

## Executive Team

**Dominic D. Brown, CPA, CFE**  
Chief Executive Officer

**Daryn Miller, CFA**  
Chief Investment Officer

**Jennifer Zahry, JD**  
Chief Legal Officer

**Matthew Henry, CFE**  
Chief Operations Officer



## Board of Retirement

Tyler Whitezell, Chair  
Phil Franey, Vice-Chair  
David Couch  
Juan Gonzalez  
Joseph D. Hughes  
Jordan Kaufman  
Rick Kratt  
John Sanders  
Dustin Contreras, Alternate  
Chase Nunneley, Alternate  
Robb Seibly, Alternate  
3rd Member (Vacant)

October 26, 2023

Members, Board of Retirement  
Employee Bargaining Units  
Requesting News Media  
Other Interested Parties

Subject: Meeting of the Kern County Employees' Retirement Association Nominating Committee

Ladies and Gentlemen:

A meeting of the Kern County Employees' Retirement Association Nominating Committee will be held on Wednesday November 1, 2023 at 1:00 p.m. in the KCERA Boardroom, 11125 River Run Boulevard, Bakersfield, California, 93311.

### **How to Participate: Listen to or View the Board Meeting**

To listen to the live audio of the Board meeting, please dial one of the following numbers (*landline recommended for best audio*) and enter ID# 898 2594 8737:

- (669) 900-9128; U.S. Toll-free: (888) 788-0099 or (877) 853-5247

To access live audio and video of the Board meeting, please use the following:

- <https://us02web.zoom.us/j/89825948737?pwd=QnVLb1dVbk5qR1VCVEhRQXJyNCtOdz09>
- Passcode: 404853

Items of business will be limited to the matters shown on the attached agenda. If you have any questions or require additional service, please contact KCERA at (661) 381-7700 or send an email to [administration@kcera.org](mailto:administration@kcera.org).

Sincerely,

Dominic D. Brown  
Chief Executive Officer

Attachments

**AGENDA:**

All agenda item supporting documentation is available for public review on KCERA's website at [www.kcera.org](http://www.kcera.org) following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

**AMERICANS WITH DISABILITIES ACT  
(Government Code §54953.2)**

Disabled individuals who need special assistance to listen to and/or participate in the meeting of the Board of Retirement may request assistance by calling (661) 381-7700 or sending an email to [administration@kcera.org](mailto:administration@kcera.org). Every effort will be made to reasonably accommodate individuals with disabilities by making meeting materials and access available in alternative formats. Requests for assistance should be made at least two (2) days in advance of a meeting whenever possible.

**CALL TO ORDER**

**ROLL CALL (IN PERSON)**

**AB 2449 REMOTE APPEARANCE(S)**

*Items 1 and/or 2 withdrawn from agenda if no trustees will have a need to appear via teleconference:*

The first two items on the agenda are reserved for trustees who have a need to appear via teleconference due to a "just cause" need or an "emergency circumstance." Trustees who have notified this Committee before agenda-posting will be called upon and will provide a general description of their need to attend via teleconference as allowed by law. Trustees who were not able to notify the Committee in advance of posting and have a need to attend via teleconference will state their notification or request when called upon to do so. All trustees appearing via teleconference will need to disclose any adult person(s) present in the room of their remote location and their relationship to such person(s). Trustees appearing remotely are reminded to keep their camera on throughout the meeting.

1. JUST CAUSE CIRCUMSTANCE(S):

- a) The following Trustee(s) have notified the Committee of a "Just Cause" to attend this meeting via teleconference. (See Government Code § 54953).
  - NONE
- b) Call for Trustee(s) who wish to notify the Committee of a "Just Cause" to attend this meeting via teleconference. (See Government Code § 54953).

2. EMERGENCY CIRCUMSTANCE(S):

a) The following Trustee(s) have requested the Committee approve their attendance of this meeting via teleconference due to an “Emergency Circumstance.” (See Government Code § 54953).

- NONE

b) Call for Trustee(s) requesting the Committee approve their attendance of this meeting via teleconference due to an “Emergency Circumstance.” (See Government Code § 54953).

TAKE ACTION ON REQUEST(S) FOR REMOTE APPEARANCE

3. [Discussion and appropriate action regarding nominations of trustees for Chair and Vice-Chair of the Board of Retirement for calendar year 2024 – NOMINATE 2024 BOARD OF RETIREMENT CHAIR AND VICE-CHAIR CANDIDATES AND PRESENT SLATE TO THE BOARD OF RETIREMENT FOR APPROVAL](#)

**PUBLIC COMMENTS**

4. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Committee. This portion of the meeting is reserved for persons to address the Committee on any matter not on this agenda but under the jurisdiction of the Committee. Committee members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Committee at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation.

**REFERRALS TO STAFF, ANNOUNCEMENTS OR REPORTS**

5. On their own initiative, Committee members may make a brief announcement, refer matters to staff, subject to KCERA’s rules and procedures, or make a brief report on their own activities.

