



## Board Report 24-11

Date: March 5, 2024

To: Board of Deferred Compensation Administration

From: Staff

Subject: 2024 Deferred Compensation Plan Board Election: Active Participant WPERP Representative and Retired/Separated Participant Representative

Board of Deferred Compensation Administration
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### **Recommendation:**

That the Board approve revisions to the Board of Deferred Compensation Administration *Election Policies & Procedures* to incorporate changes as outlined in staff's report.

### **Discussion:**

#### **A. Background**

Per the [City of Los Angeles Administrative Code \(LAAC\) Section 4.1407<sup>1</sup>](#), Board members include directly elected employee participant representatives from the Los Angeles City Employees' Retirement System (LACERS), Los Angeles Fire and Police Pensions (LAFPP), and the Water and Power Employees' Retirement Plan (WPERP), and a Retired/Separated Participant Representative. DCP elections adhere to the Board's Election Policies and Procedures ([Election Policies](#))<sup>2</sup>.

The current terms for the Active Participant WPERP Representative and Retired/Separated Participant Representative will be expiring on June 30, 2024.

#### **B. 2024 Board Election - Active Participant WPERP Representative and Retired/Separated Participant Representative**

The finalized Election Calendar for the upcoming election as provided by the Office of City Clerk - Election Division (City Clerk) is provided in **Attachment A**.

<sup>1</sup> LAAC § 4.1407(e): [https://codelibrary.amlegal.com/codes/los\\_angeles/latest/laac/0-0-0-17138](https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-17138)

<sup>2</sup> Election Policies & Procedures: [LA457.com/s/BDCA-Election-Policies-Procedures-revised-February-9-2023.pdf](https://www.la457.com/s/BDCA-Election-Policies-Procedures-revised-February-9-2023.pdf)

Key dates for this election are provided below:

Election Calendar	
<b>Early March 2024</b>	Active WPERP and Retired/Separated participants will be advised via general mailing of the election and their eligibility to run for the seats.
<b>March 11, 2024</b>	Candidate materials to be made available by request either by email or in-person at the DCP office.
<b>March 22, 2024</b>	Deadline for submission of candidate materials to the City Clerk from participants interested in running for the seats.
<b>April 24, 2024</b>	Ballots and voting packets will be mailed to eligible voters.
<b>May 10, 2024</b>	Election Day; all ballots must be received by this date (or postmarked by this date and received by the City Clerk within three days).

### C. Revisions to Board Election Policies & Procedures

As previously indicated in [Board Report 24-06](#), several changes to the *Election Policies & Procedures* were recommended by City Clerk and discussed with staff. The main content of revision focused on the creation of a Notice of Intent Form, the option to transfer duties to the City Clerk for the distribution or receiving of nominating packet materials, and the provision to allow additional days to receive mailed ballots that are postmarked by Election Day. Additionally, several clarifying corrections were made to update the policy with current practices used in the administration of other municipal and board elections. Staff recommends the Board adopt the revisions to the *Election Policies & Procedures* as detailed in **Attachment A**.

Submitted by: Eric Lan, Benefits Analyst

Approved by: Esther Chang, Defined Contribution Plan Manager

## BOARD OF DEFERRED COMPENSATION ADMINISTRATION ELECTION POLICIES & PROCEDURES

Adopted by the Board of Deferred Compensation Administration on March 20, 2007.  
Revised January 20, 2009; revised February 17, 2009; revised February 21, 2012;  
revised March 31, 2020; revised December 15, 2020; revised May 7, 2021;  
revised February 9, 2023; revised March 5, 2024.

### Section A. Purpose

To establish election procedures for the Board of Deferred Compensation Administration (hereafter “Board”) members representing the active participant membership of the (a) Los Angeles City Employees Retirement System (hereafter “LACERS”); (b) Fire and Police Pensions (hereafter “LAFPP”); ~~and~~ (c) Water and Power Employees’ Retirement Plan (hereafter “WPERP”); and (d) the member representing participants who have retired or otherwise separated from City service.

### Section B. Definitions

When the initial letter of a word or phrase is capitalized herein the meaning of such word or phrase shall be as follows:

- 1) “Ballot Statement” shall mean a statement signed by the Office of the City Clerk (City Clerk) stating that all ballots received by the City Clerk have been counted.
- 2) “Ballot Tally” shall mean the counting of the ballots received by the City Clerk following an election in the manner described under Section K.
- 3) “Election Day” shall mean the date an election is to be held and the last day for ballots to be cast.
- 4) “Spoiled Ballot” shall mean a ballot that has been determined to be void by the City Clerk which may include a ballot that has stray marks or is damaged.
- 5) “Challenged Ballot” shall mean a ballot that is damaged, marked in an ambiguous fashion, or is otherwise defective and the intent of the voter or voter information cannot be ascertained. ~~where the intent of the voter or voter information cannot be ascertained.~~
- 6) “Tally Results” shall mean the official results of the Ballot Tally.

