

CITY OF FRESNO
DEFERRED COMPENSATION BOARD
RULES AND REGULATIONS
Revised February 22, 2018

**CITY OF FRESNO
DEFERRED COMPENSATION BOARD
RULES AND REGULATIONS**

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RULES AND REGULATIONS

ARTICLE 1. OFFICERS OF THE BOARD

SECTION 1. Officers Designated. The officers of the Deferred Compensation Board shall be a Chair, a Vice-Chair and a Secretary who shall be members of the Board elected by the Board annually at the first regular meeting in August, and who shall serve at the pleasure of the Board.

SECTION 2. Powers and Duties of Officers.

(a) The Chair shall act as presiding officer at all meetings of the Board, swear in witnesses for all proceedings of the Board where sworn testimony is taken, and exercise and perform such other powers and duties as are conferred upon the Chair by law and these rules and regulations.

(b) The Vice-Chair shall have and perform all the powers and duties of the Chair in the absence of the Chair or whenever the Chair is unable for any reason to act.

(c) The Secretary shall:

(1) Keep and record the minutes of all meetings of the Deferred Compensation Board, and furnish a copy of the minutes of each regular meeting and subsequent special meeting to each member of the Board;

(2) Keep complete files of all communications to the Board, all pleadings and documents filed with the Board, and all other necessary records of the Board.

3) Act as custodian of the minutes and of all the books, documents, papers, and records of the Board;

(4) Perform such other duties as the Board may from time to time prescribe.

SECTION 3. Conflict of Interest Code. The Conflict of Interest Code set forth in section 2-901 of the Fresno Municipal Code constitutes the Board's Conflict of Interest Code.

ARTICLE 2. MEETINGS

SECTION 1. Regular Meetings. The regular meetings of the Board shall be held on the fourth Thursday of February and August, at 1:30 p.m., at the City Hall of the City of Fresno or such other place as shall be determined by the Board at the previous regular meeting and announced by posting notice thereof on the official bulletin board at the City Hall. Whenever a regular meeting date falls on a holiday, such regular meeting shall be held at the same hour on the next regular business day, unless the Board fixes a different day for such meeting and the time and place is entered in the minutes of a previous regular meeting.

SECTION 2. Special Meetings. A special meeting may be held at any time at the call of the Chair, or, in the Chair's absence or inability or unwillingness to act, at the call of three (3) members of the Board. Notice of each special meeting shall be given by (1) posting a notice thereof in a location that is freely accessible to members of the public and (2) delivering personally or by mail or facsimile or electronic mail, a written notice thereof to each member of the Board and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be posted and delivered personally or by mail or facsimile at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted and no other business shall be considered at such meeting. Such written notice may be dispensed with as to any member of the Board who at or prior to the time of the meeting convenes files with the Secretary a written waiver of notice. Such waiver may be given by telegram or facsimile. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

SECTION 3. Adjourned Meetings. The Board may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in Section 2 of this article for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified in these rules and regulations for regular meetings.

Whenever the Chair determines that the business for a meeting does not involve an action of the Board or involves an action which can reasonably and without prejudice be delayed to an ensuing meeting, the Chair may declare an adjourned meeting. The Chair shall first inform the members of the proposed action. If there is no objection therefrom, the Chair or the Chair's designee shall at the time and place set for the meeting, adjourn it to the next ensuing regular meeting.

SECTION 4. Presiding Officer. Duties. In the absence of both the Chair and the Vice-Chair from any meeting, the Secretary shall call the meeting to order and the Board shall elect from among the members present a temporary Chair who shall preside at the meeting until the Chair or Vice-Chair shall arrive at the meeting. The presiding officer shall have the power and duty to preserve strict order and decorum at all meetings. The Presiding Officer shall state, when appropriate, each question before a vote is called for thereon, announce the results of the vote on each matter, and shall decide all

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questions of order, subject, however, to an appeal to the Board, in which event a majority vote of the Board shall conclusively determine such question of order. The Presiding Officer shall be entitled to vote on all questions.

