MEMORANDUM

DATE: August 4, 2006

TO: OPERS Retirement Board Members

FROM: Karen Carraher, Director-Finance
       Julie E. Becker, General Counsel

RE: IV. Action Items:
   A. Election Protest

Depending upon your decision, you may make either of the suggested motions:

__________ moved, __________ seconded, to find the election protest is valid,
and to instruct that Mr. Maldonado’s name be added as a candidate on the 2006
College/University election ballot.

__________ moved, __________ seconded, to find that the election protest is
invalid, and to deny the request to add Mr. Maldonado’s name as a candidate on
the 2006 College/University election ballot.

Summary: Mr. Ivan Maldonado filed a protest for failing to qualify on the
College/University ballot in the 2006 Board election (Exhibit A). Mr. Maldonado
did not obtain the sufficient number of qualifying signatures in the required
number of Ohio counties. The law requires at least 20 validated signatures in at
least 10 Ohio counties. Mr. Maldonado did not meet this requirement in 5 of the
10 submitted counties.

Applicable Law and Background: Per Ohio Revised Code 145.04 (C), one of
the five employee members of the Board shall be a university or college
employee member of the system, who shall be elected by ballot by the university
and college employee members of the system. Pursuant to Ohio Revised Code
145.05(C), any member of the public employees retirement system, except a
member who is receiving a disability benefit, is eligible for election as an
employee member of the board to represent the employee group that includes the member, provided that the member has been nominated by a petition that is signed by at least five hundred members of the employee group to be represented, including not less than twenty such signers from each of at least ten counties of the state and certified in accordance with rules adopted by the board.

According to Ohio Admin. Code 145-1-02(B)(2)(b), any member, except a member receiving a disability benefit who is not otherwise ineligible under Chapter 145, may be nominated to represent the employee group to which the member belongs by submitting petitions that contain at least five hundred valid nominating signatures. Petitions for an employee representative candidate shall contain not less than twenty signers of members from each of at least ten counties in Ohio. The member’s place of employment shall determine the county for such member.

Ohio Admin. Code 145-1-02(B)(2)(c) provides that members shall be eligible to sign a petition for the employee representative candidate if they are contributing members under an employing unit which would be represented by the candidate as of June thirtieth of the election year.

According to Ohio Admin. Code 145-1-02(4)(b), petition signatures shall be verified based on the records of the retirement system and the requirements of Chapter 145 of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.

The College/University nominating petition instructions state that “[w]e prefer that you include your Social Security number. In order for your signature to count toward this candidate’s total, you must at least include the last 4 digits of your Social Security number and your home address.” (Exhibit B).

Mr. Maldanodo submitted petitions with a total of 557 signatures. However there were not at least 20 sufficient signatures in at least 10 Ohio counties. 5 out of the required 10 counties had 19 instead of at least 20 validated signatures. A copy of the Election Petition Validation Summary sheet and Signature Validation Procedures are attached (Exhibits C and D). Some of the signatures were not validated for the following reasons:

- The member provided the last 4 digits of their social security number, however they provided their employer’s address;
- OPERS could not match the address provided by the member.

**Protest:** Pursuant to Ohio Administrative Code 145-1-02(D), OPERS staff notified Mr. Maldonado that he did not obtain sufficient signatures and that he could submit a written protest within five calendar days. Mr. Maldanodo filed his protest on August 4, 2006. (Exhibits E and A).
The rule provides that the protest shall be heard at the Board’s next meeting. The protesting individual may present any information and/or documents relevant to the protest for the board’s consideration. Pursuant to the rule, if the Board determines that the protest is valid, it shall certify the candidate for that representative group election. The Board’s decision on the sufficiency of the individual’s petitions is final.
August 6, 2006  
4648 Euclid Blvd.  
Boardman, OH 44512  

Ohio Public Employees Retirement System  
Julie Becker, General Counsel  
277 East Town Street  
Columbus, OH 43215  

Dear Ms. Becker,  

In accordance with your election rules, I would like to exercise the appeals process and share my thoughts for reconsideration with you and the OPERS Board at the August 16, 2006 board meeting. I have considered many facts in moving forward with this appeal and will rank them below for your consideration:  

1. Ohio statutory law and OPERS administrative rules do not state the need for social security numbers and home addresses to validate the signatures on nominating petitions. This requirement serves as a disincentive for OPERS members to sign a petition and for qualified candidates to seek elected office. OPERS is enforcing rules beyond the statute regarding the signatures I have secured.  

