERA CEO shall prepare a resolution for the Board of Retirement to declare the uncontested candidate(s) the winner(s) at a regular meeting held prior to the first day of the term of the office(s), and prepare the item for the Board of Supervisors to declare the winner. (Sec. 10515 Elec. Code)
-60th day	SBCERA	<b>INITIAL BALLOT MAILING LIST</b> Provide initial mailing list of Retired, General and Safety SBCERA members to the Registrar of Voters (if there are sufficient candidates for election).
-57 <sup>th</sup> day thru -14 <sup>th</sup> day	Registrar of Voters	<b>WRITE-IN CANDIDATES:</b> Should there be sufficient candidates to hold an election, write-in candidates may apply at the Registrar of Voters office. (Election Code Sec. 8601). The Registrar of Voters shall confer with the CEO to ensure eligibility.
-30th day	SBCERA	<b>UPDATED BALLOT MAILING LIST</b> Provide to the Registrar of Voters a list of members who have been added or dropped from eligibility to vote in the appropriate election (if there are sufficient candidates for election).

-29 <sup>th</sup> day thru -10 <sup>th</sup> day	Registrar of Voters	<b>MAIL OFFICIAL BALLOTS:</b> The Registrar of Voters shall commence mailing the official ballots and sample ballots to each eligible SBCERA Member not before 29 days prior and shall complete the mailing by the 10th day prior to the election. (Sec. 4101 Elec. Code)
-29th day thru -0 day	SBCERA members	<b>RETURN OF OFFICIAL BALLOTS</b> Eligible SBCERA members may return voted ballots by mail or drop them off at the Registrar of Voters office in San Bernardino. Members may also request and vote a replacement ballot in person at the Registrar of Voters office during this period. The first Tuesday in December at 5:00 p.m. is the last day and hour that voted ballots may be received in the office of the Registrar of Voters in order that they may be eligible to be counted.
First Tuesday in December (+0)	Registrar of Voters	<b>ELECTION DAY:</b> The Registrar of Voters will be open to receive voted ballots and issue replacement ballots.
5:00 p.m. (+0)	Registrar of Voters	<b>RETURN OF OFFICIAL BALLOTS:</b> Last day and hour that voted ballots may be received in the office of the Registrar of Voters in order that they may be counted.
+1 Day	Registrar of Voters	<b>OFFICIAL CANVASS:</b> The Registrar of Voters shall commence the canvass of the Mail Ballots no later than the first Thursday after Election Day. Upon conclusion of the canvass, the Registrar shall certify the results to provide them to the SBCERA CEO.
+14 Days	Registrar of Voters	<b>DECLARATION OF RESULTS/ELECTION:</b> SBCERA CEO shall present a resolution to the Board of Retirement to declare the results of the Election.

The resultant date Board members elected shall take office is January 1<sup>st</sup> of the following year.

## 6. Election Administration Responsibilities and Contract

The SBCERA CEO shall serve as the elections official charged with ensuring the elections are conducted in accordance with this policy. S(he) may delegate powers and duties to other SBCERA Executive staff and/or to consultants, as appropriate.

The SBCERA CEO shall be responsible for noticing all elections; posting them on the SBCERA website; creating a list of eligible voters and forwarding it to the Registrar of Voters; and, swearing in newly elected members of the Board of Retirement.

In order to prevent an actual or perceived conflict of interest, the SBCERA Office shall not conduct the election.

## 7. Eligibility to Vote

A member is eligible to vote for a candidate designated as a Safety or General member, only if the member belongs to the same category of membership and whose membership status is Active, Deferred Vested or Deferred Reciprocal membership during the last complete pay period in the month immediately preceding the month in which the election is held. A supplemental list of eligible voters shall be provided to the Registrar of Voters or Independent Contracted Election Provider at the end of this pay period to ensure an eligible voter receives a ballot.

A member is eligible to vote for a candidate designated as a retired member, only if the member belongs to the same category of membership and whose membership status is Retired or Disabled in the month immediately preceding the month in which the election is held. Beneficiaries of members are not entitled to vote.

## 8. Access to Membership Addresses

The 1937 Act requires that individual records of a member or retired member shall be confidential and information contained therein, including a member's or retired member's address, shall not be disclosed except with written authorization of the member or retired member or upon order of a court of competent jurisdiction.

Any qualified candidate for the Board may request SBCERA's CEO to mail appropriate campaign literature to the members or retired members as part of the election process for Board of Retirement under Government Code section 31520.1. The qualified candidate will make a written request for membership mailing and provide a copy of the campaign literature to the SBCERA CEO. Mailings will only be distributed to the membership represented by the office for which the candidate is running for election. The CEO will determine the cost of reproducing and mailing the requested campaign literature. Prior to such mailing, the qualified candidate will pay SBCERA for the cost, as determined by the CEO, of reproducing and mailing requested campaign literature to the SBCERA membership. The CEO will arrange the mailing of campaign literature. At no time will the candidate be provided names and/or addresses of member or retired members.

An eligible candidate may not display or disseminate information that advocates for or against any candidate on the ballot within 100 feet of the Registrar of Voters office.

