

EMPLOYER Notice

Ohio Public Employees Retirement System • 277 East Town Street • Columbus, Ohio 43215

Recent amendment to Chapter 145 of the Ohio Administrative Code

Who should read this notice

Finance directors, payroll professionals and human resources professionals

Situation overview

Following are summaries of the rule amendments recently approved by the OPERS Board of Trustees and the Ohio General Assembly.

• 145-1-02, Election of board members

- Paragraph (C)(2)(a) – amendment provides that the ballots must carry a disclaimer that neither OPERS nor the Board endorses any particular candidate or position.
- Paragraph (C)(2)(b)(i) – amendment increases the biographical statement to 200 words and provides for standardization that includes the candidate's name, county of residence, place of employment and job title (non retirees), brief biography on work, and relevant industry knowledge or specific experience.
- Paragraph (C)(2)(b)(ii) – amendment provides that candidates must carry a similar disclaimer on any campaign materials and requests that staff pre-approve the materials to ensure the disclaimer is present.
- Paragraph (C)(3) – memorializes our current practice that if the winning candidate is elected by a margin of less than one percent of the votes cast, there will be an automatic recount.
- Paragraph (D)(2)(a) – amendment provides that if there is a protest by an unsuccessful candidate, the protest must be received by the system no later than five calendar days after notice of the unofficial election results.

What employers need to do

OPERS is required to notify public employers of any amendment or change to the Ohio Administrative Code. We recognize employers are an important resource for employees, our members; we ask you to review any informational items you may have on these topics to ensure you are compliant with the current rules and rule amendments.

Changes to the *Employer Manual*

No changes were made to the *Employer Manual* as a result of the information contained in this *Employer Notice*.

Note:

Employers may view the Ohio Administrative Code in its entirety by going to www.opers.org.



1-888-400-0965

www.opers.org

(More information on back)

Who to contact for more information

After reviewing this *Employer Notice*, contact Employer Outreach with questions at (888) 400-0965, or by email at employeroutreach@opers.org.

This Employer Notice is written in plain language for use by public employers who are subject to coverage under the Ohio Public Employees Retirement System. It is not intended as a substitute for the federal or state law, namely the Ohio Revised Code, the Ohio Administrative Code, or the Internal Revenue Code, nor will its interpretation prevail should a conflict arise between it and the Ohio Revised Code, Ohio Administrative Code, or Internal Revenue Code. Rules governing the retirement system are subject to change periodically either by statute of the Ohio General Assembly, regulation of the Ohio Public Employees Retirement Board, or regulation of the Internal Revenue Code. If you have questions about this material, please contact our office or seek legal advice from your attorney.

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145-1-02 Election of board members

(A) Notifications

- (1) At its regular March meeting in each year that an election of members to the board is required, the public employees retirement board shall establish an election time schedule. The schedule shall establish the first Monday in October as the date and place for the election count to be conducted under the supervision of the secretary of state's office.
- (2) This schedule shall include the release of news articles to interested employee and employer organizations and other interested parties, a preliminary notice to employers, the mailing of notice of elections and nominating petitions, the last date for receipt of nominating petitions and required forms, the date of the meeting at which the board shall certify candidates for election, the date by which voting materials must be mailed to eligible voters at their home addresses, and the final date for receipt of votes.

(B) Nominations

- (1) Candidates for board members shall be nominated by petition on forms provided by the public employees retirement system.
- (2) (a) Petitions and required forms for candidates as an employee representative on the board shall be mailed to employers by the system with the notice of election posters not later than the thirtieth day of June. At that time petitions and required forms may be sent to members who have requested them.
- (b) Any member, except a member receiving a disability benefit pursuant to sections 145.35 and 145.36 of the Revised Code, who is not otherwise ineligible under Chapter 145. of the Revised Code, 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 signatures of members from each of at least ten counties in Ohio. The member's place of employment shall determine the county for such member.
- (c) Members shall be eligible to sign a petition for an 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.

145-1-02 (continued)

- (3)
 - (a) A notice of election procedures shall be sent to retirants at their home addresses of record with, or at the same time that the June benefit payment is released in the year of a retirant representative election. Petitions and required forms for candidates as the retirant representative board member shall be sent, to retirants who have requested them, on the date set by the board pursuant to paragraph (A) of this rule; however, such date shall be no later than June thirtieth.
 - (b) Any retirant, who is not otherwise ineligible under Chapter 145. of the Revised Code, may be nominated to represent the retirant group with petitions which contain at least two hundred fifty valid nominating signatures. Petitions for a retirant representative candidate shall contain not less than ten signatures of retirants from each of at least five counties in Ohio. The retirant's place of residence shall determine the county of such retirant.
 - (c) Individuals shall be eligible to sign a petition for a retirant representative candidate if they are retirants eligible to receive a monthly benefit as of July first of the election year.
- (4)
 - (a) Petitions and completed required forms for a candidate shall be received by the system no later than the petition filing date established by the board in the election time schedule. A petition received after such date is invalid.
 - (b) Petition signatures shall be verified based on 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.
 - (c) The board shall certify qualified candidates for election. A qualified candidate is an individual who meets the requirements of Chapter 145. of the Revised Code and this rule as established by the records of the system. Based on the certification, the names of qualified candidates shall be placed on the ballot for election.

