

Elections Procedures and Guidelines Policy

of

***the Commonwealth of Pennsylvania
Public School Employees' Retirement Board***

As adopted by

the Board of Trustees

on January 25, 1991

Effective January 25, 1991

Adopted: January 25, 1991

Revised: May 23, 2019

Date Last Reviewed by Chief Counsel: January 8, 2019

Public School Employees' Retirement Board
Election Procedures and Guidelines Policy

WHEREAS, the Public School Employees' Retirement Board ("PSERB") is an independent administrative board of the Commonwealth of Pennsylvania consisting of 15 members; and

WHEREAS, the Public School Employees' Retirement Code ("Retirement Code") 24 Pa. C.S. § 8501(a) governs the election of six of the members to the PSERB; three elected by the active certified (professional) members of the Public School Employees' Retirement System ("System") and Class DC participants of the School Employees' Defined Contribution Plan ("Plan"); one by the annuitants and eligible Class DC participants; one by the active non-certified (non-professional) members of the System and active non-certified (non-professional) Class DC participants of the Plan; and one by the school board membership; and

WHEREAS, each member elected will serve for a term of three years beginning on January 1 and ending on December 31 of the third calendar year and until his successor is qualified and elected; and

WHEREAS, the PSERB reserves the right to determine any and all conditions regarding the election of members to the PSERB; and

WHEREAS, pursuant to Sections 2.8 and 4.2(d) of the Statement of Organization, Bylaws, and other Procedures of the Commonwealth of Pennsylvania Public School Employees' Retirement Board, all elections are conducted under the direction of the PSERB's Elections Committee, in accordance with the approved procedures and guidelines for conducting elections;

NOW THEREFORE, the members of the PSERB adopt the following Election Procedures and Guidelines Policy.

I. Definitions

- A. *Active Certified (Professional) member/participant and Active Non-Certified (Non-Professional) member/participant.* For purposes of this Policy, includes full time members and Class DC participants and part time members and Class DC participants who have an active or contributing work status and are qualified in the current year, and part time members and Class DC participants who were active and qualified in the prior year and have an active or contributing work status and a qualification status of pending qualified or pending purchase of service in the current year.
- B. *Annuitant/Eligible Class DC Participant.* For purposes of this Policy, includes annuitants of the System and eligible Class DC participants.
- C. *Biographical Form:* A form that allows candidates to submit information to be placed on the ballot along with the candidate's name.
- D. *Candidate's Affidavit:* A form that must be notarized and submitted with the Nominating Petition to ensure a candidate's eligibility for office.
- E. *Nominating Petition:* A form that is signed by eligible voting members to certify a candidate. It includes identifying information for validation of membership.
- F. *Nomination Packet:* A packet of information provided to members upon request; the packet includes the Election's Procedures and Guidelines Policy, Nominating Petition form, Candidate's Affidavit, Biographical Form, and summary of responsibilities of a PSERB member.
- G. *Office of the Executive Director:* The Executive Director of PSERS and his designee.
- H. *PSERB:* The Public School Employees' Retirement Board.
- I. *PSERS:* The Public School Employees' Retirement System.
- I. *Public School Board Member –* A member of a public school board, but does not include a member of a board of a charter school.⁶⁷
- J. *Regular Election:* An election for an active certified (professional), active non-certified (non-professional), annuitant/eligible Class DC participant, or school board member to the PSERB.
- K. *Special Election:* An election for an active certified (professional), active non-certified (non-professional), annuitant/eligible Class DC participant, or school board member to the PSERB because a vacancy has occurred to shorten the original three-year term.

II. Procedures and Guidelines

A. Regular Election

1. The Office of the Executive Director will publicize the election to the appropriate group, either the active member/participant or annuitant/eligible Class DC participant members, or the employers (for the school board member election), subject to the rest of these guidelines.

⁶⁷ See Opinion No. 2009-06 by Gerald Gornish, Chief Counsel, dated April 13, 2009 regarding Eligibility of Charter School Board Members for PSERB Membership and Voting.

2. The Office of the Executive Director may provide information on a particular election to any interested organization upon written request.
3. The Office of the Executive Director will develop a schedule of events for each election to be held during the year. The schedule will include the dates for the distribution and return of all election-related material.
4. All candidates for a PSERB seat must request a Nomination Packet in writing. All such requests should be directed to the Office of the Executive Director, PSERS, 5 N 5th St., Harrisburg, PA 17101.
5. A Candidate's Nominating Petition, Affidavit, and Biographical Form must be received by PSERS at its headquarters on or before the close of business on the date selected by the Office of the Executive Director. Nominating Petitions received after the deadline will be deemed invalid.
6. The Office of the Executive Director will review and validate all Nominating Petitions. All decisions regarding the validation of the Nominating Petitions will be final.
7. To be valid, a Nominating Petition must be timely filed and include a signed, notarized Candidate's Affidavit; a Biographical Form completed in accordance with these guidelines; and the required number of signatures as provided herein.
8. The required number of signatures by election classification is as follows:
 - a) *Active Certified (Professional)* - At least 500 signatures of active certified (professional) members of the System and Class DC participants. Five different employers must be represented by no less than 25 signatures each.
 - b) *Active Non-Certified (Non-Professional)* - At least 250 signatures of non-certified (non-professional) members of the System and Class DC participants. Five different school districts must be represented by no less than 15 signatures each.
 - c) *Annuitant* - At least 125 signatures of annuitant/eligible Class DC participant members.
 - d) *Public School Board Member* - At least 25 signatures of public school board members from a minimum of five different school districts.
9. The Office of the Executive Director will notify each candidate of the validation or invalidation of his Nominating Petition.
10. If an election has only one candidate who qualifies to appear on the ballot, no election will be conducted. The Office of the Executive Director will notify the Chairperson of the Elections Committee and the Chairperson of the PSERB that only one candidate qualifies. The Chairperson of the PSERB will