SECTION 5. Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business. Except as may be otherwise provided by law and by these rules and regulations, a majority of a quorum may decide all matters of business which come before the Board. In the event of the absence of both members elected by and from the Plan Participants or both members appointed by the City Manager with the approval of the Council, the Board shall not transact any business other than adopting the consent calendar appearing on the published agenda for the particular meeting and shall not adopt a change of fiscal or personnel policy unless there is an emergency as determined by all members present.

SECTION 6. Resolutions and Motions. The actions and decisions of the Board at any meeting shall be expressed by motion, duly seconded and voted upon by the members. The ayes, noes, and the members present and not voting shall be entered upon the minutes of the meeting. Unless a member states that he or she is not voting, silence shall be recorded as an affirmative vote.

SECTION 7. Order of Business. At the regular meetings of the Board, the following ordinarily shall be the order of business:

1. Call to Order
2. Roll Call
3. Approval of Minutes of Prior Meeting
4. Agenda Changes
5. Set Time and Date for Next Meeting
6. Board Initiated Items
7. General Discussion Items
8. Unscheduled Oral Communications/Public Comments
9. Adjournment

The Board shall provide an opportunity for public comment on any agenda item prior to taking action on that item. The presiding officer shall normally limit the comments of each member of the public to five (5) minutes. The presiding officer may vary the order of business whenever in his or her discretion it will expedite the conduct of the meeting.

SECTION 8. Other Rules for Conduct of Meetings. In the event any of the provisions in these rules and regulations conflict with the Brown Act, the latter shall govern. The latest edition of Robert's Rules of Order shall govern in all matters of procedure not otherwise provided for by law or in these rules and regulations.

SECTION 9. Agenda Proceedings.

(a) Agenda. The order of business of the Board shall be conducted from a written agenda prepared by the Chair or the Chair's designee. Matters to be brought before the Board shall, if possible, be processed as provided in this section. The Chair shall decide what items of business shall be acted upon, and place such items of business on the agenda for any regular or special meeting of the Board. A Board member may request the Secretary to place any matter on the agenda, and it shall be so placed unless the Chair or Vice-Chair rules that the matter is not germane to Board business as provided by law. In the case of such ruling, the

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Secretary shall place the request and the ruling before the Board for its decision at the next regular meeting.

(b) Submittals. Employees, Plan participants, employee representatives, and other persons to whom this rule reasonably applies, shall submit in writing requests to appear and requests for consideration of matters to the Secretary by 10 a.m. of the fourteenth (14th) calendar day preceding any regular meeting at which the matter is to be considered or the appearance made. The written request shall, if possible, contain such information including rules and regulations and authorities involved, so as to allow a full consideration of the matter, including the jurisdiction of the Board to consider the matter.

(c) Posting and Distribution of Agenda. The Secretary will post the agenda of a regular meeting in a location freely accessible to the public at least seventy-two (72) hours before the time set for the meeting. The agendas and other materials to be considered by the Board shall be made available to the public when distributed to all or a majority of the Board in accordance with the Brown Act unless exempt from disclosure under the Public Records Act.

(d) Emergency Matters. In the event a matter to be considered or appearance is an emergency situation, the time limit, in accordance with the Brown Act may be waived by a majority vote of the Board, providing an attempt is made to comply with the other requirements of this section, and proof is first received as to the necessity of immediate consideration. In the event the need to take action arose subsequent to the posting of the agenda, the Board by a two-thirds (2/3) vote (or, if less than two-thirds (2/3) of the members are present, by an unanimous vote) may waive the time limits, subject to the same provisos as emergency matters. Unnecessary delay or lack of diligence shall not be a ground for immediate consideration. The matter may be heard and considered by the Board under such circumstances except that should harm occur to any person, or interference with the public service occur because of the failure to publicize and distribute the matter, the matter may be heard, but no action will be taken. In that event, however, the Board may request that any concerned parties either change their actions or cease from taking action until the matter can be fully heard and remedied.

