

BEFORE THE BOARD OF SUPERVISORS  
OF THE  
COUNTY OF FRESNO, STATE OF CALIFORNIA

IN THE MATTER OF: \_\_\_\_\_)  
ADOPTING UPDATES TO THE \_\_\_\_\_)  
AMENDED ELECTION- \_\_\_\_\_)  
PROCEDURES FOR THE \_\_\_\_\_)  
BOARD OF RETIREMENT OF THE \_\_\_\_\_) RESOLUTION  
FRESNO COUNTY EMPLOYEES' \_\_\_\_\_)  
RETIREMENT ASSOCIATION \_\_\_\_\_) 15 \_\_\_\_\_) No.  
\_\_\_\_\_  
\_\_\_\_\_)

WHEREAS, the Fresno County Employees' Retirement Association  
("FCERA") is the retirement system for the County of Fresno (the "County"), and  
for participating governmental employer entities (each a "Special District" or  
collectively, "Special Districts"), under the County Employees Retirement Law of  
1937 ("CERL," Gov. Code, § 31450 *et seq.*) and the Public Employees' Pension  
Reform Act of 2013 ("PEPRA," Gov. Code § 7522 *et. seq.*);

WHEREAS, the Board of Retirement of FCERA is the governing board of  
FCERA; ~~and~~ (the "Board of Retirement");

\_\_\_\_\_  
WHEREAS, the Board of Supervisors of the County ~~adopted the of~~ Fresno  
(the "Board of Supervisors") is the board of supervisors of the County;

WHEREAS, Government Code § 31520.1 shall apply to the membership of a  
board of retirement whose county retirement system membership includes safety  
members;

WHEREAS, as of the date of this Resolution, FCERA's membership includes  
general members and safety members;

WHEREAS, under Government Code § 31520.1, the Board of Retirement shall  
consist of the following members:

1           A. The first member shall be the County Auditor-Controller/Treasurer-Tax  
2           Collector;

3           B. The second and third members shall be members of FCERA, other than  
4           safety members, elected by those members (i.e., general members);

5           C. The fourth, fifth, sixth, and ninth members shall be qualified electors of  
6           the County who are not connected with the County government in any capacity,  
7           except one may be a member of the Board of Supervisors (each a "Supervisor"),  
8           and shall be appointed by the Board of Supervisors; a Supervisor appointed as a  
9           member of the Board of Retirement may not serve beyond his or her term of office  
10          as Supervisor;

11          D. The seventh member shall be a safety member of FCERA elected by the  
12          safety members;

13          E. The eighth member shall be a retired member of FCERA elected by the  
14          retired members of FCERA;

15          F. The alternate member shall be that candidate, if any, for the seventh  
16          member from the group under Government Code § 31470.2 or 31470.4, or any other  
17          eligible safety member in the County if there is no eligible candidate from the groups  
18          under Government Code §§ 31470.2 and 31470.4, which is not represented by a  
19          member of the Board of Retirement who received the highest number of votes of all  
20          candidates in that group, and shall be referred to as the alternate seventh member;

21          WHEREAS, the Board of Supervisors' appointment of the Supervisor under  
22          Government Code § 31520.1 shall be made pursuant to the Board of Supervisors'  
23          policies and procedures for the appointment of any of its members to serve on  
24          another public agency's governing board; and

25          WHEREAS, under Government Code § 31520.5, the Board of Retirement  
26          alternate retired member, if any, shall be elected separately by retired members of  
27          FCERA in the same manner and at the same time as the eighth member of the  
28          Board of Retirement is elected;

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3 WHEREAS, Government Code § 31520.1 permits the Board of Supervisors to  
4 determine the manner in which elected members shall be elected to the Board of  
5 Retirement;

6 WHEREAS, under Government Code § 31524, the Board of Retirement's  
7 second and third members, seventh member, and, if any, alternate seventh member,  
8 shall be employees of the County or a Special District, while they hold such  
9 respective offices;

10 WHEREAS, the Board of Supervisors established the Fresno County Retirement  
11 Board Election Procedure on November 25, 1969; and

12 ~~WHEREAS, the Board of Supervisors~~ amended the Retirement Board Election  
13 Procedure on: October 30, 2001; March 1, 2005 (at which time ~~such election~~  
14 ~~procedure~~ the Fresno County Retirement Board Election Procedure was renamed as  
15 the Board of Retirement Election Procedures); September 11, 2007; and August  
16 11, 2009; and December 8, 2015 (adding a regular election schedule through 2029);

17 ~~WHEREAS, as the date of this Resolution, the Board of Retirement has an~~  
18 alternate retired member;

19 WHEREAS, as of the date of this Resolution, the Board of Retirement does not  
20 have an alternate seventh member, but these election procedures shall apply to  
21 such an alternate seventh member if and when there should be such a member;

22 WHEREAS, the Board of Supervisors has been informed that, on ~~June 17, 2015~~  
23 ~~and October 7, 2015~~ April 3, 2019, the Board of Retirement ~~proposed~~ approved certain  
24 further amendments to the Board of Retirement Election Procedures ~~including setting~~  
25 ~~forth an election schedule through 2029 (Appendix A, attached hereto), all of which are~~  
26 ~~substantially in the form set forth below, and on October 7, 2015, the Board of Retirement~~  
27 ~~authorized the Retirement Administrator to approve any minor clarifying revisions to the~~  
28 ~~proposed further amendments to the Board of Retirement Election Procedures as required~~

for adoption by the Board of Supervisors, and such revisions, all of which are included in the proposed further amendments incorporated into the Board of Retirement Election Procedures, as set forth below; and

~~WHEREAS, all such proposed further amendments taken together are as set forth below;~~

- WHEREAS, considering all such proposed further amendments, as approved by the Board of Retirement, the Board of Supervisors further desires to ~~further~~ amend the Board of Retirement Election Procedures, as set forth below.

- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors adopts ~~the~~these further amended Board of Retirement Election Procedures, ~~as set forth below, and the further amended Board of Retirement Election Procedures~~ which are and shall read as follows:

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## BOARD OF RETIREMENT ELECTION PROCEDURES

8

9 ~~I. I. — DateDates of Election/Elections; Officials; Reimbursement of Election Costs:~~

10 ~~— Elections.~~

11 ~~A. Regularly-Schedule Elections and Special Elections: Board of Retirement~~

12 ~~regular elections shall be held on the third Thursday in November for odd election~~

13 ~~years, and on the third Thursday in August for even election years, except for~~

14 ~~special elections to fill midterm vacancies, which shall be setSpecial Elections (as~~

15 ~~defined in Section 1.C, herein) called by the Fresno County Board of Supervisors.~~

16 ~~Please see under Section 1.C, herein. The Board of Retirement's regular election~~

17 ~~schedule is attached hereto and incorporated herein by this reference as Appendix A~~

18 ~~for a schedule of Election Schedule, and supersedes any prior Board of~~

19 ~~Retirement's regular election schedule adopted by the Board of Supervisors. These~~

20 ~~election procedures shall govern all regularly scheduled elections— for the Board of~~

21 ~~Retirement in Appendix A – Election Schedule, and all Special Elections for the~~

22 ~~Board of Retirement. From time to time, the Board of Supervisors may supplement~~

23 ~~Appendix A – Election Schedule by amending this Resolution to add future regularly~~

24 ~~scheduled elections.~~

25 ~~B. County Registrar of Voters Declaration Regarding Election. The County~~

26 ~~Clerk/Registrar of Voters (the "County Registrar of Voters") may, at any time~~

27 ~~commencing upon the date that the County Registrar of Voters receives a written~~

28 ~~request from the FCERA Retirement Administrator, under Section III.A.1., herein, to~~

4 conduct a Board of Retirement election and continuing thereafter until the moment  
2 immediately after 5:00 PM on the date of the election, declare that Registrar of  
3 Voters cannot conduct, or complete the conducting of, the election, or the election  
4 for a particular member seat, due to any condition, except for any alleged or actual  
5 violation by a nominee, or any other County employee allegedly or actually acting at  
6 the behest of or in concert with the nominee, of County ordinance code § 3.08.110  
7 (Employees—Political activity) relating to any Active Member Election. If the County  
8 Registrar of Voters makes a determination that he or she cannot conduct, or  
9 complete the conducting of, a Board of Retirement election, or the election for a  
10 particular member seat, under this Section I.B., then, subject to this Section I.B:

11 1. The County Registrar of Voters shall declare in writing that he or she  
12 cannot conduct, or complete the conducting of, the election, or the election for  
13 the particular member seat (and any such declaration concerning the particular  
14 member seat only affects that member seat);

15 2. The County Registrar of Voters shall promptly post such declaration,  
16 which shall include a statement of the condition for such declaration, on its  
17 Department website, and provide a copy thereof to the Board of Retirement, the  
18 FCERA Retirement Administrator, the Board of Supervisors, and the affected  
19 candidates for the election, or the election for the particular member seat, and  
20 shall request the Board of Supervisors to call a new Board of Retirement  
21 election, or a new election for the particular member seat, which election shall  
22 be a Special Election (as defined in Section I.C., herein);

23 3. Any such declaration by the County Registrar of Voters shall be final and  
24 conclusive with respect to such condition; and

25 4. The eligibility of members of FCERA to participate in the Special Election  
26 called by the Board of Supervisors under Section I.C., herein, shall relate to the  
27 Special Election so called without regard to the election for the Board of  
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Retirement, or the election for a particular member seat, that County Registrar of Voters declared that he or she cannot conduct or complete.

C. Board of Supervisors Call of Special Election. The Board of Supervisors shall, as soon as may be practicable under the circumstances at such time, call for, and set the date of, any Board of Retirement elections to any fill midterm vacancies, or any Board of Retirement election requested by the County Registrar of Voters, under Section I.B.2, herein., or requested by the Retirement Administrator, under Section IV.F., herein (in either case, a "Special Election," or collectively, "Special Elections").

