



NDSBA

NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION



SCHOOL ELECTIONS HANDBOOK

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1 INTRODUCTION TO SCHOOL ELECTIONS

WHAT IS A SCHOOL ELECTION?

A school election is an election held under the authority of a public school board to elect board members, authorize additional taxation, authorize the issuance of bonds, or any other proposition presented to the electors in accordance with law. NDCC § 15.1-09-07 provides that, unless otherwise provided by law, a school election must be conducted, and the votes must be canvassed in the same manner as in the election of county officers.

School district elections are addressed in several provisions of NDCC chapter 15.1-09 (School Boards). In general, elections are addressed in NDCC Title 16.1; however, not all the sections in the title apply to school elections. NDCC 15.1-09-19 provides that the following sections in Title 16.1 relating to the duties of election officials apply to school elections: sections 16.1-08.1-03.3, 16.1-10-01, 16.1-10-06, 16.1-10-06.1, 16.1-10-07, 16.1-10-08, 16.1-13-22, 16.1-13-30, 16.1-15-04, and 16.1-16-04. Most of these sections are referenced in this Handbook.

WHEN MUST A SCHOOL ELECTION BE HELD?

Pursuant to NDCC § 15.1-09-22(1), the board of a public school district is required to hold an election each year between April 1 and June 30 to fill all vacancies, including those caused by the expiration of terms of current board members. In addition to the annual election, a school district may hold a special election at any time and for any lawful purpose, if approved by the school board. These additional purposes are discussed in more detail in Chapter 4.

WHO OVERSEES A SCHOOL ELECTION?

The school board is ultimately responsible for overseeing school elections. The school business manager, however, is the election official who is in charge of actually administering school elections. This means that the school business manager is generally responsible for meeting all election-related deadlines (e.g., notices) and requirements.

North Dakota law permits a school district's annual election to be held in conjunction with a city's regular election or a county's primary election upon resolution of the school board and agreement with





the governing body of the city or county. If the annual election is held in conjunction with the city or county election, the city or county is generally responsible for overseeing the election and the city clerk or the county auditor is the election official responsible for administering the election.

WHO CALLS A SCHOOL ELECTION?

The school board, by affirmative action or resolution at an open public meeting, sets and approves the date, location and polling hours of the annual election. The school board also may call a special election at any time for any lawful purpose (see NDCC § 15.1-09-23). There are several instances in North Dakota law where it authorizes or requires the county superintendent of schools to “call” for a special election for a particular purpose. For example, when a school board fails to fill a vacancy on the school board by appointment or special election within 60 days as required by NDCC § 15.1-09-05, the county superintendent of schools must call a special election for the purpose of filling the vacancy. This simply means that the county superintendent of schools must notify the school board that an election is required. The school board would then take action to set the date, location, and polling hours of the special election. One exception to this relates to the special election required to approve a school district reorganization plan pursuant to NDCC § 15.1-12-11.

The board should schedule the date of the annual election (or any special election for which board seats are to be filled) with the various election deadlines in mind, including the initial deadline to publish notice of the candidate filing deadline (which must be published no later than 94 days before the date of election). Each year, the NDSBA creates a sample School Board Election Deadlines Timeline for districts. The sample timeline assumes the annual election is set for the second Tuesday in the month of June. If the board has selected a different school board election date than what is listed on the sample timeline, the schedule will need to be adjusted to comply with the deadlines set forth in state law.



WHO IS RESPONSIBLE FOR COSTS OF THE ELECTION?

A school district is responsible for the payment of all election-related expenses, including the compensation for election officials, incurred as a result of a school district election conducted by the district.

If a school board holds its annual election in conjunction with a regular election of a city, provided the city is located wholly or partially within the school district, the school board may agree with the city's governing body to share election costs and responsibilities, including costs associated with election officials, the printing of elections materials, publishing of legal notices, and the use of poll books.

If a school district election is held in conjunction with a county primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least 64 days before the election of the offices to be filled at the election and any measures to appear on the ballot.

MAY A DISTRICT CANCEL OR RESCHEDULE AN ELECTION AFTER IT HAS BEEN POSTED?

Maybe. Each public school board is required to hold an annual election each year between April 1 and June 30. It is possible for a school board to reschedule its annual election in a given year so long as the district is able to comply with all of the statutory deadlines and requirements. NDSBA strongly discourages boards from rescheduling the date of their annual election. Rescheduling the election date may cause confusion amongst the electorate and could potentially increase the risk of a claim of voter disenfranchisement.

With respect to special elections, school boards likely have more flexibility and discretion to either cancel or reschedule the date of election. Again, rescheduling of special elections is likely permitted so long as the district is able to comply with all of the statutory election deadlines and requirements.



ARE WRITE-IN CANDIDATES ALLOWED DURING A SCHOOL ELECTION?

Yes. A qualified elector may write on the paper ballot or enter, in the case of direct-recording electronic voting system devices, the name of any person for whom the elector desires to vote, and such vote must be counted according to the provisions for the counting of write-in votes found in NDCC § 16.1-12-02.2. If a write-in candidate receives the highest number of votes for an office and is declared the winner but is not otherwise qualified to take office or refuses the seat, this will create a vacancy under NDCC § 44-02-01 and the vacancy must be filled pursuant to the requirements of NDCC § 15.1-09-05.

IS VOTING BY ABSENTEE BALLOT ALLOWED DURING A SCHOOL ELECTION?

Yes. Absentee ballots *must* be available to a qualified elector in any school district election in accordance with NDCC chapter 16.1-07. Voting by absentee ballot is discussed in more detail in Chapter 5.

County primary elections may be held by mail ballot only pursuant to NDCC chapter 16.1-11.1. School district elections held in conjunction with a county primary election are administered by the county auditor and may be conducted by mail ballot only in accordance with that chapter.



2 ISSUES THAT MAY APPEAR ON THE SCHOOL BALLOT

In addition to the annual election, a school board may call a special election at any time for any lawful purpose (see NDCC § 15.1-09-23). There are several issues that may appear on the ballot at a school district special election.

SEVERAL SUCH ISSUES ARE TO:

- Fill a school board vacancy
- Recall a school board member
- Change in the number and term length of board members
- Approve a bond measure
- Approve excess tax levies
- Increase in district's limit of indebtedness
- Approve a school district reorganization plan
- Change school district name

Several, but not all, of these issues are addressed in more detail in the following sections. See also the School Election Quick Reference Guide included in the Appendix hereto.



BOARD MEMBERSHIP

SCHOOL BOARD VACANCIES

NDCC § 44-02-01 LISTS SEVERAL GROUNDS THAT CREATE A VACANCY IN OFFICE (INCLUDING ON A SCHOOL BOARD):

- Death
- Be adjudged mentally ill
- Resignation
- Removal from office
- Failure to discharge duties for 60 consecutive days without justification
- Failure to qualify as provided by law
- Cease to be resident of school district
- Convicted of felony or offense of moral turpitude or violation of official oath
- Cease to possess qualifications of office
- Election declared void by competent tribunal

The process to fill a vacancy on a school board is set forth in NDCC § 15.1-09-05. First, when a vacancy exists on the school board, the business manager must notify the county superintendent of schools of the vacancy.

The school board is required to fill the vacancy by appointment or a special election **within 60 days** of the vacancy occurring. If the board fails to fill a vacancy within that time, the county superintendent of schools must call a special election to fill the vacancy. The special election must be conducted in the same manner as the annual school election. Most board vacancies are filled by appointment.

The individual selected by appointment or special election serves until a successor is elected and qualified at the next annual election. The successor elected will then complete the term of the individual who caused the vacancy.



RECALL OF SCHOOL BOARD MEMBER

North Dakota law provides for the right of district electors to recall a school board member. The process to recall an elected official, including a school board member, is outlined in NDCC § 44-08-21. The process begins with a petition signed by qualified electors equal to twenty-five (25) percent of voters who voted in the most recent election the official sought to be recalled was on the ballot. The recall petition must include the reason for the recall and must be approved as to form by the secretary of state before circulation. Circulators have ninety (90) days from the date the secretary of state approves the recall petition for circulation to collect the requisite number of signatures and to submit the recall petition to the school business manager.

The school business manager must pass on the sufficiency of the petition in accordance with NDCC § 16.1-01-09.1 within a reasonable period of time, not to exceed thirty (30) days. The business manager may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined to be invalid may not be counted and all violations of law discovered by the business manager must be reported to the state's attorney for possible prosecution.

Once the petition is certified by the business manager, a special election must be called by the school board. The special election must occur no sooner than 95 days, but no later than 105 days following the certification of the petition as valid and sufficient. However, a special election may not be held within 95 days of the next regularly scheduled election.

The name of the board member being recalled will automatically be placed on the ballot unless the board member resigns within ten (10) days after the business manager certifies the petition is valid and sufficient. If the board member resigns within this time period, the resignation creates a vacancy that must be filled by the board pursuant to NDCC § 15.1-09-05. A board member whose position is on the ballot at a regularly scheduled election occurring within one year may not be subject to recall. In addition, no board member may be subject to recall twice during the same term.

Other candidates for the office may be nominated and elected at the same special election. Candidates interested in running for the open seat(s) in the event the recall is approved must file the filings required by NDCC 15.1-09-08 with the business manager by the 64th day before the scheduled recall election.





A notice of the recall election must be posted in the official newspaper of the district 30 days before the candidate filing deadline (94 days before the recall election).

CHANGES TO SCHOOL BOARD MEMBERSHIP SIZE

ND law requires that the board of a school district must be composed of five, seven, or nine members. However, the size of a school board may be increased to seven or nine members or decreased to seven or five members if a petition is signed by at least one-third (1/3) of the qualified electors that voted at the most recent annual school election and the change is approved by a majority of the qualified electors of the district voting on that question at a special election called for that purpose.

If a majority of the qualified voters elect to increase the size of the board, the additional members must be elected to the board at the next annual school election in the same manner as other board members.

If voters approve increasing the board to seven members, the terms of three members extend until the first annual election, the terms of two members extend until the second annual election, and the terms of the remaining two members extend until the third annual election. If voters approve increasing the board to nine members, the terms of three members extend until the first annual election, the terms of three members extend until the second annual election, and the terms of the remaining three members extend until the third annual election.

The length of terms must be determined by lot. All board members serve for the terms specified and until their successors are elected and qualified. The length of any term in existence before the increase in board membership and held by a board member who is duly qualified may not be modified. The terms subsequent to the first term are for the normal period of three years and extend until a successor is elected and qualified.

If the qualified electors of the district approve a reduction in the size of the school board, the excess number of members will serve out existing terms until the number approved by the electors has been reached.



BOND ELECTION

PURSUANT TO REQUIREMENTS OF NDCC CHAPTER 21-03, A SCHOOL BOARD IS AUTHORIZED TO INCUR DEBT AND TO ISSUE BONDS FOR THE FOLLOWING PURPOSES:

- To purchase, erect, enlarge, and improve school buildings;
- To furnish and equip school buildings with heat, light, and ventilation;
- To purchase school bus equipment; and/or,
- To pay advance rentals to the state school construction fund.

However, with limited exceptions, a school board may not issue bonds without first being authorized to do so by **the affirmative vote of 60% of all qualified electors voting on the question**. The issuance of bonds may be: (1) initiated by resolution approved by a majority vote of the school board or (2) by petition signed by one-fourth of the number of qualified electors as shown by the pollbook for the last preceding annual election. Most bond measures are initiated by resolution adopted by majority of the school board.

THE INITIAL RESOLUTION ISSUED BY THE BOARD FOR THIS PURPOSE MUST STATE:

- The maximum amount of bonds proposed to be issued;
- The purpose for which the bonds are proposed to be issued;
- The assessed valuation of all taxable property as defined in NDCC § 21-03-01;
- The total amount of bonded indebtedness of the district;
- The amount of outstanding bonds of the district issued for similar purposes; and,
- Any other statement of fact deemed advisable by the school board or voters proposed the issuance.

The initial resolution or petition providing for the issuance of bonds, whether adopted by a majority vote of the school board of a school district or proposed by the qualified electors of the school district may provide for a specific school plan for which the proceeds of the bond issue must be exclusively used.



After adoption of the initial resolution, the school must approve a resolution to submit the question of whether the initial resolution should be approved to the voters of the district. The election for the purpose must be held **no less than 20 days after** the passage of the initial resolution or the filing of a sufficient petition by qualified electors. The school board must set the date of the election, and designate polling hours and

polling places. In addition, the board must appoint one inspector, two election judges and two election clerks for each designated polling place. The election must be conducted, and the returns canvassed as in the case of elections of school board members pursuant to NDCC chapter 15.1-09. The ballot for a bond election must be separate from other ballots used on the same day for other elections.

THE BALLOT MUST BE WRITTEN OR PRINTED, AND MUST STATE THE QUESTION IN SUBSTANTIALLY THE FOLLOWING FORM:

Shall the board of [NAME OF SCHOOL DISTRICT] issue its bonds in the amount of not to exceed \$_____, (here inserting the amount) maturing within a maximum of _____, (here inserting the duration) resulting in an estimated additional millage of _____ (here inserting the number of mills) mills, equal to \$_____ (here inserting the equivalent in dollars) on each \$1,000 of taxable valuation for the first taxable year, for the purpose of _____ (here inserting the purpose)?

Yes

No

The school business manager must give notice of the election by causing a notice to be published **once each week for at least two weeks** prior to the election in the official newspaper. The date of first publication must be **at least 15 days** before the date of the election, exclusive of the day of first publication.