6. Adjournment

## **BOARD OPERATIONS POLICY**

### **PURPOSE**

- 1) This Board Operations Policy contains various provisions regarding how the Board will administer its own activities. The policy includes but is not limited to relevant provisions of State law and Article I of the Regulations (formerly called By-laws). Provisions drawn from the Regulations and State law are so noted.

### **POLICY GUIDELINES**

#### **Election of Members of the Board of Retirement**

- 2) The Board of Retirement delegates responsibility for conducting Board of Retirement elections in a manner set forth in the *Election Procedures for Elected Positions on KCERA's Board of Retirement* to the Board of Supervisors through its Chief Registrar of Voters. Appendix B contains a copy of the Election Procedures, which have been approved by the Board of Retirement. Appendix B is included for reference purposes only and does not form part of the Board Operations Policy.

#### **Committee Structure**

- 3) The standing committees of the Board shall be as follows:
  - a) Administrative Committee
  - b) Finance Committee
  - c) Investment Committee
  - d) Nominating Committee
- 4) In consultation with the Chief Executive Officer, the Board may approve the establishment of ad hoc committees, and the Board shall appoint the chair and members of such committees.
- 5) The Board supports the use of committees to enhance the efficiency and effectiveness of Board decision-making. Accordingly, the Board may assign or delegate to any committee the task of reviewing policies and decisions and providing recommendations to the Board for its consideration. Notwithstanding any such direction or delegation, the Board reserves the option to adopt any decision or policy

without considering committee analysis and recommendations if the Board determines that it is prudent and appropriate to do so under the circumstances.

#### Rules of Order

- 6) The conduct of Board and committee meetings shall be determined in accordance with:
  - a) This Board Operations Policy, including the Simplified Rules of Order set out in Appendix A;
  - b) The Regulations; and
  - c) Open meeting laws and other applicable laws.
- 7) Any question regarding the conduct of a meeting that is not addressed in paragraph 6 above, shall be determined by the Board Chair or applicable committee chair. In making such determination, the Board Chair or applicable committee chair may consult with Counsel. Any such determinations shall apply only to the meeting in question; the Board however may subsequently refer the question to the Administration Committee, which may recommend changes to the Board Operations Policy or Regulations to address the question for future meetings. Any resulting changes to the Board Operations Policy or Regulations shall not nullify the original determination by the Chair or committee chair. A Board member may, however, seek reconsideration of any decision that resulted from the original determination of the Chair or committee chair, consistent with the rules for reconsideration contained in Appendix A.
- 8) The Chair shall be entitled to vote, if applicable, on all questions and shall not be required to relinquish the chair in order to participate in discussions. (Regulations: Article I.B.3)
- 9) The order of business shall be at the discretion of the Chief Executive Officer in the absence of instructions from the Board. (Regulations: Article I.B.4)
- 10) The order of business shall normally be as follows:
  - a) Roll Call
  - b) Flag salute and moment of silence
  - c) Consent Agenda Items for Board Action (routine and non-controversial)
  - d) Public Comments
  - e) Non-consent Agenda Items for Board Action
  - f) Report from Chief Executive Officer
  - g) Report from Chief Investment Officer

- h) Report from the Chief Legal Officer
- i) Reports from Committee Chairs
- j) Board Member Announcements or Reports
- k) Executive session
- l) Adjournment

#### Officers

11) The Board shall annually elect a Board Chair and a Board Vice-Chair, each to serve for a term of one year.

12) Any trustee may be elected to the position of Board Chair or Board Vice-Chair for up to two consecutive terms, before vacating the position for at least one year.

13) The Chief Executive Officer shall serve as Secretary to the Board.

#### Nomination and Election of Board Officers

14) Annually at the regular meeting in October, a Nominating Committee shall be formed, consisting of two (2) members designated by the Chair of the Board and two (2) members designated by the full Board. The Chair of the Board shall appoint the Chair of the Nominating Committee. The Nominating Committee shall select one member of the Board as its nominee for Board Chair and one member as its nominee for Board Vice-Chair to hold office during the ensuing year. The Nominating Committee shall present its slate of nominees to the full Board at its regular meeting in December. At the time of election of officers in December, the Board Chair shall call for other nominations, which may be made by any member of the Board.

15) Annually, at the end of the regular meeting in December, the Board shall elect one of its members as Board Chair, and one of its members as Board Vice-Chair, each to hold office for a term of one year. Should a vacancy occur in the Chair position, the Vice-Chair will be the successor. Should a vacancy occur in the Vice-Chair position, the Board shall select a successor for the balance of the unexpired term at its next regular meeting.

16) Should the Chair or Vice-Chair be unavailable to chair a meeting, then the most recent past Chair who is available and serving on the Board shall assume the role of the Chair for the meeting in question.

#### Quorum

17) Five members of the Board shall constitute a quorum. No official act of the Board shall be valid unless five of the members concur therein. (Regulations: Article I.A.5)

18)With the exception of the Nominating Committee, standing committees shall be composed of four regular members and one committee alternate member. The composition of the Nominating Committee shall be as specified in paragraph 14 herein.

