

Bylaw 9220: Governing Board Elections

Status: ADOPTED

Original Adopted Date: 06/01/2006 | Last Revised Date: 06/01/2024 | Last Reviewed Date: 06/01/2024

CSBA NOTE: The following bylaw is optional and should be revised to reflect district practice. While many district elections are governed by state law, some district elections are governed by the applicable city or county charter, or both. This bylaw is written based on state law but should be modified to the extent a city or county charter applies.

The filling of elective offices involves serious issues of constitutional and statutory concerns. Any district with questions related to local elections should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Board Member Qualifications

CSBA NOTE: Education Code 35107 details eligibility for Governing Board membership as specified below, including the requirement to be registered to vote. Elections Code 2201 lists the causes for cancelling an individual's voter registration, including, but not limited to, legally established mental incompetency, proof that the person is presently imprisoned or on parole for conviction of a felony, or official notification that the voter is registered to vote in another country or state.

Additionally, pursuant to certain provisions of the California Constitution and various state laws, the conviction of certain offenses makes a person ineligible to be a Board member, except when the person has been granted a pardon in accordance with law. For example, Article VII, Section 8 of the California Constitution prohibits anyone from holding public office if convicted of giving or offering a bribe to procure personal election or appointment. See the accompanying exhibit for a non-exhaustive list of such offenses.

Any person is eligible to be a member of the Governing Board, without further qualifications, if the person is: 18 years of age or older; a citizen of California; a resident of the school district or, if applicable, the trustee area; a registered voter; and not legally disqualified from holding civil office. (Education Code 35107)

A person is not eligible to be a member of the Board if they have been convicted of an offense(s) as specified in law and the accompanying Exhibit, except when the person has been granted a pardon in accordance with law. A district employee duly elected to the Board shall resign from district employment, or shall otherwise cease being a district employee, before being sworn in. If a district employee duly elected to the Board is sworn in and remains a district employee, then the employment shall automatically terminate upon being sworn into office. (Education Code 35107)

CSBA NOTE: See CSBA's website for information about governing board services that may be shared with candidates.

The Board encourages all candidates to become knowledgeable about the role of board members. The Superintendent or designee shall provide a Board candidate, upon request by the candidate, with information that will enable them to understand the responsibilities and expectations of being a Board member, including information regarding available workshops, seminars, and/or training. Additionally, the Superintendent or designee shall provide a Board candidate, upon request by the candidate, the county election official's contact information and general information about school programs, district operations, and Board responsibilities.

Recalling a Board Member

A Board member may be recalled as permitted by Elections Code 11000-11386. To commence a recall of a Board member, proponents shall serve, file, and publish or post a notice of intention to circulate the recall petition as specified by law and any applicable county elections official directives. Additionally, the recall petition shall be in the format provided by the Secretary of State and include, among other things, an estimate of the cost of conducting the special election, as determined by the county elections official, in consultation with the district.

CSBA NOTE: Pursuant to Elections Code 11240, within 14 days after the regular Board meeting at which the Board received a certificate of sufficiency to recall a Board member, the Board is required to order a recall election and set a date for the recall election in accordance with law. Pursuant to Elections Code 11241, if the Board fails to do so, the elections official of the county is required to set the date for the recall election within five days after the expiration of the 14-day window.

Within 14 days after the regular meeting at which the Board receives a certificate of sufficiency of signatures on a recall petition from a county elections official, the Board shall order an election to be held to determine whether the Board member named in the petition shall be recalled. The election shall be held not less than 88, nor more than 125,

days after the date that the Board orders the election. However, the election may be conducted within 180 days after the issuance of the Board's order to consolidate the election with a regularly scheduled election. (Elections Code 11240-11242)

A recall election of a Board member shall be conducted in accordance with Elections Code 11381-11386.

If a recall of a Board member is successful, that Board member's seat becomes vacant and shall be filled in accordance with Education Code 5090-95 and Board Bylaw 9223 - Filling Vacancies.