### Section C. Term of Office

The terms of all elected positions shall be for three years beginning on the first day in July of the year of their respective elections pursuant to City of Los Angeles Administrative Code Division 4, Chapter 14, Section 4.1407.

### Section D. Time of Election

- 1) The election shall be held triennially during the month of May that precedes the month in which the term of office for a member of the Board is set to expire. The date of the election shall be designated by the Deferred Compensation Plan (DCP) staff not sooner than 90 days before the Election Day.
- 2) The election shall be held by secret ballot and shall be administered by the City Clerk. The City of Los Angeles Deferred Compensation Plan shall reimburse the City Clerk

for all necessary expenses incurred in the administration of Board member elections and special elections.

- 3) Eligible voters shall be only those DCP participants with a balance in the DCP and who are members of a constituent group for which an election is being held on that Election Day. To be a member of a constituent group means that one is either: (a) an active employee member of LACERS, LAFPP, or WPERP; or (b) a participant who has retired or otherwise separated from City service.
- 4) DCP staff shall provide to the City Clerk a primary roster, in alphabetical order, of eligible voters as of 30 days prior to Election Day. The roster shall contain the name, address, and last four digits of the social security number (employee ID numbers for WPERP employees) of each eligible voter.

### **Section E. Nomination of Candidates and Official Ballot**

Only members of the appropriate constituent group who have been nominated as provided in this article shall be eligible to have their names placed on the official ballot for the election. In order to have their name placed on the official ballot, ~~the member retired or otherwise separated from City service members~~ seeking to run as a candidate for a Board seat shall submit a completed Notice of Intent Form; active members seeking to run as a candidate for a Board seat shall also submit a nominating petition, as provided for in this section. ~~Failure to submit a completed nominating petition as provided for in this section shall result in the candidate's name not being placed on the official ballot.~~

~~1) Not more than 60 calendar days prior to the Election Day, all members of the appropriate constituent group shall be notified by mail of the Board vacancy for which that appropriate constituent group may seek on Election Day. This notification shall instruct members interested in becoming a candidate to submit a completed Notice of Intent Form. For active employee member candidates, nominating petitions shall also be made available on the date and location as specified in the Election Calendar. Nominating petitions shall be made available at the DCP staff office and/or, if the Board designates, electronically to members of the appropriate constituent group, not more than 60 days prior to Election Day.~~

a. ~~The Notice of Intent Form and nominating petition will be made available in person, or if the Board designates, electronically, and shall be submitted via U.S. Postal Services, in person, or email no later than 5:00 p.m., on the due date as specified in the Election Calendar.~~

~~2) The nominating petition shall be submitted at the DCP staff office and/or, if the Board designates, electronically to the DCP staff by a date and time established by the DCP staff that is not more than 14 days from the date that the nominating petition is first made available to the candidates.~~

~~3)2) The nominating petition shall have a designated space for each eligible voter to sign. Each person signing the nominating petition shall provide their name, the department in which they are employed, and the date of signing. Electronic signatures mayThe~~

~~Board may designate that electronic signatures~~ be collected in lieu of or in addition to physical signatures, and both physical and electronic signatures shall be counted to satisfy any candidate requirements. Wet signatures submitted electronically as designated per section E2 shall be counted as physical signatures. For samples of acceptable electronic signatures, please refer to the Electronic Nominating Petition form (see Appendix A).

4)3) In order for LACERS, LAFPP, or WPERP active employee member candidates to qualify to be placed on the official ballot, the nominating petition shall be signed by not fewer than 50 and not more than 100 individuals who are members of both the DCP and the respective constituent group. Signatures collected on the nominating petition shall be verified and validated by the City Clerk as described further in Section E45. ~~In order for candidates separated from City service to qualify to be placed on the official ballot, the candidate must submit a completed nominating petition with no constituent signatures. Nominating petition signatures are not required for the separated from City service constituent group.~~

5)4) Following the submission of nominating petitions, the City Clerk shall verify that those persons signing the nominating petition were members of the DCP and the respective constituent group as of the date of signing, and shall certify the sufficiency or insufficiency of each nominating petition, and shall so notify the candidate by registered mail and email.