19)Three members of a standing committee shall constitute a quorum. The committee chair may designate an additional temporary member for purposes of constituting a quorum.

#### Alternates

20)An alternate shall be elected by the safety members and may vote in place of the 7th member when a member of the same service as the alternate is before the Board. The alternate shall vote as a member of the Board only in the event the second, third, seventh, or eighth member is absent from a board meeting for any cause, or if there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate shall fill such vacancy until a successor qualifies (§31520.1).

21)An alternate shall also be elected by the retired members in the same manner and at the same time as the 8th member is elected. The term of office of the alternate retired member shall run concurrently with the term of office of the 8th member. The alternate retired member shall vote as a member of the Board only in the event the 8th member is absent from a board meeting for any cause. If there is a vacancy with respect to the 8th member, the alternate retired member shall fill that vacancy until a successor qualifies (§31520.5). Consistent with §31520.6, notwithstanding any provision to the contrary in §31520.5, if the eighth member is present, the alternate retired member may also vote as a member of the board in the event both the second and third, or both the second and seventh, or both the third and seventh members are absent for any cause.

22)Except as provided in paragraphs 20 and 21 above, alternates shall not vote as members of the Board, nor shall they have the ability to make a motion or second a motion, as the Board deems such actions to be integral to the voting process.

23)Except as otherwise provided in paragraphs 20 through 22, the above alternates shall have the same rights, privileges, responsibilities, and access to closed sessions as the 7<sup>th</sup> and 8<sup>th</sup> members respectively.

#### Communications and Public Comment

24)Every agenda for a regular board or committee meeting shall provide the public an opportunity to address the Board or committee at each meeting during posted public

comment sessions, on any item under the jurisdiction of the body. At the discretion of the presiding officer, the duration of any address may be limited to two (2) minutes. With respect to any item that is already on the agenda, the public will be given the opportunity to comment before or during the Board's or committee's hearing of the item. When a member of the public raises an issue not yet before the Board or committee, the item may be discussed, but no action may be taken at that meeting, except as provided below:

- a) The Board may request that Management or other advisors provide the Board factual information;
- b) The Board may request Management to report back to the Board at a subsequent meeting concerning any matter;
- c) The Board may take action to direct Management to place a matter of business on a future agenda.

25) Communications and requests to the Board shall be made in writing, and the substance of such requests and the action of the Board thereon shall be noted in the minutes. (Regulations: Article I.B.6)

26) Trustees may attend any standing committee meeting as observers, but only committee members may deliberate and vote on matters before the committee. (Government Code Section 54952.2(c)(6))

#### Agenda

27) The Secretary to the Board shall prepare, distribute, and post a written agenda for all regular meetings of the Board and standing committees. The agenda and related materials for board meetings will generally be distributed to trustees at least five (5) calendar days in advance of the board meeting except for non-agenda items, as permitted by the Brown Act. Said materials shall also be made available for public viewing prior to board and standing committee meetings in accordance with the Brown Act. Members of the public wishing to obtain copies of the materials may do so, and may be charged an appropriate fee, as determined by the Board, to recover any costs incurred by KCERA.

28) Committee meeting agendas will be posted seventy-two (72) hours prior to committee meetings, except under circumstances permitted by the Brown Act, and materials for committee meetings generally will be distributed no later than the day before the meeting. (Government Code Section 54954.2)

29) Items may be placed on the board agenda by any of the following means:

- a) By action of the Board at a previous meeting;



- b) By the Chair; or
- c) By the Chief Executive Officer.

### Minutes

30) The Secretary shall cause to be recorded in the minutes the time and place of each meeting of the Board, the names of members present, all official acts of the Board and votes given by members of the Board. The Secretary shall cause the minutes to be written and presented for approval at the next monthly meeting of the Board. The minutes, or a true copy thereof, approved by the Board and signed by the Secretary and the Chair, shall form part of the permanent records of the Board.

31) Minutes of committee meetings shall be similarly prepared and placed in the Board's public record at the next month's regular board meeting.

32) Board members who vote against a motion are encouraged, but not required, to provide their reasons for doing so; such reasons may be included in the minutes.

### Committee Operations

33) At the first regular meeting following the election of officers, the Chair shall appoint committee members, a committee chair, and a committee alternate to each standing committee, with the exception of the Nominating Committee (See paragraph 14 for policy regarding the Nominating Committee). Factors to be considered in determining committee appointments include:

- a) Trustees' areas of expertise and experience;
- b) Trustees' varying interests; and
- c) The need to rotate trustees between committees to ensure their exposure to KCERA's various functions.

34) The function of committee alternates is to attend committee meetings when necessary to satisfy quorum requirements.

35) If the committee chair is unavailable to attend a meeting, then the committee chair may designate another committee member to serve as committee chair in his or her absence, failing which the remaining committee members may appoint a committee chair from among themselves.

