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QUESTIONS AND ANSWERS CONCERNING SCHOOL ELECTIONS 2006

Below are frequently asked questions about the upcoming election. The answers to these questions are based upon information available in February 2006. For information on the 2006 school budget deadlines, please review the New Jersey Department of Education [2006 School Elections and Budget Procedures Calendar](#). Other 2006 school budget information can be found on the [NJDOE District Wide Budget](#) page.

Where deadlines fall on weekends/holidays, those deadlines are generally moved to the next business day.

Boards are urged to consult with their board attorneys for legal advice concerning the school election process.

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Nothing contained in this document should be construed as legal advice. This document is for informational purposes only. Please consult your board attorney for legal advice.

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Annual School Election – Date

1. When does the annual school election take place?

The annual school election is held in each Type II school district, including regional districts, on the third Tuesday in April. For the 2006 school election, that date is April 18. N.J.S.A. 19:60-1.

2. Can the Commissioner change the date of the school election?

Yes. The Commissioner of Education shall make any adjustments to the school budget and election calendar which may be necessary to change the annual school election date or any other school budget and election calendar date if that date coincides with a period of religious observance. Should calendar adjustments be necessary, the Commissioner must notify the local school boards, county clerks and boards of election no later than the first working day in January of that election year. For 2006, that date is January 3. N.J.S.A. 19:60-1.

3. Has the school election date ever been changed for any other reason?

Yes. When deemed necessary, the Legislature has enacted special legislation to change the election date and/or other dates in the election and budget processes. It is not uncommon for this to occur in the first year of the first term of a new governor. In 1990, the first year of the Florio administration, the election date was changed from Tuesday, April 5 to Tuesday, April 24, resulting in numerous date changes in the election and budget processes. In 1994, the first year of the Whitman administration, many of the election and budget related dates were revised, although the date of the election, Tuesday, April 19, remained unchanged. Additionally, in 1991, the first year of enactment of the QEA, the election date was postponed from Tuesday, April 2 until Tuesday, April 30. In 2004, the Commissioner was authorized in P.L. 2003, c. 275 to adjust other dates as needed to conform with the State aid notification date. In 2005, the state budget message was changed to March 1, 2005. However, the Commissioner of Education was not authorized in the law, P.L. 2005, c. 32, to adjust statutory dates. For 2006, no law has been enacted to move or adjust the election date from the third Tuesday in April.

4. Why do changes often occur in the school budget/election calendar in the first year of the first term of a new Governor?

The Commissioner releases state aid figures to school districts within two days following the governor’s budget message. N.J.S.A. 18A:7F-5. The budget message occurs on the third Tuesday following the first meeting of the Legislature, except in a year in which a

governor shall be inaugurated, when it is February 15. N.J.S.A. 52:27B-20. With a change in administration, the budget message is often delayed in an inaugural year. This causes state aid figures, budget development and, in some cases, the election to be delayed. For 2006, a law was enacted, P.L. 2006, c. 2, which extends the time for the Governor to give his Budget Message until March 23, 2006. The Senate and Assembly leadership have amended the legislative calendar to designate Tuesday, March 21, as the date for Governor Corzine's first annual budget address.

5. Will the school election date change in 2006?

For 2006, the election date is April 18. In general, the Commissioner of Education has the authority to make adjustments in the school budget and election calendar whenever there are dates that coincide with a period of religious observance. N.J.S.A. 19:60-1.

Special Elections

6. Can school elections occur on dates other than the annual school election?

Yes. The board of education of a Type II (elected) school district may call a special election on the fourth Tuesday in January, the second Tuesday in March, the last Tuesday in September or the second Tuesday in December, when, in its judgment, the interests of the schools require it. N.J.S.A. 19:60-2.

7. What are special school elections?

A special election is a school election that is held at a time other than the annual school election. N.J.S.A. 19:1-1. It is not the budget election and is generally related to a supplemental financial issue or a bond referendum. Note however, if there is a tie vote or a failure to elect due to improper election procedures, a special election is used to fill the vacancy on the board. N.J.S.A. 18A:12-15. Boards should consult with their attorneys concerning how to proceed if there is a tie or failure to elect in N.J.S.A. 18A:12-15. This election does not appear to be one of the special elections mentioned in N.J.S.A. 19:60-2. Judicial intervention may be needed to resolve the apparent conflict between the two statutes.