(e) Tabled or Laid Over Matters. The Secretary will keep a record of tabled or laid over matters and scheduled hearings and shall list such items, together with any known suspended and future items, at the end of each agenda.

ARTICLE 3. AD HOC COMMITTEES

SECTION 1. Committees. The Chair shall appoint such Ad Hoc Committees as the Board shall from time to time authorize to investigate and report to the Board on matters assigned to the committee.

SECTION 2. Committee Procedures. Each ad hoc committee may adopt rules of procedure consistent with these rules. Each ad hoc committee shall provide notice of its meetings and prepare and distribute agendas in the same manner as the Board. Board members who are not members of an ad hoc committee may attend meetings of that committee but shall not vote on ad hoc committee recommendations.

ARTICLE 4. AMENDMENTS TO RULES

SECTION 1. Amendments to Rules and Regulations. These rules and regulations may be amended at any regular or special meeting of the Board by three affirmative votes when at least ten (10) days' written notice of the proposed presentation of such amendment at such meeting has been given all members of the Board in the manner prescribed herein for special meetings, or when announcement of the proposed presentation of such amendment was recorded in the minutes of the previous regular meeting of the Board.

ARTICLE 5. DEFINITIONS

SECTION 1. Definitions of Terms. For the purposes of these rules and regulations certain words, phrases, and terms shall be construed as specified in this section.

(a) "Deferred Compensation Board" shall mean the City of Fresno Deferred Compensation Board.

(b) "Code" shall mean the Fresno Municipal Code.

(c) "By Law" shall mean the Code, the Charter of the City of Fresno, the Constitution of the State of California, or any law of the State of California made applicable to chartered cities.

(d) "day" shall mean calendar day. When a date by which an act is required to be performed under these rules falls on a Saturday, Sunday, or holiday, the date shall be extended to the next day that is not a Saturday, Sunday, or holiday.

ARTICLE 6. ELECTIONS OF DEFERRED COMPENSATION BOARD MEMBERS

SECTION 1. Elected Plan Participant Members. Elected Plan Participant Board members shall be elected by and from the Plan Participants who have a non-zero balance in their Deferred Compensation Account.

SECTION 2. Term of Office. The term of office of an elected Plan participant Board member shall be four (4) years, with the term ending on the last day of June of the fourth year. The term of

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office of the elected members shall be staggered. The office of one of the elected members shall be filled for an initial two year term. Thereafter, the term of office for both elected Board members shall be for four year terms. Each appointed Board member shall serve until his or her replacement has been appointed by the City Manager and approved by the City Council. The Board member chosen by the other four (4) members shall serve until he or she resigns or is replaced by the other four Board members.

SECTION 3. Time for Holding Elections. Elections of Board members to be elected by and from the Plan Participants shall be conducted in the month of June of the last year of each such member's term of office; provided, that the first such election conducted pursuant to this article shall be held at a time and manner prescribed by the governing body of the Deferred Compensation Plan.

SECTION 4. Secretary Shall Conduct Election. The Secretary shall conduct the election pursuant to the rules set forth in this article. Whenever in this article any act is required to be performed by the Secretary, such act may be performed by the Secretary or any person acting under the Secretary's supervision.

SECTION 5. Notice of Election.

(a) The Secretary shall give notice of the election to be held not less than fifty (50) nor more than seventy-five (75) calendar days prior to the last day for receiving ballots. The notice shall be given by posting on the bulletin board in the lobby of the City Hall and at not less than four (4) other conspicuous places in and about the buildings and premises of the city as selected by the Secretary and distributed to all other relevant locations to the extent possible and distributed by mail to each Plan Participant.

