



## Board Report 23-09

Date: February 9, 2023

To: Board of Deferred Compensation Administration (Board)

From: Staff

Subject: 2023 Deferred Compensation Plan Board Elections:  
Active LACERS Representative/ Active LAFPP  
Representative

### Board of Deferred Compensation Administration

Thomas Moutes  
*Chair*

Neil Guglielmo  
*Vice-Chair*

Robert Schoonover  
*First Provisional Chair*

Jeremy Wolfson  
*Second Provisional Chair*

Joshua Geller  
*Third Provisional Chair*

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Linda P. Le

Joseph Salazar

Baldemar J. Sandoval

### **Recommendation:**

That the Board approve:

- (1) Revisions to the *Election Policies & Procedures* in order to allow nominating petitions to be available and submitted by candidates in-person and/or by e-mail and clarify the option to provide electronic signatures; and
- (2) That the nominating petitions for the 2023 Board elections of the Active Los Angeles City Employees' Retirement System (LACERS) Representative and Active Los Angeles Fire and Police Pensions (LAFPP) Representative:
  - (a) Be made available to prospective candidates in-person and by e-mail by Deferred Compensation Plan (DCP) staff and allow for the nominating petitions to be submitted in-person or by e-mail to DCP staff, and
  - (b) Allow for the nominating petition signatures to be provided electronically in addition to original/physical signatures.

### **Discussion:**

#### **A. Background**

Per City of Los Angeles Administrative Code Section 4.1407, Board members include directly elected employee participant representatives from the Los Angeles City Employees' Retirement System (LACERS), Los Angeles Fire and Police Pensions (LAFPP), and the Water and Power Employees' Retirement Plan (WPERP), and a retiree participant representative. The following table details the incumbent representatives and their Board terms:

Board Position	Incumbent	Term
Active LACERS Representative	Joshua Geller	July 1, 2020 – June 30, 2023
Active LAFPP Representative	Baldemar J. Sandoval	July 1, 2020 – June 30, 2023
Active WPERP Representative	Jeremy Wolfson	July 1, 2021 – June 30, 2024*
Retiree Representative	Thomas Moutes	July 1, 2021 – June 30, 2024

*\*Mr. Wolfson assumed his position at the October 19, 2021 meeting following a special election in 2021 to fill the vacant position part-way through the term.*

### **B. 2023 Board Election - Active LACERS and Active LAFPP Representative Seats**

The terms for both the Active LACERS Representative and the Active LAFPP Representative expire June 30, 2023. The election to fill these positions will be held on May 19, 2023, with new terms beginning July 1, 2023, and ending on June 30, 2026.

Key dates for this election are:

<b>Election Calendar</b>	
<b>Early March 2023</b>	Active LACERS participants and LAFPP participants will be advised via general mailing of the election and their eligibility to run for the seats.
<b>March 23, 2023</b>	Petitions to run will be made available by the DCP staff to eligible participants who choose to run.
<b>April 6, 2023</b>	Deadline for submission of petitions from participants interested in running for the seat.
<b>May 1, 2023</b>	Ballots and voting packets will be mailed to eligible voters.
<b>May 19, 2023</b>	Election Day; all ballots must be received by this date.

The Office of the City Clerk - Election Division (City Clerk) administers this election on behalf of the Board. DCP staff works closely with the City Clerk on coordinating the election process, including establishing timelines and drafting and disseminating communications. Staff will continue to work with the City Clerk and update the Board as the election process progresses.

### **C. Revision to Board Election Policies & Procedures**

Since the onset of the COVID-19 pandemic in early 2020, the Board Election Policies & Procedures have been revised several times in order to adapt the election process to accommodate the restrictions imposed by the “safer at home” orders and social distancing protocols. Of notable relevance, at its December 15, 2020 meeting, the Board adopted the following revisions to the Board Election Policies & Procedures:

- Addition of option to provide for the submission of petitions to run for Board seats and petition signatures electronically in-lieu of hard copy petitions and original/physical signatures, if the Board so designates.
- Reduction of petition signatures requirement for the LACERS, LAFPP, and WPERP employee participant representative from a minimum of 100 and a maximum of 200 to a minimum of 50 and a maximum of 100.
- Elimination of petition signatures requirement (minimum of 10 and a maximum of 20) for the retiree participant representative.