2. In a voice mail message you left me on August 4, 2006 you stated that if OPERS had the full social security number on a nominating petition, they would not require the home address to validate the signature. However, this is contrary to the stated rules of the petition and the instructions that were placed on the OPERS website (See #1).  

3. Identity theft concerns were the biggest hurdle for me to overcome. Many OPERS members conveyed their reluctance and in some cases refusal to participate in signing by placing both social security number and home address on this form even after assurances were made that the petitions would only be viewed by OPERS representatives. I, for one, understand their distress in this matter as a former Human Resource Representative and a current Payroll Officer. With that being said, many members felt that their signature, employer and county in which they are employed, was ample information to verify their membership as an OPERS member. With the exception of Youngstown State University (YSU) my home institution, where I have been employed for approximately 18 years in Human Resources and the Payroll Departments, the majority of signatures came in from employees who could identify me as someone trustworthy through an acquaintance. Many members of the other higher education institutions struggle with the fact of releasing such information to someone they do not work with daily. OPERS members commented about the fact that a Human Resources representative from Kent State University had a laptop computer stolen from his possession within the last year that contained all employees social security numbers and other personal information leaving employees at the mercy of identity thieves.
4. The petition process to someone seeking office for the first time was somewhat confusing as well as for the individuals who were signing the petitions. For example, the instructions which I downloaded from your website seem to convey one set of rules while the petition contained another set of rules. The petition itself to members was confusing as some followed your example on the “social security number” and some wrote their entire number. Members repeatedly asked for clarification on this matter. I, myself, believed either way was acceptable. When completing the “county in which employed,” many members wanted to place the county in which they resided as a natural flow from their home address. Some placed the employer address rather than their home address in this area in their haste to complete the petition.

5. If one of the exercises was to demonstrate support from other institutions instead of seeking signatures from only one or two institutions, I believe I have succeeded in that endeavor by collecting signatures from at least twelve different institutions in eleven counties and far exceeded the total number of signatures necessary to be placed on the ballot.

6. I believe it would be a disservice to the members who did sign the petitions in my support if I am not given an opportunity to be placed on the ballot simply due to technicalities in falling short by five signatures (one signature each in five different counties.) Out of the ten complete counties, nine had more than twenty signatures and one had the minimum twenty signatures. Cuyahoga County, representing Cleveland State University, had one signature that only had a partial address and was thrown out even though the individual is a current member of OPERS and an employee of CSU.

For the facts and concerns that I have stated above, I plead with all concerned to grant me this opportunity to be placed on the ballot in the spirit of fair representation to the members of the Ohio Public Employment Retirement System.

Respectfully,

Ivan Maldonado
Administrative Assistant / Payroll Office
Youngstown State University

CC: Ohio Education Association
Ohio Public Employees Retirement System
277 East Town Street Columbus, Ohio 43215-4642

NOMINATING PETITION for a COLLEGE/UNIVERSITY EMPLOYEE CANDIDATE to the Retirement Board

We, the undersigned COLLEGE/UNIVERSITY members of the Ohio Public Employees Retirement System, do hereby nominate

______________________________, as a

candidate for the COLLEGE/UNIVERSITY member of the Ohio Public Employees Retirement Board for a four-year term beginning

Jan. 1, 2007 as provided in Sections 145.04 and 145.05, Ohio Revised Code.