36) In the event of a vacancy in a committee chair position, the Chair shall appoint a replacement.

- 37) The Chief Executive Officer shall ensure board committees receive adequate support from staff and shall assign a staff contact to each committee.
- 38) The Board shall approve a charter for each standing committee. Unless authorized by the Board, Committees shall not undertake committee work or analysis, nor direct Management, staff, or advisors to undertake any work, that falls outside the scope of the committee's charter.
- 39) To take effect, all actions of a committee must be approved by the Board at a scheduled board meeting, unless the committee's charter authorizes such independent action by the committee or the Board has otherwise granted such authority to the committee.

#### Schedule of Meetings

- 40) Regular meetings of the Board shall be held on the second Wednesday of each month at 8:30 a.m. The Administrative, Finance, and Investment Committees of the Board shall meet on a scheduled basis or ad hoc basis, as determined by the Chief Executive Officer, Chairman of the Board, the relevant committee, or Chairman of the relevant committee. Such meetings will be held in the KCERA Board Room, located at 11125 River Run Boulevard, Bakersfield, California unless an alternate location is authorized under Sections 54953 or 54954 of the Brown Act. If a scheduled meeting of the full Board needs to be moved for any reason, the Chief Executive Officer in coordination with the Chair, shall set a new date for the Board meeting. Any scheduled Board meeting may, in consultation with the Chief Executive Officer, be canceled by the Board Chair or, if the Board Chair is unavailable, the Vice-Chair. Any scheduled committee meeting may be canceled by the committee chair in consultation with the Chief Executive Officer. If the committee chair is unavailable, the Chief Executive Officer will consult with the committee member who is both available and has the longest tenure on the Board to discuss canceling the meeting.
- 41) Special meetings may only be called as provided in California Government Code Section 54956 (Regulations: Article I.B.2). At its first meeting each year, standing committees shall establish a forward yearly schedule of meetings and agendas, and provide such schedules to the full Board for review.

#### Policy Development

- 42) Both the Board and the Chief Executive Officer shall be responsible for identifying issues requiring a board policy or decision, and for initiating the development of board policy. Committees wishing to develop a new policy or position for the Board's consideration shall obtain Board approval prior to initiating any work or directing staff or advisors to initiate any work. The Chief Executive Officer shall be responsible for

ensuring all necessary research and analysis is performed to support the Board's decision-making and policy-setting responsibilities. The Chief Executive Officer shall further ensure that staff provides the Board and its committees with recommendations and supporting information in connection with all material decisions before the Board or its committees. Where appropriate, such information should include the strengths and weaknesses of viable alternatives that were considered.

- 43) Board policies and decisions shall generally be limited to issues of a high level or strategic nature. The Chief Executive Officer is authorized to approve staff-level procedures to support the proper implementation of board policies, and to guide the day-to-day operations of KCERA.
- 44) The Board shall abide by all board policies, unless under the circumstances it would be imprudent to do so. Material deviations from policy shall be noted in the minutes of the meeting along with the reasons for doing so; and, if appropriate, the Board shall direct the Chief Executive Officer to review the policy in question. Minor deviations in procedures are not required to be noted in the minutes; examples include, but are not limited, to:
  - a) Minor deviations in the timing of reports; and
  - b) Presenting reports directly to the Board rather than to a committee when, in consultation with the chair of the committee, it is agreed that there would be no benefit to having the committee consider the matter before it is presented to the Board.
- 45) All policies of the Board shall be reviewed with a frequency to be specified in each policy, though more frequent reviews may be initiated by the Board or the Chief Executive Officer if deemed necessary.
- 46) Board policies shall be maintained in up-to-date form within the offices of KCERA and shall be accessible to trustees and staff.

#### Compensation and Expense Reimbursement of Members of the Board

- 47) Pursuant to §31521 of the Act, the fourth, fifth, sixth, eighth, ninth, and the alternate eighth member shall receive compensation at the rate of one hundred dollars (\$100) for each Board or Board-authorized committee meeting, for not more than five meetings per month. In addition, all member of the Board shall receive reimbursement for actual and necessary expenses in accordance with rules and regulations adopted by the County of Kern for reimbursement of expenses incurred by County employees set forth in the Kern County Administrative Procedures Manual and the Trustee Travel

Policy. Board members and alternate trustees eligible for the \$100-per-meeting compensation may decline that compensation at any time.



48) This policy shall be reviewed at least every five years.

49) This policy was:

- a) Adopted by the Board on September 27, 2000.
- b) Amended on November 19, 2002; June 23, 2004; August 26, 2009; December 12, 2012; April 13, 2016; March 11, 2020; February 10, 2021; August 11, 2021; and April 13, 2022.