D. Parties; Officials: FCERA, including the Board of Retirement, and/or any officer, employee, or agent thereof are the "FCERA Parties." The County, including the Board of Supervisors and/or the County Registrar of Voters, and/or any officer, employee, or agent thereof are the "County Parties." The Special Districts, including their respective governing boards, and/or any officer, employee, or agent thereof are the "Special District Parties." The FCERA Retirement Administrator, the FCERA Assistant Retirement Administrator, the FCERA Executive Assistant or the FCERA employee whom the Retirement Administrator certifies in writing to the County Registrar of Voters as the functional equivalent of the FCERA Executive Assistant for purposes of these election procedures, and the FCERA officer who is designated by the Retirement Administrator as the clerk to the Board of Retirement shall be, and each of them acting alone is (each a "FCERA Authorized Officer"), authorized to do any and all things for and on behalf of FCERA under these election procedures, unless the Retirement Administrator is specifically authorized to act hereunder for and on behalf of FCERA. The County Registrar of Voters (including his or her designee where specifically authorized to act hereunder) shall be and is authorized to do any and all things for and on behalf of the County under these election procedures, unless the Board of Supervisors is specifically authorized to act hereunder for and on behalf of the County.

Reimbursement of Election Costs: Pursuant to an agreement entered into by ~~Fresno~~  
~~County Employees' Retirement Association (and between FCERA)~~ and the County,  
the ~~Fresno~~ County ~~Clerk/~~Registrar of Voters shall be reimbursed for all of its election  
costs by FCERA within forty-five (45) calendar days after any Board of Retirement  
election referred to herein, or within the time otherwise agreed to between FCERA  
and the County under the reimbursement agreement.

II. ~~II.~~ TypeTypes of Election: Elections; Eligible FCERA Membership  
Classifications.

A. Types of Elections: The Board of Retirement shall have two types of  
elections with separate but comparable election procedures for both: types of  
elections.

1. Active Member Election: One type of election ~~will~~shall be for the ~~active~~  
~~second and third members (general members), seventh member trustees~~  
~~(General and Safety) on the (safety member), and, if any, alternate seventh~~  
~~member (safety member) of the~~ Board of Retirement ~~(Active Member~~  
~~Elections)-, who shall be employees of the County or a Special District, as well~~  
~~as be the appropriate membership classification of FCERA for the related~~  
~~Board of Retirement seat number, while they seek election for, and hold, such~~  
~~respective offices (each an "Active Member Election").~~

2. Retired Member Election: The ~~second~~other type of election ~~will be for the~~  
~~Retired and Alternate Retired member trustees on the Board of Retirement~~  
~~(shall be separate elections that shall be held simultaneously for the retired~~  
~~member and alternate retired member of the Board of Retirement, who shall be~~  
~~retired members of FCERA while they seek election for, and hold, such~~  
~~respective offices, (each a "Retired Member Election").~~

B. Classifications of Eligible Members of FCERA: Members of FCERA eligible  
to participate in a Board of Retirement election are identified and classified as the  
following types of eligible voters, respectively:



1. “Eligible Active Members” are separately classified within their respective eligible voter classifications:

a. “Eligible General Members” are all general members of FCERA who either are employed by the County or a Special District, or have elected in writing to come within the provisions of Article 9 (commencing with Gov. Code, § 31700) of CERL, and on the date of such election was a general member (also known as a “Deferred General Member”), or have otherwise elected in writing under CERL to leave his or her accumulated contributions on deposit with FCERA upon separating from the service of the County or a Special District, and on the date of such election was a general member (also known as an “Inactive General Member”), as of the Eligible Voter Certification Date (as defined in Section VI.C.1., herein); and

///

b. “Eligible Safety Members” are all safety members of FCERA who either are employed by the County or a Special District, or have elected in writing to come within the provisions of Article 9 (commencing with Gov. Code, § 31700) of CERL, and on the date of such election was a safety member (also known as a “Deferred Safety Member”), or have otherwise elected in writing under CERL to leave his or her accumulated contributions on deposit with FCERA upon separating from the service of the County or a Special District, and on the date of such election was a safety member (also known as a “Inactive Safety Member”), as of the Eligible Voter Certification Date.

2. “Eligible Retired Member Elections). Members” are all retired members of FCERA as of the Eligible Voter Certification Date. There shall not be any separate classifications of eligible voters within Eligible Retired Members.

A. Active Member Elections: There will be two categories of Active Member Elections, General and Safety.

4 C. 1. ~~Active, deferred and inactive General members will be eligible to~~  
5 ~~participate in~~ Eligibility to Participate in Elections; One (1) Vote per Eligible FCERA  
6 Member: A member of FCERA who is eligible to participate in a Board of Retirement  
7 election, as provided in Section II.B., herein, may vote only for one (1) candidate  
8 who is designated within the same FCERA membership classification to which that  
9 eligible member of FCERA belongs as of the Eligible Voter Certification Date (e.g.,  
10 for an Active Member Election, the eligible member of FCERA may only participate  
11 in the appropriate eligible voter classification either as an Eligible General Member  
12 or as an Eligible Safety Member, but not both). This “one (1) vote per eligible  
13 FCERA member” rule means that a FCERA member’s accumulated retirement  
14 service credit in the other FCERA member classification (e.g., Eligible Safety  
15 Member who has accumulated retirement service credit as a prior general member  
16 of FCERA), if any, shall not be considered in the determination of such FCERA  
17 members’ eligibility to participate in a Board of Retirement election. A person’s  
18 status as a beneficiary to a member of FCERA, whether living or deceased, does  
19 not, in and of itself, make such beneficiary eligible to participate in a Board of  
20 Retirement election.

21 D. Eligibility to Participate in Elections; Active Member Elections: Eligible Active  
22 Members may participate in the election for a member of the Board of Retirement  
23 only within their own classification of FCERA membership either as an Eligible  
24 General Member or as an Eligible Safety Member, respectively, as follows:

25 1. An Eligible General Member may participate only in the election of the  
26 second and third ~~trustees (General).~~ members (general members) of the Board  
27 of Retirement;

28 2. ~~Active, deferred and inactive Safety members will be eligible to~~  
~~participate in the election of the seventh trustee (Safety).~~ An Eligible Safety  
Member may participate only in the election of (a) the seventh member (safety  
member), and (b) the alternate seventh member, if any (safety member), of the

4 Board of Retirement. The alternate seventh member, if any, shall be elected  
5 from the group under Government Code § 31470.2 or 31470.4, or any other  
6 eligible safety member in the County if there is no eligible candidate from the  
7 groups under Government Code §§ 31470.2 and 31470.4, which is not  
8 represented by a member of the Board of Retirement who received the highest  
9 number of votes of all candidates in that group. If there is no eligible candidate  
10 for the alternate seventh member, there may not be an alternate seventh  
11 member.

12 ~~3. — An Alternate Safety trustee (seventh trustee) may be elected and~~  
13 ~~seated if there is an eligible candidate (see section V (I) below).~~

14 E. — B. — Eligibility to Participate in Elections; Retired Member Elections:

15 ~~\_\_\_\_\_ Simultaneous elections willshall occur for the Retired trusteeRetired~~  
16 ~~member (eighth trustee) and the Alternate member) and the alternate retired member~~  
17 ~~of the Board of Retirement. Eligible Retired trusteeMembers of FCERA may~~  
18 ~~participate only in the election of retired member (eighth trustee). Members may not~~  
19 ~~run for both seats in the same election cycle. member) and the alternate retired~~  
20 ~~member.~~

21 F. Observing the Election Process: Each candidate, including his or her  
22 designated representative, and any member of the public may observe the  
23 Retirement Administrator's drawing of lots for the order of placement of eligible  
24 candidates' names on the official ballot under Section IV.G., herein, the County  
25 Registrar of Voters and his or her designees' undertaking of the pre-count  
26 procedures under Section VII.E., herein, and the opening and inspection of Official  
27 Return Envelopes and the counting of returned voted official ballots under Sections  
28 VII.E. and VII.F., herein, respectively, provided however, (1) each candidate, or his  
or her designated single representative who is a County employee, but not both,  
shall be allowed a reasonable amount of County release time ("County Allowed  
Time") for such activities and, (2) each candidate, including his or her representative,

and members of the public shall not interfere in any way with the Retirement Administrator's drawing of lots for the order of placement of candidates' names on the official ballot, or the County Registrar of Voters' and his or her designees' orderly undertaking of such pre-count procedures and counting, including, but not limited to, the touching or handling of any returned Official Return Envelopes or any returned voted official ballots. Candidates, including their representatives, who are County employees, shall not be allowed any County Allowed Time to obtain nominations or campaign.

G. Secret Ballots: Each election for the Board of Retirement shall be conducted herein by secret official ballot, and all votes shall be kept secret.

H. No Write-Ins. Write-in ballots may not be made for any candidates, and write-in votes shall not be counted, in any election for the Board of Retirement.

### III. Request for Election.

A. Requirements. Not later than one hundred twenty (120) calendar days prior to election day (E – 120; all references to "E-#" mean election day minus # of calendar days) for a Board of Retirement election, the FCERA Authorized Officer shall provide the following to the County Registrar of Voters for the election:

1. Written Request: Written request for the County Registrar of Voters to conduct the Board of Retirement election that (a) specifies the date of the election either according to Appendix A - Election Schedule, or as a Special Election called by the Board of Supervisors under Sections I.C. or IV.F., herein, respectively; (b) specifies the relevant member election, including the related seat number, for the Board of Retirement; (c) includes a confirmation that the County-FCERA cost reimbursement agreement is in effect (See Section I.E., herein); and (d) provides an estimate of the specific number of Official Ballot Packets (as defined in Section VI.A., herein) that FCERA requests the County Registrar to order for printing in relation to such election; and

2. Election Calendar: Proposed calendar of events for the election, which calendar shall be consistent with these election procedures.

IV. Nomination Process.

A. Notice of Election ~~Active Member (General and Safety) Election:~~ ;  
Not later than E-70, FCERA shall sendprovide a written notice of the election  
("Notice of Election") as follows:

1. For Active Member Elections, to each County ~~Department~~department, Special District, and recognized employee representation organization ~~with~~ activehaving FCERA members employed by the County or a Special District, and to each eligible deferred and inactive FCERA member at the deferred or inactive FCERA member's then-current address on file with FCERA, ~~no later than seventy (70) calendar days prior to election day (E - 70 or election day minus 70).~~ Said notice shall contain the following:

2. For Retired Member Elections, which shall be separate elections held simultaneously for the retired member and alternate retired member of the Board of Retirement, (a) to each organization recognized by the Board of Retirement as representing the retired members of FCERA, and (b) for regularly-scheduled Retired Member Elections, to each retired member of FCERA at his or her then-current address on file with FCERA provided that such notice shall be by mailing a flyer (or including information: along with or in the monthly benefit statement mailed to each retiree) that provides basic information about the regularly-scheduled Retired Member Elections.