Candidate's Social Security Number

Candidate's (area code) phone number

(area code) fax number

e-mail

Complete each column below. It is important that you clearly print your name. We prefer you to include your Social Security number. In order for your signature to count toward this candidate’s total, you must at least include the last 4 digits of your Social Security number and your home address. Completed petitions must be received at the OPERS office no later than 4:30 p.m. Monday, July 31, 2006. Please send petitions to the attention of Karen Carraher.

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<th>NAME OF COLLEGE/UNIVERSITY EMPLOYEE (MUST BE CLEARLY PRINTED)</th>
<th>SIGNATURE OF COLLEGE/UNIVERSITY EMPLOYEE</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>HOME ADDRESS</th>
<th>COUNTY IN WHICH EMPLOYED</th>
<th>EMPLOYER</th>
<th>DATE</th>
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(Turn page for more signature lines.)
Instructions for completing nominating petition

- To be eligible to appear on the Retirement Board ballot, a candidate must obtain a minimum of 500 signatures from college/university employee members actively contributing to OPERS. At least 10 different counties must be represented by a minimum of 20 signatures each. The member's place of employment shall determine the county for such member. A nominating petition can be found on the next page.

- Candidates are encouraged to solicit more than the required minimum number of employee signatures in order to ensure that the minimum number of valid signatures will be met.

- College/University employees are those non-teaching individuals working for a state college or university in Ohio.

- College/University employee members who sign the petition must include their PRINTED NAME and SIGNATURE, as well as the name of their employer, the county in which they are employed, and the date the petition was signed. We prefer to include their full Social Security number. However, in order for their signature to be included in this candidate's total, they will need to provide at least the last four digits of their Social Security number and their home address.

- The attached petition form may be duplicated in its entirety, 8 1/2 x 11 inches, on two sides. All completed petitions must be received by the OPERS office no later than 4:30 p.m., Monday, July 31, 2006. Only petitions with original signatures are acceptable. Only petitions with original signatures are acceptable. Please send petitions to the attention of Karen Carrasher.

- A qualifying candidate must submit a biographical statement on the affidavit form provided for inclusion with the ballot mailing. A sample biographical statement is included within this packet for your review. This statement cannot exceed 75 words and must be submitted with the petitions and the provided Certification by Candidate for Election form no later than 4:30 p.m., Monday, July 31. The Board reserves the right to edit these biographical statements with notice to a candidate. References to Web sites are prohibited and will be removed.

- Candidates must also submit the provided packet of forms referencing State Retirement System Candidate Campaign Finance Requirements from the Ohio Secretary of State. These forms should be submitted to the Secretary of State's office according to the directions provided on the packet's cover letter.

- Candidates are encouraged to file their petitions early, as they are completed. This will allow prompt processing of the petitions before the deadline. Candidates may contact Karen Carrasher at OPERS two weeks after submitting their petitions to verify that enough valid signatures were received.

- If you have any questions regarding the petition or election process or regarding the duties and responsibilities of Board members, please feel free to contact Karen Carrasher or Julie Becker at 614-222-5601. You also may find more information on our website, www.opers.org.

The OPERS Retirement Board

The Retirement Board, the governing body of the System, is responsible for the administration and management of OPERS.

The eleven-member Board meets on the third Wednesday and preceding Tuesday of every month at the OPERS office in Columbus. There are other multi-day time commitments required from Board members. These include retreats, conferences, and seminars, which may require traveling outside of Columbus. On average, a Board member can expect to spend approximately 40 working days each year involved in Board business, education, or planning.

Although Board members receive no compensation, reimbursement is made for necessary expenses while serving the System.

Members elected to the OPERS Retirement Board also automatically serve on the governing board for the Ohio Public Employees Deferred Compensation Program. If you qualify to be placed on the ballot, you will receive information about this organization and its board, or you may contact them directly at (614) 466-7245.

Completed petitions must be received at the OPERS office no later than 4:30 P.M. MONDAY, JULY 31, 2006. Only petitions with original signatures are acceptable. Please send petitions to the attention of Karen Carrasher.