Accordingly, for the 2023 election, a minimum of 50 and a maximum of 100 eligible nominating petition signatures will be required to be certified as a candidate for the Active LACERS or Active LAFPP Representative seat.


For the 2023 election, DCP staff has further discussed with the City Clerk the protocols for how the nominating petitions could be made available to candidates, how the nominating petition signatures could be obtained, and the process by which the nominating petitions could be submitted. In doing so, it was made apparent that additional clarifying language in the Election Policies & Procedures would be necessary. Subsequently, staff is recommending revisions to the Election Policies & Procedures as outlined in **Attachment A** to:


- a) Revise Section E, in order to clarify language to allow for petitions to be picked up and submitted in-person and/or by e-mail (should the Board designate the option for the latter).
- b) Revise Section G, in order to make a technical correction to indicate the Notice of Election shall be posted at the Office of the City Clerk and to the DCP office and website.

### **D. 2023 Nominating Petitions - Electronic Distribution & Submission, with E-Signatures**

COVID-19 may continue to pose some challenges for executing the 2023 Board elections. Although certain health orders and guidelines have been lifted and it is anticipated that the emergency order will be lifted by Governor Newsom at the end of February, the situation may be subject to change. Notwithstanding safety protocols, individual employees may need to isolate or quarantine for unforeseen periods of time as best practice. Additionally, as it is anticipated that many City employees may continue to telecommute on a hybrid schedule, collecting original/physical petition signatures may be considered a barrier in this process.

In order to allow for the nominating petition process to be broadly accessible for potential candidates, staff recommends the Board designate that the 2023 nominating petitions for the Active LACERS and Active LAFPP Representative elections be made available and allow for submission in-person and/or by e-mail. Additionally, it is recommended that the potential candidates for both elections be allowed the option to collect signatures electronically from their peers, utilizing an approved method and form as designated by DCP staff and City Clerk (see Appendix A of Election Policies & Procedures).

Submitted by:   
\_\_\_\_\_  
Mindy Lam, Benefits Analyst

Approved by:   
\_\_\_\_\_  
Esther Chang, Senior Personnel Analyst II

## BOARD OF DEFERRED COMPENSATION ADMINISTRATION ELECTION POLICIES & PROCEDURES

Adopted by the Board of Deferred Compensation Administration on March 20, 2007;  
*Revised January 20, 2009; revised February 17, 2009; revised February 21, 2012;*  
*revised March 31, 2020; revised December 15, 2020; revised May 7, 2021;*  
*revised February 9, 2023.*

### **Section A. Purpose**

To establish election procedures for the Board of Deferred Compensation Administration (hereafter “Board”) members representing the active participant membership of the (a) Los Angeles City Employees Retirement System (hereafter “LACERS”); (b) Fire and Police Pensions (hereafter “LAFPP”); and (c) Water and Power Employees’ Retirement Plan (hereafter “WPERP”); and (d) the member representing participants who have retired or otherwise separated from City service.

### **Section B. Definitions**

When the initial letter of a word or phrase is capitalized herein the meaning of such word or phrase shall be as follows:

- 1) “Ballot Statement” shall mean a statement signed by the Office of the City Clerk (City Clerk) stating that all ballots received by the City Clerk have been counted.
- 2) “Ballot Tally” shall mean the counting of the ballots received by the City Clerk following an election in the manner described under Section K.
- 3) “Election Day” shall mean the date an election is to be held and the last day for ballots to be cast.
- 4) “Spoiled Ballot” shall mean a ballot that has been determined to be void by the City Clerk which may include a ballot that has stray marks or is damaged.
- 5) “Challenged Ballot” shall mean a ballot where the intent of the voter or voter information cannot be ascertained.
- 6) “Tally Results” shall mean the official results of the Ballot Tally.

### **Section C. Term of Office**

The terms of all elected positions shall be for three years beginning on the first day in July of the year of their respective elections pursuant to City of Los Angeles Administrative Code Division 4, Chapter 14, Section 4.1407.