B. Member Seats: The Notice of Election shall state the following concerning the election for each member seat on the Board of Retirement:

1. Each member seat for which the election is being held, specifying the classification of (i.e., for Active Member Election, specifying either the general member or safety member classification, or for the Retired Member Elections, specifying the retiree classification) and qualifications for the member seat, and

1 the related seat number, or reference to retiree alternate member, as  
2 applicable.

3 2. The term of office for each member seat for which the election is being  
4 held.

5 3. Procedures for submissions of a Nominee's Submittal (defined in  
6 Section IV.D, herein) and a Candidate's Statement (defined in Section IV.D,  
7 herein), including deadlines for submissions thereof, the date of the election to  
8 be held, and the time period for the pre-count and counting of returned voted  
9 official ballots, all of which shall comply with these election procedures.

10 C. Nominee and Office Holder Qualifications: ~~The~~Each nominee must be an  
11 active, deferred or inactive member of FCERA (General Member for the and office  
12 holder shall meet the following qualifications, as applicable:

13 1. For the Active Member Election:

14 a. The nominee who is a general member of FCERA may be elected  
15 and hold office only as the second or third member of the Board of  
16 Retirement, provided that, at all relevant times, he or she shall be an  
17 employee of the County or a Special District, and remain (i) employed by  
18 the County or a Special District, and (ii) in the classification of a general  
19 member of FCERA.

20 b. The nominee who is a safety member of FCERA may be elected  
21 and hold office only as the seventh member, or, if any, alternate seventh  
22 member of the Board of Retirement, provided that, at all relevant times, he  
23 or she shall be an employee of the County or a Special District, and remain  
24 (i) employed by the County or a Special District, and (ii) in the classification  
25 of a safety member of FCERA.

26 c. The nominee may be elected and hold office only in one seat at a  
27 time as a member of the Board of Retirement.  
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4           d. Any nominee who is elected to any such seat on the Board of  
2           Retirement, but either separates from the service of the County or a  
3           Special District, or changes his or her FCERA membership classification  
4           from general member to safety member or vice-versa, shall automatically  
5           vacate his or her office.

6           e. The nominee may not be elected and hold office as a member of  
7           the Board of Retirement if he or she is or would be prohibited by law from  
8           holding such office.

9           2. For the Retiree Member Elections:

10           a. The nominee shall be, and at all relevant times remain, a retired  
11           member of FCERA.

12           b. The nominee may be elected and hold office only in one seat at a  
13           time as a member of the Board of Retirement.

14           c. A nominee may not be elected and hold office as a member of the  
15           Board of Retirement if he or she is or would be prohibited by law from  
16           holding such office.

17           A.——Nominations; Petitions and Nominee's Submittal: The FCERA Retirement  
18           Administrator shall prepare (or caused to be prepared and approve) a  
19           petition form for each Board of Retirement election according to the  
20           requirements of these election procedures and make each petition form  
21           available to eligible members of FCERA for such election. The petition,  
22           specifying the seat number (or for the Retired Member Elections,  
23           specifying the retiree seat classification of the member) of the Board of  
24           Retirement, and signed by at least fifteen (15) Eligible General Member  
25           seat and Safety Member for the Members for the second or third member,  
26           or by at least fifteen (15) Eligible Safety member seat)-

27           D. Method of Nomination: A petition signed by fifteen (15) active, deferred or  
28           inactive FCERA members (signed by General Members for General Seat and signed

by ~~Safety Members for Safety seat~~) must Members for the seventh member, or, if any, alternate seventh member, or by at least (15) Eligible Retired Members for the retired member (eighth member) seat or the alternate retired member seat of the Board of Retirement, as applicable, shall be delivered to the FCERA Retirement Administrator together with ~~a certification from the following completed, signed, and dated Nominee's Submittal, provided by~~ the nominee of said petition ~~certifying his or her, as applicable:~~

For the Active Member Election:

### **NOMINEE'S SUBMITTAL**

#### **(Active Member Election)**

For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION to be held on \_\_\_\_\_, 20\_\_.

**Name of nominee:** \_\_\_\_\_  
[Print your name]

#### **Certification**

I certify my ~~willingness and qualification~~ to serve on the BOARD OF RETIREMENT OF THE FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, and declare the following:

(a) I am a nominee for the office of \_\_\_\_\_ Member [***specify: General Member or Safety Member***] for Seat No. \_\_\_\_\_ [***specify: Seat No.***] concerning the term of office from \_\_\_\_\_ to \_\_\_\_\_.

(b) I am a \_\_\_\_\_ Member [***specify: General Member or Safety Member***] of the Fresno County Employees' Retirement Association.

(c) I am an employee of the: \_\_\_\_\_ [***specify employer***].

(d) (County employees only): The Department (including Division, if any) in which I am employed is \_\_\_\_\_

#### **County Employees Political Activity**

I acknowledge that I have received a copy of County ordinance code § 3.08.110 (Employees—Political activity), which is attached.

**[Attach copy of County ordinance code § 3.08.110 (Employees—Political activity)]**

#### **Contact Information**



4 Telephone number that may be used to contact me: \_\_\_\_\_

2 E-mail address that may be used to contact me: \_\_\_\_\_

3 SIGNATURE: \_\_\_\_\_

4 PRINT YOUR NAME: \_\_\_\_\_

5 DATE: \_\_\_\_\_

6 **[Attach nominee's petition to this Nominee's Submittal, using the petition form**  
7 **provided by FCERA according to these election procedures]**

8 **-End of Nominee's Submittal-**

9 \_\_\_\_\_ Notwithstanding anything to the contrary in these election procedures, (a)  
10 County ordinance code § 3.08.110 (Employees—Political activity), referenced herein  
11 and a copy of which is attached to any Nominee's Submittal, is not incorporated into  
12 these election procedures or to be used for any purposes under these election  
13 procedures except as expressly stated on the Nominee's Submittal, (b) neither the  
14 FCERA Parties nor the County Parties have any responsibility under these election  
15 procedures for any alleged or actual violation by a nominee, or any other County  
16 employee allegedly or actually acting at the behest of or in concert with the nominee,  
17 of County ordinance code § 3.08.110 (Employees—Political activity) relating to any  
18 Active Member Election, and (c) the references, herein, to County ordinance code §  
19 3.08.110 (Employees—Political activity) is only a statement of existing rules of  
20 conduct for County employees and does not impose any new term or condition of  
21 employment upon nominees who are County employees, and (d) the nominee's  
22 receipt of a copy of County ordinance code § 3.08.110 (Employees—Political  
23 activity) is only to be used by the County for the County's own purposes, in its  
24 capacity as an employer with respect to the management of its employees.

25 \_\_\_\_\_ For the Retired Member Elections:

26 **NOMINEE'S SUBMITTAL**

27 **(Retired Member Elections)**

28 For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY  
EMPLOYEES' RETIREMENT ASSOCIATION to be held on \_\_\_\_\_, 20\_\_\_\_\_.

**Name of nominee:** \_\_\_\_\_  
[Print your name]

///

///

**Certification**

I certify my willingness to serve on the BOARD OF RETIREMENT OF THE  
FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, and declare the  
following:

(a) I am a nominee for the office of \_\_\_\_\_ [specify:  
***Retired Member or Alternate Retired Member***] for \_\_\_\_\_  
[specify: ***Seat No. 8 or Retired Alternate Member Seat, as applicable***]  
concerning the term of office from \_\_\_\_\_ to \_\_\_\_\_.

(b) I am a retired member of the Fresno County Employees' Retirement  
Association.

**Contact Information**

Telephone number that may be used to contact me: \_\_\_\_\_  
E-mail address that may be used to contact me: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
PRINT YOUR NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_

**[Attach nominee's petition to this Nominee's Submittal, using the petition form  
provided by FCERA according to these election procedures]**

**-End of Nominee's Submittal-**

Each Eligible General Member, each Eligible Safety Member, and each  
Eligible Retired Member, as applicable may nominate only one (1) person per  
member seat on the Board of Retirement and giving the name of the department or  
district in which he or she is (or was) employed. The nominee for which the election  
is (or elections are, as applicable) being held and in which such Eligible General  
Member, Eligible Safety Member, or Eligible Retired Member, respectively, may  
participate. The nominee

may also submit a candidate's statement of two hundred (200) words or less giving  
his or her qualifications and platform, which will (the "Candidate's Statement"), which  
shall be distributed with the official ballots. ~~Said statement must,~~ subject to the  
following:

1. The Candidate's Statement may include the name and occupation (for  
the Active Member Election, including the name of the County department or Special  
District in which he or she is employed, or for the Retired Member Elections,  
including the name of the County department or Special District in which he or she  
was employed), of the candidate and a brief description of the candidate's  
education, qualifications, and platform expressed by the candidate. The Candidate's  
Statement shall be limited to a recitation of the candidate's own personal  
background, qualifications, and platform, and shall not in any way refer to other  
candidates for that office or to another candidate's qualifications, platform, character,  
or activities.

2. The Candidate's Statement shall be submitted with the petition, ~~or it will~~  
~~not be published. Said statement~~ in Word form, 12-point font type.

3. Once submitted, the Candidate's statement may not be withdrawn,  
revised, or refiled by the nominee.

4. The Candidate's Statement will be published as presented by the  
candidate, subject to the ~~200 word limitation; neither the FCERA nor the Fresno~~  
~~County Clerk/Registrar of Voters will make changes to correct~~ requirements of  
this Section IV.D., and any reformatting deemed necessary by the Retirement  
Administrator and/or the County Registrar of Voters.

B-5. Notwithstanding anything to the contrary in this Section IV.D.,  
neither the FCERA Parties nor the County Parties assume any responsibility for  
the content or form of the Candidate's Statement or the distribution thereof to  
any voters, or for making any changes to the content of the Candidate's  
Statement, or for correcting its grammar, punctuation, or spelling, provided

4 however, that the County Registrar of Voters may, in his or her sole discretion,  
2 after providing written notice to the affected candidate, delete any portion of the  
3 Candidate's Statement that the County Registrar of Voters determines to be  
4 non-compliant with the requirements of this Section IV.D.