8. What kind of notice must be given for a special school election?

The board of education shall give the municipal clerk or clerks and the county board of elections no less than 60 days' written notice of its intention to hold a special school election. N.J.S.A. 19:60-2.

Election Responsibilities

9. Who appoints election officials for school elections?

The county board of elections designates two members of the district board of elections to oversee the school election. Where electronic voting systems are in use in an election district in which there are more than 900 registered voters, four members of the district board of elections are designated. The county board of elections shall appoint one of the designated persons to serve as the judge of the election and the other or another, as the case may be, to serve as the inspector for school elections. N.J.S.A. 19:60-3(a).

10. What are election workers paid?

District board of elections members serving at a school election are paid by the board of education at the hourly rate of \$5.77 except that the board of education may compensate the district board of election members at a prorated hourly rate up to a maximum of \$14.29. The \$14.29 hourly rate is based on the \$200 daily election workers rate for primary, general and special elections. N.J.S.A. 19:45-6.

11. What are the specific election responsibilities that the board secretary must perform on behalf of the board of education?

The board secretary is specifically responsible for certain legal requirements and mechanical duties of setting up and running a school election including:

- a. receiving nominating petitions, N.J.S.A. 19:60-7;
- b. withdrawing candidates' names when given notice by the candidates, N.J.S.A. 19:60-7;
- c. receiving objections to nominating petitions, N.J.S.A. 19:60-7;
- d. holding a drawing for ballot positions and certifying results to the county clerk, N.J.S.A. 19:60-8; and
- e. certifying and forwarding to county clerk any public questions to be acted upon, not later than 10 a.m. of the 17th day prior to the election. N.J.S.A. 19:60-4. For the 2006 school election, that date is Saturday, April 1. The Department of State, Divisions of Elections, requests that boards of education submit the public question to the county clerk as early as possible to allow for the absentee ballots and sample ballots to be printed and delivered on time.

12. What is the role of the local board of education?

The local board of education:

- a. sets the hours of election within the statutory limitations. For school elections, the polls shall be open between 5 p.m. and 9 p.m. and during any additional time the school board may designate between 7 a.m. and 9p.m., N.J.S.A. 19:15-2;
- b. sets the hourly rate of compensation for school election workers, N.J.S.A. 19:45-6;
- c. rules on objections to nominating petitions on or before the 44th day preceding the election. For 2006, that date is Monday, March 6. (See question 65) N.J.S.A. 19:60-7;
- d. may, in the case of a regional school district, identify the constituent municipality's share on the ballot, N.J.S.A. 19:60-9; and
- e. pays for all costs, charges and expenses of school elections. N.J.S.A. 19:60-12.

13. What is the role of the local municipal clerk in school elections?

On or before April 1 of each year (January 10 if a presidential election year), the municipal clerk certifies to the county board of elections a suggested list of polling places, N.J.S.A. 19:8-2, and in certain counties, collecting voting machine keys, receiving

poll list books and tally sheets. The municipal clerk also assists the county board of elections and the county superintendent of elections, if requested, in the distribution and collection of election materials.

14. What is the role of the County Clerk in school elections?

The county clerk has a variety of school election duties including, but not limited to: the printing of ballots, the printing and mailing of sample ballots, the advertisement for and mailing of absentee ballots, and the return of tally sheets for voting machine counts.

15. What is the role of the County Board of Elections?

The county board of elections has a variety of school election duties, including but not limited to, publication of election notices, district board of election worker appointments and certification, appointment of the judge and inspector for the school election, receiving requests for, appointment and certification of challengers, establishing polling places, advertising the election, redistricting, the ordering of voting authority pads, counting of absentee ballots, recounts and certification of the election and in certain counties, the ordering of poll list books and informing candidates that voting machines are ready for inspection.

16. What is the role of the superintendent of elections?

Not all counties have a superintendent of elections. In Atlantic, Bergen, Burlington, Camden, Essex, Hudson, Mercer, Monmouth, Morris and Passaic counties, the superintendent of elections has a variety of school election duties including, but not limited to, voter registration, changes of residence, informing candidates that voting machines are ready for inspection and maintaining voter books and voting machines.

17. Who handles complaints about Election Day irregularities?

All complaints are referred to the county election officials, with an appeal to a designated Superior Court judge within the county where the school district is located.