Consolidation of Elections

CSBA NOTE: The following optional section is for districts that currently hold their Board elections at a time that is not concurrent with municipal or statewide elections.

In general, Education Code 5000 and Elections Code 1302 require the regular election of Board members to be held on the first Tuesday after the first Monday in November of each odd-numbered year. However, in accordance with Elections Code 1302 and 10404.5, districts are authorized to request consolidation of their Board elections with the local municipal or state primary or general election by adopting a Board resolution and submitting it to the County Board of Supervisors for approval. Most districts choose to consolidate their Board elections with the local municipal or state primary or general election.

Pursuant to Elections Code 14051-14052, districts are required to hold elections concurrent with statewide elections if holding nonconcurrent elections has previously resulted in a "significant decrease" in voter turnout, as defined. Districts consolidating their elections due to low voter turnout should follow the procedures specified in Elections Code 1302, including the adoption of a Board resolution. For further analysis, see CSBA's, "Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections."

The Board may consolidate Board elections with the local municipal or statewide primary or general election in accordance with Elections Code 1302. Additionally, if a regularly scheduled Board election held other than on a statewide election date results in a decrease in local voter turnout of 25 percent or more compared to the average local turnout for the previous four statewide general elections, the Board shall take action to consolidate Board elections with statewide elections in accordance with Elections Code 14051-14052.

In order to consolidate elections, the Board shall adopt a resolution and submit it to the County Board of Supervisors for approval not later than 240 days prior to the date of the currently scheduled district election. (Elections Code 10404.5)

Whenever a regularly scheduled Board election is changed due to consolidation of elections, the terms of office of incumbent Board members shall be extended to align with the next applicable election. (Elections Code 10404.5)

Elections Process and Procedures

CSBA NOTE: Pursuant to Election Code 15400, after each election, the Board is required to declare who has been elected to the Board.

For each election, upon certification by the County Board of Supervisors, the Board shall declare who has been elected to the Board in accordance with law. (Election Code 15400)

A Board member whose term has expired shall continue to discharge the duties of the office until a successor has qualified by taking the oath of office. (Government Code 1302, 1360)

CSBA NOTE: Any district with questions regarding the election process and procedures, particularly the California Voting Rights Act (Elections Code 14025-14032) should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

OPTION 1: (Election by trustee area)

~~Each Board member shall reside in the trustee area they represent and shall be elected by voters residing within that trustee area. Trustee areas shall be balanced by population as required by state and federal law.~~

CSBA NOTE: Elections Code 21100-21180, as added by AB 764 (Ch. 343, Statutes of 2023), create the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions (FAIR MAPS) Act of 2023 which establishes a comprehensive set of rules that local governments must follow during the redistricting process.

Following each decennial federal census the Board shall adjust the boundaries of the district's trustee areas in accordance with Elections Code 21100-21180. (Education Code 5019.5)

OPTION 1 ENDS HERE

CSBA NOTE: Any district that selects Option 2 or 3 should ensure that its decision is consistent with Elections Code 14025-14032 (the California Voting Rights Act (CVRA)) which prohibits the use of the "at-large" voting method for elections within jurisdictions with a history of "racially polarized voting" (i.e., difference between voters of a protected class and voters in the rest of the jurisdiction in the choice of candidates preferred).

OPTION 2: (Election using "at-large" voting method)

Board members may reside anywhere within the district's boundaries and shall be elected by all voters in the district.

OPTION 2 ENDS HERE

CSBA NOTE: In addition to the methods described in Option 1 and Option 2, a district may use a "hybrid" method, which requires each Board member to reside within the trustee area that the Board member represents but be elected by all voters in the district. The extent, if any, to which a district using this "hybrid" method is required to balance its trustee areas by population is unclear.

OPTION 3: (Election using hybrid method)

Each Board member shall reside within the trustee area that the Board member represents but shall be elected by all voters in the district. Trustee areas shall be balanced by population as required by state and federal law.

CSBA NOTE: Elections Code 21100-21180, as added by AB 764, create the FAIR MAPS Act of 2023 which establishes a comprehensive set of rules that local governments must follow during the redistricting process.