(b) The notice shall be in substantially the following form:

"NOTICE OF ELECTION OF MEMBER OF
City of Fresno Deferred Compensation Board

NOTICE IS HEREBY GIVEN that an election will be held among the Participants of the City of Fresno Deferred Compensation Plan to elect a Participant member of the Deferred Compensation Board for the term ending _____, 20__.

All Participants of the Deferred Compensation Plan who have a nonzero balance in their Deferred Compensation Account are eligible to become candidates for membership on the Deferred Compensation Board. Any member desiring to become a candidate for election may obtain a nomination petition from the Secretary to the Deferred Compensation Board whose address is _____.

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Candidates may qualify for placement of their names on the ballot by filing with the Secretary, on or before 5:00 p.m. on _____, 20____, a nomination petition, on the form obtained from the Secretary, signed by not less than 10 nor more than 20 Participants of the Deferred Compensation Plan.

Ballots will be mailed on or before _____, 20__ to all Participants in the Deferred Compensation Plan addressed to each Participant's most recent home address contained in the Plan's records. If you do not receive a ballot by _____, 20__, please telephone or visit the City's Retirement Office to obtain a ballot. Ballots must be returned in the envelope accompanying the ballot and addressed to the City's independent, outside auditor and received by the auditor on or before 5:00 p.m. on _____, 20__.

Secretary of the Deferred Compensation Board

SECTION 6. Elections: Summary of Timelines. The following information is provided to summarize specific dates for notices, petitions, issuance of petitions, receipt and counting of ballots, and the certification of the election results for elected employee Board members.

- (a) Time for Holding Election.
Elections shall be conducted in the month of June of the last year of an elected Board member's term of office.
- (b) Notice of Election.
Notice of the election shall be provided not less than fifty (50) nor more than seventy-five (75) calendar days prior to the last day for receiving ballots which is the second Friday in June.
- (c) Date for Issuance of Nomination Petitions.
Petitions shall be available from the Secretary on and after the last Friday in April of the year of the election.
- (d) Petitions and Candidate Statements Due.
Petitions and optional candidate statements are due not later than 5:00 p.m. on the second Friday in May of the year of the election.
- (e) Mailing of Ballots.
Ballots shall be mailed not later than the last Friday in May of the year of the election.
- (f) Final Date for Receipt of Ballots.
The last day for receiving ballots cast in the election shall be the second Friday in June of the year of the election.
- (g) Ballot counting date and time.
The ballots shall be counted on the Tuesday following the last day for receiving the ballots at 9:00 a.m. at the Retirement Office.

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(h) Certification of Election.

The Secretary shall certify the results of the election on or before June 30 of the year of the election.

(i) Swearing in of elected candidate.

The candidate having received the highest number of votes for each office voted upon shall be deemed elected and shall be given the oath of office by the Secretary and assume his or her office on the first meeting date following June 30.

SECTION 7. Qualifications for Nominations.

(a) Candidates for participant membership on the Board may qualify for placement of their names on the ballot by filing with the Secretary, not later than the second Friday in May of the year of the election, a nomination petition signed by not less than ten (10) nor more than twenty (20) Participants in the Deferred Compensation Plan.

(b) The petition shall be on forms available from the Secretary on and after the last Friday in April of the year of the election. Any Participant of the Plan who is eligible to vote for the candidate may circulate a petition. No Participant shall sign the nomination petition of more than one (1) candidate, and if any Participant shall sign more than one petition, his or her signature shall count on only the first petition filed.

(c) In addition to his or her signature, each signer of a nomination petition shall add the date of his or her signature, the job title of his or her position with the city, and the department in which he or she is employed or from which he or she is retired or separated. If any of this material is absent, the signature shall be rejected.