### **Section D. Time of Election**

- 1) The election shall be held triennially during the month of May that precedes the month in which the term of office for a member of the Board is set to expire. The date of the election shall be designated by the Deferred Compensation Plan (DCP) staff not sooner than 90 days before the Election Day.
- 2) The election shall be held by secret ballot and shall be administered by the City Clerk. The City of Los Angeles Deferred Compensation Plan shall reimburse the City Clerk for all necessary expenses incurred in the administration of Board member elections and special elections.

- 3) Eligible voters shall be only those DCP participants with a balance in the DCP and who are members of a constituent group for which an election is being held on that Election Day. To be a member of a constituent group means that one is either: (a) an active employee member of LACERS, LAFPP, or WPERP; or (b) a participant who has retired or otherwise separated from City service.
- 4) DCP staff shall provide to the City Clerk a primary roster, in alphabetical order, of eligible voters as of 30 days prior to Election Day. The roster shall contain the name, address, and last four digits of the social security number (employee ID numbers for WPERP employees) of each eligible voter.

### **Section E. Nomination of Candidates and Official Ballot**

Only members of the appropriate constituent group who have been nominated as provided in this article shall be eligible to have their names placed on the official ballot for the election. In order to have their name placed on the official ballot, the member seeking to run as a candidate for a Board seat shall submit a completed nominating petition as provided for in this section. Failure to submit a completed nominating petition as provided for in this section shall result in the candidate's name not being placed on the official ballot.

1) Nominating petitions shall be made available at the DCP staff office ~~in City Hall~~ and/or, if the Board designates, electronically to members of the appropriate constituent group, not more than 60 days prior to Election Day.

1)2) The nominating petition shall be submitted at the DCP staff office and/or, if the Board designates, electronically to the DCP staff by a date and time established by the DCP staff that is not more than 14 days from the date that the nominating petition is first made available to the candidates.

2)3) The nominating petition shall have a designated space for each eligible voter to sign. Each person signing the nominating petition shall provide their name, the department in which they are employed, and the date of signing. The Board may designate that electronic signatures be collected in lieu of or in addition to physical signatures, and both physical and electronic signatures shall be counted to satisfy any candidate requirements. Wet signatures submitted electronically as designated per section E2 shall be counted as physical signatures. For samples of acceptable electronic signatures, please refer to the Electronic Nominating Petition form (see Appendix A).

3)4) In order for LACERS, LAFPP, or WPERP active employee member candidates to qualify to be placed on the official ballot, the nominating petition shall be signed by not fewer than 50 and not more than 100 individuals who are members of the DCP and respective constituent group. Signatures collected on the nominating petition shall be verified and validated by the City Clerk as described further in Section ~~E4E5~~. In order for candidates separated from City service to qualify to be placed on the official ballot, the candidate must submit a completed nominating petition with no

constituent signatures. Nominating petition signatures are not required for the separated from City service constituent group.

~~5)~~ ~~The nominating petition shall be submitted to the DCP staff by a date and time established by the DCP staff that is not more than 14 days from the date that the nominating petition is first made available to the candidates. Following the submission of nominating petitions,~~ The City Clerk shall verify that those persons signing the nominating petition were members as of the date of signing, and shall certify the sufficiency or insufficiency of each nominating petition, and shall so notify the candidate by registered mail.

~~4)6)~~ Along with the submission of the signed nominating petition, interested candidates have the option to include an occupational ballot designation and a 250-word statement of qualifications for office for the provision of information to the electorate. The occupational ballot designation shall be printed on the ballot immediately under that candidate's name and shall consist of a three-word designation of either: (a) the current principal profession, vocation, or occupation of the candidate, or (b) the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of the candidate's nominating petition. The standards for occupational ballot designations contained in the City's Election Code Section 306 are to be applied by the City Clerk as applicable, except that a candidate who is running for an elective office, which that person currently holds, shall have "(Incumbent)" printed on the ballot, immediately after that person's name, in addition to the candidate's occupational ballot designation.

~~5)7)~~ The statement of qualifications for office may include information such as education, work experience, years of service, and other relevant qualifications and shall not exceed 250 words in length. Any words beyond the 250 word limit shall not be printed by the City Clerk. Qualification statements that are submitted by the due date, as established by the DCP staff under paragraph (4), shall be printed by the City Clerk and mailed with the ballot at no expense to the candidate.

