



ELECTION

Frequently Asked Questions

CASB receives many calls from school district election officials throughout the election process. Here are some of the more frequently asked questions. Here are some of the frequently asked questions. This Q & A memo assumes a basic knowledge of election law and more detailed materials on elections are available on the CASB website. This memo is for informational purposes only and is not intended to serve as direct legal advice.

PETITION PROCESS

Q: Do incumbent board members have to file a petition?

Yes, all candidates must file either a petition and notice of intent to be a candidate *or* a write-in affidavit.

Q: A petition circulator signed the circulator's affidavit after circulating the petition. Is that legal?

Yes. The circulator is required to execute the affidavit after the petition signatures have been obtained. Petition signatures made after the execution of the affidavit are void. The affidavit must be signed, notarized, dated and attached to the petition. A petition cannot be accepted without the affidavit.

Q: A candidate has two petitions being circulated by two different persons. The candidate only signed the affidavit of intent to be a candidate on one petition. Is that okay?

Yes. The candidate only needs to sign and file one affidavit of intent to be a candidate, but may circulate more than one petition. Each petition must have its own circulator's affidavit.

Q: Is the affidavit of intent to be a candidate valid if the signatures were obtained on the petition before the candidate signed the affidavit of intent?

Yes.

Q: A potential candidate lives in our school district now, but her voter registration record reflects an earlier address that is outside of the district. What should she do?

Because the law requires residency as shown on the books of the county clerk and recorder for at least 12 months before the election this person would not be eligible to run.

Q: Can candidates collect signatures on school grounds?

Candidates must comply with all district policies regarding the collection of signatures and/or distribution of materials on school grounds. School districts must apply these policies equally to all candidates.

Q: How does the designated election official determine the sufficiency of signatures on the petition?

An election official must check each individual petition entry against the master voter registration list. Colorado has a statewide voter registration system. If there is a discrepancy between the current master voter registration list and the petition entry, the voter history of the elector will be checked to determine if the information on the entry was the same as the voter registration file when the entry was made.

The following guidelines, based on the rules of the Secretary of State found at *8 CCR 1505-1 (Rule 17)*, may be used when there are inconsistencies between the name on the entry and the name on the master voter registration list:

Names:

- The name on the petition and name on the master list must be similar in form. The name on the petition will be accepted if it is a common variation of the master list name. The entry is void if the name is not found on the master list.
- If the middle name or initial is on the master list but not on the petition, the entry will be counted if the first and last names are the same on both documents.
- The entry is void if the middle name or initial on the petition is different from the middle name or initial on the master list.
- Entries on the petition or master list, which include or omit designations such as Jr., Sr., II or the like will be

accepted. If two individuals with the same name reside at the same residence, the entry is void unless it can be conclusively determined who made the entry.

Addresses:

- Entries that contain a different address from the master list are void.
- Omission of an address indicator, such as “N” for North, is acceptable.
- Post office box addresses are void.

Signatures:

- If any information on the entry line is omitted, the entry is void.
- If the signature and name are illegible and unverifiable, the entry is void.
- If there are duplicate signatures, the first will be counted and the second is void.
- If an elector is unable to sign the petition, he may receive help in completing the task by anyone other than the petition circulator. The person assisting must sign her name and indicate the help given. If there is no statement as to the assistance given, the entry is void.

Date of Signing:

- The signer must be a registered elector; otherwise the entry is void.
- Any signatures entered after the date on the circulator’s affidavit are void.

Miscellaneous:

- If any information on the entry line is omitted, the entry is void.

Q: What if the number of valid signatures on a petition is insufficient?

If the number of valid signatures is insufficient, the candidate may obtain more signatures, time permitting (before the deadline for submitting petitions). If this is done, the election official will go through the same process of verifying the entries against the master voter registration list to determine if the entries are valid. The total number of entries submitted to cure, if valid, will be added to the initial valid entries. It is up to the candidate to cure or prove the signatures are valid.

If the election official determines that a petition is insufficient and the deadline for submission of signatures

has passed, the candidate may petition the district court within five days for a review of the election official’s determination.

ELIGIBLE CANDIDATES

Q: An employee of the district wants to run for the school board. Isn’t that illegal?

No. There is no law in Colorado that prevents an employee of the district or a spouse of an employee of the district from running for the school board. However, many school districts have adopted a policy that prevents employees from serving on the board. In that case, if an employee wins the election, he or she must decide whether to give up employment in the district to serve on the board or to remain employed by the district and forego service on the board.

INFORMATION OF INTEREST TO CANDIDATES

Q: Are school board members subject to financial disclosure requirements?

School board members are not subject to the ethical standards of conduct for public officials that voters approved in the November 2006 general election (Amendment 41). By definition, Amendment 41 defines local government officials as officials of a county or municipality. School board candidates are not required to disclose to the public information about their personal finances as candidates for state office must do.

Even though school board members are not directly covered by Amendment 41, there are a number of other state laws, rules and regulations that address a wide range of ethical issues and conduct, including Fair Campaign Practices Act reporting requirements. Other matters, such as conflicts of interest, acceptance of gifts and use of confidential information are often addressed or cross-referenced in school board policy.