5 C.E. Close of Nominations: The nomination period shall close twenty  
6 (20) ~~(E – 50)~~ calendar days (E – 50) after the date FCERA ~~sends~~provides the Notice  
7 of Election, ~~as described above pursuant to this Section IV.~~ If the nomination period  
8 ends on a weekend or holiday, it shall be extended to the end of the next FCERA  
9 business day. ~~The County Clerk will be provided candidate names by E – 49.~~

10 F. If any Confirmation of Eligible Candidates: Prior to determining the order of  
11 placement of candidates' names on the official ballot, the Retirement Administrator  
12 shall determine that the nominees are duly nominated and eligible candidates,  
13 according to these election procedures, for election of the relevant seat on the Board  
14 of Retirement, and have timely delivered their respective signed and sufficiently  
15 completed Nominee's Submittal according to these election procedures.

16 1. For any Active Member Elections, the Retirement Administrator shall  
17 email a PDF copy of the signed Nominee's Submittal of such nominees to their  
18 respective employer identified in their respective Nominee's Submittal, and  
19 obtain email confirmation from such employer (e.g., for the County employer,  
20 the nominee's identified County department is sufficient) that such nominee is  
21 employed by such employer, and retain the original thereof for the same period  
22 provided under Section XI, herein, solely for the purpose of keeping custody of  
23 such documents, and no additional obligations of the Retirement Administrator  
24 shall be inferred or implied therefrom.

25 2. If the Retirement Administrator determines that a nominee is not duly  
26 nominated or eligible for such seat, or has not timely delivered his or her signed  
27 and sufficiently completed Nominee's Submittal, the Retirement Administrator  
28 shall declare such nominee as ineligible as a candidate for such seat. The

nominee's lack of sufficient Contact Information shall not be a basis for the Retirement Administrator to determine that the nominee is not duly nominated or eligible for such seat, provided however, the nominee shall, upon request by any FCERA Authorized Officer, immediately deliver sufficient Contact Information to the requesting FCERA Authorized Officer.

3. If the Retirement Administrator determines that no nominee is duly nominated or eligible for such seat, the Retirement Administrator shall declare that there is no nominee who is eligible as a candidate for such seat, and the Retirement Administrator shall promptly request the Board of Supervisors to call a Special Election for such seat, and simultaneously provide a copy of such request to the County Registrar of Voters. Any such declaration by the Retirement Administrator shall be final and conclusive, but only as to such election for such seat, and the Retirement Administrator shall so inform the nominee(s), if any, and the reason therefor.

G. Placement of Eligible Candidates' Names on Official Ballot: On E-47, the FCERA Retirement Administrator shall determine the order of placement of duly nominated and eligible candidates' names on the official ballot by drawing of lots at FCERA's office in the manner provided for the County Registrar's drawing of lots to break tie votes under Section VII.I., herein, except that the order of placement of such candidates' names on the official ballot shall be based on descending order of the lots as they are drawn. At least one (1) FCERA business day prior to such drawing of lots, FCERA shall provide written notice to all such candidates that they may observe such drawing of lots. The FCERA Retirement Administrator shall provide such candidates' names, and order of placement of such candidates' names on the official ballot, to the County Registrar of Voters not later than E – 45.

D.H. Unopposed Candidates: If any duly nominated and eligible candidate is unopposed for election at the close of nominations, the ~~Board of~~ Retirement ~~Administrator~~ shall so certify to the Board of Supervisors, ~~where and the~~

4 Board of Supervisors shall declare the order that no election cancelled and appoint  
5 said be held for such seat and shall direct the Clerk of the Board of Supervisors to  
6 cast a unanimous ballot in favor of the candidate pursuant to Government Code §  
7 31523, subdivision (c). The Clerk of the Board of Supervisors shall deliver the casted  
8 ballot to the Board of Retirement, and a copy thereof to the County Registrar of  
9 Voters.

10 ~~IV. Notice of Election - Retired and Alternate Retired Member Elections: Separate~~  
11 ~~elections are held simultaneously for the Retired trustee and Alternate Retired~~  
12 ~~trustee of the Board of Retirement. The FCERA shall send a Notice of Election to~~  
13 ~~each organization recognized by the Board of Retirement as representing the~~  
14 ~~Retired members of the FCERA no later than seventy (70) calendar days prior to~~  
15 ~~Election Day (E — 70). In addition, prior to sending the Notice, the FCERA will~~  
16 ~~notify each Retired member of the upcoming election by mailing a flyer (or~~  
17 ~~including a flyer in the monthly benefit statement mailed to each retiree) that~~  
18 ~~provides basic information about the scheduled elections.~~

19 ~~Said Notice of Election~~ V. Preparations for Elections.

20 A. Preparation of Elections Materials: For each Board of Retirement election,  
21 not later than E-35, the Retirement Administrator, or any other FCERA Authorized  
22 Officer, and the County Registrar of Voters or his or her designee shall coordinate  
23 their respective pre-printing activities for the official ballot form and, if any,  
24 candidates' statements (See Section VI.A., herein, regarding the County Registrar of  
25 Voters' mailing of the Official Ballot Packet to eligible voters) as follows:

26 1. The FCERA Authorized Officer shall contain provide the following  
27 information to the County Registrar of Voters:

28 A. Qualifications: The nominee must be a Retired FCERA member.

B. Method of Nomination: A petition signed by fifteen (15) Retired FCERA  
members must be delivered to the Retirement Administrator together with a

1 ~~certification from the nominee of said petition certifying his or her willingness~~  
2 ~~and qualification to serve on the Board of Retirement. The nominee may also~~  
3 ~~submit a statement of 200 words or less giving his or her qualifications and~~  
4 ~~platform, which will be distributed with the ballots. Said statement must be~~  
5 ~~submitted with the petition, or it will not be published. Said statement will be~~  
6 ~~published as presented by the candidate, subject to the 200 word limitation;~~  
7 ~~neither the FCERA nor the Fresno County Clerk/Registrar of Voters will make~~  
8 ~~changes to correct grammar, punctuation, or spelling.~~

9 ~~C. Close of Nominations: The nomination period shall close twenty (20) (E — 50)~~  
10 ~~calendar days after the date the FCERA sends the Notice of Election, as~~  
11 ~~described above. If the nomination period ends on a weekend or holiday, it~~  
12 ~~shall be extended to the end of the next business day. The County Clerk will~~  
13 ~~be provided candidate names by E — 49.~~

14 ~~D. If any duly nominated candidate is unopposed for election at the close of~~  
15 ~~nominations, the Board of Retirement shall so certify to the Board of~~  
16 ~~Supervisors, who shall declare the election cancelled and appoint said~~  
17 ~~candidate to the Board of Retirement.~~

18 ~~V. Election Procedure:~~

19 ~~A. — On the first working day following the close of nominations, the Retirement~~  
20 ~~Administrator or his or her designee shall determine the order of~~  
21 ~~placement of nominees' names on the ballot by drawing of lots. All~~  
22 ~~nominees will be extended an invitation to view the drawing of lots.~~

23 ~~B. — Each nominee or prospective nominee, or his/her designated~~  
24 ~~representative, shall be allowed a reasonable amount of County or Special~~  
25 ~~District time for witnessing the drawing of lots and the ballot count.~~  
26 ~~County and Special District time shall not be used for obtaining~~  
27 ~~nominations or campaigning.~~  
28

4                   a.       Sample proof of the form of the official ballot showing eligible  
2                   candidates' names and order of their placement on the ballot (See Section  
3                   IV.F., herein, regarding the Retirement Administrator's confirmation of  
4                   eligible candidates); and

5                   b.       Sample proof of the candidates' statements, if any.

6                   2.   The County Registrar of Voters or his or her designee shall order for  
7                   printing the Official Ballot Packets based on the estimate of the specific number  
8                   of Official Ballot Packets that FCERA requests the County Registrar to order  
9                   under Section III.A.1., herein, plus additional official ballots and Official Return  
10                  Envelopes, in his or her determination, to accommodate an estimated number  
11                  of eligible voters who might need reissued official ballots or Official Return  
12                  Envelopes. The County Registrar of Voters shall order the printing of  
13                  appropriate type of official ballots and Official Return Envelopes for each  
14                  election (i.e., Eligible General Members, Eligible Safety Members and Eligible  
15                  Retiree Members) so that types of Official Return Envelopes can be matched  
16                  with their like-kind official ballots, for example, and not as a limitation, color-  
17                  coding Official Return Envelopes to match the color of their like-kind official  
18                  ballots.

19                  3.   At least one FCERA Authorized Officer shall review all sample proofs of  
20                  the forms of official ballot and, if any, candidates' statements provided to the  
21                  County Registrar of Voters or his or her designee under Sections V.A.1.a. and  
22                  V.A.1.b, herein, respectively, and give final written verification to the County  
23                  Registrar of Voters or his or her designee that the form of official ballot and, if  
24                  any, candidates' statements are correct and ready to print.

25                  B.   Confidentiality: The mailing addresses of the Eligible Active Members and  
26                  Eligible Retired Members shall remain confidential, and not subject to public  
27                  disclosure (See Gov. Code, § 31532; Cal. Const. Art I, § 1).  
28



4 C. FCERA-Certified Electronic Data Files: At the most recent payroll period  
5 ending before E-35, ~~FCERA's Retirement Administrator, or his or her designee,~~ 45, a  
6 FCERA Authorized Officer shall, not later than E-43, deliver to the ~~Fresno County~~  
7 ~~Clerk/Registrar of Voters~~ the following together in ~~one~~ an individual transmittal: for  
8 each type of election that has been called (i.e., Active Member Election or Retired  
9 Member Elections), FCERA's then-current electronic data file, in a computer  
10 program that is acceptable to the to the ~~Fresno County Clerk/Registrar of Voters,~~ of  
11 all eligible voters for the:

12 1. For Active Member Election (based on their respective categories of  
13 Elections: Eligible General Members who may participate in the election of the  
14 second and third members of the Board of Retirement (general members), and  
15 Eligible Safety Members) and for the Retired Member Election, including who  
16 may participate in the election of the seventh member of the Board of  
17 Retirement (safety member), and the alternate seventh member (safety  
18 member), if any, and their names and mailing addresses for ~~their~~ receipt of  
19 ~~ballots~~ Official Ballot Packets (which mailing address ~~is~~ shall be his or her then-  
20 current mailing address as filed with his or her employer for active members of  
21 FCERA, or as filed with ~~the~~ FCERA for deferred, or inactive members),  
22 accompanied by the FCERA Authorized Officer's certification, which shall be  
23 completed, signed, and dated as of the delivery date (the "Eligible Voter  
24 Certification Date"), and shall state the following:

#### 25 ACTIVE MEMBER ELECTION CERTIFICATION

26 This certification is provided under the Election Procedures of the Board  
27 of Retirement of FCERA, as adopted by the Fresno County Board of  
28 Supervisors on [ insert date ] (the Election Procedures).