(C) Voting

- (1) The board may conduct an election by paper ballots or through electronic methods.
- (2)
 - (a) Voting materials for each voting member or retirant of the system shall include a list of candidates, a biographical statement for each candidate, voting instructions, a disclaimer that neither the board nor the system endorses any particular candidate or statement, and any other materials the board deems necessary.

145-1-02 (continued)

- (i) The biographical statement of a candidate shall be completed on a template provided by the system. The biographical statement of an employee representative shall carry the name, county of residence, public employer, job title, brief description of work, and relevant industry knowledge or specific experience of each candidate. The biographical statement of a retirant ballot shall carry the name, county of residence, brief description of prior work, and relevant industry knowledge or specific experience of each candidate. The biographical statement is not to exceed two hundred words. The candidate must provide an affidavit signed by the candidate verifying the accuracy and truthfulness of the statement. The board reserves the right to edit such statement for length or inappropriate content with notice to the candidate.
 - (ii) In addition, a candidate must provide a disclaimer on or with any written or spoken campaign material that neither the board nor the system endorses any particular candidate or statement, and submit such materials to staff to pre-approve the disclaimer prior to disseminating.
 - (3) If a candidate is elected by a margin of less than one percent of the votes cast, a recount will automatically be conducted.
 - (4) In the event there is a tie vote, the vote shall be decided by a coin toss. Certification of the election results shall be provided by the secretary of state at the office of the system.
- (D) Protests
 - (1)
 - (a) An individual who fails to obtain sufficient valid nominating signatures by the petition filing date may file a protest on the insufficiency of such individual's petitions. The protest shall be in writing and received by the system no later than five calendar days after notice of the insufficiency.
 - (b) A protest shall be heard at the board's next meeting. The individual may be represented by legal counsel at the hearing and may present any information and/or documents relevant to the protest for the board's consideration. The executive director shall notify the individual in writing of the board's decision. If the board determines that the protest is valid, it shall certify the individual for that representative group election.
 - (c) Once the board makes a determination of a protest on the sufficiency of an individual's petitions, neither the insufficiency nor determination shall be the basis for any other protest to the board pertaining to that individual. The board's decision is final.

145-1-02 (continued)

- (2) (a) An unsuccessful candidate in an election may file a protest in the candidate's representative group election. This protest shall be in writing and received by the system no later than five calendar days after notice of the unofficial election results.
- (b) A protest shall be heard at the board's next meeting.
 - (i) The protesting candidate may be represented by legal counsel at the hearing. The successful candidate may appear, and may be represented by legal counsel. The protesting candidate and the successful candidate may submit any information and/or documents relevant to the protest for the board's consideration.
 - (ii) The executive director shall notify the protesting candidate in writing of the board's decision.
 - (iii) If the board determines that the protest is valid, it shall declare the election for that representative group void, and the position vacant. A new election for that representative group shall be held pursuant to division (C) of section 145.06 of the Revised Code. The board's decision is final.

(E) Vacancies

- (1) Except as provided in this paragraph, if a vacancy occurs in the term of an employee member or retirant member of the board, the remaining retirement board members shall determine the schedule and manner in which they will select a successor member. The board is not required to elect a successor member for a vacancy that occurs on or after the first day of October of the year in which the vacated term ends, as described in section 145.06 of the Revised Code.
 - (a) The board shall notify the membership or retirant group affected by the vacancy in the same manner as is done for elections of retirement board members. This notice shall state the procedure for candidates for the vacancy to submit their names to the board, and the procedures for selection by the board of the candidate to fill the vacancy. Candidates shall qualify under the same eligibility requirements as the predecessor in office.
 - (b) The board shall select a successor member from those names submitted to it. A successor member shall be selected by a majority vote in which successive ballots shall occur until one candidate receives a majority. However, in the event there is a tie vote, the vote shall be decided by a coin toss.

145-1-02 (continued)

- (2) If a vacancy occurs because an individual is unable to assume the office at the January meeting of the board following the individual's election, the board shall conduct a new election as provided in this rule, except that the time schedule for the election shall occur in order to comply with section 145.06 of the Revised Code.
- (3) All documents regarding filling the vacancy, including resumes and forms required by the system, shall be made available to any person upon request and payment of the cost of compiling, copying, and mailing the documents.

Promulgated Under: R.C. 119.03

Authorized By: R.C. 145.09.

Rule Amplifies: R.C. 145.04, 145.05, 145.051,
145.058, 145.06, 145.27.

Rule Review Date: 10/15/97; 10/15/02; 9/14/07;
9/29/12.

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6/1/96; 5/31/97; 1/5/01; 10/7/01; 6/20/03; 4/10/05;
11/30/07; 5/27/10.