Following each decennial federal census the Board shall adjust the boundaries of the district's trustee areas in accordance with Elections Code 21100-21180. (Education Code 5019.5)

OPTION 3 ENDS HERE

CSBA NOTE: The following paragraph may be revised to reflect district practice. Districts using Option 2 or 3 should periodically monitor the demographics within their geographical boundaries to ensure that no violation of the CVRA occurs. Any district found in violation of the CVRA could be held liable for attorneys' fees and legal costs. Elections Code 10010 requires that a prospective plaintiff send written notice to the district prior to filing a complaint alleging that the method of election violates the CVRA so that the district will have the chance to cure any potential violations before the commencement of litigation. Even if the district cures the alleged violations, it may be required to pay reasonable costs incurred in supporting the written notice.

The Board may review the district's Board election method to determine whether any modification is necessary.

CSBA NOTE: Converting from an "at-large" (Option 2) to a "by trustee area" (Option 1) voting method involves complex issues of law regarding matters such as the redrawing of maps, required approvals, and transition dates. Elections Code 10010 and 21100-21150 require the Board to follow procedural requirements and hold hearings before and after drawing maps of the proposed district boundaries to allow for public input. If Board members will be elected at different times for staggered terms of office, hearings held after publishing the draft map(s) are required to include an opportunity for public input regarding the proposed sequence of elections.

If the district seeks to change its election method, the Board shall follow procedural requirements and hold public hearings in accordance with Elections Code 10010 and 21100-21150 before adopting a resolution at an open meeting specifying the change and obtain approval from the county committee on school district organization having jurisdiction over the district in accordance with Education Code 5019.

CSBA NOTE: The remainder of this section is for all districts. The Attorney General opined in 105 Ops.Cal.Atty.Gen. 182 (2022) that when the boundaries of a district's trustee areas are adjusted or the district changes from "at-large elections" to "by-trustee area elections," and a vacancy then arises in a seat held by a Board member whose term of office began prior to the change in boundaries or election method, the vacancy should be filled using the boundaries or election method by which the incumbent Board member was elected. Any district that has already adopted a "by-trustee" election method should revise the following paragraph accordingly.

The election method or trustee-area boundaries in effect at the beginning of a Board member's term shall be used when any vacancy that occurs during that term is to be filled, even if, during the term, the district has adopted "by-trustee area" election method or trustee area boundaries have been adjusted.

Campaign Conduct

CSBA NOTE: Education Code 35177 authorizes boards, by resolution, to limit campaign expenditures and/or contributions for candidates in board elections. Based on the First Amendment, however, courts have imposed constraints on limitations on campaign expenditures and/or contributions limits. It is strongly recommended that, before adopting any campaign expenditures and/or contribution limits, the Board consult CSBA's District and County Office of Education Legal Services or district legal counsel, in order to ensure that the district's limits satisfy legal restrictions.

All candidates, including current Board members running as incumbents, shall abide by local, county, state, and federal requirements regarding campaign contributions, funding, and expenditures.

CSBA NOTE: Government Code 85300 generally prohibits the expenditure of public funds for the purpose of seeking elective office. However, Government Code 85300 permits a candidate to expend or accept public funds for the purpose of seeking elective office if the Board establishes a dedicated fund for that purpose, provided that both (1) the public funds are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference, and (2) the Board has established criteria for determining a candidate's qualifications. For school board elections, candidate qualifications are specified in state law (see section "Board Member Qualifications" above), and districts should not establish additional qualification requirements.

A Board member shall not expend, and a candidate shall not accept, any public money for the purpose of seeking elective office. However, the district may establish a dedicated fund for those seeking election to the Board, provided that the funds are available to all candidates who are qualified pursuant to Education Code 35107 without regard to incumbency or political preference. (Government Code 85300)

CSBA NOTE: Pursuant to Elections Code 20440, county election officials are required to present each candidate running for public office with a voluntary Code of Fair Campaign Practices for the candidate to sign. However, neither the district nor opposing candidates have authority to enforce the pledge if it is violated. The following optional paragraph expresses the Board's desire that candidates for Board membership sign and abide by the terms of the pledge.