THE NOTICE MUST:

1. Specify the date, polling hours, and polling places of the election;
2. Must contain a complete copy of the initial resolution; and,
3. A statement that the question to be submitted at the election will be whether the initial resolution shall be approved.



The school board must keep a record book in which the school business manager must record a full and correct statement of every step or proceeding had or taken while authorizing and issuing bonds, including a statement of the affirmative and negative votes cast by the electors.

BUILDING FUND

ESTABLISHING A BUILDING FUND

A school district must levy up to 20 mills annually for a building fund when authorized to do so by 60% of the qualified voters voting upon the question at either a regular or special election. The requirements for levying taxes for a building fund are set forth in NDCC 57-15-16. The school board may create the building fund by appropriating and setting up in its budget for an amount not in excess of 20% of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of bonded debt.

In levying taxes for a building fund, the school board must specify on the ballot the number of mills to be levied and may submit a specific plan for what the fund will be used. The plan, if any, must designate the general area intended to be served by the fund. The area to be served should be described in the plan but need not be described on the building fund ballot. After approval of the levy and the plan, no change can be made for the purpose of the expenditure of the building fund except upon a favorable vote of 60% of the qualified electors residing in any specific area intended to be served. Material changes may be made in the plan as it affects such areas to the extent that such changes do not conflict with contractual obligations.

DISCONTINUING A BUILDING FUND

If a portion or all of the proceeds of the building fund levy have been allocated by contract to the payment of rentals upon contracts with the state board of public school education as administrator of the state school construction fund, the levy must be made annually until the full amount of all such obligations is fully paid.

When all payments to the state school construction fund have been made, or upon payment and cancellation or defeasance of the bonds, the levy may be discontinued with school board approval or by petition of 20% of the qualified electors that voted in the last school election. The discontinuance of the levy must be submitted to the qualified electors of the district at any regular or special election and requires 60% approval for passage (see NDCC 57-15-16(1)).



FAILED BOND ISSUE OR MILL LEVY

Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote **until a period of at least three months has expired**. In addition, more than two elections on the same general matter may not be held within twelve consecutive calendar months.

If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the school board must resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

INDEBTEDNESS

GENERAL LIMITATIONS OF INDEBTEDNESS

Pursuant to NDCC 21-03-04, a school district may not incur indebtedness in any manner or for any purpose in an amount which, with all other outstanding indebtedness of the district exceeds 5% of the assessed value of the taxable property. A school district, however, may increase the limitation of indebtedness an additional 5% if approved by a majority vote of the qualified voters of the district voting on the question in a general or special election.

INCREASING THE DISTRICT'S LIMIT OF INDEBTEDNESS

Pursuant to NDCC 15.1-07-03, by resolution, the school board may, by resolution, place on the ballot of any regular or special election the question of increasing the district's limit of indebtedness by 5% of the assessed valuation of all taxable property in the district. The board must place the question on the ballot if the board receives a petition requesting the increase that is signed by at least one-third of those that voted in the most recent annual school election.



REORGANIZATION

SCHOOL DISTRICT REORGANIZATION

Two or more contiguous school districts (or contiguous portions of two or more school districts) may initiate a reorganization process through which the two or more districts become one reorganized district. The process and requirements for doing so are outlined in NDCC chapter 15.1-12.

IN ORDER TO INITIATE THE PROCESS, THE BOARD OF EACH PARTICIPATING SCHOOL DISTRICT MUST:

- Vote by simple majority to pursue the reorganization;
- Prepare a reorganization plan (typically in cooperation with the board(s) of the other participating districts);
- Approve the reorganization plan; and,
- Submit the plan to the county superintendent having jurisdiction over the majority of property in each participating school district.

CONTENTS OF THE REORGANIZATION PLAN

The reorganization plan must address or include all of the following:

1. A map showing the boundaries of each participating district and of the proposed new district.
2. The number of students enrolled in each participating district during the current school year and during the ten preceding school years.
3. Projected student enrollments for the ensuing ten years.
4. The location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities.
5. Any planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district.
6. Planned course offerings by the new district.
7. The planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district.



8. The planned number of members who will constitute the board of the new district and the manner in which the members are to be elected.
9. Plans regarding student transportation.
10. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district.
11. The taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district.
12. The amount of all bonded and other indebtedness incurred by each participating district; m. Include the current budget for each participating school district together with: (1) The district's estimated ending fund balance; and (2) A list of the district's anticipated expenditures for goods and services, whether in a single transaction or in multiple transactions, if the total value of the goods or services exceeds three thousand dollars, provided the requirements of this paragraph do not extend to salaries, benefits, or other compensation paid or payable to school district personnel
13. The planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18.
14. A proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law.
15. The official name of the new district, which must include the phrase "school district" or "public school district" and which may include no more than two additional words.
16. The number of the new district, as assigned by the superintendent of public instruction.
17. Any other information that the participating school districts wish to have considered by the county committee or the state board.



PUBLIC HEARINGS BEFORE COUNTY COMMITTEE AND STATE BOARD

Upon receiving the reorganization plan, the county superintendent must schedule and give notice of a public hearing regarding the plan before the county committee. The notice of hearing must be published in the official newspaper of the county at least 14 days before the date of hearing. If the school district involved includes property in more than one county, but the majority of each district's property is in the same county, the county committee of that county must consider the reorganization plan. If the school districts involved are situated in more than one county and the majority of each district's property is not in the same county, the county committees of those counties encompassing the majority of each school district must jointly consider the plan.

Before the hearing, the county committee must review the reorganization plan and ensure that all statutory requirements have been met.

At the hearing, the county committee must accept testimony and documentary evidence regarding the reorganization plan. Such evidence is typically received from the involved school districts, as well as any other interested persons. Following consideration of the evidence presented at the hearing, the committee must approve or deny the plan.

If the plan is approved by at least one county committee, the county superintendent must forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board of public school education for final approval. The state board must publish notice of its meeting at which it will consider the reorganization plan in the official newspaper of the county at least 14 days before the date of the meeting.

To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within each school district.

APPROVAL OF PLAN BY ELECTORS

If the state board approves a reorganization plan, the state board must notify the county superintendent of schools having jurisdiction over real property in the proposed new district. The county superintendent must then call a special election. The election must be held between July 1 and December 31 of the year in which the plan is approved by the state board. If there are not enough days left in the year to meet the election notice requirements, the election must be held the following year.



In addition, upon approving a reorganization plan, the state board must notify Job Service ND of the names of the districts involved, proposed election date, effective date, and proposed name of the reorganized school district.

The county superintendent must give notice of the election by publishing the time, date, and place of the election in the official newspaper of the county at least 14 days before the election.

THE ELECTION NOTICE MUST INCLUDE:

- State the election has been called for the approval or rejection of a plan to form a new school district;
- Describe the boundaries of the proposed new district; and
- Include a statement describing the adjustment of property, debts, and liabilities proposed in the plan, as well as the proposed tax levy.

The county superintendent will appoint judges and clerks for the election. The election must be conducted in the same manner and the polls must open and close at the same time as specified for school district elections. The results of the election must be canvassed and certified by the participating school boards and the results delivered to the county superintendent within 3 days after the closing of the polls.

If a majority of electors within each district approve the reorganization plan, the county superintendent must make the adjustments of property, debts, and liabilities, and perform all duties required by law to establish and organize the new school district. In addition, the county superintendent will notify Job Service ND with the results of the election and, if the reorganization was approved, the effective date of the reorganization and the name of the new school district.

REORGANIZATION PLAN THAT PROPOSES ISSUANCE OF BONDS

If the reorganization plan proposes issuance of bonds under NDCC chapter 21-03, this can be voted on at the same election that was called for the approval of the reorganization plan provided:

- Each of the school boards involved in the reorganization adopts, by majority vote, an identical resolution required by NDCC chapter 21-03; and
- All the requirements of NDCC chapter 21-03 are complied with, unless there is a conflict with section 15.1-12-14 regarding how the election will proceed, then the requirements set forth in section 15.1-12-14 will prevail.

If the reorganization plan is not by the electors, the result of the vote on the bond issuance is void.



REORGANIZATION PLAN IS REJECTED

If the voters reject the reorganization plan, the county committee may hold a public hearing as provided in section 15.1-12-10 to consider a revised reorganization plan after a period of three months from the date of the special election. If the county committee approves the revised plan, the county superintendent must submit the revised plan to the state board for approval.

If the state board approves the revised plan, the county superintendent will be notified to call a special election for approval or rejection of the revised plan. If a majority of electors within each school district vote to approve the revised plan, the county superintendent will make the adjustments of property, debts, liabilities, and perform all duties required by law to establish and organize the new school district.

CHANGES TO REORGANIZATION PLAN FOLLOWING APPROVAL

Pursuant to NDCC 15.1-12-21, the provisions of an approved reorganization plan, except those relating to boundaries and geographic voting areas, may be changed upon the approval by a majority of the qualified electors voting on the question. The school board may, upon motion, place the question to change the plan before the voters at a regular or special election.

THE QUESTION MUST BE PLACED BEFORE THE VOTERS IF THE BOARD RECEIVES A PETITION SIGNED BY AT LEAST:

- 25% of the qualified electors residing in the district, if the population of the district as determined by the county superintendent of schools, is less than 25 qualified electors;
- 20% of the qualified electors residing in the district if the population of the district is at least 25 but not more 4,000; or
- 15% of the qualified electors residing in the district if the population of the district is greater than 4,000.

If a school district has been reorganized for at least 10 years, the boundaries of geographic voting areas may be changed upon approval of a majority of the qualified electors voting on the question. The board of a reorganized district may, by resolution, change to at-large voting for school board members if there is a variance of more than 10% in the population between any of the district's established geographic areas with resident candidates.



SCHOOL BOARD MINUTES

Pursuant to NDCC 15.1-09-31, every two years, a school board must include on the ballot at the annual school board election the question of whether the school board minutes should be published in the official newspaper of the district. If a majority of the electors voting on the question approve the publication, the school business manager must arrange for publication of the school board proceedings, including an itemized list of obligations approved for payment by the board. In addition, if appropriate, the business manager must require that the newspaper publishing the board proceedings indicate that the published proceedings are subject to review and revision by the board. The business manager must ensure that the proceedings are published ***within a reasonable time after each board meeting***. A vote to approve the publication is effective for a period of two years or until disapproved at a succeeding school district election.

SCHOOL DISTRICT NAME CHANGE

A school board interested in changing the name of its district must place the question before and obtain the approval of a majority of the district's qualified voters voting on the question at a regular or special election in accordance with NDCC 15.1-07-02. The school board may place the question on the ballot by resolution or is required to do so if it receives a petition signed by at least one-third of the qualified electors that voted at the most recent annual school election. The proposed name change must include the phrase "school district" or "public school district" and may include no more than two additional words.

If a majority of the district's qualified voters approve the name change, the district must be renamed accordingly. The school business manager must provide notification of the new name to the county auditor, the county superintendent of schools, and the superintendent of public instruction.



3 SCHOOL DISTRICT ELECTION PROCEDURES

Unless otherwise required by law, a school district election must be conducted, and the votes must be canvassed in the same manner as the election of county officers. With a few exceptions, the requirements and deadlines referenced below will apply to school district annual elections and any special elections, regardless of the issues on the ballot. NDCC chapter 15.1-09 contains numerous provisions that address school district elections; however, several sections within Title 16.1 (Elections) apply as well.

The following is a step-by-step process to follow when conducting a school district election.

STEP 1: SETTING THE DATE OF ELECTION

Pursuant to NDCC 15.1-09-22(1), each school board must hold a regular election sometime between April 1 and June 30 **each year**. Many school boards in North Dakota schedule their annual election for the second Tuesday in June, the same date as county primary elections. Regardless of which date is chosen, the board should consider the statutory filing and publication deadlines when setting the date of an election. Each year, NDSBA prepares a sample Election Deadlines Calendar for its members. The calendar is based on an election date of the second Tuesday in June. A copy is included in the Appendix to this Handbook.

Regardless of whether a board is scheduled on the date of a regular or special election, the date must be set far enough in advance to comply with required pre-election deadlines. In most elections, the first deadline is 94 days prior to the election date. Therefore, the board must meet well in advance of this deadline to set the election date with sufficient time for the school business manager to comply with this requirement. To be clear, the pre-election deadlines that apply to the regular annual election will not apply in all special elections. Regardless, the school board should be cognizant of the applicable deadlines when setting election dates, especially for special elections that may have different deadlines than annual elections.

STEP 2: NOTICE OF CANDIDATE FILING DEADLINE

Pursuant to NDCC 15.1-09-09, **thirty (30) days before** the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the district. The candidate filing deadline is **64 days** before the election; thus, the notice required by



section 15.1-09-09 must be published at least **94 days** before the election date. This requirement applies in every regular annual election and at any special election that involves election of members to the board (e.g., recall election, filling board vacancy).

The following is a sample Publication Notice in compliance with section 15.1-09-09:

Notice of Candidate Filing Deadline

Notice is hereby given that the deadline for filing to have a candidate's name printed on the ballot for the **[Name of School District]** is **[filing deadline date]** by 4:00 p.m. The following offices are up for election:

School Board Member (3-year term)

A candidate for a school district office must prepare and sign a document stating the candidate's name and the position for which the individual is a candidate, and a SFN 10172 Statement of Interests form. Both of these documents must be filed with the school district business manager for **[Name of School District]** by the above deadline date and time. All forms are available from either the school district business manager for **[Name of School District]** or may be obtained online at

<https://vip.sos.nd.gov/PortalListDetails.aspx?ptlhPKID=30&ptIPKID=3#content-start>.