18. Does the New Jersey Attorney General have a role in the process?

Yes. The Attorney General is legal counsel to the county boards of election and Superintendent's of elections.

19. Who ensures compliance with the campaign expenditures requirements?

The Election Law Enforcement Commission (ELEC) ensures compliance with the required reporting of campaign contributions, campaign materials and campaign spending. N.J.S.A. 19:44A-1 et seq. All candidates are required by law to comply with the provisions of the "New Jersey Campaign Contributions and Expenditures Reporting Act." For further information, call ELEC at: 609-292-8700 or visit the web site, www.elec.state.nj.us. For more on election reporting requirements, see the discussion starting at question 44 below.

Polling Places

20. How are polling places established?

On or before April 1 of each year (January 10 if a presidential election year), the municipal clerk certifies to the county board of elections a suggested list of polling places. N.J.S.A. 19:8-2. The county board of elections, on or before May 15 of each year (February 15 if a presidential election year) certifies a list of polling places to the sheriff, county clerk, superintendent of elections and each municipal clerk. N.J.S.A. 19:8-4.

21. Where can polling places be located?

The county board of elections may select schoolhouses or other public buildings as polling places and shall designate the rooms or places, entrances and exits to be used. A polling place other than a schoolhouse or public building may be selected when the county board of elections determines that an inconvenience would be caused to the voters of the election district by locating the polling place in a schoolhouse or public building. In selecting polling places, consideration shall be given to the needs of individuals with disabilities and the elderly. N.J.S.A. 19:8-3.

22. Must polling places be accessible to elderly and physically disabled voters?

Yes. Each polling place selected by the county board of elections must be accessible to elderly and physically disabled voters unless the Attorney General determines that a state of emergency exists that would interfere with the election. Pursuant to N.J.S.A. 19:8-3.1, the Attorney General may grant a temporary waiver if no accessible polling place is available, but may only do so twice for each polling place. A polling place shall be accessible if it is in compliance with the federal Americans with Disabilities Act. N.J.S.A. 19:8-2.

23. What can an elderly or physically disabled voter do if they are assigned to an inaccessible polling place?

An elderly or physically disabled voter will, upon advance request, be permitted to either vote at an alternative accessible polling place or be provided with a civilian absentee ballot. N.J.S.A. 19:8-3.2.

24. Can polling places be consolidated?

Yes. Polling places can be consolidated in school elections. Upon the request of a board of education or the municipal clerk or upon its own initiation, the county board of elections may designate the polling place and voting equipment of one election district to serve as the polling place and voting equipment of one or more other election districts. To be eligible for consolidation, a polling place must have had no more than 500 ballots cast for each of the two preceding annual school elections. If, at two consecutive annual school elections after consolidation, more than 500 ballots are cast in the consolidated election district, the county board of elections shall effect an appropriate revision. N.J.S.A. 19:60-3(b)(1).

25. How are election duties assigned when polling places are consolidated?

The county board of elections shall designate at least two members from among the members of the consolidated election districts to perform school election duties. One of the persons so designated shall serve as judge and another as inspector for school elections. N.J.S.A. 19:60-3(b)(2).

Advertisements/Notices

26. Must the board secretary or the board of education advertise the board seats available at the upcoming election and, if so, when?

There is no statutory or regulatory requirement that the board secretary or the board advertise the seats up for election. Certain county boards of election recommend that an advertisement of candidacy information be made in January. Consult with your county board of election for its requirements.

27. What advertisements and notices are required for school elections?

Once, during the 30-day period preceding the date fixed for the closing of the voter registration books for the school election, the county board of elections shall publish notice of the school election. The notice shall include:

- a. the day, time and place thereof;
- b. the offices, if any, to be filled at the election;
- c. the substance of any public question to be submitted to the voters thereof;
- d. that a voter who, prior to the election, shall have moved within the same county without:
 - i. filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election,
 - ii. returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or
 - iii. otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the school election by provisional ballot at the polling place of the district in which the voter resides on the day of the election;
- e. that if the voter has any questions as to where to vote on the day of the election, the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter; and
- f. such other information as may be required by law.

Notice of the school election shall also be published once during the calendar week preceding the week in which the school election is held. N.J.S.A. 19:12-7.

A county board of elections shall post a voter information notice, known as a voter's bill of rights, in a conspicuous location in each polling place before the opening of the polls on the day of any election.