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

Statement of Qualifications

On the 125th day prior to the day fixed for the general district election, the Board secretary or designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

CSBA NOTE: Pursuant to Elections Code 13307, the candidate statement is limited to 200 words (Option 1 below), unless the Board chooses to authorize a 400-word maximum (Option 2 below).

OPTION 1: (200 Words Limit)

Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

OPTION 1 ENDS HERE

OPTION 2: (400 Words Limit)

Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 400 words. (Elections Code 13307)

OPTION 2 ENDS HERE

CSBA NOTE: Pursuant to Elections Code 13307, a voter may receive by mail a voter's pamphlet that contains candidate statements or, when authorized by the elections official, may opt to obtain the voter's pamphlet and related materials electronically (i.e., from the elections official's web site or via email). When electronic distribution is authorized by the elections official, districts may choose, pursuant to Elections Code 13307, whether to permit Board candidates to prepare a statement for electronic distribution. If a candidate chooses to submit a statement for electronic distribution only, it will not appear in the mailed voter's pamphlet.

The following paragraph, which may be revised to reflect district practice, is for use by any district that authorizes electronic distribution of candidate statements in addition to or instead of the mailed voter's pamphlet.

When the elections official allows for the electronic distribution of candidate statements, a candidate for the Board may, in addition to or instead of submitting a candidate statement for inclusion in the mailed voter's pamphlet, prepare and submit a candidate statement for electronic distribution.

CSBA NOTE: Prior to the beginning of the nominating period, Elections Code 13307 requires the Board to determine whether to have the district assume the costs of producing candidate statements or to charge candidates for the costs, regardless of whether the statements are for hard copy or electronic distribution. In 85 Ops.Cal.Atty.Gen. 49 (2002), the Attorney General opined that Elections Code 13307, which authorizes the district to pay for the distribution of candidate statements for nonpartisan elective offices, does not conflict with Education Code 7054, which prohibits the use of district resources for campaign purposes.

Option 1 below is for districts that assume the costs associated with producing candidate statements, and Option 2 is for districts that charge candidates for the costs. The following options may be revised to reflect the method of distribution (i.e., electronic and/or hard copy) used by the district.

OPTION 1: (Candidate Statement Paid by District)

In order to encourage qualified voters to run for election to the Board, the district shall pay all but \$200 of the cost of printing, handling, translating and mailing candidate statements filed pursuant to Elections Code 10012. Each candidate who files such a statement shall be required to pay \$200 of the cost at the time of filing. The district shall pay the remainder of the cost of printing, handling, translating, mailing and/or electronically distributing candidate statements files pursuant to Elections Code 13301.

OPTION 1 ENDS HERE

OPTION 2: (Candidate Statement Paid by Candidate)

The district shall assume no part of the cost of printing, handling, translating, mailing, or electronically distributing candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the district may require candidates to pay their estimated pro rata share of these costs to the district in advance pursuant to Elections Code 13307.

OPTION 2 ENDS HERE

Tie Votes in Board Member Elections

CSBA NOTE: Education Code 5016 requires the Board to decide, before conducting any election, whether a potential tie will be resolved by lot or by a runoff election. Option 1 provides for the use of lots to determine the winner in case of a tie in every election and Option 2 provides for a runoff election in every election.

Education Code 5016 requires the County Superintendent of Schools to provide certification of a tie vote in an election to the district Board.