## APPENDIX A

### SIMPLIFIED RULES OF ORDER

- 1) In conducting Board and committee meetings, the primary goals of the Board are to ensure that:
  - a) decisions are made prudently, efficiently, and without confusion;
  - b) all Board members have appropriate opportunities to be heard;
  - c) members of the public have opportunities to address the Board, consistent with open meeting laws; and
  - d) all applicable laws are followed.
- 2) Board actions shall be carried out using motions. Examples of common motions include:
  - a) Motion to approve [insert item presented for approval].
  - b) Motion to approve/adopt based on Staff's recommendation.
  - c) Motion to refer matter to Staff/Committee for [insert direction from Board].
  - d) Motion to return matter to the Board on [insert date/month certain].
- 3) The general process for arriving at a Board or committee decision shall be as follows:
  - a) Staff and/or advisors shall provide background information and/or recommendations regarding the matter in question.
  - b) The chair shall then ask for discussion from the Board/committee.
  - c) The chair shall moderate any discussion to ensure open but orderly deliberations among Board members.
  - d) When discussion has ended, the chair shall request a motion and a second on the matter; if there is no second, the motion dies.
  - e) The chair shall take public comment at any time prior to moving to a vote.
  - f) Voting shall occur by one of the following methods:
    - i) By electronic means, though such votes may not be anonymous;
    - ii) By Roll Call – Each member answers “yes” or “no” as his or her name is called.
- 4) *Consent agenda.* Items placed on a consent agenda may be approved together without discussion or individual motions. A Board member may, however, request that one or more items be removed from the consent agenda for discussion and individual action, and such request may not be denied.
- 5) *Reconsidering a motion.* A board member may move that a motion to reconsider a board/committee action be placed on a future meeting agenda, but only if said board

member voted on the prevailing side when the matter was first considered. If said board member did not vote on the prevailing side, he or she may briefly state reasons for wishing that such a motion be made by a qualified Board member, and no other discussion may ensue unless a motion is made and seconded. The motion may be seconded by any board member.

Notwithstanding the above, a request for reconsideration made within 90 days of when the matter was first considered may only be approved if information not previously considered is available.

- 6) *Tie votes.* Motions that result in a tie vote are considered to have failed. In the event of a tie vote, any member of the Board/committee may move to have the matter decided once again at the same meeting. If a tie vote occurs a second time, the motion dies, or the Board may continue the matter to a future meeting(s) or take other appropriate action.
- 7) Any question regarding the conduct of a meeting that is not addressed by the Board Operations Policy, the Regulations, or Open meeting laws or other applicable laws, shall be determined by the Board Chair or applicable committee chair. In making such determination, the Board Chair or applicable committee chair may consult with Counsel. Any such determinations shall apply only to the meeting in question; the Board however may subsequently refer the question to the Administration Committee, which may recommend changes to the Board Operations Policy or Regulations to address the question for future meetings. Any resulting changes to the Board Operations Policy or Regulations shall not nullify the original determination by the Chair or committee chair. A Board member may, however, seek reconsideration of any decision that resulted from the original determination of the Chair or committee chair, consistent with the rules for reconsideration contained in paragraph 5 above.

#### Other Expectations

- 8) The following meeting practices are desirable but not required:
  - a) Board members seeking to gain the attention of the chair should use the electronic meeting system or say, “Mr. Chair” or “Madame Chair”.
  - b) Board members should refrain from addressing the Board or committee until recognized by the chair.
  - c) Motions should be stated in the affirmative; i.e., “I move that we ...” rather than, “I move that we do not....”

**APPENDIX B**





## **ELECTION PROCEDURES POLICY**

The Board of Retirement delegates responsibility for conducting Board of Retirement elections in a manner set forth in these Election Procedures for Elected Positions on KCERA's Board of Retirement to the Board of Supervisors through its Chief Registrar of Voters.

### **APPLICABILITY**

1. These procedures shall govern the election of the second, third, seventh, eighth and seventh and eighth alternate members to the Kern County Employees' Retirement Association ("KCERA") Board of Retirement.

### **ELECTION DATE; COSTS; TIME REQUIREMENTS**

2. Elections shall be held on the third Tuesday in September to fill the positions for terms expiring December 31 of that year. Elections shall be conducted by the Auditor-Controller-County Clerk (hereafter "elections official"). All costs associated with any election for membership on the KCERA's Board of Retirement shall be paid by the KCERA. If any day on which action is required pursuant to these procedures falls on a weekend or holiday, the election official's next scheduled work day shall be the day on which such action must occur.

### **NOTICE OF ELECTION; ELIGIBILITY OF CANDIDATES**

3. No later than the 76th day prior to the election date, written notice as to the election and candidacy filing procedures shall be given as follows:
  - a. For all members, notices shall be mailed to the last known address of such member on file with the KCERA.
  - b. For member organizations, notices shall be furnished to any organization of active or retired members.

The notice shall include a statement to the member that additional information regarding the election, including election results, will be posted on the KCERA website. The notice shall be mailed utilizing postal address correction notification services. Upon receipt, address correction information shall be provided to the KCERA to allow for updates prior to ballot mailing.