POST PETITION – BEFORE ELECTION

Q: A candidate that accepted a nomination wants to withdraw from candidacy. Can he?

Yes. If a candidate wants to withdraw from the election, he must submit a letter of withdrawal, signed and notarized,

to the designated election official for the district. If the letter is not received in time to take the candidate's name off of the ballot, any votes cast for the candidate are deemed invalid and will not be counted.

Q: A vacancy occurred on our board after the petition and write-in deadline. What should we do?

The board has 60 days from the effective date of the board member's resignation to fill the vacancy. However, the board can fill the vacancy in less than 60 days as long as it follows a reasonable and fair process. If the appointment is made prior to the election, the new board member can be sworn in with any newly elected members. *See C.R.S. 22-31-129(3)* if the vacancy occurs more than 90 days prior to the election.

Q: What if someone wants to challenge the qualifications of a candidate after a petition has been declared sufficient by the election official?

A petition that has been verified and appears to be sufficient by following the process in the election law shall be deemed valid unless a petition for a review of the validity of the petition is filed with the district court within five days after the election official has determined that the petition is sufficient. *See C.R.S. 1-4-909.*

CANCELING THE ELECTION

Q: We have seats open in several director districts. In one district, no one is running. Can we cancel the election in one director district?

No. The law only allows cancellation of an election if there are no qualified candidates for any of the open seats. There is nothing in statute that allows the district to cancel only part of the election. If there are any ballot issues, the candidate election must be held even if there is no contest.

Q: No petitions were filed in our district for the open seats. However, we did have one write-in candidate. Can we cancel the election?

Yes. The board can cancel the election and declare the write-in candidate to be the winner. The write-in candidate will be "deemed" elected. If there are seats that are not filled at the election, the board will have to declare the seats vacant and go through the process to fill the vacancy.

THE ELECTION

Q: Who qualifies to vote in a school district election?

An eligible elector is defined as someone who is:

- Eighteen years old
- A U.S. citizen
- A resident of the state and the precinct in which the person intends to register 30 days prior to the election in which the person intends to vote. There are exceptions to the residency requirement for overseas and military service voters and others, such as students attending an institution of higher education.

Q: How is residency determined?

Residence is the primary home of a person or the principal place to which a person returns after a departure or absence. It must be a permanent structure. Factors to consider in determining the primary home of a person include employment, sources of employment, age, marital status, residences of parents, spouse or children if applicable, other residences and the amount of time spent at the respective residences.

The residence given for voting purposes must be the same as the residence used for motor vehicle registration and state income tax purposes.

A person who keeps a domicile in another state is not considered a resident of Colorado. A person who moves out of Colorado to a different state, intending to make the new state a permanent residence, loses Colorado residency after thirty days have passed unless the person gives notice of the intention to remain a resident of Colorado.

A person who moves within the state loses his or her previous residence thirty days after moving.

Q: How does the designated election official certify the ballot?

At least sixty days before the election, the school district election official must certify the ballot order and content to the county clerk and recorder. The ballot will include the names of candidates who have filed a valid petition, the offices for which they are running and any ballot issues.

Q: How does the designated election official determine the arrangement of candidate's names on the ballot?

The designated election official must determine the order of names by a lot drawing. The candidates should be given notice as to when the lot drawing will be held and given the opportunity to attend.

Q: We have four open seats on our board and eight candidates are running. Our board has an at-large plan of representation. One of the open seats is for a two-year term; the other three open seats are for four-year terms. All of the candidates are running for the four-year term openings? Can we give the fourth highest vote getter the two-year term seat?

No. Because no candidate is running for the two-year term seat, a vacancy is created and must be filled by appointment. Any of the board candidates may express an interest in filling the vacancy, but the board is not required to appoint any of them.

AFTER THE ELECTION**Q: How long does the district need to retain election materials that it has in its possession?**

The answer to this question varies depending on the outcome of the election and the record at issue. See the Colorado State Archives' Municipal Records Retention Schedule at <http://www.colorado.gov/dpa/doit/archives/rm/MunicipalRMM/>

Q: When should the oath of office be administered and who can do it?

The oath of office can be administered either by the board president, a notary public or anyone authorized by law to administer oaths. The oath must be administered no later than 10 days after the final abstract of votes has been prepared and certified which is when the candidate receives the certificate of election. The oath should be filed with the designated election official for the district.

Q: Does the Board certify the election results?

The county canvass board will certify the abstract of the votes cast to the district election official. The election official will forward the abstract to the board. The board accepts the abstract by so noting in the minutes.

Q. What if we don't have election results in time to meet the deadline for conducting the organizational meeting?

State law allows voters to cast provisional ballots if their name is not on the official voter registration list when they go to vote. County clerks have until 14 days after the election to verify and count these ballots, which extends the timeline after the election. The last day for the county to certify the official abstract of votes is no later than the 17th day after the election. The board is to schedule its organizational meeting within 15 days after the district receives the official abstract of votes cast. School officials generally will schedule the organizational meeting as quickly as possible once official results are available.