OPTION 1: (Tie Decided by Lot)

Whenever the County Superintendent of Schools certifies to the Board that there is a tie vote such that it is impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time and place shall determine the winner by lot. (Education Code 5016)

OPTION 1 ENDS HERE

OPTION 2: (Tie Decided by Runoff Election)

Whenever the County Superintendent certifies to the Board that there is a tie vote such that it is impossible to

determine which of two or more candidates has been elected to the Board, the Board shall schedule a runoff election in accordance with law. (Education Code 5016)

OPTION 2 ENDS HERE

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

CA Constitution Article 2, Section 2
CA Constitution Article 7, Section 7
CA Constitution Article 7, Section 8

Ed. Code 1006

Ed. Code 35107

Ed. Code 35177

Ed. Code 35239

Ed. Code 5000-5033

Ed. Code 5091

Ed. Code 5220-5231

Ed. Code 5300-5304

Ed. Code 5320-5329

Ed. Code 5340-5345

Ed. Code 5360-5363

Ed. Code 5380

Ed. Code 5390

Ed. Code 5420-5426

Ed. Code 5440-5442

Ed. Code 7054

Elec. Code 10010

Elec. Code 10400-10418

Elec. Code 10509

Elec. Code 10600-10604

Elec. Code 11000

Elec. Code 1302

Elec. Code 13307

Elec. Code 13308

Elec. Code 13309

Elec. Code 14025-14032

Elec. Code 14050-14057

Elec. Code 15400

Elec. Code 18501

Elec. Code 20

Description

Voters; qualifications

Conflicting offices

Disqualification from office

Prohibition against school district employees serving on county board of education

School district employees

Campaign expenditures or contributions

Compensation of governing board member of districts with less than 70 ADA

Election of school district board members

Vacancies; petition for special election

Elections

General provisions; conduct of elections

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Compensation; election officer

Qualifications of voters

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Use of district property; campaign purposes

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Consolidation of elections

Notice of election by secretary

School district elections

Recall of officers

Local elections; school district election

Candidate's statement

Candidate's statement contents

Candidate's statement; indigence

California Voting Rights Act

California Voter Participation Rights Act

Announcement of election results

Election fraud

Public office eligibility

State References

Elec. Code 20440
 Elec. Code 21100-21180
 Elec. Code 2201
 Elec. Code 4000-4008
 Gov. Code 1021
 Gov. Code 1097
 Gov. Code 12940
 Gov. Code 1770
 Gov. Code 81000-91014
 Gov. Code 9055
 Gov. Code 9412
 Pen. Code 165
 Pen. Code 2772
 Pen. Code 2790
 Pen. Code 424
 Pen. Code 661
 Pen. Code 67
 Pen. Code 68
 Pen. Code 74
 Pen. Code 88
 Pen. Code 98

Federal References

52 USC 10301-10508

Management Resources References

Attorney General Opinion
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 Attorney General Opinion
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 Court Decision
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 CSBA Publication
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Description

Code of Fair Campaign Practices
 FAIR MAPS Act
 Grounds for cancellation
 Elections conducted wholly by mail
 Conviction of crime
 Illegal participation in public contract
 Unlawful discriminatory employment practices
 Vacancy of office
 Political Reform Act
 Committing crimes against legislative power
 Refusing to appear
 Bribes to members of city council
 Interfering with the work of prisoners
 Interrupting the work of prisoners
 Embezzlement and falsification of accounts by public officers
 Removal for neglect or violation of official duty
 Giving bribes
 Receiving bribes
 Acceptance of gratuity
 Crimes against legislative power
 Crimes against public justice

Description

Voting Rights Act

Description

105 Ops.Cal.Atty.Gen. 182 (2022)
 69 Ops.Cal.Atty.Gen. 290 (1986)
 81 Ops.Cal.Atty.Gen. 98 (1998)
 83 Ops.Cal.Atty.Gen. 181 (2000)
 85 Ops.Cal.Atty.Gen. 49 (2002)
 Dusch v. Davis (1967) 387 U.S. 112
 Randall v. Sorrell (2006) 126 S.Ct. 2479
 Rey v. Madera Unified School District (2012) 203 Cal. App. 4th 1223
 Sanchez v. City of Modesto (2006) 145 Cal. App. 4th 660
 Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections, January 2017
 CSBA District and County Office of Education Legal Services
 Institute for Local Government
 Fair Political Practices Commission
 California Secretary of State's Office

Management Resources References

Website

Description

[CSBA](#)

Cross References

0410

9005

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