[ insert name ], [ insert title ] of the Fresno County Employees  
Retirement Association (FCERA) certifies to the Fresno County Clerk/Registrar  
of Voters that:

///

4       a. The accompanying electronic data file(s) for the [ *insert date* ] Active  
2       Member Election represents and correctly identifies all current, eligible voters  
3       who may vote in such election;

4       b. The accompanying electronic data file(s), depending on the Board of  
5       Retirement member seat, corresponds to the classification of members of  
6       FCERA who may vote for the relevant seat in such election (i.e., Eligible  
7       General Members may vote only for the Eligible General Member seat(s), and  
8       Eligible Safety Members may vote only for Eligible Safety Member seat(s));

9       c. If an accompanying electronic data file represents Eligible General  
10       Members, then that electronic data file correctly identifies and only includes all  
11       current Eligible General Members who may vote for the Eligible General  
12       Member seat(s) for such election;

13       d. If an accompanying electronic data file represents Eligible Safety  
14       Members, then that electronic data file correctly identifies and only includes all  
15       current Eligible Safety Members who may vote for the Eligible Safety Member  
16       seat(s) for such election;

17       e. If an Active Member Election includes both the Eligible General Member  
18       seat(s) and the Eligible Safety Member seat(s), there are no voters classified  
19       in the accompanying electronic data file(s) both as an Eligible General  
20       Member and an Eligible Safety Member for such election;

21       f. If an Active Member Election is only for one type of classification (i.e.,  
22       Eligible General Member seat(s) or Eligible Safety Member seat(s)), there are  
23       no voters classified in the accompanying electronic data file(s) from the other  
24       classification for such election;

25       g. An Eligible General Member's or Eligible Safety Member's accumulated  
26       retirement service credit has not been considered in the determination of such  
27       FCERA members' eligibility to participate in such election;

28       h. There are no identified voters in the accompanying electronic data file(s)  
29       who are retired members of FCERA as of the Eligible Voter Certification Date;  
30       and

31       i. The information in the accompanying electronic data file(s) of eligible  
32       voters is complete and accurate for all such Eligible General Member's or  
33       Eligible Safety Member's, as applicable, who may vote in such election, as of  
34       the date that such electronic data file(s) of eligible voters and this certification  
35       is delivered to the Fresno County Clerk/Registrar of Voters, which is the  
36       "Eligible Voter Certification Date" under the Election Procedures.

37       j. Any capitalized terms that are not defined herein, are defined in the  
38       Election Procedures.

39               Signature: \_\_\_\_\_  
40               Title: \_\_\_\_\_  
41               Date: \_\_\_\_\_

42                               -End-

43       ///

4           2. ~~For Retired members~~Member Elections: Eligible Retired Members of  
2 FCERA who may participate in the election of retired member (eighth member)  
3 and the alternate retired member of the Board of Retirement, if any, and their  
4 names and mailing addresses for receipt of Official Ballot Packets (which  
5 mailing address shall be his or her then-current mailing address as filed with  
6 FCERA) accompanied by ~~FCERA's Retirement Administrator's, or his or her~~  
7 ~~designee's,~~the FCERA Authorized Officer's certification, which shall be  
8 completed, signed, and dated as of the ~~delivery date~~Eligible Voter Certification  
9 Date, and shall state the following:

#### 10                   RETIRED MEMBER ELECTIONS CERTIFICATION

11           This certification is provided under the Election Procedures of the Board  
12 of Retirement of FCERA, as adopted by the Fresno County Board of  
13 Supervisors on [ insert date ] (the Election Procedures).

14           [ insert name ], [ insert title ] of the Fresno County Employees  
15 Retirement Association (FCERA) certifies to the Fresno County  
16 Clerk/Registrar of Voters that ~~each:~~

17           a. ~~The accompanying electronic data file of eligible voters for the [ insert~~  
18 ~~date~~ ] ~~FCERA Active Member Election (based on their respective categories~~  
19 ~~of General Members and Safety Members) and for the [ insert date ]~~  
20 ~~FCERA Retired Member Election Elections represents and correctly identifies~~  
21 ~~all current, eligible voters for each Eligible Retired Members who may vote in~~  
22 ~~such election (and for the [ insert date ] FCERA Active Member Election,~~  
23 ~~further correctly identifies all current, eligible voters within their respective~~  
24 ~~categories of General Members and Safety Members), and that the~~  
25 ~~information in each such elections;~~

26           b. The accompanying electronic data file corresponds to the classification  
27 of Eligible Retired Members who may vote in such elections (i.e., the retired  
28 member (eighth member) and the alternate retired member seats);

          c. The accompanying electronic data file correctly identifies and only  
includes all current Eligible Retired Members who may vote in such elections.

          d. There are no identified voters classified in the accompanying electronic

data file(s) who are deferred or inactive general members of FCERA or  
deferred or inactive safety members of FCERA, or general members of  
FCERA who are employed by the County or Special District, or safety  
members of FCERA who are employed by the County or Special District; and

          e. The information in the accompanying electronic data file of eligible voters  
is complete and accurate for all such eligible votersEligible Retired Members

4 who may vote in ~~each~~ such ~~election~~elections, as of the date that ~~each~~ such  
2 electronic data file of eligible voters and this certification is delivered to the  
3 Fresno County Clerk/Registrar of Voters. [~~insert signature block/date~~],  
which is the “Eligible Voter Certification Date” under the Election Procedures.

4 ///

5 f. Any capitalized terms that are not defined herein, are defined in the  
6 Election Procedures.

7 Signature: \_\_\_\_\_  
8 Title: \_\_\_\_\_  
9 Date: \_\_\_\_\_

10 **-End-**

11 3. Before delivering the FCERA-certified electronic data file(s) of eligible  
12 voters to the County Registrar of Voters for any Active Member Election or  
13 Retired Member Elections, as required herein, the FCERA Authorized Officer  
14 who will provide each of the foregoing certifications and electronic data file(s)  
15 shall ensure that the file(s) are accurate and complete according to the FCERA  
16 Authorized Officer’s certification to be delivered and FCERA’s records that are  
17 reflected in such data file(s), and shall retain such records and files for the  
18 same period that the County Registrar of Voters is required to retain tallied  
19 ballots under Section IX., herein. The County Registrar of Voters may rely  
20 exclusively on the foregoing certifications delivered by the FCERA Authorized  
21 Officer as conclusive proof of the accuracy and completeness of the  
22 information set forth in each accompanying applicable FCERA-certified  
23 electronic data file of eligible voters delivered to the County Registrar of Voters.

24 VI. Distribution of Official Ballot Packets to Eligible Voters.

25 A. Ballot Requirements; Mailing: Twenty-four (24) calendar days  
26 preceding~~before~~ the election (E – 24), the ~~Fresno~~ County ~~Clerk~~/Registrar of Voters  
27 shall mail a sealed outgoing official ballot packet (each an “Official Ballot Packet,” or  
28 collectively “Official Ballot Packets”) to each ~~eligible voter~~ Eligible Active Member for  
the Active Member ~~Elections (based on their respective categories of General~~

1 ~~Members and Safety Members) and~~ Election, or to each Eligible Retired Member for  
2 the Retired Member Elections, at the mailing address for each such eligible voter,  
3 based solely on the information set forth in ~~the~~ each applicable FCERA-certified  
4 electronic data file of eligible voters, ~~above. Said packet delivered to County~~  
5 Registrar of Voters and certified by a FCERA Authorized Officer under Section VI.C.,  
6 herein. All such eligible voter name and address data shall remain confidential,  
7 including for mailing purposes, pre-counting, and official ballot counting (See Section  
8 V.B., herein).

9 C.1. The Official Ballot Packet shall bear the applicable eligible voter's  
10 name and address and consist of the following documents to be inserted  
11 therein:

12 1. ~~Appropriate ballot(s) (General, Safety, or Retired and Alternate~~  
13 ~~Retired),~~

14 a. One (1) official ballot that is applicable to the eligible voter's  
15 FCERA member classification pursuant to Section II.B., herein, for an  
16 election of the Board of Retirement (i.e., either one official ballot for Eligible  
17 General Members in the Active Member Election, or one official ballot for  
18 Eligible Safety Members in the Active Member Election; or one official ballot  
19 for Eligible Retired Members in the Retired Member Elections);

20 2.b. Voting instructions, prepared by the County Registrar of Voters or  
21 his or her designee;

22 3.c. Candidates' statements of qualifications, if any; and

23 4. ~~Ad.~~ One (1) non-postage paid official ballot return envelope  
24 bearing the address of the Fresno County Clerk/Registrar of Voters  
25 Office, ("Official Return Envelope"), and

26 5. ~~A sealed envelope bearing providing a unique identifying number,~~  
27 code and/or symbol, as determined by the member's name and  
28 address containing items 1 through 4.