Any active general member who is not employed in the office of the KCERA,<sup>1</sup> or any deferred general member of the KCERA, 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 defined in Government Code sections 31470.2 or 31470.4. The alternate safety member shall be that candidate for the seventh member from the group under sections 31470.2 or 31470.4, 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 the KCERA. The alternate eighth member of the Board shall be elected separately by the retired members of the KCERA 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.

**NOMINATION OF CANDIDATES; FILING PERIOD;  
STATEMENT OF CANDIDATES**

4. At least 53 but not more than 69 days prior to the election date, the elections official shall receive nominations of candidates. The number of eligible members required to sign a nomination paper for the respective office is not less than 15, nor more than 20. Only those members qualified to vote in the election for the office may sign a nomination paper. No member may sign more than one nomination paper for the same office, and in the event a member does so, the member's signature shall count only on the first nomination paper filed which contains that member's signature. Any member eligible to vote at the election may circulate a nomination paper for the candidate for whom the member is eligible to vote, substantially in the following form:

*We, the undersigned members of the Kern County Employees' Retirement Association hereby nominate \_\_\_\_\_ for the office of the \_\_\_\_\_ member on the Kern County Employees' Retirement Association Board of Retirement.*

*Name of Circulator*

*Circle one: Active General Member, Active Safety Member, Deferred General Member, Retiree*

*Circulator's Employing Department or Entity*

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<sup>1</sup> Kern County Employees' Retirement Association v. Bellino (2005) 126 Cal.App.4<sup>th</sup> 781

*Affidavit of Circulator*

*I, \_\_\_\_\_, solemnly swear (or affirm) that the signatures on this nomination paper were obtained between \_\_\_\_\_, 20\_\_\_\_, and \_\_\_\_\_, 20\_\_\_\_; that I circulated the petition and I saw the signatures on this section of the nomination papers being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be. I declare under penalty of perjury that the foregoing is true and correct.*

\_\_\_\_\_  
*Signature of Circulator*

The circulator's affidavit may either be notarized or signed in the presence of authorized staff of the elections official. Within 10 days after the close of the nomination period, the elections official shall verify that the individuals listed on the nomination papers are eligible to sign the candidate's nomination form based on a report of eligible members provided by KCERA. Any nominee whose nomination papers do not contain an adequate number of verified members shall be so notified by the elections official, and his or her name shall not be placed on the ballot.

Each nomination petition shall include a declaration of the nominee, substantially in the following form:

*I, \_\_\_\_\_, am the above-named nominee for the office of the \_\_\_\_\_ member of the Kern County Employees' Retirement Association Board of Retirement. I am a (General, Safety, General Deferred or Retired) member of the Kern County Employees' Retirement Association and if elected I will qualify and serve to the best of my ability. I request my name be placed on the official ballot for election to the Board of Retirement for the election to be held on the \_\_\_\_\_ day of November, \_\_\_\_\_. I desire my name and designation to appear on the ballot as follows: (Name and designation).*

*I declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.*

\_\_\_\_\_  
*Signature of Nominee*

The nominee's declaration may either be notarized or signed in the presence of authorized staff of the elections official.

The ballot shall not contain the name of any candidate unless duly nominated as provided herein. No later than 53 days prior to the election, a candidate may also submit a candidate's statement which shall be mailed with the ballot to each member. The statement, which shall not exceed 200 words, shall include the

name and occupation, including identification of the candidate's employing department or special district, and a brief description of the candidate's education and qualifications expressed by the candidate. The statement may not make reference to any other candidate's qualifications, character, or activities, and the candidate shall declare under penalty of perjury that the contents of his or her candidate statement are true and correct. The elections official shall not cause to be printed or circulated any statement which is not so limited and declared under penalty of perjury.

No later than 40 days prior to the election, the elections official shall publish a list of all candidates who are eligible to be voted for at the election. The list of candidates shall be posted at the Elections Office and at the office of the Kern County Employees' Retirement Association.

### **EXTENSION OF FILING PERIOD IF INCUMBENT FAILS TO FILE**

5. Notwithstanding any other provision of these regulations, if nomination papers and a declaration of candidacy for an incumbent trustee is not filed by 5 p.m. on the 53<sup>rd</sup> day prior to the election, any person (other than the person who was the incumbent on the 53<sup>rd</sup> day) shall have until 5 p.m. on the 46<sup>th</sup> day before the election to file nomination papers and a declaration of candidacy as provided in paragraph 4 above. This paragraph 5 is not applicable where there is no incumbent to be elected or the incumbent is not eligible for re-election to the trustee position in which he or she holds at the time the filing period closes.

### **WITHDRAWAL**

6. A candidate may withdraw his or her declaration of candidacy no later than 53 days prior to the election date, or in the event Paragraph 5 above is applicable, 46 days prior to the election date.