STEP 3: CANDIDATE FILING DEADLINE

Individuals interested in running as candidates for the school board must sign and file certain documents with the school business manager. These documents include a statement of intent and a statement of interest.

The Statement of Intent, a.k.a. the Affidavit of Candidacy ([SFN 2703](#)), must indicate the candidate's name and the position for which they are filing. The Statement of Interest ([SFN 10172](#)) must also be filed and requests information regarding:

- 1) the candidate's and their spouse's principal occupation and sources of income;
- 2) the name of each business or trust that is not the principal source of income, but in which the candidate or their spouse has a financial interest;
- 3) the associations or institutions with which the candidate and/or their spouse are closely associated or serve as a director or officer; and,



- 4) the name of any business offices, business directorships, and fiduciary relationship that the candidate or their spouse has held in the preceding year.

The aforementioned documents must be filed with the school business manager or mailed to and in the possession of the school business manager, **by 4:00 p.m. on the 64th day before the election.** If these documents are not received by the deadline, the individual may not be listed as a candidate on the ballot.

In addition to the Statement of Interest and the Statement of Intent, a candidate for the board of a district with a fall enrollment of 1,000 students must also comply with the requirements of NDCC 16.1-08.1-02.3 relating to reporting of campaign contributions.

A candidate may withdraw from participation in the election by providing notice to the school business manager before the preparation and printing of the ballot. Notice in writing is recommended. If the candidate provides this notice before the preparation and printing of the ballot (see next step), then the candidate's name may be excluded from the ballot. If the notice is provided after the ballot is prepared and printed, then the candidate's name must remain on the ballot.

School board membership eligibility is addressed in Chapter 5.

STEP 4: PREPARATION AND PRINTING OF OFFICIAL BALLOT

At least 40 days before the election, the business manager must prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals that completed a Statement of Intent and a Statement of Interest within the timelines required in NDCC 15.1-09-08.

THE BALLOT MUST BE NONPARTISAN IN FORM AND INCLUDE:

- The words "official ballot" at the top;
- The name of the school district;
- The date of the election;
- The number of persons to be elected to each office; and
- Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written.



Absentee ballots must be available in any school district election in accordance with NDCC chapter 16.1-07, including requirement to have a sufficient number of absent voter ballots for use **at least 40 days** before election. In addition, for electors who are uniformed service members or the immediate family member of a uniformed service member who is temporarily residing outside the county, ballots must be available **at least 46 days** before the election.

STEP 5: DESIGNATION OF PRECINCTS AND POLLING PLACES

At least 35 days prior to the election, the school board must designate one or more precincts for the election. “Precincts” are the basic geographical areas for organizing and administering elections. The school board must arrange the precincts in a way that divides the electors of the district as equally as possible (NDCC 15.1-09-13(1)). The size and geographic layout of the district will influence whether a school board should designate more than one precinct for its elections.

In addition, **at least thirty-five days prior to the annual election**, the school board must designate one or more polling places for each precinct. The board must locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain a polling place for a precinct until it is changed by subsequent action of the board.

It is generally recommended the board designate precincts and polling places at the time it sets the date of the election.

IN DESIGNATING A POLLING PLACE, THE BOARD SHOULD CONSIDER WHETHER THE LOCATION IS:

- Fully accessible and usable by elderly voters or voters with disabilities;
- Large enough to accommodate the election activities, including the number of required election booths/compartments;
- Free of other non-election activities;
- Smoking and alcohol free; and,
- Located within the applicable precinct boundaries.

STEP 6: SET POLL HOURS AND APPOINT ELECTION WORKERS

Once the school board designates polling places, the board must determine the time at which polls will open and close on election day. There is no deadline by which the board must set the hours;



however, it is generally recommended the board do this at the same time it designates precincts and polling places. Polls may open no earlier than 7 a.m. but must be open no later than 11 a.m. on the date of election. Polls must remain open until at least 7 p.m. but must close no later than 8:00 p.m. In Fargo School District elections, polls must open and close at the times required for city elections.

The board is also required to appoint at least two (2) election judges and at least two (2) election clerks for each polling place. It is common for the school business manager to recommend to the board the individuals to be appointed as judges and clerks and then the school board would take action at a properly noticed meeting to formally appoint them. The board must set the level of compensation to be paid to the election workers. Election workers must be paid no less than the state minimum wage.

Qualifications required of election judges and clerks are addressed in Chapter 7. It is also generally recommended that the business manager provide or make arrangements for training to the election workers prior to election day so they understand what is to occur on election day.

STEP 7: PUBLIC NOTICE OF ELECTION

At least 14 days prior to the election, the school board must publish notice of the election in the district's official newspaper. The notice must state the time and place of the election and the purpose of the vote. A sample of Notice of Election is included in the Appendix.

STEP 8: ELECTION DAY

There are several duties and responsibilities to be completed by the school business manager and/or election workers prior to and on election day. These duties and responsibilities are identified below and categorized regarding what must occur before and after the polls open and then after the polls close:



BEFORE THE POLLS OPEN:

Clerks and judges must take oath or affirmation (if haven't yet)	Business manager assigns duties to election workers	Make sure election workers will have all of the supplies they need to carry out duties	Review ballots and materials to make sure they are correct
Ensure appropriate number of election booths/compartments (NDCC 16.1-13-29)	Post voting instructions and copy of NDCC 16.1-01-12 (election offenses)	Post official ballot, copies of the complete text of any measures, and map of precinct boundaries	Post on the door(s) the date and hours the polling location(s) will be open
Business manager and judges inspect ballot box(es) to make sure empty and then lock	Publicly open sealed package of official ballots	Display the United States flag at or near each polling place (as per federal law)	Open polls at designated time

AFTER THE POLLS OPEN:

Election clerks keep an accurate pollbook as voters approach to vote	Ask each voter to show valid identification	Ask each voter if they are a U.S. citizen and whether they have resided in the district/precinct for at least 30 days	Direct voters to correct polling place if in wrong place
Provide instruction to voters	Permit voters to receive assistance from person of voter's choice (exceptions)	Judges initial ballot, inform voter, and distribute ballot to voter within a secrecy sleeve (NDCC 16.1-13-22)	One person per booth (except if providing lawful assistance)
Provide additional ballots (up to two) if voter spoils ballot	Cancel spoiled ballots immediately	Allow voters to place own completed ballot in ballot box	Do not allow ballots out of the polling place before polls close
	Allow voters standing in line at closing time to vote	Ballot box(es) must remain locked except necessary to clear jam or move ballots to make room	



AFTER THE POLLS CLOSED:

Judges count and canvass votes upon closing of polls

Judges' canvass must continue without adjournment until completed and must be open to public

After canvass on election night, judges and clerks must sign the returns and file them with business manager

Ballots must be wrapped and returned to business manager (wrap write-in ballots together and separate from others)

Reports, poll books, oaths, and other required materials must be delivered to business manager

Business manager shall secure ballots in fireproof storage until canvass by school board

IN-PERSON VOTING PROCEDURE

The following procedure is required for in-person voting on election day:

1. As an individual enters the polling location and approaches the election clerks' table, the required maps of the precinct/district, voting procedure diagrams and descriptions, copies of election offenses, copies of official ballots, copies of complete text of measures, must be readily available for review by the voter.
2. The election clerk must ask for the individual's name and identification. (See Chapter 6 for acceptable forms of identification).
3. If an individual's valid form of identification does not include the North Dakota residential address or date of birth, or the North Dakota residential address is not current, the individual may supplement the identification with a current utility bill; a current bank statement; a check or a document issued by a federal, state, local, or tribal government (including those issued by BIA for a tribe located in North Dakota, any other tribal agency or entity, or any other document that sets forth the tribal member's name, date of birth, and current North Dakota residential address); or a paycheck.
4. After the election clerk verifies the individual's qualifications and the pollbooks are checked or updated, an election judge shall initial a ballot and give the voter the initialed ballot within a secrecy sleeve. If the individual has inadvertently come to the wrong precinct, the election clerk must direct the individual to the correct precinct.



5. If the identification provided does not verify his or her qualifications, or the individual is not able to show a valid form of identification, but he or she asserts qualifications as an elector in the precinct, the individual may mark a ballot that must be securely set aside in a sealed envelope. (See next section for a detailed explanation of the Set Aside Process)
6. Ballot in hand, the voter is to move to an open poll booth and mark his or her votes in secret.
7. Voters shall ask for a new ballot if they fill an unwanted oval by accident. Two ballots may be spoiled before the third must be cast as is.
8. After the ballot is marked, a voter shall insert his or her ballot into the secrecy sleeve, bring the sleeve to a ballot box, and deposit the sleeve with the ballot into the locked ballot box.

SET ASIDE BALLOT PROCESS

If an individual's identification does not verify his or her qualifications, or an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct, he or she may mark a ballot that must be securely set aside in a sealed envelope. The following is the recommended procedure:

1. **Election Clerk's Station:** The clerk shall:
 - a. Confirm that the address provided by the individual is located in a precinct assigned to the polling place.
 - b. Give the individual the set aside outer and secrecy envelopes and instruct him or her to complete the applicable portions of the outer envelope. A sample outer set aside envelope is included in the Appendix. The individual may be asked to step aside until finished.
 - c. Review the outer envelope for completeness and accuracy.
 - d. Complete the "Issuing Election Official Use Only" portion of the envelope, but do not enter the individual into the pollbook.
 - e. Return the envelopes to the individual and send them to the election judge's station.
2. **Election Judge's Station:** The election judges shall:
 - a. Issue the individual an appropriate ballot without initialing the ballot.



- b. Issue the individual a notice containing information on how, when, and where the individual may verify his or her identification.
 - c. Inform the individual that after marking the ballot he or she is to:
 - i. Place the ballot into the secrecy envelope,
 - ii. Return to the judge's station where the judges verify that the ballot is in the secrecy envelope
 - iii. Seal the secrecy envelope in the outer envelope,
 - iv. Return the sealed envelope to the judges, and
 - v. Be reminded that the ballot will be counted by the canvassing board upon timely verification of the individual's identification, per the information on the notice.
 - d. Securely store the envelopes containing set aside ballots in a manner that is accessible in case the voter returns to the polling place with identification verification.
3. **Voter Returns While Polling Place is Still Open:** If an individual who has marked a set aside ballot returns to the polling place with valid identification, a clerk will usher the individual to the judge's station and notify the judges that the individual has returned to verify their identification. The judges should retrieve the set aside ballot and ensure that the information on the identification matches that which the individual provided on the outer envelope. If it does, the judge completes the "Verifying Election Official" portion of the outer envelope and instructs the voter to sign the "Voter Signature Upon Verification" portion. The voter is informed that the ballot will be counted by the canvassing board, and the judge returns the ballot to the secure storage.

JUDGES COUNT AND CANVASS

Upon the closing of the polls and after any voter still in line at the closing has been allowed to vote, the business manager, any appointed election inspector, and the judges shall remove the ballots from the ballot boxes in preparation for the judges' count and canvass. The judges shall commence the counting of the ballots, which must continue until completed and must be open to the public. Initially, the number of ballots should be counted and compared to the number of ballots indicated in the pollbook. If there is any discrepancy between the number of ballots counted by the judges and the number of voters indicated in the pollbook, the reason for the discrepancy should be determined.



If the voter's intent cannot be determined on the face of the ballot, the judge must set the ballot aside and it may not be included in the count. These ballots should be wrapped and secured together and must be turned over to the canvassing board (i.e., school board) for final determination at the canvassing meeting to occur on the 13th day following the election.

Once the judges' count and canvass is complete, the judges shall generate a canvass report that all election workers must sign. A sample Poll Book, Tally List and Official Returns is included in the Appendix. **No ballots may be sealed, nor any canvass report signed until the counts in the poll book(s) and in the canvass report show the same totals for ballots cast.**

WRAPPING AND SECURING OF BALLOTS

The election workers should place each kind of ballot cast at the election in a suitable wrapper to form a complete wrapper for the ballots. The ballots and the wrappers should then be tightly secured at the outer end to completely envelop and hold the ballots together. Set aside ballots should be secured in a separate wrapper and marked "set aside". Ballots that are spoiled should be separately secured and marked "spoiled". Spoiled ballots are those returned by the voter in exchange for another because the voter has made an uncorrectable error on the returned ballot. In sealing ballots, the various classes (cast, set aside, spoiled) must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts/polling locations and the date on which the election was held. The wrappers must be sealed securely so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, the opened envelopes from voted absentee ballots, the unopened envelopes of absentee ballots rejected as defective, the poll book(s), and signed canvass report/official returns must be returned in person to the school business manager. The business manager shall store all election materials in a secure, fireproof location until the canvassing meeting.

STEP 9: CANVASS OF VOTES BY SCHOOL BOARD

The school district board serves as the canvassing board for school district elections. The board must meet to canvass the returns (i.e., count the votes) and declare the results on the **thirteenth day following the election**. The purpose of the canvass meeting is to finalize the election. The canvassing meeting must occur on the thirteenth day; the board does not have discretion to schedule the canvassing for any other date.



The canvass must occur at a properly noticed, open meeting of the school board. At the meeting, the business manager should report to the board on the election. The business manager should report the number of:

- Electors voting and ballots cast in the election;
- Votes received by each candidate for each contest on the ballot; and
- Absentee ballots were cast in the election.