1 ~~D. The Fresno County Clerk/Registrar of Voters shall administer, that will~~  
2 ~~enable the election as follows:~~

3 ~~A. The Fresno County Clerk/Registrar of Voters shall receive to verify the~~  
4 ~~following from the Retirement Administrator or designee:~~

5 ~~a. Date identity of the Election,~~

6 ~~b. Sample of the ballot with appropriate candidates' names and~~  
7 ~~order of placement on the ballot,~~

8 ~~c. Candidates' Statements (if applicable),~~

9 ~~d. Calendar of events for the election,~~

10 ~~e. Written request for the Fresno County Clerk to conduct the~~  
11 ~~election, and County FCERA cost reimbursement agreement~~  
12 ~~(See Section I, above).~~

13 ~~f. Electronic data files of eligible voters for the Active Member Election~~  
14 ~~and for the Retired Member Election, including Member names and address~~  
15 ~~data (which shall remain confidential) for mailing purposes and the~~  
16 ~~accompanying FCERA certification of such eligible voter electronic data files~~  
17 ~~(See section V.C, above), who returns the voted official ballot.~~

18 ~~g. Voting instructions and other requested inserts/letters when~~  
19 ~~applicable.~~

20 ~~B. The Fresno County Clerk or designee shall order the official ballots~~  
21 ~~and candidate statements. (Note: Ballots and candidate statements are~~  
22 ~~ordered as per the amount requested by the Retirement Administrator~~  
23 ~~or designee plus additional ballots to accommodate voters who might~~  
24 ~~"spoil" their ballot and for voters who did not receive their ballot in the~~  
25 ~~mail.)~~

26 ~~C. The Fresno County Clerk or designee shall order the official outgoing~~  
27 ~~mailer and reply envelopes for the election. The quantity is determined~~  
28 ~~by the number of members voting in the election.~~

1 ~~D. The Fresno County Clerk or designee shall receive the ballot and~~  
2 ~~candidate statement proofs. The Retirement Administrator or designee~~  
3 ~~shall review all proofs and give the final verification that the ballot and~~  
4 ~~candidate statements are ready to print.~~

5 ~~E. The ballot packets shall be inserted and mailed by the Fresno County~~  
6 ~~Clerk or designee. The Fresno County Clerk or designee shall~~  
7 ~~observe all inserting processes.~~

8  
9 2. The Fresno County Clerk or designee shall use The County Registrar of  
10 Voters or his or her designees shall:

11 a. Use a company or companies, which is or are certified by the  
12 California Secretary of State to print ballots, to provide all ballots and  
13 undertake all ballot layout and preparation and/or inserting processes  
14 relating to such documents to be provided, prepared, laid out, and/or  
15 inserted into the Official Ballot Packets, provided however, the County  
16 Registrar of Voters or his or her designees instead may, at his or her  
17 option, undertake any or all of such functions;

18 ///

19 6.b. Use non-profit postage for mailing of ballot packets, the Official  
20 Ballot Packets if such method of mailing is available; and  
21 Proceduresc. Mail the Official Ballot Packets as required herein.

22 VII. Pre-Count; Counting; Election Results. The County Registrar of Voters shall  
23 process the receipt, pre-counting, and counting of returned voted official ballots for  
24 'Spoiled or the election as follows:

25 7.A. Reissued Ballots and Official Ballot Materials: The procedures for  
26 spoiled, mismarked, undelivered, lost, or destroyed, official ballots or Official Return  
27 Envelopes' Envelopes are as follows:



1. If an eligible voter has spoiled or marked his or her official ballot or ~~official return envelope~~Official Return Envelope in error and needs a replacement, the ~~Fresno~~ County ~~Clerk~~Registrar of Voters or ~~designee~~his or her designees must receive the spoiled or ~~marked~~mismarked ballot or ~~official return envelope~~Official Return Envelope back from the eligible voter and a signed declaration under penalty of perjury ~~that, from the eligible voter, as applicable,~~ before a new official ballot or Official Return Envelope is issued to the eligible voter, as follows:

~~a. "My spoiled/marked ballot/envelope~~mismarked official ballot for the [inset date \_\_\_\_] Board of Retirement election has been surrendered to the Fresno County Clerk" before a new ballot or envelope is issued.Registrar of Voters."

Or

"My spoiled/mismarked official return envelope for the [inset date \_\_\_\_] Board of Retirement election has been surrendered to the Fresno County Registrar of Voters."

2. If an eligible voter claims that he or she did not receive ~~or has in the~~ mail the Official Ballot Packet or claims that he or she lost or destroyed his or her official ballot or ~~official return envelope in~~Official Return Envelope, the ~~mail,~~ the Fresno County ~~Clerk~~Registrar of Voters or ~~designee~~his or her designees must receive a signed declaration under penalty of perjury ~~that, "from the~~ eligible voter, as applicable, before a new official ballot or Official Return Envelope is issued to the eligible voter, as follows:

"I did not receive my official ballot packet for the [inset date \_\_\_\_] Board of Retirement election. If received or found, I receive my official ballot packet, I will immediately destroy the original official ballot."

Or

"I lost or destroyed my official ballot for the [inset date \_\_\_\_] Board of Retirement election. If I find my official ballot, I will immediately destroy the official ballot."



Or

~~b. "I lost or destroyed my official return envelope will be destroyed" before a new ballot or for the [inset date ] Board of Retirement election. If I find my official return envelope is issued, I will immediately destroy the official return envelope."~~

3. ~~Voted~~ The County Registrar of Voters' created roster of FCERA members who voted in each election under Section VII.D.1., herein, and counting of returned voted official ballots under Section VII.F., herein, shall take into account, any new official ballot issued to the eligible voter under this Section VII.A.

B. Return of Voted Official Ballots: Each eligible voting member of FCERA returning his or her voted official ballot to the County Registrar of Voters must return the voted official ballot in the voted official ballot's like-kind, Official Return Envelope provided to the eligible voting member by the County Registrar of Voters. Voted official ballots may be returned, ~~each in its official return envelope, by the eligible voting member to the County Registrar of Voters only~~ by United States Postal Service, ~~over the overnight delivery by a commercial carrier, such as FedEx or United Parcel Service, also known as UPS (each a "Commercial Carrier"), or the eligible voting member returning his or her voted official ballot by hand delivery to a County staff member who is attending the front~~

E. ~~counter, or by within the County messenger, to the Fresno County Clerk/Registrar of Voters Office/Voter's office, in each case, not later than 5:00 p.m.~~ PM on the date of the election. AA United States Postal Service postmark date, ~~or the on the Official Return Envelope containing the voted official ballot, or a date that the voted Official Return Envelope containing the voted official ballot was given to the County messenger a Commercial Carrier, shall not be considered. A voted ballot that is not in its official return envelope, and multiple voted ballots that are in one official return envelope, shall be rejected. Bulk delivery of voted ballots, defined here as over the counter delivery of more than one ballot by a single individual, will~~

1 ~~not be accepted by the Fresno County Clerk/Registrar of Voters office. A returned~~  
2 ~~voted official ballot that is~~  
3 ~~Members not in the voted official ballot's like-kind, Official Return Envelope, or~~  
4 ~~multiple voted official ballots that are in a single Official Return Envelope, shall be~~  
5 ~~rejected. If during counting of returned voted official ballots, the County Registrar of~~  
6 ~~Voters or his or her designee discovers any returned voted official ballot that is not~~  
7 ~~among like-kind returned voted official ballots, such returned voted official ballot~~  
8 ~~shall be deemed to have been returned in an envelope other than its like-kind,~~  
9 ~~Official Return Envelope, and such returned voted official ballot shall be rejected.~~  
10 ~~The County Registrar of Voters shall not accept delivery of any returned voted~~  
11 ~~official ballots through any means other than those specified, above, in this Section~~  
12 ~~VII.B. Without limiting the generality of the foregoing sentence, the County Registrar~~  
13 ~~of Voters shall not accept delivery of any returned voted official ballots through any~~  
14 ~~of the following means: (i) any County means of internal communication among~~  
15 ~~County departments, including, but not limited to, County messenger, commonly~~  
16 ~~known as "stop mail" or County inter-office mail or delivery (however, any County~~  
17 ~~means of internal communication among County departments are not considered~~  
18 ~~herein as, and shall not be treated herein as, the use of Commercial Carriers); (ii)~~  
19 ~~any County Registrar of Voters drop box otherwise used by the County Registrar of~~  
20 ~~Voters for any elections other than an election of the Board of Retirement; and/or (iii)~~  
21 ~~the delivery to the County Registrar of Voters in any manner of multiple voted official~~  
22 ~~ballots.~~

23 F.C. Return of Voted Official Ballots from Outside Continental United States:  
24 Eligible voting members of FCERA who reside outside of the continental United  
25 States may, subject to these election procedures, return their voted official ballot  
26 only by United States mail or overnight delivery Commercial Carrier to be received in  
27 the County ~~Clerk's office~~ Registrar of Voters Office, in each case, not later than 5:00  
28 pm PM on the date of the election. A United States Postal Service postmark date on

the Official Return Envelope containing the voted official ballot, or a date that the Official Return Envelope containing the voted official ballot was given to a Commercial Carrier, or other countries' marks on the Official Return Envelope containing the voted official ballot indicating any date, including but not limited to a mailing date, or date that the Official Return Envelope containing the voted official ballot was given to ~~the overnight carrier~~ a Commercial Carrier, shall not be considered.

D. ~~At~~Pre-count Procedures: Commencing at 9:00 AM on the next County business day following the election, ~~the Fresno County Clerk or~~ or as soon thereafter as may be practicable under the circumstances at such time, the County Registrar of Voters or his or her designees shall undertake the following pre-count procedures before opening and counting the returned voted official ballots.

1. Prior to opening the Official Return Envelopes, the County Registrar of Voters or his or her designees shall (a) verify whether the name of the eligible voter, and his or her FCERA member classification, on each Official Return Envelope, matches the eligible voter's name and FCERA member classification on the FCERA-certified electronic data file(s) for such classification delivered to the County Registrar of Voters under Section VI.C., herein, and (b) create a roster of FCERA members who voted in each election. The roster of FCERA members who voted shall remain confidential, and not subject to public disclosure (See Section V.B., herein). If the County Registrar of Voters or his or her designee ~~shall count the ballots and certify the~~ determines that any returned Official Return Envelopes do not comply with these election procedures, none of those Official Return Envelopes will be opened, none of the voted official ballots contained therein will be counted, and the County Registrar of Voters shall proceed to complete all pre-count procedures for all other returned Official Return Envelopes for the Active Member Election or the Retired Member Elections, as applicable.

4                   2. The County Registrar of Voters or his or her designees shall  
2                   complete all pre-count procedures for the Active Member Election or the  
3                   Retired Member Elections prior to opening the Official Return Envelopes under  
4                   Section VII.E., herein.