### **WRITE-IN CANDIDATES**

7. A member may declare his or her candidacy as a write-in candidate no later than 14 days, nor earlier than 46 days, prior to the date of the election by filing nomination papers as provided in Rules 4 herein and a declaration of candidacy substantially in the following form, and signed under penalty of perjury:

*I, \_\_\_\_\_, am the above-named nominee for the office of the \_\_\_\_\_ member of Kern County Employees' Retirement Association Board of Retirement. I am a (General, Safety, or Retired) member of the Kern County Employees' Retirement Association and if elected I will qualify and serve to the best of my ability. I do hereby declare myself as a write-in candidate for election to the Board of Retirement of the Kern County Employees' Retirement Association as its \_\_\_\_\_ Member. If elected I will qualify and serve to the best of my ability.*

**ELECTION RESULT IF NO MORE THAN ONE CANDIDATE**

- 8.
- a. No later than 46 days prior to the election, if only one member has filed nomination papers and a declaration of candidacy pursuant to paragraph 4 or 5 above, no election shall be held and the elections official shall prepare an appointment in lieu of election declaring such member elected to the office for which he or she was nominated. If the Seventh is appointed in lieu of election, an election may be held for the Seventh Alternate member if an eligible candidate timely files as a Write-in Candidate.
  - b. Election of Seventh Alternate Member. The elections official shall inform KCERA of any appointment in lieu of election for the Seventh Member. Once informed, KCERA shall direct a notice regarding the Write-in Candidate process to County Departments employing eligible Seventh Alternate Member candidates, eligible member candidates, and member groups representing the Seventh Alternate Member candidates.
  - c. If no eligible candidate for the Seventh Alternate position files as a Write-in Candidate, the Board of Retirement may elect not to fill the alternate member seat, or may elect to receive applications for appointment. Applications for appointment to an alternate member seat shall be placed on a Regular Board of Retirement Meeting Agenda.

**BALLOTS; STATEMENT BY BOARD OF RETIREMENT; VOTING DEADLINE**

9. No later than 15 days prior to the election, ballots shall be prepared by the elections official and shall be mailed to each member eligible to vote. Ballots shall be mailed in forwardable envelopes utilizing postal address correction notification services. Upon receipt, address correction information shall be provided to the KCERA.

Members eligible to vote for the second and third members of the Board of Retirement are all active and deferred members of the KCERA. Only retired members are eligible to vote for the eighth member of the Board. All members designated as safety members are eligible to vote for the seventh member.

The names of all candidates who have timely filed the required nomination papers and declaration of intent to serve shall be printed on the ballot. At the option of the candidate, the title of the public service position he or she holds or from which he or she is retired may be printed immediately after or below his or her name on the ballot. In lieu of the public service position designation, a candidate may have the name of his or her appointing authority's department or division printed on the ballot. A candidate for the same seat which he or she presently holds may also have the word "Incumbent" printed immediately after or below his or her name on the ballot. Any title or designation provided to the elections official to print on the

ballot, as indicated above, shall be declared by the candidate to be true and correct under penalty of perjury.

The order in which the candidates appear on the ballot shall be determined by a random drawing conducted by the elections official. Voting instructions shall be included with the ballots mailed to the members. The ballot will be void and shall not be counted if the member fails to comply with voting instructions. Instead of voting for a candidate listed on the ballot, a member may cast a vote for a write-in candidate who has timely filed a valid nomination petition and declaration of candidacy by writing in the name of that member in the space provided.

In addition to the ballot, the voting instructions, and the Candidate's Statements (if any), each member shall receive a statement from the KCERA Board of Retirement substantially in the following form:

*The Board of Retirement consists of nine members and two alternates, \_\_\_\_\_ of whom will be selected as a result of this election. The Board manages investments of the retirement fund, which has assets of approximately \$\_\_\_\_\_. In addition, the Board makes decisions on applications for disability retirement and on many other matters vital to its members. We urge you to take the time to learn about the candidates and to vote.*

In order to be processed and counted, voted ballots must be received by the Elections Division of the Auditor-Controller-County Clerk's Office no later than 5 p.m. on the day of the election.

### **CAMPAIGN**

10. No member may use County time or resources to campaign for a member seeking election to the Board of Retirement, including dissemination of campaign information via the County's electronic communications system; provided, however, that department heads shall permit each candidate, upon request, to post reasonable campaign material on the department bulletin board. Posted items shall be no larger than 8 ½" by 11 ½". Department heads may reasonably refuse to post any offensive or defamatory material. Nothing herein shall be deemed to make any campaign material or statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for distribution or posting.

### **TALLY OF VOTES; TIE VOTE**

11. The elections official shall verify the names on all returned envelopes against the members' mailing list or roster and ready ballots for counting. Staff from the Elections Office shall serve as the canvassing board. The canvassing board shall meet at 8:00 a.m. in the Elections Office on the third day of the election, no later than the 1<sup>st</sup> Thursday following the election, for the counting of ballots and

determination of any questionable ballots. Any person may observe the tally of votes.