~~6)8)~~ The statement of qualifications shall include a disclaimer stating that neither the Board nor the City Clerk has verified the accuracy of the information contained in the candidates' qualification statements.

~~7)9)~~ Should any candidate fail to submit an occupational ballot designation and/or a statement of qualifications by the specified due date, the appropriate sections for the occupational ballot designation and/or qualification statement shall include a statement indicating that the candidate declined to submit an occupational ballot designation and/or a statement of qualifications.

~~8)10)~~ Prior to the Election Day, the City Clerk shall conduct a public drawing of the letters of the alphabet. Each of the letters of the alphabet shall be drawn by random. The order in which the letters are drawn shall determine the order by which the surnames



of the candidates shall be printed on the official ballot. The term “surname” shall mean the name borne in common by members of a family for this purpose.

~~9)11)~~ Each official ballot shall contain the names of all candidates who have qualified in accordance with this section. There shall be a blank space beneath these names in which the voter may write the name of any employee member of the DCP and respective constituent group not printed on the official ballot and for whom the voter may wish to vote.

### **Section F. Third Party Candidate Support**

In certain situations, funds used by third parties in order to support candidates for positions on the Board may be considered reportable gifts under State and City ethics rules and laws. These rules and laws include, but are not limited to, California's Political Reform Act of 1974, the City of Los Angeles Governmental Ethics Ordinance, and related interpretations and regulations. Candidates are strongly encouraged to contact the Los Angeles City Ethics Commission for further information.

### **Section G. Notice of Election**

- 1) Not more than 90 but not fewer than 60 calendar days prior to Election Day, the DCP staff shall notify the City Clerk of the fact of the election.
- 2) Not more than 30 but not fewer than 20 calendar days prior to Election Day, the DCP staff shall have prepared a Notice of Election specifying the election date, including a sample ballot containing the name of each candidate who has qualified to be placed on the official ballot, rules concerning eligibility to vote, and any additional information and instructions the City Clerk determines are appropriate. A copy of the Notice of Election shall be posted ~~in~~at the Office of the City Clerk and ~~to its~~ at the DCP's office and website.

### **Section H. Observers to the Ballot Tally**

Each candidate whose name appears on the official ballot may designate no more than two observers at the tally center to observe that ballots are properly cast and votes are properly counted. In addition to these designated observers, candidates may also observe. Names of all observers, including any candidates who desire to attend, shall be presented to the City Clerk not less than three calendar days prior to Election Day. Designated observers shall wear identification badges at all times, shall not interfere in the ballot tally process, and shall be subject to regulations prescribed by the City Clerk.

### **Section I. Voting Procedures**

- 1) The City Clerk shall mail a ballot packet for the election to each eligible voter listed on the roster supplied by the DCP staff. The mailing shall be completed not less than ten calendar days prior to Election Day.
- 2) Employees who become members of the DCP within 30 calendar days prior to Election Day and who wish to vote in that election shall obtain a certificate from the DCP staff certifying their eligibility to vote. The employee must present the certificate



of eligibility to the City Clerk no earlier than seven calendar days prior to and not later than the close of business on Election Day. The City Clerk shall allow these members to vote.

- 3) Each ballot packet mailed or provided to voters shall consist of the following items:
  1. A mailing envelope;
  2. A return envelope;
  3. The official ballot;
  4. An identification envelope for the official ballot with space for the voter to affix the voter's name, mailing address, last four digits of the social security number (employee ID numbers for WPERP employees), signature, and date of signing;
  5. A list of instructions to the voter; and
  6. The candidates' statements of qualifications, if any.
- 4) Upon receiving and casting their vote on the ballot, the voter shall enclose the ballot in the identification envelope. The voter shall then affix the voter's name, mailing address, last four digits of the voter's social security number (employee ID number for WPERP employees), signature, and date of signing on the identification envelope containing the ballot and shall enclose it in the return envelope. All ballots must be returned to the City Clerk by United States mail or personal deposit. Ballots shall be accepted not earlier than seven calendar days preceding Election Day, but no later than the close of business (specific time to be designated by the City Clerk) on Election Day. During this period, voters may personally deposit the return envelope containing their ballot in the ballot box in the Office of the City Clerk, Election Division. Ballots received by the City Clerk after the close of business (specific time to be designated by the City Clerk) on Election Day shall be marked as late and shall not be counted.
- 5) Upon receipt of the identification envelope and its contents, the City Clerk shall date stamp the envelope, verify the name and last four digits of the social security number (employee ID number for WPERP employees) appearing on the envelope with the roster of eligible voters, and shall cause the roster to be marked showing that the member has voted. No identification envelope shall be opened prior to the commencement of the tally.
- 6) If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with a replacement ballot. No more than two replacement ballots may be issued to the same voter. Spoiled ballots will be clearly marked "**SPOILED**" by the City Clerk.
- 7) If a voter on the roster claims not to have received a ballot, the voter may receive a replacement ballot from the City Clerk upon filing a signed affidavit claiming non-receipt of the ballot. The identification envelope of the replacement ballot shall be