declare the candidate *elected by acclamation*, at the next regularly scheduled meeting of the Board, in accordance with Section 46 of Robert's Rules of Order⁶⁸.

11. If there is more than one candidate who qualifies, the Office of the Executive Director will report the names of the approved candidates to the Chairperson of the Elections Committee for announcement at the next PSERB meeting.

12. After all petitions have been validated, a drawing will be conducted to determine the ballot position of each approved candidate for the election, according to the following:

- a) The drawing will be held at PSERS' Headquarters at a date and time determined by the Office of the Executive Director.
- b) Each candidate will receive written notification of the drawing.
- c) Each candidate has the right to attend or be represented at the drawing.
- d) The drawing will be conducted in the presence of PSERS' Executive Director or designee and PSERS' Internal Auditor or designee.

13. The Office of the Executive Director retains the right to edit the biographical information to conform to printing requirements or if the information provided is not biographical in nature. All decisions of the Office of the Executive Director will be final.

14. A third party election contractor will conduct the election.

15. Ballots containing each candidate's biographical information will be mailed to all eligible active certified (professional) members of the System and Class DC participants, active non-certified (non-professional) members of the System and Class DC participants, annuitants/eligible Class DC participants, or school board members for whom addresses are available, in accordance with the election schedule established by the Office of the Executive Director.

16. Only ballots timely returned to the election contractor in accordance with the schedule established by the Office of the Executive Director will be counted.

17. The election contractor will certify the results of the election to the Office of the Executive Director.

18. The Office of the Executive Director will submit the election results to the Chairperson of the Elections Committee for announcement to PSERB.

⁶⁸Robert's Rules of Order, Newly Revised, 10th Edition. "When only one nominee is put up and the bylaws do not require a ballot, the chair can take a voice vote, or declare that the nominee is elected, thus effecting the election by unanimous consent or "acclamation.""

19. The Office of the Executive Director will notify all candidates in writing of the election results.

20. In the event of a dispute over the results of an election, a candidate may request a recount from PSERB within 30 days of the date of the letter notifying him of the election results.

B. Special Election

1. If the remainder of the three-year term is over eighteen months, PSERB will conduct a Special Election for the remainder of the term as soon as possible. The elected member will serve only the unexpired term of his predecessor.

2. If the remainder of the three-year term is eighteen months or less, PSERB will conduct a Special Election for the remainder of the term AND for a subsequent three-year term. The intention is to reduce the costs involved in conducting two separate elections.

3. The Office of the Executive Director will determine the date for submission of biographical information and Nominating Petitions, allowing adequate time to publicize the Special Election.

4. A Special Election may be conducted concurrently with a regularly scheduled election if the timing is appropriate.

5. Candidates may not appear on the ballot for both the Special Election and the Regular Election.

6. The candidate must declare on the petition form whether he wishes to be placed on the ballot for the Special Election or the Regular Election. Failure to do so will result in the candidate being placed on the ballot for the Regular Election.

All other procedures of a Regular Election will be followed. (See A, 1 -20).

C. Withdrawal

1. A candidate who wishes to withdraw from the election must notify the Office of the Executive Director of his desire to do so by the close of business (4:30 p.m.) on the day preceding the drawing for ballot positions.

2. If a candidate is certified by the election contractor as the winner and does not wish to accept the office, the candidate must notify the Office of the Executive Director in writing. The PSERB will conduct a new election in accordance with

the procedures set forth under B, 1 - 6.⁶⁹

D. Death or ineligibility

1. If a candidate dies or for any reason is found to be ineligible before the ballots are printed, his name will not be printed on the ballot.
2. If the death or ineligibility of a candidate occurs after the ballots are printed but before they are mailed, a new ballot will be printed dropping that candidate from the ballot. The ballot positions will be adjusted accordingly. For example, if candidate one is removed from the ballot, candidate two will appear first on the new ballot.
3. If the death or ineligibility of a candidate occurs after the ballots are mailed, but before the winner is seated on the PSERB, and the deceased or ineligible candidate wins, the PSERB will conduct another election in accordance with the procedures set forth under B, 1 – 6.³
4. If an elected PSERB member dies or otherwise becomes ineligible to serve on the PSERB, the PSERB will conduct an election in accordance with the procedures set forth under B, 1 – 6.⁴

III. Application

- A. **This Election Procedures and Guidelines Policy applies to the conduct of all elections as governed by the Retirement Code.**
- B. **The PSERB will review this Policy from time to time.**

⁶⁹See also Statement of Organization, Bylaws, and other Procedures of the Commonwealth of Pennsylvania Public School Employees' Retirement Board, Section 2.4.