(d) Every nomination petition filed with the Secretary shall have attached thereto a declaration, under penalty of perjury, of the person who circulated the petition that he or she saw the written signature of each of the Participants who signed the petition and that they are the signatures of the persons whose names they purport to be. Each such petition shall also be accompanied by a declaration of the candidate, under penalty of perjury, that the candidate will accept the nomination and will serve as a Deferred Compensation Board member if elected, and that the candidate wishes his or her name to be placed on the ballot in the form set forth in such declaration. The candidate may also submit a statement of 200 words or less giving the candidates qualifications and platform, which will be distributed with the ballots. Said statement must be submitted with the petition, or it will not be published.

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SECTION 8. Ballots.

(a) Voting shall be by sealed ballot. The names of the candidates who have qualified for placement on the ballot shall be listed in alphabetical order, and under the name of each candidate there shall appear the job title of the position in the city service held by the candidate or formerly held in the case of participants who are retired or separated from City service, except that if an incumbent is running, his or her name shall appear first on the ballot, and under his or her name shall appear the word "Incumbent." Each group of candidates shall be headed by the designation of the office and the words "Vote for one."

(b) The ballot shall contain instructions that the voter shall place no marks or writing upon the ballot except a mark in the box after the name of the candidate voted for.

(c) There shall be furnished with the ballot delivered to each voter an inner envelope, and an outer return envelope addressed to the City Clerk to receive ballots. The ballot shall contain instructions that the voter, after marking his or her ballot, shall insert it into and shall seal the inner envelope but shall place no identifying marks thereon, and shall then insert the inner envelope into the outer envelope, write his or her name in the upper left-hand corner of the outer envelope, and mail or deliver the same to the City Clerk.

(d) The placing by a voter of any marks or writing on the ballot or inner envelope which identify the voter, or the failure of a voter to seal the inner envelope after placing the ballot therein, shall render the voter's ballot void.

SECTION 9. Roster of Participants. Mailing of Ballots.

(a) The Secretary shall cause to be prepared a roster of the active, retired, and separated employees who are Participants of the Deferred Compensation Plan as of May 1 of the year of the election and who are entitled to vote in the election. Such roster shall be prepared from the Trustee's records. Except as hereinafter provided, such roster shall govern in all questions of entitlement to be a candidate or to vote at the election.

(b) Not later than the last Friday in May of the year of the election the Secretary shall mail to each Participant whose name appears on the roster, at his or her home address as shown on the Administrator's records, one copy of the prepared ballot with envelopes and with optional candidate statements.

(c) Any Participant whose name was erroneously omitted from the roster or who, though his or her name is on the roster, claims he or she did not receive a ballot, and any employee who becomes a Participant after May 1, may personally request a ballot from the Secretary at any time prior to 12 o'clock noon on the last day for receiving ballots. If the Secretary finds the requesting person is a member entitled to vote and has not voted, the Secretary shall add the person's name and job title to the roster, if it was omitted therefrom, and shall deliver a ballot to the person, whereupon such person may cast his or her ballot and deliver it to the Secretary.

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SECTION 10. Procedure Upon Receipt of Ballots. Counting the Votes. Assumption of Office by Person Elected.

(a) On the Tuesday morning following the last day for receiving ballots, a representative from the Deferred Compensation Plan staff along with the Secretary shall check the name written on the outer envelope of each completed and returned ballot against the roster. If the name written on the outer envelope of the completed ballot appears on the roster, the outer envelope shall be removed and the inner envelope deposited unopened into a locked ballot box; otherwise, the ballot shall be rejected and placed, without opening the outer envelope, into a separate file or receptacle.

(b) On the Tuesday morning following the last day for receiving ballots, representative from the Deferred Compensation Plan staff and the Secretary shall commence the count of the votes. The count shall be conducted in the Office of the Secretary and may be witnessed by any candidate or other interested member(s). The votes cast for each candidate shall be recorded and totaled on a tally sheet.

(c) On or before June 30 of the year of the election the Secretary shall certify the results of the election. The certification shall show the total votes cast in the election and the votes cast for each candidate for each office voted upon. The Secretary shall post a copy of his or her certification on the bulletin board in the lobby of the City Hall and shall file a copy thereof with the Board, at its first meeting in August, for inclusion in the minutes.