prominently marked “**REPLACEMENT BALLOT**” and the original ballot issued to the voter shall be void, if received.

### **Section J. Verification of Identification Envelopes and Challenges**

- 1) The City Clerk may challenge a returned identification envelope on the following grounds:
  1. The identification envelope is not properly completed according to the instructions and does not accurately identify the voter;
  2. The voter did not include the correct last four digits of the social security number (employee ID number for WPERP employees);
  3. The voter did not sign the identification envelope;
  4. The voter’s name does not appear on the roster;
  5. The identification envelope was received after the last date and time provided pursuant with these policies;
  6. The voter has lost status as a member of the appropriate constituent group within 30 days prior to Election Day;
  7. The voter has already turned in an identification envelope.
  
- 2) An authorized observer or the City Clerk, during the Ballot Tally, may challenge the eligibility of any person to vote in the election. Challenges by observers may be made only on the following grounds:
  1. The identification envelope was not signed by the person whose name appears on the roster; or
  2. The person’s status as an eligible voter has changed since the person was certified.
  
- 3) Each identification envelope that is challenged shall have written on the envelope the word “**Challenge,**” the reason for the challenge, and the signature of the person making the challenge.
  
- 4) The City Clerk shall, with substantiating evidence, sustain or overrule each challenge. Without substantiating evidence being produced within three business days of the Election Day, the challenge shall be overruled and the ballot shall be tallied with the other ballots. Identification envelopes for which challenges have been sustained shall be retained unopened by the City Clerk for a minimum of 90 calendar days after the election results are certified.

### **Section K. Ballot Tally**

- 1) The City Clerk shall count ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. Only the City Clerk may handle ballots. All ballots counted and uncounted shall be kept in view of the observers at all times during the tally and until the Ballot Statement is finally signed.

- 2) The identification envelope containing the sealed ballot envelope shall not be opened until the tally is commenced in order to preserve the secrecy of the ballot. At the commencement of the tally, the City Clerk shall audibly announce the name of each voter and shall then open the identification envelope, removing the official ballot. After all identification envelopes have been opened and set aside from the tally area, the City Clerk shall then proceed to count and tally the ballots cast for each choice, laying the ballots face up so that observers may inspect the marks. The count shall continue in this manner until all the ballots are opened and counted. When all ballots have been counted, the total number of votes cast for each candidate shall be entered on the unofficial Tally Results.
- 3) If a ballot is a Spoiled Ballot, the ballot shall be declared void by the City Clerk and shall be preserved for a period of 90 calendar days after the election results are certified.
- 4) After preparing the official Tally Results, the City Clerk shall place under seal all ballots, identification envelopes, and tally sheets, and shall retain them in a sealed condition for not less than 90 calendar days after the election results are certified.

#### **Section L. Election Results**

- 1) The candidate who receives the most votes of all votes cast shall be elected to the position of Board member for the respective constituent group.
- 2) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the City Clerk and draw lots to determine which person shall be declared elected. The City Clerk shall determine the manner in which the lots shall be drawn and, in the event that any candidate involved does not appear, the City Clerk shall act for the absent person in the drawing of the lot. The candidate who is selected by lot shall be declared by the Board to be elected to the position of Board member for the respective constituent group.