## 9. Ballots

Each member may cast one clearly marked ballot for one candidate for any Board seat up for election in which that member is eligible to vote. If a ballot is not clearly marked, e.g. the ballot reflects votes cast for multiple candidates running for the same seat, such ballot shall not be counted. If a member casts a ballot for a group other than his/her member group, e.g., a General member cast a ballot for a Safety or Retired member candidate, such ballot shall not be counted. If a member casts multiple ballots for the same seat in an election, and all such ballots include votes for the same candidate, only one ballot may be counted. If the member submits ballots which reflect votes for multiple candidates, none of the member's ballots shall be counted in such election. Ballots cast by anyone other than a member, e.g. a beneficiary, shall not be counted.

## 10. Recounting of Ballots

Within five (5) calendar days of certification of the election results by the Board of Retirement, a candidate may, upon written application, request a recount of all ballots for the membership represented by the office for which the candidate ran for election.

Prior to the request count, the Registrar of Voters shall determine the cost of conducting the recount. The

candidate requesting the recount shall deposit this amount with the Registrar of Voters prior to the recount. Money so deposited shall only be returned to the candidate if, upon 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 by the Registrar of Voters in the same manner as the original count. The recount shall be commenced no later than ten (10) business days after the Board of Retirement certifies the results. The Registrar of Voters shall recount at least six hours per day and continue daily on business days until the recount is completed. The recount shall be open to the public.

## 11. Tie Votes

If a tie vote makes it impossible to determine which of two or more candidates has been elected, the Registrar of Voters shall notify the Board of Retirement, and the Board of Retirement shall forthwith notify the candidates who have received the tie votes to appear before it at its next regularly scheduled Board of Retirement meeting or at a Special Board Meeting duly noticed, indicating the place and time. The Board of Retirement shall determine the tie by lot and the results shall be declared by the Board of Retirement. The candidate so chosen shall qualify, take office and serve as though elected at the preceding Board of Retirement election.

The CEO shall prepare as many apparently identical slips of paper as there are such candidates, and write the word "elected" on one slip of paper for the office to be filled, and the words "not elected" on the remaining slips, and fold the same so as to conceal the writing and so that they may appear as near alike as possible. The slips shall be placed in a box and, each of the candidates may draw one of the slips from the box, and the person drawing the slip on which is written the word "elected" shall be deemed elected to the Member seat in question. The Board of Retirement Chair may appoint any person present to draw a slip for any candidate who fails to appear at the time specified in the notice. The order in which candidates will draw the slips will be the same order which their names appeared on the ballot.

## 12. Filling Vacancies

In the event of a vacancy in the Second, Third, Seventh, Alternate Seventh or Eighth member position on the Board of Retirement, an election to fill the vacancy will be held at the earliest possible date as permitted under the provisions of the CERL and the UDEL.

If the remaining term of that vacant seat is less than one year, the seat may remain vacant until filled for the next full term. 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 if the vacancy is that of the Second, Third or Eighth member seat. This provision does not apply to the Seventh or Alternate Seventh member.

If the remaining term of the vacant seat is one year or more, nomination 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 the seat. Such candidate shall assume office and be sworn in at the next regularly scheduled Board meeting or at a Special Session duly noticed for the purpose of swearing in the new member and conducting such other business as the Board determines. The candidates shall serve for the remainder of the term and to a succeeding term if provided for by statute. In the event no candidate submits an application to fill an elected vacancy on the Board, a subsequent election process to fill the elective seat shall be initiated after 60 days if the remaining term of the vacant seat still remains one year or more.

There is no provision in the CERL to allow the appointment of an interim elected Member to the Board of Retirement in lieu of conducting an election.

# 13. Uncontested Elections

If a candidate for an election to a Retirement Board seat has no opposition, the Board of Supervisors may declare such candidate the winner and such candidate may be sworn in at the next regularly scheduled Board meeting or at a Special Session duly noticed for the purpose of swearing in the new member and conducting such other business as the Board determines.

# 14. No Recall Procedures

Recall elections are not permitted, as there are no recall provisions in the UDEL or the CERL.

## Attachments

No Attachments

## Approval Signatures

Step Description	Approver	Date
HR Final Review & Distribution	Iliana Torres	8/2/2021
Board Approval & Quality Assurance Review	Debby Cherney: Chief Executive Officer [IT]	8/2/2021
	Iliana Torres	8/2/2021
Board Approval & Quality Assurance Review	Christa James: Executive Assistant	8/2/2021
Administrative Committee	Christa James: Executive Assistant	8/2/2021
	Debby Cherney: Chief Executive Officer	8/2/2021
Administrative Committee	Debby Cherney: Chief Executive Officer	7/30/2021
Chief Executive Officer Review	Debby Cherney: Chief Executive Officer	7/30/2021
Chief Counsel Review	Barbara Hannah: Chief Counsel	7/30/2021
Policy Owner	Debby Cherney: Chief Executive Officer	7/29/2021

## Applicability

SBCERA, SBCERA Internal