5                   E. Opening and Inspecting Official Returned Envelopes; Separating Returned  
6                   Voted Official Ballots: Upon opening the Official Returned Envelopes, and before the  
7                   official voted ballots are separated from their respective Official Return Envelopes,  
8                   the County Registrar of Voters or his or her designees shall inspect each opened  
9                   Official Returned Envelope solely for the purpose of determining whether the  
10                  returned official ballot contained therein is in its like-kind, Official Returned Envelope.  
11                  If the County Registrar of Voters or his or her designees discover that any returned  
12                  voted official ballot is not its like-kind, Official Return Envelope, such returned voted  
13                  official ballot shall be rejected. After all Official Returned Envelopes have been so  
14                  opened and inspected for an election, the County Registrar of Voters or his or her  
15                  designees shall separate the returned official ballots from their respective Official  
16                  Returned Envelopes, and, once separated, kept in separate groups, as follows:

17                  1. For the Active Member Election:

18                       a. Returned official ballots for the active general member seat(s) shall  
19                       be grouped together, and kept separate from all other returned official  
20                       ballots; and

21                       b. Returned official ballots for the active safety member seat(s) shall be  
22                       grouped together and kept separate from all other returned official ballots.

23                  2. For the Retired Member Elections: returned official ballots for the retired  
24                  member (eighth member) seat and alternate retirement member seat shall be  
25                  grouped together (but in any event shall be considered as official ballots for  
26                  separate elections) and kept separate from all other returned official ballots.

27                  F. Counting the Returned Voted Official Ballots: After opening and inspecting  
28                  all of the Official Return Envelopes under Section VII.E., herein, the County

Registrar of Voters or his or her designee(s) shall count the returned voted official ballots by using an electronic voting system until completed, as follows:

G.1. ~~The County Registrar of Voters shall tally the results of the count in writing. Any member of the public may witness the counting of the ballots.~~ official count for the Active Member Election (including separate counts for the active general member seat(s) and the active safety member seat(s) in the same regularly scheduled election or Special Election), and for the Retired Member Elections (including separate counts for the retired member (eighth member) seat and the alternate retired member seat in the same regularly scheduled election cycle or Special Election), according to the following categories, as applicable:

- a. ~~Prior to opening the~~Official ballots issued;
- b. ~~Official ballots returned;~~
- c. ~~Rejected official envelopes containing~~ballots;
- d. ~~Votes cast;~~
- e. ~~Overvotes (i.e., returned voted official ballot invalidated due to more than one vote per member seat);~~
- f. ~~Blanks (i.e., not voted);~~
- g. ~~Spoiled/reissued official~~ ballots; and
- h. ~~Undeliverable official ballots.~~

H. 2. ~~In the Fresno event an electronic voting system cannot be used for counting all of the returned voted official ballots, the County Clerk-Registrar of Voters or his or her designee(s) shall compare FCERA's electronic data files (See section V.C, above) count the returned voted official ballots by hand. In the event a returned voted official ballot cannot be counted by an electronic voting system due to the name condition of the voter on each voted official envelope, and ballot, the County Registrar of Voters or his or her designee(s) shall create a roster of voters who voted duplicate ballot, using the same information in each~~

1 election. If the Fresno County Clerk determines the returned voted official  
2 ballot, and count such duplicate ballot in the same manner as all other like-kind  
3 returned voted official ballots are counted by the electronic voting system. The  
4 County Registrar of Voters shall retain the returned voted official ballot that  
5 ~~multiple ballots have~~ cannot be counted by the electronic voting system, and  
6 indicate on such returned voted official ballot that it cannot be used and that the  
7 duplicate ballot has been received from any voter, none of their ballots will be  
8 opened and counted. used in its place; the created duplicate ballot shall be  
9 deemed to be the voted official ballot.

10 I. ~~Prior to opening the official envelopes containing voted ballots, any~~  
11 ~~candidate may challenge the validity of any ballot based on good cause,~~  
12 ~~and in the event of any such challenge, the Fresno County Clerk/Registrar~~  
13 ~~of Voters shall, consistent with these procedures, decide the validity of~~  
14 ~~such ballot so challenged.~~

15 ///

16 J. 3. Any candidate receiving a the highest number of votes, in the plurality  
17 of all votes cast for ~~his or her respective election (General, Safety, Retired or~~  
18 ~~Alternate Retired)~~ the election of a member seat on the Board of Retirement,  
19 shall be deemed elected. for that seat.

20 K. ~~The Alternate Safety member shall be that Safety candidate from the~~  
21 ~~group under Government Code section 31470.2 or 31470.4, or any other~~  
22 ~~eligible Safety member in the FCERA if there is no eligible candidate from~~  
23 ~~the groups under Sections 31470.2 and 31470.4, which is not represented~~  
24 ~~by a Board of Retirement trustee who received the highest number of~~  
25 ~~votes of all candidates in that group. If there is no eligible candidate from~~  
26 ~~the other Safety groups, there may not be an Alternate Safety member.~~

~~L. Official results of ballots shall be tallied and canvass results shall be forwarded to the Retirement Administrator or designee. The ballots shall be canvassed and accounted for by the Fresno County Clerk as to:~~

~~1. Ballots issued;~~

~~1. Ballots returned,~~

~~2. Rejected ballots,~~

~~3. Votes cast,~~

~~4. Over votes,~~

~~5. Blank votes,~~

~~6. Spoiled/Reissued ballots,~~

~~7. Undeliverable Ballots~~

G. M. Upon certification of the election results, the Fresno County Clerk or Posting and Delivering Election Results: The County Registrar of Voters or his or her designees shall complete all counting procedures for the Active Member Election or the Retired Member Elections under Section VII.F, herein, prior to posting the results of each election. After completing the counting procedures for each election, the County Registrar of Voters or his or her designee shall, as soon thereafter as may be practicable under the circumstances at such time, promptly post the election results on its Department website and deliver the election results to the FCERA Retirement Administrator by email or hand delivery.

H. Request for Recount Requirements: In the event a candidate desires to request a recount of the election for the member seat that he or she is seeking on the Board of Retirement, he or she must file a written request for the recount with the County Registrar of Voters, and comply with this Section VII.H., not later than 5:00 PM on the fifth (5<sup>th</sup>) calendar day following the date that the County Registrar of Voters or his or her designee shall posthas posted the election results on its Department website. ~~N. Within three pursuant to Section VII.G., herein. In the event~~

4 of timely multiple requests for a recount of the election for the member seat, each  
2 requesting candidate shall comply with this Section VII.H, herein, without regard any  
3 other request for a recount, but there shall be only one recount.

4 1. Recount Request in Writing. The written request for a recount must  
5 comply with this Section VII.H., herein.

6 2. One Request Per Candidate. A candidate may only request a recount of  
7 the election for the member seat that he or she is seeking on the Board of  
8 Retirement, and a recount will only be conducted if the candidate first pays the  
9 County Registrar of Voters' the full cost of the recount pursuant to this Section  
10 VII.H.2.

11 a. In the event of a request for a recount, the County Registrar of Voters  
12 or his or her designee shall, not later than five (5) County business days  
13 thereafter, provide the candidate a written estimate cost of the recount, and  
14 the candidate must deposit an amount equal to the cost estimate, in the  
15 form of cash, cashier's check, or money order, with the County Registrar of  
16 Voters not later than the third (3<sup>rd</sup>) County business day thereafter.

17 b. In the event the money so deposited is insufficient to pay the County  
18 Registrar of Voters' costs of completing the recount, the County Registrar of  
19 Voters shall suspend the recount and provide the candidate a written  
20 estimate of the cost of completing the recount. The candidate must deposit  
21 an amount equal to the cost estimate with the County Registrar of Voters  
22 not later than the third (3<sup>rd</sup>) County business day thereafter. In the event the  
23 County Registrar of Voters does not receive the estimated cost in the form  
24 of a cash, cashier's check, or money order deposit within such time, the  
25 recount shall be terminated, and any activities that the County Registrar of  
26 Voters undertook toward the recount shall be disregarded and have no force  
27 or effect.



4           c. In the event the moneys so deposited are sufficient to pay the County  
5           Registrar of Voters' costs of the recount, the County Registrar of Voters  
6           shall conduct recount, including breaking any resulting tie vote, according to  
7           the election procedures for counting returned official ballots under Section  
8           VII.F., herein, and the following receipt of the election procedures shall  
9           apply, depending on the outcome of the recount:

10           i. If the recount does not change the result of the election in the  
11           favor of the candidate requesting the recount, including a resulting tie  
12           vote or breaking a tie vote, the County Registrar of Voters shall so inform  
13           the affected candidates of the recount results, the and such recount shall  
14           be disregarded.

15           ii. If the recount changes the result of the election in the favor of the  
16           candidate requesting the recount, including a resulting tie vote or  
17           breaking a tie vote, the County Registrar of Voters shall post the  
18           changed election results on its Department website and deliver the  
19           changed election results to the FCERA Retirement Administrator or  
20           designee shall post the results on the FCERA's website  
21           ([www.FCERA.org](http://www.FCERA.org)) and deliver a copy to each County Department and,  
22           pursuant to Section VII.G., herein.

23           iii. No affected candidate shall be entitled to a new recount following  
24           the completion of a recount under these election procedures.

25           d. The amount of moneys deposited by the candidate for the costs of  
26           a recount shall only be refunded to the candidate requesting the recount  
27           upon the completion of the recount if such candidate achieves a new count  
28           in the election that changes the result of the election in his or her favor,  
          including a resulting tie vote (in which case any such tie vote shall be  
          broken under Section VIII.I., herein, but if the outcome of the broken tie vote  
          is favorable to the candidate requesting the recount, that outcome shall not

4 give such candidate a right to the refund) or breaking a tie vote; otherwise  
5 all of such moneys paid to the County Registrar of Voters and spent for the  
6 recount shall be retained by the County Registrar of Voters.

7 e. Any amount of such moneys so deposited with the County  
8 Registrar that is required to be refunded, as provided herein, or in any event  
9 not spent for the recount, will be refunded to the candidate within thirty (30)  
10 County business days following the completion of the election process. In  
11 the event of timely multiple requests for a recount of the election, the County  
12 Registrar shall determine whether or how to apportion any such amounts to  
13 be refunded to the requesting candidates.