(d) The candidate having received the highest number of votes for each office voted upon shall be deemed elected and shall be sworn by the Secretary and assume his or her office on the first meeting date following June 30.

SECTION 11. Preservation of Election Records. All records and papers, including the roster, outer envelopes, rejected ballots, tallied ballots and tally sheet shall be retained by the Secretary in accordance with the City's records retention schedule following the election and shall be available in the Office of the Secretary for inspection by any interested person.

SECTION 12. Elections to Fill Vacancies Occurring during Term. Consolidation of Elections.

(a) Whenever for any reason a vacancy occurs in the office of an elected Board member, including an impending vacancy as defined in subsection (c), the Board shall, not later than the next regular meeting after the vacancy occurs, call a special election to fill the vacancy, and shall adopt a calendar for the election based upon the same time schedule as established in this article for the conduct of regular elections, the last day for receiving ballots to be fixed as the second Friday of the second month following the month in which the call is made. Such special election shall be conducted in accordance with this article. On the first day of the month following the month in which the election is conducted, the person elected shall be sworn and take office for the unexpired term of the office.

(b) If any such vacancy occurs on or after April 1 of the year in which the term of the vacant office expires, no special election shall be called to fill the vacancy for the unexpired term. If any such vacancy, including an impending vacancy as defined in subsection (c), occurs not less than fifty-five (55) calendar days nor more than seventy-five (75) calendar days prior to

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the last day for receiving ballots in a regular or special election for the office of the other employee Board member, a special election shall not be called, but the election of a successor for the unexpired term shall be consolidated and held with such regular or special election, and the person elected shall be sworn and take office on the first meeting date following the month in which the election is held.

(c) An impending vacancy occurs on the day when a Board member files with the Secretary his or her written resignation from the office of Board member, and in such resignation fixes the effective date of his or her resignation at a future time which is on or prior to the date when the other employee Board member to be elected in a regular or special election will take office. A vacancy also occurs on the date the Board member ceases to be a Participant in the Plan by virtue of his or her receipt of the remainder of his or her Deferred Compensation Balance.

In the event such resignation is rescinded or amended to change the effective date to a time later than the date on which such other employee Board member will take office, and such rescission or amendment is in writing and the original or a true copy thereof is filed with the Secretary not later than the last day for posting of notice of such election, no impending vacancy shall be deemed to have occurred; otherwise, such resignation shall be deemed an irrevocable resignation of such employee Board from membership on the Board as of the effective date specified therein. If any such rescission or amendment is so filed with the Secretary after the Secretary has posted notice of the election to fill the impending vacancy, the Secretary shall immediately withdraw such notice and post a new notice stating that no election for that office will be held.

SECTION 13. Dispensing With Election Where Only One Qualified Candidate.

Whenever at the close of the time for filing nomination petitions only one candidate has qualified for placement on the ballot for the election of an employee Board member, the Secretary shall make a certification of that fact, naming the candidate, and shall post a copy of such certification on the bulletin board in the lobby of the City Hall. Upon the making and posting of such certification, such candidate shall be deemed elected to the office and no election shall be held for the office. The Secretary shall file a copy of such certification with the Board, at its next regular meeting, for inclusion in the minutes. The person so deemed elected shall be sworn and take office at the same time and in the same manner as if an election had been held.

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HISTORY OF RULES AND REGULATIONS

1. January 28, 2008, Adopted
2. February 25, 2009, amending: (1) Article 1, Section 1 and Section 3, (2) Article 2, Section 1, (3) Article 6, Section 10c and 10d
3. May 2014, amending: (1) Article 2, Section 1, (2) Article 6, Section 6i, (3) Article 6, Section 8c, (4) Article 6 Section 10d and (5) Article 6, Section 12b.
4. February 2018, amending Article 2, Section 1.