The school board may review and/or count all ballots cast if desired, but it is not required. School boards, for example, may wish to review only those ballots containing write-in candidates to confirm the names of those candidates and the number of votes received.

At the canvassing meeting, the school board should make any necessary rulings on whether certain ballots not included in the judges' count should be included in the final count. More specifically, the board should make rulings on any set-aside ballots, including whether the voter provided proper identification prior to the canvassing meeting. In addition, the board should make any necessary rulings on absentee ballots received after the judges' count on election night or after the deadlines set forth in NDCC chapter 16.1-07 (see Chapter 4 – Absentee Voting Procedures), or those with return envelopes having no postmark or an illegible postmark. If any ballots were marked “rejected” during the judges' count on election night, the board should make a ruling on each confirming whether the ballot should be rejected or included in the final count. NDCC 16.1-15-01 addresses when a ballot is void and may not be counted. The board should make all rulings through a motion, second and roll call vote. The school business manager should document all rulings and determinations made by the board in the canvassing meeting minutes. The school business manager should also document any determinations made by the election judges during their count and canvass on election night.

Once all appropriate determinations are made by the school board, the board should confirm the vote totals for each contest. In elections where individuals are being elected to the school board, the individual receiving the highest number of votes for each office must be declared elected. If the election results in a tie, the business manager must, **within three days after the votes are canvassed by the board**, notify the candidates, in writing, that a tie exists. Thereafter, in the presence of the judges and clerks of the election, at a time agreed to by the candidates, the election must be decided by a drawing of names. A candidate involved in a tie vote may withdraw their name from consideration if they are willing to sign a statement to that effect in the presence of, and witnessed by, the business manager. If no candidates remain, the office is filled according to the rules for filling a vacancy. The business manager must make and keep a record of the proceedings.



STEP 10: NOTICE TO AND CERTIFICATION OF WINNERS

The business manager must provide each person elected to the board with written notice of their election and of the duty to take an oath of office **within three days** after the votes are canvassed by the board (NDCC 15.1-09-17). **Within ten days** after the canvass by the school board, the business manager must certify the individuals elected and their terms to the county superintendent of schools (NDCC 15.1-09-25).

An individual elected as a member of a school board is required to take and file with the school business manager an affirmation or oath of office **within ten days after receiving notice** of the election and before commencing duties (NDCC 15.1-09-25). The term of office for a board member begins at the annual meeting in July following the member's election. The board may meet and take action between the election date and the annual meeting in July.

If the individual elected does not meet the qualifications for office (e.g., not a resident of the district, fails or refuses to take oath/affirmation) or if the candidate declines the seat, then a vacancy occurs pursuant to NDCC 44-02-01. A vacancy on a school board must be filled within 60 days in accordance with the process outlined in NDCC 15.1-09-05.



4 ABSENTEE VOTING PROCEDURES

State law provides that any qualified elector of this state may vote an absent voter's ballot at any general, special or primary state election, any county election, or any city or school district election. Therefore, absentee ballots must be available in any school election. An elector who votes by absentee ballot may not vote in person at the same election.

The school business manager is responsible for administering absentee voting in school elections not held in conjunction with a county primary election or a city election.

THERE ARE TWO DISTINCT ABSENTEE VOTING PROCESSES:

- the North Dakota process (i.e. regular), found in NDCC chapter 16.1-07; and
- the process for military and overseas voters (those covered by the UOCAVA – Uniformed and Overseas Absentee Voting Act).

The following sections cover the regular North Dakota process as outlined in chapter 16.1-07.

PREPARATION AND AVAILABILITY OF ABSENTEE BALLOTS

The school business manager must prepare and have printed and available for distribution to the public **at least 40 days before the holding of any school election** a sufficient number of absent voter's ballots for the use of all voters likely to require such ballots for that election. The business manager must ensure all ballots used as absent voter's ballots are secure at all times and accessible only to those persons under the business manager's supervision for distribution.

APPLICATION FOR ABSENT VOTER BALLOT

At any time in an election year, any qualified elector in the district may apply to the school business manager for an absent voter's ballot in an upcoming election (NDCC 16.1-07-05). A qualified elector may so apply by providing a completed application to the business manager by personal delivery, facsimile, electronic mail or otherwise.

Qualified electors may obtain an application form from the secretary of state, a county or city auditor, or school business manager. The application form must provide the applicant the ability to indicate



which elections in the calendar year the applicant wishes to vote by absentee ballot. Most school districts use the Absentee/Mail Ballot Application form ([SFN 51468](#)); A school district may choose to create its own form; however, the form must comply with the requirements set forth in NDCC 16.1-07-06.

School business managers must respond **promptly** to requests for applications.

SCHOOL DISTRICTS SHOULD MAKE ABSENTEE BALLOT APPLICATIONS AND RELATED INSTRUCTIONS AVAILABLE TO VOTERS IN MULTIPLE FORUMS, INCLUDING:

- On the district's website, Facebook page, or Twitter account;
- At various locations throughout the community that are accessible by the public (e.g., grocery stores, convenience stores, etc.); and
- Via email or mail upon request

COMPLETION OF APPLICATION BY VOTER

When completing an application for an absent voter's ballot, the applicant must indicate an allowed type of North Dakota ID.

THE ACCEPTABLE FORMS OF IDENTIFICATION FOR VOTING ABSENTEE INCLUDE THE FOLLOWING (NDCC 16.1-07-06):

- North Dakota form of identification listed for voting in-person.
- Military ID – only for uniformed service or family member stationed away from North Dakota residence.
- Passport – only for North Dakota residents outside the United States.
- Attester – an applicant without a valid form of Identification may use an attester. The attester must provide his or her name, ND driver's license, non-driver's or tribal identification number, and sign the absentee/mail ballot application form to attest to the applicant's ND residency & voting eligibility.



RETURN OF APPLICATION BY VOTER

A completed application must be submitted to the school business manager in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election. NDCC 16.1-07-05 permits a voter to return a completed application to the school business manager via personal delivery (i.e., drop box location outside of district office), facsimile, electronic mail, or otherwise. An incomplete application must be returned to the applicant for completion and resubmission. Applications are open records except applicant's DOB, ID #, and any supplemental documentation provided under NDCC 16.1-01-04.1.

School districts are strongly encouraged to establish a drop box location(s) outside of the school district office (and throughout community) to accommodate personal delivery of absentee ballot applications by voters. Drop box location(s) should be secure and monitored frequently to maintain security. NDSBA has developed recommended Chain of Custody Procedures for use by school business managers if drop boxes are used to collect absentee ballot applications and completed ballots. A copy is included in the Appendix hereto.

An election official shall deliver an absentee ballot to a qualified elector only upon receipt of an application meeting the requirements of section 16.1-07-06 from the elector.

SENDING BALLOT TO VOTER

Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot has been prepared, the school business manager must send to the absent voter by mail, at the expense of the school district, the following:

- **One official ballot**
 - ✓ If there is more than one ballot to be voted by an elector for the election, one of each kind must be included and a secrecy envelope and a return envelope included for each ballot.
- **A set of voter instructions**
 - ✓ Prescribed by secretary of state and sufficient to describe the process of voting by absent voter's ballot.
 - ✓ Must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.



- **A secrecy envelope**
 - ✓ Must be sufficient to ensure secrecy of the ballot when placed inside the envelope.
 - ✓ Recommended that the secrecy envelope be conspicuously labelled “SECRECY ENVELOPE” so that the voter knows to place their completed ballot inside.
- **A return envelope**
 - ✓ Must bear the official title and post office address of the business manager on the front.
 - ✓ A voter’s affidavit must be printed on the back.

If a district is a reorganized district and its plan requires school board members from specified geographic areas and/or restricts voting for those members to electors who reside within the specified geographic area(s), the business manager must ensure that the absentee voters receive the correct ballot corresponding to the appropriate geographic area within which the voter resides. NDCC 16.1-07-08(2) requires that the voter complete the voter’s affidavit printed on the back side of the return envelope provided with the ballot, in substantially the following form:

Precinct _____
Name _____
Residential Address _____
City _____
ND Zip Code _____

Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.

Applicant's Signature _____
Date _____

The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot.



RETURN OF BALLOT BY VOTER

After completing their ballot, an absent voter should enclose the ballot within the secrecy envelope and place the secrecy envelope containing the ballot in the return envelope. The voter must fill out, date and sign the voter's affidavit on the back of the return envelope. The voter may then deliver the sealed return envelope to the school business manager by mail, personal delivery, or drop box location (if any).

Return envelopes with no postmark or an illegible postmark must be received by mail by the business manager prior to the meeting of the school board to canvass returns in order to be counted. Any return envelopes with a postmark on the day of election or thereafter may not be counted.

TO BE COUNTED, RETURNED BALLOTS MUST EITHER:

- Be postmarked no later than day before election; OR
- Delivered to the school district business manager any time before 5 pm the day before election.

Upon receipt of a return envelope containing a ballot, the school business manager must immediately attach the application of the absent voter to the return envelope without opening the envelope and file the return envelope with the application attached with the other absentee ballots received for the election. The business manager must store these ballots in a secure, fireproof location until ready for processing.

PROCESSING OF ABSENTEE BALLOTS

At any time beginning three business days before election day and when the polls close on election day, the election workers may process absentee ballots. To begin the process, the election clerks should first compare the signature on the application for the absent voter's ballot with the signature on the completed voter's affidavit on the return envelope to ensure the signatures correspond.

The clerk should confirm the applicant/voter is then a duly qualified elector of the school district and has not voted at the election. If the applicant is qualified and has not yet voted, the clerk should open the return envelope, being careful not to destroy the affidavit on the back. The clerk should then record in the pollbook of the election that the elector has voted. The clerk will then take out the



secrecy envelope containing the ballot. The clerk should NOT remove the ballot from the secrecy envelope at this time. It is recommended that clerks compare signatures and remove the secrecy envelopes for all the absentees received before moving on to the next step. This helps to maintain the secrecy of the voter's ballot.

Election workers not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot(s) from the secrecy envelope, unfold and initial the same, and deposit in the ballot box. The votes from these case ballots cannot be tallied/counted by the judges until the polls have closed on election day. After the polls close, these ballots are counted and canvassed by the election judges with the rest of the voted ballots from election day.

If there is reason to reject the ballot (e.g., the applicant is not a qualified elector of the school district), the ballot may not be counted by the judges upon closing the polls. In such circumstances, without opening the secrecy envelope, a judge should mark across the face of the envelope "rejected as defective" or "rejected as not an elector" as the case may be. These rejected ballots should not be counted by the judges after closing of the polls and must be turned over to the canvassing board (i.e., school board) for final determination of eligibility at the canvassing meeting. All voters whose absentee ballots were not counted should be sent a written notice explaining that the ballot was rejected and the reason for the rejection.

SIGNATURE MISMATCH – VERIFICATION OF SIGNATURES

If the school business manager has reason to suspect the signature on the application was made by a different individual than the individual who signed the affidavit on the return ballot envelope, the business manager must attempt to contact the absent voter as soon as practicable to provide an opportunity to validate the signatures.

Contact must first be attempted by phone if the absent voter provided a phone number on the submitted application. If the business manager is unable to speak with the absent voter by phone, the business manager must mail a notice informing the absent voter the absentee ballot has been identified as having a signature mismatch and will be rejected if not verified.



THE NOTIFICATION MUST INCLUDE:

- Instructions by which the absent voter may confirm the validity of the signatures;
- a statement that verification is required before the ballot can be counted;
- the date and time of the canvassing board meeting; and,
- a statement that verification must be completed by the absent voter before close of the canvassing meeting of the school board occurring on the thirteenth day after the election.

The absent voter may confirm the validity of the signatures by written communication or personal visit to the office of the school business manager administering the election. If the voter confirms by written communication, the written communication must include a copy of the identification used when applying for the ballot. If the voter confirms through a personal visit to the business manager, the voter must show the identification used when applying for the ballot. The business manager must make a copy of the identification shown, and the copy must be included with the application and ballot when provided to the school board for canvassing. The school board must include in the final canvass the ballot from an absent voter who has completed the verification process and was eligible to vote the returned ballot.

The business manager must record in the minutes of the school board canvassing meeting the manner and number of attempts made to contact an absent voter for signature verification, the number of ballots included in the tally because the signatures were verified, and the number of ballots ultimately rejected by the canvassing board along with the reasons for the rejections.

After the canvassing meeting of the school board, the business manager must send a written notice to each absent voter whose ballot was rejected and not counted because of signature mismatch.



5 SCHOOL BOARD CANDIDATES

WHO MAY RUN FOR THE SCHOOL BOARD?

An individual who is a qualified elector of this state may serve as a board member for the school district in which the individual resides.

To qualify as an elector, an individual must be:

- A citizen of the United States;
- Eighteen years or older;
- A resident of North Dakota; and,
- A resident who has resided in the precinct/district at least thirty days immediately preceding any election.

An individual residing on a military installation is deemed to be a resident of a school district if the school district admits students from the military installation pursuant to a contract and receives impact aid pursuant to Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.], as amended.

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for public office relating to criminal convictions which are more restrictive than the laws of this state, the qualifications for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office relating to criminal convictions. "Tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state.

HOW DOES A CANDIDATE APPLY TO BE A SCHOOL BOARD MEMBER AND IS THERE A DEADLINE?

Candidates filing for the school board election must submit a signed Statement of Intent (or Affidavit of Candidacy) that indicates their name and the position they are filing for as well as a Statement of Interests. These documents must be filed and in the possession of the school business manager by 4:00 p.m. on the 64th day before the election.