14 I. Tie Votes: After the conclusion of, or passage of time allowed herein for,  
15 any recount that may be conducted pursuant to Section VII.H, herein, if two or more  
16 candidates receive an equal and the highest number of votes, in the plurality of all  
17 votes cast for the election of a member seat on the Board of Retirement, the County  
18 Registrar of Voters shall direct the candidates who received the tie votes to appear  
19 before him or her or his or her designee at the office of the County Registrar of  
20 Voters at a time and date, not later than five (5) County business days thereafter, to  
21 be designated by him or her for the drawing of lots to break the tie, provided that a  
22 candidate may designate a representative to appear and act for him or her in his or  
23 her absence. If a candidate or his or her representative is not in attendance at the  
24 specified time and date for, or attends but at any time does not participate in, the  
25 drawing of the lots, the County Registrar of Voters or his or her designee shall  
26 proceed and appoint a Department employee or employees (in either case, who is  
27 not a spouse, domestic partner, parent or child of any affected candidate) to act as  
28 the candidate's or candidates' representative(s) for all purposes relating to the  
drawing of lots, provided that, if a candidate or his or her representative appears, or  
attends but at any time does not participate, while the drawing of lots is in progress,  
the drawing of lots shall continue until completion without regard to the fact that the

4 candidate or his or her representative had not appeared or participated. The County  
5 Registrar of Voters or his or her designee shall break the tie by drawing of lots in the  
6 following manner, using ordinary materials and supplies selected by the County  
7 Registrar of Voters or his or her designee:

8 1. Before undertaking the drawing of lots, the following procedures shall be  
9 read aloud to the candidates or their representatives who are present.

10 2. The candidates or their representatives shall be provided a small slip of  
11 paper, each approximately the same size, upon which they shall write the name  
12 of the candidate.

13 3. The candidates or their representatives shall fold and place their signed  
14 slips in identical small sealed containers (e.g., pill bottle with a cap), seal them,  
15 and hand their sealed containers to the County Registrar of Voters or his or her  
16 designee, and those sealed containers, once returned to him or her, shall be  
17 placed by Registrar of Voters or his or her designee in a larger opaque  
18 container (e.g., hat, bag, or bucket).

19 4. Without looking into the larger container, the County Registrar of Voters'  
20 or his or her designee shall reach into the larger container, retrieve only one (1)  
21 of the smaller sealed containers, and open the retrieved sealed container. The  
22 name of the candidate whose name is in the retrieved sealed container shall be  
23 announced as the winner of the elected seat.

24 5. The candidate winning the tie for the election of a member seat on the  
25 Board of Retirement shall be deemed elected for that seat, and the completion  
26 of such drawing of lots to break the tie vote shall be final and conclusive.

27 J. Certification of Final, Official Election Results: The County Registrar of  
28 Voters or his or her designees shall complete all counting procedures for each  
election under Section VII.F., herein, prior to certifying the final, official election  
results of such election. After completing all such counting procedures for each  
election, the County Registrar of Voters shall, as soon thereafter as may be

1 practicable under the circumstances at such time, certify the final, official election  
2 results of such election, and, such certification shall be the final and conclusive,  
3 official results of the election, except for any County Registrar of Voters final action,  
4 or a response, in relation to the protest under Section VIII.A.2, herein. Upon  
5 certification of the official election results of each election, the County Registrar of  
6 Voters or his or her designees shall promptly post the certified final, official election  
7 results on its Department website and deliver the certified final, official election  
8 results to the FCERA Retirement Administrator by email or hand delivery. The  
9 counting procedures and certification of the final, official election results shall be  
10 completed not later than fourteen (14) calendar days following the first day of  
11 opening the Official Return Envelopes for each such election, as applicable,  
12 provided that the time for such completion shall be extended by any additional time  
13 as may be necessary for the County Registrar of Voters to act upon or respond to  
14 any request for recount, under Section VII.H., herein, and by five (5) County  
15 business days in the event there is the need for the drawing of lots to break the tie,  
16 as provided in Section VII.I., herein.

17 K. No Requirement for County Registrar of Voters to Act. Notwithstanding  
18 anything to the contrary in these election procedures, the County Registrar of Voters  
19 is not required to post or deliver any election results under Section VII.G., herein, or  
20 certify, post and deliver any final, official election results under Section VII.J., herein,  
21 when the County Registrar of Voters declares that he or she cannot conduct or  
22 complete the conducting of the election, or the election of a particular member seat,  
23 as provided in Section I.B., herein.

24 VIII. Protest; Legal Challenge.

25 A. Protest Requirements: In the event a candidate desires to protest the  
26 results of any election, other than making a request for a recount of the election for  
27 the member seat that he or she is seeking on the Board of Retirement, of the  
28 election for the member seat that he or she is seeking on the Board of Retirement,

1 he or she must file the written protest with the County Registrar of Voters (and he or  
2 she must include written proof that he or she has provided a copy of the written  
3 protest to any other affected candidate), in compliance with this Section VIII.A., not  
4 later than 5:00 PM on the fifth (5<sup>th</sup>) calendar day following the date that the County  
5 Registrar of Voters has posted the election results on its Department website  
6 pursuant to Section VII.G., herein. The County Registrar of Voters shall not be  
7 obligated to consider any additional or amended grounds for the protest, or any  
8 augmented documentation or other evidence from the protesting candidate, after  
9 receipt of the written protest.

10 1. Protest in Writing. The written protest shall be based on the failure of the  
11 FCERA Parties, the County Parties, and/or the Special District with  
12 active Parties, as applicable, to comply with these election procedures, and  
13 must specify such grounds for the protest and be accompanied by any  
14 documentation or other evidence that may be referenced in the protest.

15 2. County Registrar of Voters Action or Response. Subject to the candidate's  
16 compliance with Section VIII.A., herein, the County Registrar of Voters shall, with  
17 thirty (30) County business days of receipt of the written protest, act upon or  
18 respond to the written protest and provide notice thereof to the affected  
19 candidates and the FCERA Administrator.

20 3. Valid and Timely Protest; Final, Official Election Results. Once the  
21 County Registrar of Voters takes final action, or provides a response, in relation  
22 to any protest under Section VIII.A., herein, such final action or response, as  
23 applicable, shall be the final and conclusive, official results of the election.

24 B. Failure to Exhaust Administrative Remedies: Any candidate's failure to  
25 timely make a request for a recount or pay the County Registrar of Voters for the full  
26 cost of a requested recount, if any, as required in Section VII.H., herein, or timely file  
27 a valid written protest of the official election results as required under Section VIII.A.,  
28 herein (or raise any issue that could have been raised in a protest but was not

1 raised), shall be considered a failure of the candidate to exhaust his or her  
2 administrative remedies with respect to (a) any failure of any of the FCERA Parties,  
3 the County Parties, and/or the Special District Parties to comply with these election  
4 procedures (or any issue, to the extent the issue could have been raised but was not  
5 raised in the protest); and (b) the election results.

6 C. Legal Challenge to Election and Writ of Mandate: Any legal challenge  
7 seeking review of, any right or duty of, act or omission including any failure by  
8 FCERA Parties, the County Parties, and/or the Special District Parties, as  
9 applicable, to comply with these election procedures relating to any election of the  
10 Board of Retirement under these election procedures or otherwise, shall be by writ  
11 of mandate under Code of Civil Procedure § 1085 in the Fresno Superior Court.

12 ///

13 IX. FCERA Posts Official Election Results.

14 Not later than ten (10) FCERA business days following the later of the date that  
15 the County Registrar of Voters or his or her designees delivers the certified final,  
16 official election results to the FCERA Retirement Administrator for each election, or  
17 provides notice of final action, or a response to a protesting candidate, relating to his  
18 or her protest under Section VIII.A., herein, to the FCERA Administrator, a FCERA  
19 Authorized Officer shall post such results on FCERA's website  
20 ([www.FresnoCountyRetirement.org](http://www.FresnoCountyRetirement.org)) and deliver a copy thereof as follows: (1) for an Active  
21 Member Election, to each County department and Special District employing  
22 members of FCERA who were eligible to vote in the election, and to each  
23 recognized employee representation organization having FCERA members who  
24 were eligible to vote in the election and employed by the County or a Special District,  
25 and (2) for Retired Member Elections, to each organization recognized by the Board  
26 of Retirement as representing the ~~Retired~~retired members of FCERA ~~and to each~~  
27 ~~employee representation unit with active members.~~ A FCERA Authorized Officer  
28 may provide any updating information under this Section IX in the ~~classification for~~

1 ~~which the event of any legal challenge to any certified final, official election was held~~  
2 ~~(Safety or General) results.~~

3 O. ~~Except for the date of the election, the preceding sections shall govern~~  
4 ~~such special elections as the Board of Supervisors may call to fill midterm~~  
5 ~~vacancies.~~

6 X. ~~P. The Fresno Swearing in the Newly Elected Member.~~

7 ~~The Board of Retirement shall swear in the newly elected member as soon as~~  
8 ~~practicable under the circumstances at such time.~~

9 XI. ~~Retention of Tallied Returned Official Ballots.~~

10 ~~The County Clerk Registrar of Voters shall retain tallied returned official ballots~~  
11 ~~for a period until the later of: (i) six (6) months following the certification of the~~  
12 ~~certified final, official election results under Sections VIII.H.3., or VIII.H.4., herein, or~~  
13 ~~(ii) the final judgment, including any appeals, of any legal challenge brought~~  
14 ~~pursuant to Section VIII.C., herein.~~

15 XII. ~~Effectiveness.~~

16 ~~This Resolution shall be effective immediately upon its adoption. From and after~~  
17 ~~its effective date, this Resolution supersedes any prior resolution of the Board of~~  
18 ~~Supervisors with respect to the subject of Board of Retirement Election Procedures,~~  
19 ~~including the prior resolutions of the Board of Supervisors referenced in the recitals~~  
20 ~~to this Resolution.~~

21 THE FOREGOING was passed and ADOPTED by the following vote of the  
22 Board of Supervisors of the County of Fresno this \_\_\_\_ day of

23           2015          2019          , to-wit:

24 AYES:

25 NOES:

26 ABSENT:

27 \_\_\_\_\_  
28 \_\_\_\_\_  
                    Nathan Magsig,  
                    Chairman, Board of the Board of  
                    Supervisors of the County of Fresno

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ATTEST:

Bernice E. Seidel  
Clerk ~~to~~ of the Board of Supervisors

By \_\_\_\_\_

County of Fresno, State of California

By: \_\_\_\_\_

Deputy

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