THE ATTACHED PETITION FORM MAY BE DUPLICATED IN ITS ENTIRETY, 8½ X 11, double-sided.
Election Petition Validation
College/University Employee Candidate

Month/Year of Election: __ Sep-06

Candidate Name: __ Ivan Malonado

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<tr>
<th>County</th>
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<td>1 Portage</td>
<td>54</td>
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<td>2 Mahoning</td>
<td>343</td>
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<td>3 Scioto</td>
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<td>4 Highland</td>
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<td>5 Lucas</td>
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<td>7 Franklin</td>
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<td>8 Summit</td>
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<td>9 Hamilton</td>
<td>16</td>
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<td>10 Cuyahoga</td>
<td>19</td>
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</tbody>
</table>

Total signatures: 553

Requirements met:

| 20 signatures from 10 counties: | No |
| 500 (or more) total signatures: | Yes |

Verified 553 signatures

Signed: ____________ Date: ____________

Title: ____________

Verified: ____________
Signature Validation Procedures

1) Petitions, either mailed to OPERS or hand-delivered to the OPERS lobby, are delivered to the OPERS Finance Director.

2) The Finance Director ensures that a copy of each petition is made and hand delivers the original petitions for signature verification to Assistant Director-Employer Reporting for use by the Data Maintenance unit staff.

3) The Data Maintenance staff attempt to locate members in the OPERS system.

4) If able to locate the member in OPERS' system via the last four digits of the SSN and address provided on the petition, the signature is counted as valid.

5) If unable to locate the member in OPERS' system via the last four digits of the SSN because the address provided does not match the address that OPERS has on file for that specific member, the employer's most recent contribution report is searched to try to locate the member. If found, the signature is flagged and forwarded to Employer Outreach to contact the employer.

   The employer is asked to provide the address they have for their employee. If the address provided by the employer matches the address on the petition, the signature is counted. If not, the address is not counted.

6) If an address is not provided for a signature, it is not counted.

7) If only the city and state and no street address is provided on the signature line, it is not counted.

8) If the member lists their employment address, instead of their home address on the petition, the signature is not counted.

9) If the last four digits of the SSN are not provided but an address is, the employer's most recent contribution report is searched to try to locate the member. If found, the signature is flagged and forwarded to Employer Outreach to contact the employer.

   The employer is asked to provide the address they have for their employee. If the address provided by the employer matches the address on the petition, the signature is counted. If not, the address is not counted.

   If by researching OPERS' system it might appear the last four digits of the SSN provided were transposed and the address provided on the petition matches what OPERS has on file then the signature is counted.

10) If by researching OPERS' system it might appear the last four digits of the SSN were transposed but the address provided does not match OPERS' records, the signature is not counted.

11) For all counted signatures, staff will validate the member is currently an active and contributing member for the employer indicated.

12) Tallies by county are kept for those signatures that are found in OPERS' system.

13) Total counts are taken to ensure qualifications are met (20 signatures from 10 different Ohio counties and 500 qualifying signatures in total).
August 3, 2006

Mr. Ivan Maldonado  
4648 Euclid Blvd.  
Youngstown, OH 44512

Dear Mr. Maldonado,

This letter is to acknowledge receipt of petitions submitted by you or on your behalf to nominate you for election to the OPERS Board.

I regret to inform you that you did not meet the minimum number of signatures required for placement on the ballot. Specifically, there were five counties in which only 19 signatures were deemed valid. To ensure the accuracy of the process, OPERS performed a recount of your petitions and both times, the minimum number of valid signatures in five counties was not met.

In accordance with election rules, you may file a protest on the insufficiency of your petitions. Should you wish to so proceed, a written protest must be received at the offices of OPERS, attention Julie Becker, General Counsel, within five (5) calendar days of the date of this letter. Any protest will be heard by the OPERS Board at its regular meeting on August 16. You have the right to representation by legal counsel at the hearing and you may present any information and/or documents relevant to the protest for the board's consideration.

Thank you very much for your interest in OPERS. If you have questions or need further assistance, please do not hesitate to contact us.

Sincerely,

Julie Becker  
General Counsel

Karen Carraher  
Director - Finance