HOW MANY POSITIONS ARE OPEN FOR A SCHOOL BOARD EACH YEAR AND WHAT IS THE TERM?

The number of positions open on a school board each year and the length of the positions term varies by school district. This information can be obtained by contacting the school district superintendent or business manager.

Per state law, the board of a school district must be composed of five, seven, or nine members. The term of each elected member of a school board is three years, except when the member is completing the unexpired term of another. A school board may, by resolution adopted by a majority of its members, change the terms of office for its members from three to four years. In that case, the members' terms must be staggered and must expire in even-numbered years. The term of office for a school board member begins at the annual meeting in July following the member's election and continues until a successor is elected and qualified or immediately following the appointment or special election of that member.

WHY ARE TERMS OF BOARD MEMBERS STAGGERED?

This is done so there will be continuity on the board. Theoretically, a majority of the board will be carried over into the following year. An exception occurs when someone has vacated a seat during the term, for which a successor must be elected at the next regularly scheduled election in addition to regularly scheduled vacancies. The other exception occurs when a district has converted to four-year terms and holds elections every two years.

WHAT IF A CANDIDATE IS NOT ELIGIBLE AT THE TIME OF CANDIDATE FILING?

If the school business manager receives filing documents from a candidate that does not appear to meet the eligibility requirements to sit on the school board, the business manager may contact the candidate and explain the eligibility requirements. The candidate may choose to withdraw their interest and should do so by signing a written statement to that effect and provide the statement to the business manager. If the candidate chooses not to withdraw their interest, the business manager should include the candidate's name on the ballot. Eligibility will ultimately be determined when the election is completed, and the results are declared.



ARE CANDIDATES ALLOWED AT THE POLLS ON ELECTION DAY?

Yes. However, an individual may not ask, solicit, or in any manner try to induce or persuade, any voter within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing a polling place while it is open for voting to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people.

Individuals may also not buy, sell, give, or provide any political badge, button, or any insignia within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing the polling place while it is open for voting. No such political badge, button, or insignia may be worn within that same area while a polling place is open for voting.

HOW DOES A BOARD MEMBER CANDIDATE WITHDRAW?

A candidate may withdraw from participation in the election by providing notice to the school business manager before the preparation and printing of the ballot. A signed, written statement witnessed by the business manager to this effect is recommended. If the candidate provides this notice before the preparation and printing of the ballot, the candidate's name may be excluded from the ballot at the time of preparation and printing. If the notice is provided after the ballot is prepared and printed, then the candidate's name must remain on the ballot.

A board member candidate involved in a tie vote following the election may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the business manager.

WHEN DO NEWLY ELECTED BOARD MEMBERS TAKE OFFICE?

The term of each newly elected board member begins at the start of the annual meeting of the board in July, after taking the oath of office as prescribed for all elected officials in North Dakota. This oath can be found in NDCC 44-01-05 and in Section 4 of Article XI of the North Dakota Constitution and must be taken by the elected individual within ten (10) days after being notified of their election.



MAY SCHOOL EMPLOYEES RUN FOR THE SCHOOL BOARD?

There is nothing in North Dakota law that prohibits a current school district employee from running for the board of the district in which they are employed. However, if an employee is elected to the board, the employee may have to make a choice between the two positions if the positions are incompatible. Whether a particular employment position and board service in a district are incompatible will depend on the functions and duties of the positions. The ND Supreme Court has already determined that employment as a teacher and serving on the board in the same district is incompatible. In reaching that decision, the court stated that “two offices or positions are incompatible when one has the power of appointment to the other or the power to remove the other, and if there are many potential conflicts of interest between the two, such as salary negotiations, supervision and control of duties and obligations to the public to exercise independent judgment.” Under this analysis, other contractual, certified positions such as superintendent, principal, and school counsellor would likely be incompatible with board service as well.



6 ELECTORS IN SCHOOL ELECTIONS

WHO MAY VOTE IN A SCHOOL ELECTION?

An individual who is a qualified elector of this state may vote to elect board members for the school district in which the individual resides or for any other proposition presented to the electors in accordance with law.

TO QUALIFY AS AN ELECTOR OF THIS STATE, AN INDIVIDUAL MUST BE:

- A citizen of the United States;
- Eighteen years or older; and
- A resident of this state who has resided in the precinct at least thirty days immediately preceding any election.

An individual residing on a military installation is deemed to be a resident of a school district if the school district admits students from the military installation pursuant to a contract and receives impact aid pursuant to Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.], as amended.

ARE ELECTORS IN SCHOOL ELECTIONS REQUIRED TO SHOW ID BEFORE VOTING?

Yes. A qualified elector shall provide a valid form of identification to the proper election official before receiving a ballot for voting.

THE IDENTIFICATION MUST PROVIDE THE FOLLOWING INFORMATION REGARDING THE ELECTOR:

- Name;
- Current residential street address in North Dakota; and
- Date of birth.



State law does allow qualified electors living under special circumstances alternative options when providing a valid form of identification, i.e., uniformed service members or a resident of the state temporarily stationed or living outside of the country (NDCC 16.1-01-04.1(4)). More than one form of identification may be used.

A VALID FORM OF IDENTIFICATION IS:

- A driver's license or nondriver's identification card issued by the North Dakota department of transportation;
- An official form of identification issued by a tribal government to a tribal member residing in this state; or
- A long term care identification certificate provided by a North Dakota facility.

IF AN INDIVIDUAL'S VALID FORM OF IDENTIFICATION DOES NOT INCLUDE ALL THE INFORMATION REQUIRED OR THE INFORMATION ON THE IDENTIFICATION IS NOT CURRENT, THE IDENTIFICATION MUST BE SUPPLEMENTED BY PRESENTING ANY OF THE FOLLOWING ISSUED TO THE INDIVIDUAL WHICH PROVIDES THE MISSING OR OUTDATED INFORMATION:

- A current utility bill;
- A current bank statement;
- A check issued by a federal, state, or local government;
- A paycheck; or
- A document issued by a federal, state, or local government.

If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. The set aside process is addressed on page 28 of this handbook. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election worker if the individual returns to the polling place before the polls close, or to the school business manager before the canvassing meeting of the school board occurring on the thirteenth day after the election.



WHAT ACCOMODATIONS ARE REQUIRED FOR AN ELECTOR WITH A DISABILITY?

Any elector may receive assistance in marking the elector's ballot from any person of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in the election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02. If the elector requests the assistance of an election worker, however, the elector must receive the assistance of both election judges in the marking of the elector's ballot.

No one assisting any elector in marking a ballot may give information regarding the ballot. No elector, other than one who requests assistance, may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark the elector's ballot.

In addition, parking facilities at polling places must be accessible to the elderly and the physically disabled and must be clearly marked.



7 ELECTION JUDGES AND CLERKS

The board is also required to appoint at least two election judges and at least two election clerks for each polling place. For bond elections, in addition to two election clerks and two election judges, the board must appoint an election inspector for each polling place. It is common for the school business manager to recommend to the board the individuals to be appointed as election workers and then the school board would take action at a properly noticed meeting to formally appoint them.

QUALIFICATIONS FOR ELECTION WORKERS

Each election worker must be a qualified elector of a precinct within the polling place boundary in which the individual is assigned to work.

In addition, each election worker must be eligible to vote at the polling place to which the individual is assigned unless the school board has exhausted all means to appoint election judges and clerks from within the voting precinct. Election clerks should be appointed based on their knowledge of election matters, attention to detail, and any necessary technical knowledge.

A student enrolled in high school or college in this state who has attained the age of sixteen is eligible to be appointed as a clerk if the student possesses the following qualifications:

- Is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a clerk;
- Is a resident of this state and has resided in the precinct at least thirty days before the election; and
- Is a student in good standing attending a secondary or higher education institution.

A student appointed as a clerk may be excused from school attendance during the hours that the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the county auditor stating the hours during which the student will serve. A student excused from school attendance under this subdivision may not be recorded as being



absent on any date for which the excuse is operative. No more than two students may serve as poll clerks on an election board.

AN INDIVIDUAL MAY NOT SERVE AS AN ELECTION WORKER IF THE INDIVIDUAL:

- Has anything of value bet or wagered on the result of an election.
- Is a candidate in that election.
- Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in that election.

ELECTION WORKERS MUST TAKE OATH

Each election worker must individually take and pledge an oath in the following form:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of election judge or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

The election workers must take an affirmation or oath to perform their duties according to law and to the best of their abilities before the opening of the polls.

The oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the election judges shall administer the oath to each other and to the poll clerks. The individual administering the oath shall cause an entry to be made and subscribed by that individual and prefixed to each pollbook.

COMPENSATION OF ELECTION WORKERS

Election workers are entitled to compensation pursuant to NDCC 16.1-05-02. The school board must set the level of compensation to be paid to the election workers. Election workers must be paid no less than the state minimum wage.



8 ELECTION RECOUNTS AND CONTESTS

NDCC chapter 16.1-16 addresses recounts and contest of elections; however, only certain provisions within the chapter apply to school district elections. With respect to recounts, the provisions set forth in section 16.1-16-01 apply to school elections except the members of the school board not subject to a recount and not disqualified under section 16.1-05-02 (as explained further below) must perform the duties of the recount board. The school board also takes the place of the county canvassing board. In addition, the school business manager performs the duties assigned to the county auditor.

AUTOMATIC RECOUNTS AND DEMAND RECOUNTS

Election recounts are to be conducted pursuant to the provisions in section 16.1-16-01. That section outlines when a recount *must* be conducted versus when a recount *may* be demanded by a candidate. If by chance both an automatic recount situation and a demand recount possibility exist within the same election, the automatic recount takes precedence since all votes are recounted.

AUTOMATIC RECOUNTS

With respect to school elections, a recount must be conducted when:

1. Any individual failed to be elected in a regular or special election by **one-half of one percent or less** of the highest vote cast for a candidate for that office.
 - Example
 - Votes Cast:
 - Candidate A 1000
 - Candidate B 995
 - Candidate C 800
 - Formula: $1000 \times 0.5\% = 5$ votes and $1000 - 995 = 5$ votes
 - In this example, an automatic recount is required since the margin of votes between Candidate A and B is 0.5% or less of the total votes received by Candidate A.



2. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding **one-fourth of one percent** of the total vote cast for and against the question at any election.
 - Example:
 - Votes Cast:
 - YES 5000
 - NO 4995
 - Formula: $5005 + 4995 = 10,000$ total votes and $10,000 \times 0.25\% = 25$ vote margin
 - A recount is held since the margin of votes is less than 25 votes.

North Dakota law allows for automatic recounts only on measures. Demand recounts of measures are not authorized.

DEMAND RECOUNTS

A demand for a recount may be made by any individual who failed to be elected in a regular or special election by more than **one-half of one percent and less than two percent** of the highest vote cast for a candidate for that office. A candidate must make their demand for a recount within 3 days of the canvassing meeting of the school board (which occurs on the thirteenth day following the election). The demand must be made in writing to the school business manager and must state the reason the recount is being demanded – that the candidate failed to be elected by less than 2% of the votes given to the candidate receiving the highest number of votes.

CONDUCTING A RECOUNT

Regardless of whether the recount is automatic or on demand, all legally voted and cast ballots containing the contest must be recounted and recounting all votes cast for the contest can change the number of votes given to every candidate within that contest. The school business manager oversees the recount and may employ up to ten qualified electors of the school district to assist in the recount. The school board acts as the recount board (except those individual subject to a recount or disqualified pursuant to NDCC 16.1-05-02) and makes the final recount determination.

Within 4 days after the canvass of votes by the school board, the school business manager must fix the date for recount. The date must be within 8 days after the canvass.



The school business manager shall send notice of the date, place, and time of the recount to all candidates and petitions involved by certified mail.

RECOUNT PARTICIPANTS

Each candidate involved in the recount or their representative may participate in the recount. In addition, if a recount involves a question or measure submitted to a vote of the people, a qualified elector favoring each side of a question is allowed to participate in the recount. Participation means the individuals may observe, but not interfere with the work of the recount board or employees. The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual challenging a ballot must state the reason for the challenge based upon the law, and the school business manager must count the challenged ballot as the business manager determines proper and then must set the ballot aside with a notation that it was challenged and how it was counted.

RECOUNT EMPLOYEE RESPONSIBILITIES

Recount employees are entitled to the same hourly wage paid to the election workers on election day. They may also be reimbursed for expenses normally given to election workers.