6)5) Along with the submission of the Notice of Intent Form and applicable signed nominating petition, interested candidates have the option to include an Occupational ~~b~~Ballot Designation and a 250-word statement of qualifications for office for the provision of information to the electorate. The ~~e~~Occupational ~~B~~Ballot ~~D~~Designation shall be printed on the ballot immediately under that candidate's name and shall consist of a three-word designation of either: (a) the current principal profession, vocation, or occupation of the candidate, or (b) the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of the candidate's Notice of Intent Form and applicable nominating petition. Any candidate, who does not submit a statement of qualifications or Occupational Ballot Designation with –the Notice of Intent and applicable nominating petition filing deadline, will be considered to have declined to file a statement, and the appropriate sections for the statement of qualifications or Occupational Ballot Designation will be left blank. The standards for Occupational ~~B~~Ballot ~~D~~Designations contained in the City's Election Code Section 306 are to be applied by the City Clerk as applicable, except that a candidate who is running for an elective office, which that person currently holds, shall have "(Incumbent)" printed on the ballot, immediately after that person's name, in addition to the candidate's ~~e~~Occupational ~~b~~Ballot ~~d~~Designation.

7)6) The statement of qualifications for office may include information such as education, work experience, years of service, and other relevant qualifications and shall not exceed 250 words in length. Any words beyond the 250 word limit shall not be printed

by the City Clerk. ~~Statement of qualifications~~Qualification statements that are submitted by the due date, as established by the DCP staff under ~~paragraph (4)~~Section E5, shall be printed by the City Clerk and mailed with the ballot at no expense to the candidate.

~~8)7)~~ The statement of qualifications shall include a disclaimer stating that neither the Board nor the City Clerk has verified the accuracy of the information contained in the candidates' ~~statement of qualifications~~qualification statements.

~~9) — Should any candidate fail to submit an occupational ballot designation and/or a statement of qualifications by the specified due date, the appropriate sections for the occupational ballot designation and/or qualification statement shall include a statement indicating that the candidate declined to submit an occupational ballot designation and/or a statement of qualifications.~~

~~10)8)~~ Prior to the Election Day, the City Clerk shall conduct a public drawing of the letters of the alphabet. Each of the letters of the alphabet shall be drawn by random. The order in which the letters are drawn shall determine the order by which the surnames of the candidates shall be printed on the official ballot. The term "surname" shall mean the name borne in common by members of a family for this purpose.

~~11)9)~~ Each official ballot shall contain the names of all candidates who have qualified in accordance with this section. There shall be a blank space beneath these names in which the voter may write the name of any employee member of the DCP and respective constituent group not printed on the official ballot and for whom the voter may wish to vote.

### **Section F. Third Party Candidate Support**

In certain situations, funds used by third parties in order to support candidates for positions on the Board may be considered reportable gifts under State and City ethics rules and laws. These rules and laws include, but are not limited to, California's Political Reform Act of 1974, the City of Los Angeles Governmental Ethics Ordinance, and related interpretations and regulations. Candidates are strongly encouraged to contact the Los Angeles City Ethics Commission for further information.

### **Section G. Notice of Election**

- 1) Not more than 90 but not fewer than 60 calendar days prior to Election Day, the DCP staff shall notify the City Clerk of the fact of the election.
- 2) Not more than 30 but not fewer than 20 calendar days prior to Election Day, the DCP staff shall have prepared a Notice of Election specifying the election date, including a sample ballot containing the name of each candidate who has qualified to be placed on the official ballot, rules concerning eligibility to vote, and any additional information and instructions the City Clerk determines are appropriate. A copy of the Notice of Election shall be posted at the Office of the City Clerk and at the DCP office and website.

## Section H. Observers to the Ballot Tally

Each candidate, ~~along with up to two (2) observers may -whose name appears on the official ballot may designate no more than two observers at the tally center to observe that ballots are properly cast and votes are properly counted at the Election Division. In addition to these designated observers, candidates may also observe.~~ Names of all observers, ~~including any candidates who desire to attend, designated by the candidates must be submitted shall be presented~~ to the City Clerk not less than three (3) calendar days prior to Election Day. ~~Designated observers shall wear identification badges at all times, shall not interfere in the ballot tally process, and shall be subject to regulations prescribed by the City Clerk.~~