#### **Section M. Special Election**

- 1) In the event that an elected member of the Board, prior to the expiration of such member's term, has submitted a letter of resignation or the member's office becomes vacant by virtue of death, retirement, termination of employment, or for any other reason, the City Clerk shall conduct a special election to fill the unexpired term. However, no special election shall be held where there is less than twelve months remaining before expiration of the term.
- 2) The Board shall designate the date of the special election. The special election shall be held not more than 90 calendar days after the submission of the letter of resignation or the receipt of notification of the vacancy. Candidates to be voted on at any special election shall be nominated in the same manner provided under this policy, but the nominating petition shall provide that the nomination is made for the

balance of the unexpired term and specify the ending date of that term. The nominating petitions shall be available at the office of the DCP or, if the Board designates, electronically to members of the appropriate constituent group seven weeks before the date of the special election. The special election to fill the unexpired term shall be conducted in the same manner as a regular election, except as otherwise provided for in this section.

- 3) If any candidate in a special election receives the most votes of all votes cast, the candidate shall be declared by the Board to be elected to the position of Board member for the respective constituent group for the unexpired term.
- 4) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the City Clerk and draw lots to determine which person shall be declared elected. The City Clerk shall determine the manner in which the lots shall be drawn and, in the event that any candidate involved does not appear, the City Clerk shall act for the absent person in the drawing of the lot. The candidate who is selected by lot shall be declared by the Board to be elected to the position of Board member for the respective constituent group for the unexpired term.

#### **Section N. Certification and Report of Results**

The City Clerk shall officially certify the results of the election within 14 calendar days from the Election Day.

#### **Section O. Protests of Election**

Any interested person may challenge any proceeding, act, or omission that may be material to the election, by written notice to the City Clerk not later than three business days after the count of the ballots. The City Clerk shall review the protests and submit a report of findings and recommendations to the Board, together with the official certified results of the election.

#### **Section P. Emergency and Corrective Board Actions**

The Board may take certain actions relative to the election process in the event of a local emergency declared by the City of Los Angeles, the County of Los Angeles, the State of California, or the Federal government that significantly impacts the conduct of an election. In such an event, the Board shall be able to enact temporary emergency election procedures to provide for the timely conduct of elections in accordance with the Board's Election Policies and Procedures. Additionally, the Board may take certain actions to an adopted election schedule in the event of certain administrative errors associated with the conduct of the election provided the Board finds that such modifications are necessary to support the enfranchisement of all participants who are eligible to vote in such election.

**ELECTRONIC NOMINATING PETITION FOR CANDIDATE FOR  
THE BOARD OF DEFERRED COMPENSATION ADMINISTRATION  
ACTIVE PARTICIPANT [LACERS/LAFPP/WPERP] REPRESENTATIVE**

I, the undersigned, hereby certify that I am a member of the City of Los Angeles Deferred Compensation Plan (DCP) and active member of **[the Los Angeles City Employees' Retirement System (LACERS)/Los Angeles Fire & Police Pensions (LAFPP)/the Water and Power Employees' Retirement Plan (WPERP)]**, and I hereby nominate

\_\_\_\_\_,  
**Candidate Name as it will appear on Ballot**

a member of the DCP, for the office of **Active Participant [LACERS/LAFPP/WPERP] Representative** on the Board of Deferred Compensation Administration (Board) for the term beginning July 1, 20XX, and ending June 30, 20XX.

By signing electronically below, I understand that my e-signature is being used in lieu of a physical signature and will be returned by the Candidate to the DCP as part of their Nominating Petition. The DCP and the City Clerk reserve the right to verify the eligibility and sufficiency of e-signatures.

Printed Name	Signature of Petitioner	Department	Date

**Instructions for Signers:**

The Board of Deferred Compensation (Board) has designated that electronic signatures may be used in lieu of physical petition signatures. Each Electronic Nominating Petition shall include one signature a piece. Signed Electronic Nominating Petitions shall be returned to the proposed candidate only for inclusion in their petition for candidacy and not otherwise circulated to other City employees or the public.

**Acceptable electronic signature formats include** drawn signatures, scanned wet signatures, photos of wet signatures, or Adobe Digital signatures.



**Electronic signatures that are typed only or are initials will NOT be accepted.**

