



## Finance and Administration Committee

# Agenda Item 6c

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**November 17, 2020**

**Item Name:** CalPERS Board Elections – Candidate Nomination Petition Options

**Program:** Board of Administration Election

**Item Type:** Action

### **Executive Summary**

At the September Finance and Administration Committee (FAC) meeting, the committee requested the board election team bring back information on implementing an emergency regulation to suspend or change the “original signature” requirement in the nomination petition process to reduce potential risks and challenges presented by in-person gathering of signatures during the existing pandemic. The FAC requested this information be presented as an action item in November.

CalPERS election regulations currently provide that the nomination of prospective candidates is established by petition, on the Nomination Petition form(s) provided by CalPERS. The petition is signed by the nominee and by the established number of eligible active or retired members. The minimum number of petition signatures required for candidacy is established by the CalPERS Board; however, the regulations provide that there must be no less than “250 valid original signatures.”

The board election team has outlined the process for an emergency rulemaking action to suspend or change the original signature requirement. The board election team has also outlined an alternative non-regulatory modification to mitigate the risks and challenges surrounding in-person gathering of signatures during the pandemic.

### **Strategic Plan**

This agenda item supports the CalPERS 2017-22 Strategic Plan by implementing process changes to improve the board elections program.

## **Background**

### Notice of Election

In February, the board election team presents the Notice of Election (Notice) to the FAC as an action item. Among other things required by the CalPERS election regulations, the Notice provides the election schedule, the submission date for the Nomination Petition, eligibility criteria for candidates, and other critical information. Once the Notice is approved, it is distributed to members and retirees through mail or email.

### Nomination Petition

The Nomination Petition period begins when the Notice is distributed. CalPERS typically distributes the Notice in late March and establishes a mid-May due date for the completed Nomination Petitions. During this period, each potential candidate or their designee must obtain a minimum of 250 valid original (wet) signatures on the Nomination Petition form provided by CalPERS. The Nomination Petition form and supplemental documents must be either dropped off in-person or mailed to the board election coordinator at CalPERS Headquarters before the date and time specified in the Notice (typically mid-May). Once the required nomination documents are received, the board election team begins the validation process to ensure potential candidates have met the 250 valid original signatures requirement.

### **Emergency Regulatory Change – Change Original Signatures Requirement to Non-Original**

This regulatory change would temporarily modify the original signatures requirement in existing regulations to permit non-original (scanned copy) signatures. See Attachment 3 for existing regulations on original signature requirements.

This would require an emergency regulatory change because there is not enough time before the election to engage in the ordinary regulatory process. Approval of an emergency regulation could take approximately 20 calendar days and requires that CalPERS demonstrate the emergency regulation is necessary to address an emergency that calls for immediate action to avoid serious harm to the public peace, health and safety, or general welfare.

The CalPERS Board must approve the emergency regulation package prior to its submission to the Office of Administrative Law (OAL). To ensure that the proposed emergency regulations could be effective February 1, 2021, before the Notice is presented to the board, the board would need to approve the emergency regulation package no later than January 7, 2021. After the emergency regulation package is approved by the board and submitted to the OAL, the five (5) calendar day public comment period begins. Once the public comment period ends, the OAL has 10 calendar days to review and approve the emergency regulation package. OAL makes the final determination to approve the proposed emergency regulation before it is implemented, and it is possible that OAL will not approve the change. If the regulation is approved, it will remain in effect for 180 calendar days.

### **Non-Regulatory Modifications to Nomination Petition and Schedule – Extend the Nomination Petition Period and Provide Single-Signature and Multi-Signature Nomination Petitions**

If the pandemic and social distancing challenges extend into the 2021 calendar year, the board election team expects to recommend that the board approve an extended Nomination Petition Period to allot additional time for potential candidates to gather signatures while maintaining

safe social distancing practices. This modification does not require a regulatory change because it is merely a modification to the timeline which is established by the board through the Notice at the beginning of each election. This modification could be implemented whether or not the board decides to maintain the existing regulatory requirement that potential candidates gather and return 250 valid original signatures.

The Notice, which also includes the Nomination Petition form and the election schedule, is typically approved by the board in February and released around March 30. The nomination period is typically open for approximately 45 days, until around May 15. If this modification is implemented, the board election team would release the Notice and Nomination Petition form around March 15, which would add approximately 15 days to the Nomination Petition period pending the selected board election vendor's capability to print and mail the Notice within this advanced timeline. An earlier release would allow potential candidates more time to gather and submit the required number of valid original signatures before the deadline listed in the Notice.

To further facilitate safe signature gathering, the current Nomination Petition form could be modified into two (2) versions. One version would be a single-signature Nomination Petition form, only allowing one (1) signature as seen in the sample provided in Attachment 1. The other version would be a multi-signature Nomination Petition form as seen in the sample provided in Attachment 2. Potential candidates could use either version as needed to gather and submit the required number of valid original signatures before the deadline listed in the Notice.

### **Budget and Fiscal Impacts**

There are no budget or fiscal impacts.

### **Attachments**

Attachment 1 – Sample Nomination Petition (Single-Signature)

Attachment 2 – Sample Nomination Petition (Multi-Signature)

Attachment 3 – Existing Regulations Section 554.5 Nomination of Candidates

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