³ Ibid

⁴ Ibid

Exhibit A

**ELECTION OF MEMBERS
to the
Public School Employees' Retirement Board**

Public School Employees' Retirement Code

Section 8501. Public School Employees' Retirement Board

(a) Status and membership. -- The board shall be an independent administrative board and shall consist of 15 members: the Secretary of Education, ex officio; the State Treasurer, ex officio; the Secretary of Banking and Securities, ex officio; two Senators; two members of the House of Representatives; the executive secretary of the Pennsylvania School Boards Association, ex officio; one to be appointed by the Governor; three to be elected by the active professional members of the system and active professional participants in the plan from among their number; one to be elected by annuitants or participants in the plan who have terminated school service and are receiving or are eligible to receive distributions from among their number; one to be elected by the active nonprofessional members of the system or active nonprofessional participants in the plan from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and nonlegislative elected members shall be three years. The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of their legislative terms and shall continue to serve until 30 days after the convening of the next regular session of the General Assembly after the expiration of their respective legislative terms or until a successor is appointed for the new term, whichever occurs first. The chairman of the board shall be elected by the board members. Each ex officio member of the board and each legislative member of the board may appoint a duly authorized designee to act in his stead. In the event that a board member, who is designated as an active participant or as the participant in the plan who is receiving or is eligible to receive distributions, receives a total distribution of the board member's interest in the plan, that board member may continue to serve on the board for the remainder of his term.

(b) Vacancies. -- A vacancy occurring during the term of any member shall be filled for the unexpired term by a successor appointed or elected as the case may be in the same manner as his predecessor.

(c) Oath of office. -- Each member of the board shall take an oath of office that he will, so far as it devolves upon him, diligently and honestly administer the affairs of said board, the system and the plan and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to this part. Such oath shall be subscribed by the member making it and certified by the officer before whom it is taken and shall be immediately

filed in the office of the Secretary of the Commonwealth.

(d) Compensation and expenses. -- The members of the board who are members of the system or participants in the plan shall serve without compensation. Members of the board who are members of the system or participants in the plan and who are employed by a governmental entity shall not suffer loss of salary or wages through serving on the board. The board, on request of the employer of any member of the board who is an active professional or nonprofessional member of the system or active professional or nonprofessional participant in the plan, may reimburse such employer for the salary or wages of the member or participant, or for the cost of employing a substitute for such member or participant, while the member or participant is necessarily absent from employment to execute the duties of the board. The employer of any such member shall provide leave to allow such member to execute the duties of the board, including but not limited to, attendance at the location of all regular and special board and committee meetings. The members of the board who are not members of either the school system or the State Employees' Retirement System may be paid \$100 per day when attending meetings and all board members shall be reimbursed for any necessary expenses. However, when the duties of the board as mandated are not executed, no compensation or reimbursement for expenses of board members shall be paid or payable during the period in which such duties are not executed.

(e) Corporate power and legal advisor. -- For the purposes of this part, the board shall possess the power and privileges of a corporation. The board shall be an independent agency under the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act.

(f) Board training. -- Each member of the board will be required to obtain eight hours of mandatory training in investment strategies, actuarial cost analysis and retirement portfolio management on an annual basis.

Sections Amended January 30, 2004

Format and grammatical changes.

Section B, Subsection 4. Sentence referred to only the active certified Special Elections, whereas, the intent was to apply to all Special Elections.

Sections Amended December 9, 2005

Format and grammatical changes

Section III B Changed to conform to actual practice

Amendments January 25, 2007

Format and grammatical changes

Section II A 6 Combined II A 10 with II A 6

Section II A 10 Revised to read “If an election has only one candidate who qualifies to appear on the ballot, no election will be conducted. The Office of the Executive Director will notify the Chairperson of the Elections Committee and the Chairperson of the PSERB that only one candidate qualifies. The Chairperson of PSERB will declare the candidate *elected by acclamation at the next regularly scheduled meeting* in accordance with Section 46 of Robert’s Rules of Order.”

Section II B 3 “PSERB....” changed to “The Office of the Executive Director”

Exhibit A Replaced Section 501(a) and (b) to reflect the amendments to the Retirement Code made with Act No. 9 of 2001.

Amendments June 11, 2009

Section I H. Added a definition of “Public School Board Member”

Section II A 8(d). Changed the terminology to “Public School Board Member”.

Amendment April 30, 2010

Section I A. Added a definition of “Active Certified (Professional) member and Active Non-Certified (Non-Professional) member”.

Amendment March 22, 2018

Exhibit A Replaced Section 8501(a), (c) and (d) to reflect amendments to Retirement Code made with Act 5 of 2017.

Exhibit A Added Section 8501(e) and (f) to reflect amendments to Retirement Code made with Act 5 of 2017.