The following responsibilities of the recount employees must be completed prior to the final determination of the recount board and in the presence of the recount participants:

- Prepare for meeting preparation (school business manager):
 - Blue and black pens should not be allowed in the area where ballots are recounted (make sure to have a supply of pens in other legible colors).
 - Whenever a note is written, it must NOT be written while sitting on top of a ballot.
 - Since there are standard reasons for which a ballot and votes can be counted or not counted, it may be helpful to prepare identification slips that can be attached to ballots during the recount.
 - Prepare recount meeting agenda:
 - Call to order
 - Make sure there are no blue or black marking devices in the room
 - Establish an employee to take meeting minutes
 - Administer oath to recount employees and board members (see sample oath in Appendix)



- Review precinct ballot certification sheets to make sure all ballots have been delivered by official responsible for ballot retention
 - Inspect ballot wrapper seals
- Request the sealed ballots containing the office being recounted in that jurisdiction from the school business manager.
 - Determine the number of ballots previously counted in the election, including absentee ballots tabulated on election day; election day ballots cast and tabulated by election judges at polling places, and ballots tabulated by canvassing board.
- Determine the number of ballots previously rejected containing the contest:
 - Absentee ballots rejected by polling place election workers as well as the canvassing board.
 - Late arriving absentee ballots rejected by the canvassing board.
 - Absentee ballots arriving after the meeting of the canvassing board.
- Create a tally sheet for the ballots previously counted and rejected.
- Perform hand and eye review of all ballots cast and counted in the election.
 - Open ballot packs and begin manual review.
 - Make sure all ballots were properly initialed.
 - Make sure ballots were initialed by qualified election judges.
 - Attach a note to any ballots missing initials to indicate why they are to be removed from the official tally.
 - Show ballots deemed disqualified to the recount participants.
- Perform manual tabulation
 - Separate the ballots into stacks of not more than 50 ballots each
 - At least 2 recount employees must work together, one to read a ballot and the other to mark the vote(s) on a separate tick sheet
 - Set aside any ballot in which the voter has marked the ballot in a manner other than required by the instructions on the ballot
 - Attach a note as to how the votes or no votes are to be counted for each ballot marked in a manner other than described by instructions on ballot
 - Verify for each stack of 50 ballots that the number of legitimate votes counted and no votes counted from all ballots equal the number of votes possible from the stack – recount entire stack if numbers are not equal
 - Prepare an official tally report for the recount board



- Review poll books
 - Make sure electors were qualified to vote for the office being recounted.
 - Make sure the number of voters indicated in the poll book as voting is equal to the number of ballots cast.
- Review the report of the canvassing board.
- Count all the votes of the recounted office.
- Show the recount participants the ballots containing:
 - Over votes (more votes marked by the voter than allowed by the instructions)
 - Under votes (fewer votes marked by the voter than allowed by the instructions)
 - Write-in votes for that office
 - Irregular marks on the ballot within that office such as circling a candidate's name, underlining a candidate's name, writing in the name of a candidate without filling in the oval, putting a cross mark through a candidate's name, etc.
- The business manager must, for each of the ballots described above as well as any ballots challenged by the recount participants:
 - Determine the votes cast for the recounted office.
 - Set ballot aside along with a notation of the challenge and how it was counted.
- School business manager must deliver ballots set aside to the recount board for final determination of inclusion and exclusion in the final tabulation.
- Give a tabulation report of the recounted ballots to the recount board.
- Ensure that all previously counted and rejected ballots have been reviewed as a part of the recount board.
- Ensure that the new results are consistent with the previous count (this means there should be the same total number of counted or rejected ballots or votes OR there needs to be a documented reason for the change in the total)
 - Counted ballots
 - Rejected ballots
 - Counted votes
 - Write-in votes
 - Over votes
 - Under votes
- Secure the ballots whenever a recess is called during the recount (NDCC 16.1-16-01(7))



RECOUNT BOARD

At the conclusion of the recount by the recount employees, the business manager must submit all challenged ballots to the recount board for decision. The school board acts as the recount board for school elections. A board member who is subject to the recount may not serve on the recount board. In addition, an individual may not serve on the recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount.

The recount board has the authority to review all properly cast ballots in the election containing the office being recounted. The recount board must:

- Review all ballots challenged by either candidate or interested parties involved in the recount and on majority vote decide how those ballots are counted.
 - Absentee ballots with a legally acceptable postmark (dated prior to election day) but arriving after the canvassing meeting of the school board should not be considered or counted during a recount.
- By vote, make a final decision as to the outcome of the election, which is only subject to a decision made in a contest of an election provided for in law.
- Submit a final tally of the votes.

The business manager must certify the results of the recount within 3 days of the conclusion of the recount. The recount result is the official result of the election. The decision of the recount board is final, subject to the right to contest the election as outlined below.

COSTS OF AN ELECTION RECOUNT

For automatic recounts, the school board is responsible for the costs and expenses of the recount. For a demand recount, the individual requesting the recount must submit a bond sufficient to pay the actual cost of the recount. Actual costs include recount employee hourly wages based on the amount the school board pays for trained election workers on election day. Recount employees are also entitled to any other reimbursement normally given to election workers. Actual costs do not include the time spent by the school business manager in charge of the recount or the recount board members.



ELECTION CONTESTS

The election of any person or the approval or rejection of any question or measure submitted to the vote of the people may be contested or challenged by a defeated candidate or at least ten qualified electors. School districts should avoid giving legal advice to anyone wishing to challenge the result of the election. Instead, refer these individuals to the county attorney or the secretary of state's office. If you receive notice or believe that your election may be challenged, contact your school's attorney promptly for legal guidance.

GROUND FOR AN ELECTION CONTEST

AN ELECTION CONTEST MAY BE COMMENCED FOR ANY OF THE FOLLOWING CAUSES:

- If the contestee does not or cannot meet the qualifications to hold the office as required by law.
- Because of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.
- The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot

AN ELECTION MAY NOT BE SET ASIDE BECAUSE OF ILLEGAL VOTES UNLESS EITHER OF THE FOLLOWING IS SHOWN, THAT:

- The contestee had knowledge of or connived in the illegal votes.
- If the number of illegal votes is taken from the contestee, it would reduce the number of the contestee's legal votes below the number of votes cast for some other person for the same nomination or election, after deducting any illegal votes from the other person.

ELECTION CONTEST ACTION

An action to contest an election must be commenced by service of a summons and verified complaint. The party instituting the action must be known as the contestant, and the party against whom the action is instituted must be known as the contestee. In a contest of an election, the person holding the certificate of election will take possession and discharge the duties of the office until the contest action is finally decided.



Any action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the recount board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. If the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. If the grounds for the action are the failure of a contestee to satisfy the requirements for having the contestee's name listed on the ballot as a candidate, the action may be commenced within thirty days of the date the contestant knows or should know of the failure. The contestee must serve and file an answer within fourteen days after service of the contest summons and complaint.

Election contest actions must be tried as civil actions to the court without a jury. The district court must set the hearing on the contest action not more than ten days after the filing of the contest answer. Election contests must take precedence over regular court business so elections are determined as soon as practicable.

JUDGMENT IN AN ELECTION CONTEST

The judge in an election contest action must pronounce judgment on which candidate was elected or nominated and whether any question or proposition was approved or rejected. The school business manager must issue a certificate to the person declared elected in accordance with the judgment. Any certificate of election previously issued that is in conflict with the judgment is annulled by the court's judgment.

If the court declares that the election resulted in a tie, the election must be determined in accordance with section 15.1-09-16. If the court declares that no one was elected and sets aside the election, the office must be deemed vacant and any certificate of election or nomination previously issued is annulled. The vacancy must be filled in accordance with section 15.1-09-05.

The judgment of the district court may be appealed to the North Dakota Supreme Court by filing a notice of appeal with the clerk of the supreme court within ten days of the date of the service of the notice of entry of judgment. Election contest appeals must take precedence over regular court business so election results can be determined as soon as practicable. An appeal may be brought on for hearing before the supreme court at any time upon ten days' notice by either party and must be determined in a summary manner.





COSTS OF AN ELECTION CONTEST

Costs in an election contest may be awarded in the discretion of the court. If a contest action is dismissed for insufficient evidence or want of prosecution, or if the court confirms the election results, judgment for costs must be for the contestee and against the contestant. If an election is annulled for errors or malfeasance of any election official or election worker during any part of the election procedure, the costs must be a charge against the school district in which the election was held. When an election is annulled on any other ground or when the contestant is declared elected, judgment for costs must be for the contestant and against the contestee.



9 OFFENSES AND CORRUPT PRACTICES

North Dakota law identifies conduct that is prohibited with respect to elections. The conduct is generally defined as either an election offense or corrupt practice. Election offenses are outlined in NDCC 16.1-01-12 and corrupt practices are addressed in NDCC chapter 16.1-10.

ELECTION OFFENSES

Pursuant to NDCC 16.1-01-12, it is unlawful and considered an election offense for an individual or organization to:

- Fraudulently alter another individual's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
- Cause a disturbance, breach the peace, or obstruct a qualified elector on the way to a polling place.
- Vote more than once in any election.
- Knowingly vote in the wrong election precinct or district.
- Disobey the lawful command of an election officer as defined in chapter 16.1-05.
- Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
- Knowingly vote when not qualified to do so.
- Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
- Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
- Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of



contributions received under this section does not affect the requirement to file a pre-election report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.

- Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
- Willfully violate any rule adopted by the secretary of state pursuant to this title.
- Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
- Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law, or negatively impact the confidentiality, integrity, or availability of any system used for voting.
- Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.
- Willfully submit an initiative or referendum petition that contains one or more fraudulent signatures.

The criminal penalty for a violation of these provisions ranges from a class A misdemeanor to a class C felony.

CORRUPT PRACTICES

PURSUANT TO NDCC 16.1-10-01, A PERSON IS GUILTY OF A CORRUPT PRACTICE WITH RESPECT TO ELECTIONS AND POLITICAL ACTIVITY IF THE PERSON WILFULLY ENGAGES IN ANY OF THE FOLLOWING CONDUCT:

- Expends any money for election purposes contrary to the provision of NDCC chapter 16.1-10.
- Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.
- Is guilty of the use of state services or property or the services or property of a political subdivision of the state for political purposes.



Each of these categories of conduct are addressed below. The category relating to the use of services or property of a political subdivision (i.e., school district) for political purposes is the most common issue that arises with school elections and school districts and is addressed first.

USE OF SCHOOL DISTRICT PROPERTY OR SERVICES FOR POLITICAL PURPOSES

NDCC 16.1-10-02 prohibits any person from using any property belonging to or leased by, or any service which is provided by or carried on by, either directly or by contract, a political subdivision for any political purpose. Public school districts are political subdivisions of the state and therefore, this section applies to districts and their employees. In order to understand this prohibition, it is important to understand what constitutes a “political purpose”, “property”, and “services.”

“Political purpose” means any activity undertaken in support of or in opposition to a ballot measure or the election of a candidate. It includes using “vote for”, “oppose”, or similar support or opposition language in any advertisement. Factual information may be presented regarding a ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question.

“Property” owned or leased by a school district includes such things as motor vehicles, telephones, typewriters, adding machines, computers, postage or postage meters, letterhead, funds of money, and buildings. However, candidates, political parties, committees, and other organizations are not prohibited from using any public building for political meetings as may be required by law or from renting any public building for any political purpose if such lease is otherwise permitted by law. So, for example, if a school district regularly allows outside groups to rent out its facilities for activities, it would generally be appropriate to allow a candidate for public office (including a candidate running for a seat on the board of the district) to rent space from the district to hold a campaign rally or meeting.

“Services” includes the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave. So, for example, a school board member who is running for reelection to the board may not ask the district superintendent to send out during school hours an email using the superintendent’s school email address to staff and parents providing information regarding the accomplishments of the board member in his service on the board.

By far the most common situation that implicates a possible violation of section 16.1-10-02 is when a school board has voted to submit a bond measure to the voters in an upcoming election. Often times, the district wants to provide voters with information explaining the need for a new building or building improvements. NDCC 16.1-10-02 allows a school district to provide factual information to educate



voters about the planned uses of the proceeds from the sale of the bonds and facility needs. However, the district should be careful not to encourage voters to vote a certain way or ask them to vote “yes.” NDSBA recommends that districts consult with district legal counsel in these situations to ensure compliance with the requirements of NDCC chapter 16.1-10.

EXPENDING MONEY FOR ELECTION PURPOSES

There are multiple provisions within NDCC chapter 16.1-10 that prohibit the spending of money for certain election purposes.

THE CONDUCT PROHIBITED BY THESE PROVISIONS INCLUDES THE FOLLOWING:

- Buying, selling, giving or providing any political badge, button, or any insignia within a polling place or within 100 feet from the entrance to the room containing the polling place while it is open for voting. Wearing a political badge, button, or insignia within that same area while a polling place is open for voting.
- Paying or giving anything of value to the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce the person to advocate editorially or to oppose any candidate for election.
- Asking, soliciting, or in any manner trying to induce or persuade, any voter within a polling place or within 100 feet from the entrance to the room containing a polling place while it is open for voting to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people.
- Paying any individual for: (1) loss or damage due to attendance at the polls; (2) registering; (3) the expense of transportation to or from the polls; or (4) personal services to be performed on the day of election which tend in any way, directly or indirectly, to affect the result of such election.
- Approaching a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service.

If the school business manager or any election worker becomes aware of conduct in violation of NDCC chapter 16.1-10, they should report it to law enforcement or the state’s attorney. Any person violating any provision of chapter 16.1-10, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.



PRACTICES PROHIBITED BY NDCC 12.1-14-02 AND 12.1-14-03

NDCC 12.1-14-02 general prohibits individuals from interfering with elections.

SPECIFICALLY, THAT SECTION PROHIBITS A PERSON, THROUGH FORCE OR THREAT, FROM INTENTIONALLY:

- Injuring, intimidating or interfering with another because the other individual is or has been voting for a candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as an election official or an election observer, in any regular or special election.
- Injuring, intimidating, or interfering with another in order to prevent that individual or any other individual from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as an election official or an election observer, in any regular or special election.

Any person that engages in such conduct in violation of section 12.1-14-02 is guilty of a class A misdemeanor.