## Section I. Voting Procedures

- 1) The City Clerk shall mail a ballot packet for the election to each eligible voter listed on the roster supplied by the DCP staff. The mailing shall be completed not less than ten calendar days prior to Election Day.
- 2) Employees who become members of the DCP within 30 calendar days prior to Election Day, or as specified in the election calendar, and who wish to vote in that election shall obtain a certificate from the DCP staff certifying their eligibility to vote. The employee must present the certificate of eligibility to the City Clerk no earlier than seven calendar days prior to and not later than the close of business on Election Day. The City Clerk shall allow these members to vote.
- 3) Each ballot packet mailed or provided to voters shall consist of the following items:
  1. A mailing envelope;
  2. A return envelope;
  3. The official ballot;
  4. An identification envelope for the official ballot with space for the voter to affix the voter's name, mailing address, last four digits of the social security number (employee ID numbers for WPERP employees), signature, and date of signing;
  5. A list of instructions to the voter; and
  6. The candidates' statements of qualifications, if any.
- 4) Upon receiving and casting their vote on the ballot, the voter shall place the completed Identification Envelope with the ballot enclosed in to the Business Reply Envelope and return in person by using the City Clerk's drop box return, or via U.S. Postal Services. ~~enclose the ballot in the identification envelope. The voter shall then affix the voter's name, mailing address, last four digits of the voter's social security number (employee ID number for WPERP employees), signature, and date of signing on the identification envelope containing the ballot and shall enclose it in the return envelope. All ballots must be returned to the City Clerk by United States mail or personal deposit. Ballots shall be accepted not earlier than seven calendar days preceding Election Day, but no later than the close of business (specific time to be~~

~~designated by the City Clerk) on Election Day. During this period, voters may personally deposit the return envelope containing their ballot in the ballot box in the Office of the City Clerk, Election Division. Ballots received by the City Clerk after the close of business (specific time to be designated by the City Clerk) on Election Day shall be marked as late and shall not be counted.~~

5) Upon receipt of the identification envelope and its contents, the City Clerk shall date stamp the envelope, verify the name and last four digits of the social security number (employee ID number for WPERP employees) appearing on the envelope with the roster of eligible voters, and shall cause the roster to be marked showing that the member has voted. No identification envelope shall be opened prior to the commencement of the tally.

~~6) If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with a replacement ballot. No more than two replacement ballots may be issued to the same voter. Spoiled ballots will be clearly marked "**SPOILED**" by the City Clerk.~~

~~7)6)~~ If a voter on the roster claims not to have received a ballot, or has otherwise lost or spoiled their ballot ("Spoiled Ballot"), the voter may receive a replacement ballot from the City Clerk upon filing a signed affidavit ~~claiming non-receipt of the ballot~~. The identification envelope of the replacement ballot shall be prominently marked "**REPLACEMENT BALLOT**" and the original ballot issued to the voter shall be void, if received.

## **Section J. Verification of Identification Envelopes and Challenges**

1) The City Clerk may challenge a returned identification envelope on the following grounds:

1. The identification envelope is not properly completed according to the instructions and does not accurately identify the voter;
2. The voter did not include the correct last four digits of the social security number (employee ID number for WPERP employees);
3. The voter did not sign the identification envelope;
4. The voter's name does not appear on the roster;
5. The identification envelope was received after the last date and time provided pursuant with these policies;
6. The voter has lost status as a member of the appropriate constituent group within 30 days prior to Election Day;
7. The voter has already turned in an identification envelope.

2) An authorized observer or the City Clerk, during the Ballot Tally, may challenge the eligibility of any person to vote in the election. Challenges by observers may be made only on the following grounds:



1. The identification envelope was not signed by the person whose name appears on the roster; or
  2. The person's status as an eligible voter has changed since the person was certified.
- 3) Each identification envelope that is challenged shall have written on the envelope the word "**Challenge**," the reason for the challenge, and the signature of the person making the challenge.
- 4) The City Clerk shall, with substantiating evidence, sustain or overrule each challenge. Without substantiating evidence being produced within three business days of the Election Day, the challenge shall be overruled and the ballot shall be tallied with the other ballots. Identification envelopes for which challenges have been sustained shall be retained unopened by the City Clerk for a minimum of 90 calendar days after the election results are certified.