The candidate for the second, third, seventh, eighth and eighth alternate member offices who receives the highest number of votes cast for such office shall be elected to such office for the term next succeeding. In the event of a tie vote, the procedures set forth in Elections Code section 15651(a) shall be used to determine the election results. The elections results shall be filed with the Board of Retirement, and the Chief Executive Officer of the KCERA shall file a certificate of the election results with the Board of Supervisors.

### **POSTING CERTIFICATE OF ELECTION RESULTS; ELECTION CONTEST; RETENTION OF BALLOTS**

12. A certificate of election results shall be posted on the KCERA's Web page and on the door at the entrance to the KCERA's office for one week commencing with the day following the day election results are certified by the elections official.

Any member of the KCERA desiring to contest the results of any election shall file a written statement of contest not later than the 30<sup>th</sup> day following the date of the election. The grounds for contest shall be those specified in California Elections Code section 16100-16101. The procedures for contests of general elections contained in the California Elections Code shall control except that the contestant and the candidate-elect whose election is being contested shall file all statements, affidavits and other papers with the Board of Retirement. The Board of Retirement shall take such action upon any election contest as it shall deem just and proper. The provisions of Code of Civil Procedure section 1094.6 (relating to limitations on time to commence proceedings in mandate) are applicable to petitions for writs of mandate filed to review final decisions of the Board on the election contest.

All envelopes containing voted ballots and all voted ballots (whether or not counted) shall be retained for 30 days in the offices of the elections official or until such further time as is required to settle any contest concerning the election.

### **SPECIAL ELECTIONS**

13. A special election shall be called by the Board of Retirement within 30 days of the occurrence of the vacancy if a vacancy occurs for any reason during the term of office of an elected board member, other than alternate members, unless the term of office will end less than 365 days from the occurrence of the vacancy; provided, however, that if the term of office will end less than 365 days from the occurrence of the vacancy, the Board may call a special election to fill such vacancy of the Board, in its discretion, determines that such action is in the best interests of the KCERA. The Board of Retirement may call a special election to fill a vacancy occurring in the office of any alternate member if the Board, in its discretion, determines that such action is in the best interests of the KCERA.

## RETIREMENT BOARD DISCRETION

14. The purpose of these election procedures is to ensure an orderly, fair and impartial process for the conduct of elections of trustees to the Board of Retirement. In the event there is any ambiguity or uncertainty regarding the application of these procedures to a particular election issue, or there is no procedure specifically addressing the election issue, the Board of Retirement shall decide the issue upon application by any person, or on its own motion. In exercising its administrative discretion under these procedures, the Board shall be mindful of the purpose of these procedures and may be guided by general principles of California elections or other applicable law.



## POLICY REVIEW AND HISTORY

- 1) This policy shall be reviewed at least every five (5) years.
- 2) This policy was:
  - a) Adopted by the Board on August 8, 2018.
  - b) Amended on April 12, 2023.

**KCERA Board of Retirement Information  
Nominating Committee - November 1, 2023**

Position	Trustee Name	Current Term Expires	Status January 2024	Years on KCERA Board	Previous BOR Positions
First Member Statutory	<b>Kaufman, Jordan</b>	<i>Statute</i>	returning	18	Trustee; 2019 Chair; Investment Committee Chair
Alternate First Member Statutory	<b>Nunneley, Chase</b>	<i>Statute</i>	returning	4	Trustee
Second Member Elected (General Member)	<b>Gonzalez, Juan</b>	12/31/2024	returning	6.5	Trustee; Finance Committee Chair; 2021 Chair; 2022 Chair; <b>Administrative Committee Chair</b>
Third Member Elected (General Member)	<b>Vacant</b>	12/31/2025	Vacant		Vacant
Fourth Member Appointed (BOS Member)	<b>Couch, David</b>	12/31/2024	returning	11	Trustee
Fifth Member Appointed	<b>Hughes, Joseph D.</b>	12/31/2025	returning	2.5	Trustee; Administrative Committee Chair
Sixth Member Appointed	<b>Sanders, John</b>	12/31/2024	returning	.5	Trustee
Seventh Member Elected (Safety Member)	<b>Kratt, Rick</b>	12/31/2024	returning	11	Trustee; 2019 Vice-Chair; 2020 Chair; <b>Investment Committee Chair</b>
Alternate Seventh Member Elected (Safety Member)	<b>Contreras, Dustin</b>	12/31/2024	returning	2	Trustee; <b>Finance Committee Chair</b>
Eighth Member Elected (Retired Member)	<b>Franey, Phil</b>	12/31/2025	returning	40+	Trustee; 2015 Vice-Chair; 2016 Chair; Investment Committee Chair; Administrative Committee Chair; Finance Committee Chair; <b>2023 Vice-Chair</b>
Alternate Eighth Member Elected (Retired Member)	<b>Seibly, Robb</b>	12/31/2025	returning	4	Trustee
Ninth Member Appointed	<b>Whitezell, Tyler</b>	12/31/2025	returning	4	Trustee; Finance Committee Chair; 2021 Vice-Chair; 2022 Vice-Chair; <b>2023 Chair</b>