IN ADDITION, SECTION 12.1-14-03 PROVIDES THAT A PERSON IS GUILTY OF A CLASS A MISDEMEANOR IF, IN CONNECTION WITH ANY ELECTION, THE PERSON:

- Makes or induces any false voting registration;
- Offers, gives, or agrees to give a thing of pecuniary value to another as consideration for the recipient's voting or withholding his vote or voting for or against any candidate or issue or for such conduct by another;
- Solicits, accepts, or agrees to accept a thing of pecuniary value as consideration for the above prohibited conduct; or
- Otherwise obstructs or interferes with the lawful conduct of such election or registration therefor.

Any person that engages in such conduct is guilty of a class A misdemeanor.

If the school business manager or any election worker becomes aware of conduct in violation of sections 12.1-14-02 or 12.1-04-03, they should report it to law enforcement or the state's attorney. Any individual found guilty of a corrupt practice as defined in NDCC chapter 16.1-10 must be punished by being deprived of the individual's government job, or the individual's election must be declared void, as the case may be.



10 APPENDIX: FORMS AND RESOURCES

1. School Election Quick Reference Guide
2. [Guide to Recalling an Elected Official](#) (ND SOS)
3. Sample Bond Election Ballot form
4. NDSBA Election Calendar 2023
5. Sample Notice of Candidate Filing Deadline
6. Sample Statement of Intent
7. Affidavit of Candidacy ([SFN 2703](#))
8. Statement of Interests ([SFN 10172](#))
9. Sample Official Ballot
10. Sample Notice of Election
11. Sample Election Poll Book, Tally List and Official Returns
12. [ID Required for Voting Poster](#) (ND SOS)
13. Sample Notice of Election and Oath of Office for School Board Members
14. Oath of Office ([SFN 11501](#))
15. Set Aside Outer Envelope
16. Absentee Ballot Application ([SFN 51468](#))
17. Absentee Voter Instructions
18. NDSBA Absentee Ballot Chain of Custody Procedure
19. [Who Can Vote and How](#) (ND SOS)
20. [ND Election Laws](#) (ND SOS)



School Election Quick Reference Guide

#	Reasons for a School District Election	NDCC Reference	Placed on Ballot by	Placed on Ballot by	Approved by	Type of Election
1	School District Name Change	15.1-07-02	School Board Resolution OR	Petition of at least 1/3 of those qualified voters that voted in the most recent annual school election	Majority of the district's qualified voters	Regular or special election
2	Increase in indebtedness, beyond that fixed by the constitution, by 5% of the assessed valuation of all taxable property in the District	15.1-07-03	School Board Resolution OR	Petition to increase indebtedness submitted to the board that is signed by at least 1/3 of those qualified voters that voted in the most recent annual school election	Majority of the district's qualified voters will raise the limit to 10% of the assessed valuation of all taxable property in the district	Regular or special election
3	School Board Membership - Size and Term Adjustments	15.1-09-01	Petition of at least 1/3 of those qualified voters that voted in the most recent annual school district election		Majority of the district's qualified voters	Special election
4	School Board Vacancies	15.1-09-05	If board fails to appoint within 60 days of declared vacancy, Co. Supt. calls for special election		Board may appoint within 60 days of declared vacancy	Special election
5	Annual School Board Election	15.1-09-22	Candidate filings	Write-in votes	School Board Resolution	Regular election
6	Special Election for any lawful purpose	15.1-09-23	Varies by type of election	Varies by type of election	Varies by type of election	Special election
7	Publication of School Board Minutes	15.1-09-31	Every 2 years by law		Majority of the district's qualified voters	Annual election of school board members
8	School District contracting with School District in another state for joint operation & maintenance of facilities and activities if the districts are contiguous	15.1-09-39	Supt. of Public Instruction Approval AND	School Board Resolution	Majority of the district's qualified voters	Annual election of school board members or special election
9	School District Technology Consortium - Authority to borrow money (doesn't exceed \$175,000; loan repayment doesn't exceed 10 years; loan is board approved by each district participating in the consortium)	15.1-09-54	After loan approval by the Supt. of Public Instruction	Placed on ballot by petition of qualified voters OR by the board of each participating district	Majority of the eligible electors residing in each district participating in the consortium	Regular School Board Election or Special Election
10	School District Reorganization - formation of new school district	15.1-12-11	After plan approval by the State Board	Co. Supt. of Schools	Majority of eligible electors residing in each district	Special election held between July 1 and December 31
11	School District Reorganization - Vote on issuance of bonds	15.1-12-12	Each district involved		Each school board involved in the reorganization adopts an identical initial resolution by majority vote	Special election held between July 1 and December 31

School Election Quick Reference Guide

#	Reasons for a School District Election	NDCC Reference	Placed on Ballot by	Placed on Ballot by	Approved by	Type of Election
12	School District reorganization proposal is rejected. Revised reorganization plan is proposed by participating school districts	15.1-12-13	Public hearing must be at least 3 months after initial reorganization election. If the revised plan is approved by the county committee, →	Co. Supt. of Schools submits revised plan to the State Board for approval. If approved, the Co. Supt. calls a special election	Majority of each district's qualified voters	Special election
13	Election of school board members for newly approved reorganized districts	15.1-12-14	Co. Supt. of Schools		Majority of qualified voters	At next regular school board election or by special election for this purpose
14	Changes to a school district's reorganization plan, except those relating to boundaries and geographic voting areas	15.1-12-21 (a)	Motion of the School Board or petition of qualified electors (see law for particular percentages needed)		Concurrence of a majority of the qualified electors voting on that question	Regular or special election
15	If a district has been reorganized for at least ten years, changes to the school district's boundaries of geographic voting areas can be changed	15.1-12-21 (2)	School board resolution		Concurrence of a majority of the qualified electors voting on that question	Regular or special election
16	No district may incur debt, along with all other outstanding indebtedness of the district, exceeding 5% of the assessed value of the taxable property. Grant districts power to borrow and give districts the power to increase limitation of indebtedness 5% on assessed value beyond the normal 5% limit	21-03-04	School board resolution		Majority vote of qualified voters	Regular or special election
17	Acquisition, improvements, or construction of any property or structure at a total cost of \$4,000,000 or more through issuance of bonds	21-03-06.1	Supt. of Public Instruction approval	Initial Resolution by School Board	Majority of the qualified voters of the district	Regular or special election
18	No district may issue bonds without being authorized to do so by a vote equal to 60% of all qualified voters	21-03-07	School board resolution adopted by 2/3 vote		60% of qualified voters	Regular or special election
19	After a bond issue is approved, no change in purpose of the expenditure of bond proceeds can be made unless 60% of qualified electors vote to make material changes in the plan as long as the changes do not conflict with contractual obligations incurred	21-03-10.1	School board resolution		60% of qualified voters	Regular or special election
20	Disposal of bond proceeds - proceeds of any bond sale, which have not been used for the purpose issued within 3 years after issue, the board, upon approval by a majority vote of the qualified electors, can use the funds for some other purpose authorized by law	21-03-38.1 (3)	School board resolution		Majority of the qualified voters of the district	Regular or special election

School Election Quick Reference Guide

#	Reasons for a School District Election	NDCC Reference	Placed on Ballot by	Placed on Ballot by	Approved by	Type of Election
21	Recall of elected officials of the district	44-08-21	Petition of at least 25% of those qualified voters that voted in the most recent annual school election		Majority of qualified voters	Special election
22	Establishing a building fund, not in excess of 20 mills	57-15-16	School board resolution		60% of qualified voters	Regular or special election
23	Discontinuance of Building Fund after all payments due are paid and cancellation of bonds	57-15-16	School board resolution OR	Petition of at least 20% of qualified voters that voted in the most recent annual school election	60% of qualified voters	Regular or special election

Official Ballot

[Name of District]

School Bond Election

[Date of Election]

Shall the **[Name of District]** issue bonds in the amount of not to exceed \$ **[Insert the amount]** maturing within a maximum of **[Insert the duration]** resulting in an estimated additional millage of **[Insert # of mills]** mills, equal to \$ **[Insert equivalent in dollars]** on each \$1,000 of taxable valuation for the first taxable year for the purpose of **[Insert the purpose]**?

YES

NO



2024 School Board Election Deadlines Example

Annual school board elections must be held between **April 1 and June 30** (NDCC 15.1-09-22). **NDSBA is using June 11, 2024, as an EXAMPLE election date. If you have a different election date, compute your schedule in accordance with state law cited below.** If your school board election is held in conjunction with a county election, the county election board should administer the election in the same manner as the county or state election. (NDCC 15.1-09-13 (4))

MARCH							APRIL							MAY							JUNE						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2		1	2	3	4	5	6		1	2	3	4	5	6							1
3	4	5	6	7	8	9	7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8
10	11	12	13	14	15	16	14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15
17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22
24	25	26	27	28	29	30	28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
31																					30						

March 9, 2024 - 94 days before the election

30 days before the deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. (NDCC 15.1-09-09)

April 8, 2024 - 64 days before the election

An individual seeking election to the board of a school district shall prepare and sign a document (Statement of Intent) stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a Statement of Interests as required by section 16.1-09-02. These documents must be filed with the school district business manager or mailed to and in the possession of the business manager by 4:00 p.m. **on the 64th day before** the election. (NDCC 15.1-09-08)

Each board of a school district that enters into an agreement with the county (to share election expenses) must notify the county auditor in writing, **at least 64 days before** the election, the offices to be filled at the election and any measures to appear on the ballot. (NDCC 15.1-09-24) NOTE: This deadline only applies to school districts holding the annual election in conjunction with a primary election and sharing election expenses with a county.

May 2, 2024 - 40 days before the election

At least 40 days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provision in NDCC 15.1-09-08. (NDCC 15.1-09-11)

May 7, 2024 - 35 days before the election

At least 35 days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. (NDCC 15.1-09-13 (1))

At least 35 days prior to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. (NDCC 15.1-09-13 (2))

May 28, 2024 - 14 days before the election

At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. (NDCC 15.1-09-09)

June 11, 2024 - Election day

School Board Election

June 24, 2024 - 13 days after the election

On the thirteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election. (NDCC 15.1-09-15)

June 27, 2024 - 3 days after canvassing

Within three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. (NDCC 15.1-09-17)

June 25 - July 5, 2024 - 10 days after canvassing

Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the County Superintendent of Schools. (NDCC 15.1-09-17)

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office **within ten days** after receiving notice of the election or appointment and before commencing duties. (NDCC 15.1-09-25)

**[Name of School District]
School Board Election**

[Election date]

[Poll Hours and Locations]

Notice is hereby given that the deadline for filing to have a candidate's name printed on the ballot for the [Name of School District] is [filing deadline date] by 4:00 p.m. The following offices are up for election:

School Board Member (4 year term)

A candidate for a school district office must prepare and sign a document stating the candidate's name and the position for which the individual is a candidate, and a SFN 10172 Statement of Interests form. Both of these documents must be filed with the school district business manager for [Name of School District] by the above deadline date and time. All forms are available from either the school district business manager for [Name of School District] or may be obtained on-line at <https://vip.sos.nd.gov/PortalListDetails.aspx?ptlhPKID=30&ptlPKID=3#content-start>.

CANDIDATE'S STATEMENT OF INTENT

to run for the [Name of District] School Board

This form must be filed with the School District Business Manager before 4:00 p.m. on the sixty-fourth (64th) day before the election. This form must be accompanied by a completed **Statement of Interests** Form.

I hereby state that I am a citizen of the United States, eighteen years of age or older, a resident of North Dakota, and have resided in the precinct at least thirty (30) days preceding the election.

Name of Candidate: _____

Address: _____

Phone Number: _____

Email: _____

Position: _____

Candidate Signature: _____

OFFICIAL BALLOT

Edgeley Public School District

Annual School Election

June 10, 2014

DIRECTOR REPRESENTING DISTRICT #3

3-YEAR TERM

(Vote for One)

Tracy Brumfield ----- ()

Jared Nitschke ----- ()

_____ ----- ()

DIRECTOR REPRESENTING THE CITY OF EDGELEY

3-YEAR TERM

(Vote for One)

Steve Feist ----- ()

_____ ----- ()

NOTICE

This is an exhibit template. This template must be compared to your existing exhibit before implementing it. Administrative regulations and exhibits may be reviewed by the board but should not be adopted by them. More information on the Policy Adoption Process can be found on the Policy Services website or by contacting the NDSBA office at 1-800-932-8791.

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NOTICE OF [Name of District] SCHOOL DISTRICT ELECTION

[District Location], North Dakota

[Day, Month, Year]

Notice is hereby given that the annual school district election of the **[Name of District]** will be held on **[day, month, year]** at the polling location(s) listed below.

The polls will be open from **[time]** and will continue to be open until **[time]** of that day.

The following official will be elected:

School Board Member (**[#]** positions) for **[#]** years (*list duration of term*)

The following questions will be on the ballot:

The polling locations are as follows:

<u>Precinct No.</u>	<u>Polling Location</u>	<u>Address</u>
---------------------	-------------------------	----------------

If auxiliary aids are required to vote contact **[Name]** at **[phone number]** at least 5 days prior to the election.

[Name of District] Business Manager' Officer
(publish **[day, month, year]**)

End of [Name of District] Exhibit BBA-E3

[03/15]

Poll Book, Tally List and Official Returns

(For Public School Districts)
First, Annual, and Special Election

STATE OF NORTH DAKOTA

County of _____

_____ School District

At an election held at _____ in _____ Public School District No. _____, County of _____, State of North Dakota, on the day of _____, 20____, the polls of said election being open at 11:00 a.m. of said day and continuing open until 7:00 p.m. of the same day, the following oaths were taken by the Judges and Clerks of Election.

*I do solemnly **swear (or affirm) that I will perform my duties as Judge according to law and the best of my ability.