### **Section K. Ballot Tally**

- 1) The City Clerk shall count ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. Only the City Clerk may handle ballots. All ballots counted and uncounted shall be kept in view of the observers at all times during the tally and until the Ballot Statement is finally signed.
- 2) ~~The ballot shall not be removed from the identification envelope. The identification envelope containing the sealed ballot envelope shall not be opened~~ until the tally is commenced in order to preserve the secrecy of the ballot. At the commencement of the tally, the City Clerk shall audibly announce the name of each voter ~~and shall then open the identification envelope, removing and remove~~ the official ballot ~~from the identification envelope~~. After all ~~ballots have been removed from the~~ identification envelopes ~~have been opened and set aside from the tally area~~, the City Clerk shall then proceed to count and tally the ballots cast for each choice, ~~laying the ballots face up so that observers may inspect the marks~~. The count shall continue in this manner until all the ballots are ~~opened and~~ counted. When all ballots have been counted, the total number of votes cast for each candidate shall be entered on the unofficial Tally Results.
- 3) ~~All ballots must, in order to be counted, be postmarked by Election Day and received within three (3) calendar days. Any ballots received after the deadline will not be counted.~~
- 3) ~~If a ballot is a Spoiled Ballot, the ballot shall be declared void by the City Clerk and shall be preserved for a period of 90 calendar days after the election results are certified.~~
- 4) ~~If the City Clerk cannot reasonably determine the intent of the voter of a "Challenged Ballot", the ballot shall be declared void and shall be preserved for a period of 90 calendar days after the election results are certified.~~

4)5) After preparing the official Tally Results, the City Clerk shall place under seal all ballots, identification envelopes, and tally sheets, and shall retain them in a sealed condition for not less than 90 calendar days after the election results are certified.

#### **Section L. Election Results**

- 1) The candidate who receives the most votes of all votes cast shall be elected to the position of Board member for the respective constituent group.
- 2) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the City Clerk and draw lots to determine which person shall be declared elected. The City Clerk shall determine the manner in which the lots shall be drawn and, in the event that any candidate involved does not appear, the City Clerk shall act for the absent person in the drawing of the lot. The candidate who is selected by lot shall be declared by the Board to be elected to the position of Board member for the respective constituent group.

#### **Section M. Special Election**

- 1) In the event that an elected member of the Board, prior to the expiration of such member's term, has submitted a letter of resignation or the member's office becomes vacant by virtue of death, retirement, termination of employment, or for any other reason, the City Clerk shall conduct a special election to fill the unexpired term. However, no special election shall be held where there is less than twelve months remaining before expiration of the term.
- 2) The Board shall designate the date of the special election. The special election shall be held not more than 90 calendar days after the submission of the letter of resignation or the receipt of notification of the vacancy. Candidates to be voted on at any special election shall be nominated in the same manner provided under this policy, but the [Notice of Intent Form and applicable](#) nominating petition shall provide that the nomination is made for the balance of the unexpired term and specify the ending date of that term. The nominating petitions shall be available at the office of the DCP or, if the Board designates, electronically to members of the appropriate constituent group seven weeks before the date of the special election. The special election to fill the unexpired term shall be conducted in the same manner as a regular election, except as otherwise provided for in this section.
- 3) If any candidate in a special election receives the most votes of all votes cast, the candidate shall be declared by the Board to be elected to the position of Board member for the respective constituent group for the unexpired term.
- 4) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the

City Clerk and draw lots to determine which person shall be declared elected. The City Clerk shall determine the manner in which the lots shall be drawn and, in the event that any candidate involved does not appear, the City Clerk shall act for the absent person in the drawing of the lot. The candidate who is selected by lot shall be declared by the Board to be elected to the position of Board member for the respective constituent group for the unexpired term.

#### **Section N. Certification and Report of Results**

The City Clerk shall officially certify the results of the election within 14 calendar days from the Election Day.

#### **Section O. Protests of Election**

Any interested person may challenge any proceeding, act, or omission that may be material to the election, by written notice to the City Clerk not later than three business days after the count of the ballots. The City Clerk shall review the protests and submit a report of findings and recommendations to the Board, together with the official certified results of the election.

#### **Section P. Emergency and Corrective Board Actions**

The Board may take certain actions relative to the election process in the event of a local emergency declared by the City of Los Angeles, the County of Los Angeles, the State of California, or the Federal government that significantly impacts the conduct of an election. In such an event, the Board shall be able to enact temporary emergency election procedures to provide for the timely conduct of elections in accordance with the Board's Election Policies and Procedures. Additionally, the Board may take certain actions to an adopted election schedule in the event of certain administrative errors associated with the conduct of the election provided the Board finds that such modifications are necessary to support the enfranchisement of all participants who are eligible to vote in such election.