I do hereby certify that the above oath was administered by me to _____, Judge of said Election, and by him subscribed in my presence previous to opening the polls.

Office Title

*I do solemnly **swear (or affirm) that I will perform my duties as Judge according to law and the best of my ability.

I do hereby certify that the above oath was administered by me to _____, Judge of said Election, and by him subscribed in my presence previous to opening the polls.

Office Title

*I do solemnly **swear (or affirm) that I will perform my duties as Clerk according to law and the best of my ability.

I do hereby certify that the above oath was administered by me to _____, Clerk of said Election, and by him subscribed in my presence previous to opening the polls.

Office Title

*I do solemnly **swear (or affirm) that I will perform my duties as Clerk according to law and the best of my ability.

I do hereby certify that the above oath was administered by me to _____, Clerk of said Election, and by him subscribed in my presence previous to opening the polls.

Office Title

* Such oath or affirmation may be administered by any officer authorized to administer oaths or by either of the Judges or Clerks

**If an oath, strike out the words "or affirm." If an affirmation, strike out the words "swear, or."

Poll Book

No.	Name	Address
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
1		
2		
3		
4		
5		
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4		
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6		
7		
8		
9		
30		
1		
2		
3		
4		
5		
6		
7		
8		
9		
40		

Poll Book

No.	Name	Address
1		
2		
3		
4		
5		
6		
7		
8		
9		
50		
1		
2		
3		
4		
5		
6		
7		
8		
9		
60		
1		
2		
3		
4		
5		
6		
7		
8		
9		
70		
1		
2		
3		
4		
5		
6		
7		
8		
9		
80		

Poll Book

No.	Name	Address
1		
2		
3		
4		
5		
6		
7		
8		
9		
90		
1		
2		
3		
4		
5		
6		
7		
8		
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100		
1		
2		
3		
4		
5		
6		
7		
8		
9		
110		
1		
2		
3		
4		
5		
6		
7		
8		
9		
120		

Poll Book

No.	Name	Address
1		
2		
3		
4		
5		
6		
7		
8		
9		
130		
1		
2		
3		
4		
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150		
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7		
8		
9		
160		

Official Returns

First and Annual Election, Public School District

Give Number of Ballots Both in Words and Figures

We hereby certify that at an election held in _____ Public School District No. _____
County of _____, State of North Dakota, on the _____ day of _____, 20_____,
there were _____ votes cast for Member of School Board in
said Public School District for the term of _____ year(s),

of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;

_____ having received the highest number of votes is
hereby declared elected Member of School Board for the term of _____ year(s).

There were _____ votes cast for
Member of School Board in said Public School District for the term of _____ year(s)

of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;

_____ having received the highest number of votes is
hereby declared elected Member of School Board for the term of _____ year(s).

There were _____ votes cast for
Member of School Board in said Public School District for the term of _____ years(s).

of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;
of which _____ received _____ votes;

_____ having received the highest number of votes is
hereby declared elected Member of School Board for the term of _____ year(s).

Official Returns for Special Election-Public School District

We hereby certify that an election of the voters of the _____ Public School District No. _____
was held at _____ in _____ Public School District No. _____, County of _____
_____, State of North Dakota, on the _____ day of _____, 20 _____,
for the purpose of determining the question of _____

There were _____ votes cast upon
the question of _____

of which _____ votes were for _____
of which _____ votes were against _____.

The majority of all votes cast being _____
(For or Against stating the proposition)

The question of _____ is hereby declared to be _____
(Carried or Lost)

There were _____ votes cast upon
the question of _____

of which _____ votes were for _____
of which _____ votes were against _____

The majority of all votes cast being _____
(For or Against stating the proposition)

The question of _____ is hereby declared to be _____
(Carried or Lost)

Clerk _____ Judge _____

Clerk _____ Judge _____

**Poll Book, Tally List, and
Official Returns of Election
Held in**

_____ Public School

Dist. No. _____

County of _____

State of North Dakota

_____ 20 _____

STATE OF NORTH DAKOTA

County of _____

Filed in my office this _____

day of _____ 20 _____

Business Manager
County Superintendent or Designee

One copy to be filed with the Business Manager, the
other to be returned to the County Superintendent or
Designee.



NOTICE OF ELECTION OR APPOINTMENT, AND OATH OF OFFICE FOR SCHOOL BOARD MEMBERS (NDCC 15.1-09-17, 44-01-05, ND Constitution Article XI, Section 4)
 NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION
 SFN 19305 (1-02)

STATE OF NORTH DAKOTA

_____ County, _____ School District No. _____

ELECTION OF MEMBER AT REGULAR OR SPECIAL ELECTION

TO: _____

You are hereby notified that at the school election held on _____, 20 _____, you were elected to the office of **School Board Member** of _____ Public School District No. _____, County of _____, State of North Dakota, (for a term of _____ years) or (to fill a vacancy on the Board until the annual school election of 20 _____). You are required by law to take and subscribe to the oath below, and file it with the Business Manager of the School District. This oath must be taken and filed on or before the day you begin the duties of your office.

_____ Date _____ Business Manager

APPOINTMENT OF MEMBER TO FILL A VACANCY

TO: _____

You are hereby notified that on _____, 20 _____, you were appointed as a **School Board Member** of _____ Public School District No. _____, County of _____, State of North Dakota, ([by the school board to fill a vacated position formerly held by _____ until your successor is elected and qualified at the next annual election] or [by the State Board of Public School Education to fill a vacancy formerly held by _____ until the school board appoints sufficient members to achieve a quorum]). You are required by law to take and subscribe to the oath below, and file it with the Business Manager of the School District. This oath must be taken and filed on or before the day you begin the duties of your office.

_____ Date _____ Business Manager

OATH OF OFFICE

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of **School Board Member** of _____ Public School District No. _____ according to the best of my ability, so help me God (or under pains and penalties of perjury).

_____ School Board Member

Subscribed and sworn to before me on _____, 20 _____.

 Notary Public or Elected School Official
 My Commission Expires: _____

**NOTICE OF ELECTION OR
APPOINTMENT AND OATH OF
OFFICE FOR SCHOOL BOARD
MEMBERS**

STATE OF NORTH DAKOTA

COUNTY OF _____

School Board Member

Public School District Number

Date

STATE OF NORTH DAKOTA

COUNTY OF _____

Public School District Number

Filed in the office of Business Manager of Public
School District Board on _____,
20 _____

District Business Manager

SET-ASIDE ENVELOPE

Step 1: Review notice with voter and initial below

Pursuant to NDCC 16.1-15, the ballot contained in this envelope shall be delivered to the election official responsible for the administration of the election. The ballot contained in this envelope must be delivered to the school district canvassing board for proper inclusion from the canvass of votes.

Under no circumstances should this envelope be opened prior to the School District Canvassing Board to remove a ballot that a voter has marked and securely set aside.

Election Board Initials

Voter Initials

Step 2: Voter completes this section

Legal Name ID Number Date of Birth

Residential Address City State Zip

Mailing Address City State Zip

Previous Name (if changed)

SET ASIDE ENVELOPE AFFIDAVIT

I do solemnly swear and affirm I am a qualified elector of this voting precinct and as such: I am at least 18 years of age; I am a citizen of the United States; I have been a resident of this district for at least 30 days immediately preceding this election; and I have not already voted in this election.

Voter Signature Date

Step 3: Election Board completes this section

Reason for Set-Aside Envelope (e.g. invalid or no identification, no supplemental documentation)

Polling Location Ballot Name

Election Board Signature Date

FOR BUSINESS MANAGER USE ONLY – Record how voter verified ballot inside set-aside form

Driver's License Non-Driver's ID Tribal ID Longer Term Care Certificate

Supplemental Documentation: _____

Verifier's signature Date

BALLOT SECRECY ENVELOPE

INSTRUCTIONS TO VOTE BY MAIL

YOU ARE ENTITLED TO COMPLETE YOUR ABSENTEE VOTER'S BALLOT IN SECRECY.

YOU ARE ENTITLED A SECOND-CHANCE TO VOTE – Should you make a mistake while voting, you have the right to return your spoiled ballot to the County Auditor and receive a new one. Contact your Auditor for more information. (N.D.C.C. § 16.1-16-32)

IN THE JUNE ELECTION, CROSS-OVER VOTING IS NOT ALLOWED. When voting a party ballot in the June election, you must vote along party (i.e. Republican, Democratic/NPL) lines. If you split your vote, your ballot won't be counted for those races. *This does not apply to non-partisan races or measures. (N.D.C.C. § 16.1-11-22 (4))*

1. Vote – Be sure to blacken each oval completely using a blue or black pen. Do not make an X or other mark. *To write in a name you must blacken the oval and write the name on the line provided.*

2. After voting, fold your ballot to conceal your vote. Place your folded, voted ballot in the secrecy envelope or sleeve provided, and then place the secrecy envelope or sleeve in the self-addressed return envelope provided and seal.

3. Complete and sign the voter's affidavit found on the back-side of the return envelope.

4. Affix the proper postage before mailing – extra postage is required.

Ballots must be postmarked no later than the day before the election.



Absentee Ballot Chain of Custody Procedure

On April 2, 2020, Governor Doug Burgum issued Executive Order 2020-19, waiving the statutory requirement to designate one or more physical polling locations for school board elections to permit school boards to conduct their 2020 annual election via absentee ballot only. By Executive Order 2020-19.1, the Governor waived similar requirements for school district special elections held during the duration of the state of emergency.

NDSBA promptly issued guidance to our members with the answers to anticipated questions regarding how to administer an absentee ballot-only election. In its guidance, NDSBA echoed the Governor's Executive Order 2020-19 in strongly encouraging all school boards to establish secure absentee ballot drop box locations in various locations throughout their districts, in places located as conveniently as possible for voters. NDSBA further recommended that school districts create **written chain of custody procedures** that your district will take to ensure the security of all ballots sent and received.

Since our guidance was issued, NDSBA has received numerous requests for recommended chain of custody procedures. After consultation with the North Dakota Secretary of State's office, NDSBA recommends the following chain of custody procedure (or similar procedure) for handling absentee ballots deposited in drop box locations as encouraged by our Election guidance:

Recommended Drop Box and Chain of Custody Procedure:

- At a minimum, drop box locations should be available and accessible from the date absentee ballots are mailed out or provided to district voters. Drop box locations may also be used to drop off absentee ballot applications.
- School districts should make efforts to ensure that these drop box locations are secure and should be regularly monitored to ensure security is maintained.
- Written instructions should be placed on or near each drop box location reminding voters that their ballot must be enclosed in the secrecy envelope that was provided along with the ballot, sealed in the return envelope that





was also provided with the ballot, and the affidavit on the back of the envelope completed and signed before depositing into the drop box. The instructions should make it clear that these steps must be completed as directed in order for the voter's ballot to be counted.

- Designated school district staff should establish a schedule to remove the deposited ballots from the drop box locations. NDSBA recommends that at least 2 staff members pick up the ballots together. The contents of the drop box(es) should be picked up at least once daily. Once picked up, the contents should be immediately transferred to the school district business manager's office.
- Upon receipt at the school district business manager's office, the return envelopes containing the ballots should be date-stamped and then counted separately by at least 2 individuals to confirm the number of ballots received. This information should be recorded and documented as the ballots are received and counted. Once counted, the ballots should be handled and stored in the same manner as those absentee ballots that arrive by mail.
- NDCC § 16.1-07-09 permits an absent voter to personally deliver the absentee voter's ballot to the appropriate officer's office (i.e., the school district business manager) at any time before 5 p.m. on the day before the election. Drop boxes are an alternative or supplement to personal delivery to the business manager's office during school building closures due to the COVID-19 pandemic. **All drop boxes should be removed and their use discontinued at 5 p.m. on the day before the election** in order to comply with this requirement. No absentee ballots should be accepted via personal delivery or drop box after 5 p.m. on the day before the election.
- If an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the business manager too late to be tabulated on election day, the ballot must be tallied by the school board of the school district at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States





postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the business manager prior to the meeting of the school board to canvass the votes.

- Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied or canvassed with the ballots timely submitted for the election. However, these are to be presented to the school board and kept with all of the other election materials for the 45 days required by NDCC § 16.1-15-13.

The above chain of custody procedure is a *recommended* procedure and is not intended as legal advice. The key to the chain of custody procedure (whether you use the above procedure or something similar) is to exercise and demonstrate total control of the absentee ballots from the time the ballots are deposited in the drop box locations through the time they are canvassed and on through the 45-day retention period. NDSBA strongly encourages school boards to consult with their legal counsel for direct guidance on compliance with the annual election requirements and Executive Order 2020-19 or Executive Order 2020-19.1.

For other guidance on school district operations during the COVID-19 pandemic, see NDSBA's website (www.ndsba.org).





The North Dakota School Boards Association is a leading advocate for public education. NDSBA is governed by a board of seven local school board members elected by their peers. Staff members have many years of experience in school-related work and, by working cooperatively with school board members around the state, combine to form an effective voice for public education. NDSBA exists to serve the needs of school leaders in areas of board training, information, and presentations.

Visit NDSBA's website www.ndsba.org where you can find information about:

- Business Manager Certification Program
- Legal Services
- Policy Services
- Superintendent Search
- NDUC Group Account
- NDSBA conventions and seminars
- NDSBA publications
- NDSBA's monthly Bulletin
- Legislative advocacy
- Other helpful resources

You can also stay in touch with NDSBA via twitter @NDSchoolBoards.