Notices of the school election shall set forth a general description of the contents of the voter information notice, how the notice may be viewed or obtained prior to the day of an election, and that the notice will be posted in each polling place on the day of an election. N.J.S.A. 19:12-7.1.

28. What is a provisional ballot?

A provisional ballot is used when the voter is registered to vote in a county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The person using the provisional ballot must sign a statement that includes a provision that they are not using a provisional ballot for fraudulent purposes.

For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

Contact the county clerk for further information on use of provisional ballots. N.J.S.A. 19:31-11, 19:53C-1.

29. Who is responsible for publishing the notices for absentee ballots?

The county clerk in the case of a school election in a regional or other school district comprising more than one municipality or the clerk of the municipality for a school district comprising a single municipality. N.J.S.A. 19:57-7.

30. When and how are the notices for absentee ballots to be published?

Notice to persons desiring military service and civilian absentee ballots must be published prior to the 50th day immediately preceding the election. For the 2006 school election, that date is Monday, February 27. Notices shall be published separately in at least one newspaper in each district in which the election is to be held or if no newspaper is published in the district, then in a newspaper published in the county and circulating in the district. N.J.S.A. 19:57-7.

Challengers

31. What are challengers?

A challenger is an individual appointed by a candidate, whose appointment papers are issued by the county board of elections. The challenger has the authority to challenge the right to vote of any person. Challengers may be present while votes are being counted and have the right to challenge the counting or rejecting of any ballot or part of a ballot. N.J.S.A. 19:7-5.

32. Can a candidate be challenger?

Yes. A candidate for board of education office may be a challenger and may likewise appoint two challengers for each election district. However, only one challenger may be present in the polling place at a time. Challengers may also be appointed as proponents or opponents of a referendum. N.J.S.A. 19:7-2.

33. What is the deadline for the appointment of challengers?

The appointment of or application by candidates for challengers and alternates shall be filed with the county board of elections not later than the second Tuesday preceding the school election. The second Tuesday preceding the school election is also the last day for appointment of challengers for public questions by petition. For the 2006 school election, that date is Tuesday, April 4. In order to be appointed as a challenger, a person must be a registered voter in the county in which the election district is located. N.J.S.A. 19:7-3.

Candidates

34. What are the legal requirements to become a school board member?

- a. Each member of any board of education shall, pursuant to N.J.S.A. 18A:12-1:
 - i. Be a United States citizen;
 - ii. Be a resident of the district for at least one year;
 - iii. Be able to read and write;
 - iv. Be a registered voter in the district where he/she is submitting the petition;
 - v. Not be disqualified as a voter.
- b. Board of education members may not, pursuant to N.J.S.A. 18A:12-2 and 12-3:
 - i. Be the mayor or a member of the governing body of the municipality or, in the case of special services or vocational schools, the county, or;
 - ii. Have a direct, or indirect, contract with or claim against the board.

Additionally, if a board member ceases to be a resident of the district, his membership on the board shall immediately cease.

35. What would cause a voter to be disqualified?

A person would be disqualified as a voter, pursuant to N.J.S.A. 19:4-1, if that person is:

- Determined to be an idiot or insane;
- Convicted of a violation of Title 19 where voting privileges were revoked as part of the criminal punishment, unless pardoned or restored by law; or
- Serving a sentence or on parole or probation as a result of a conviction of an indictable offense.

36. Must a board member meet all of these requirements at the time of filing his/her petition?

No. With the exception of voter registration (See question 60), the requirements listed apply to membership on the board, not candidacy. The residency requirement can be satisfied if the petitioner will be in the district one year by school election day.

Individuals having a contract with or a substantial and material claim against the board must resolve the contract or substantial and material claim prior to being sworn in as a board member. See, Margadonna, 2003 S.L.D. June 2. While voter registration must be completed prior to filing, the candidate need not be eligible to vote until Election Day. Therefore, someone who turns 18 after the filing deadline but prior to Election Day, and who has previously registered to vote, has properly filed his/her petition and may be a candidate for the school board election.

37. Can someone under 18 years of age serve as a board member?

No. You must be a registered voter to be a board member. Since you cannot be a registered voter if you are under 18, no one under that age may serve as a board member. N.J.S.A. 19:31-5, 6. Candidates who will reach the age of 18 prior to the school board election may register in advance of their 18th birthday so long as they register no later than 21 days preceding the election. N.J.S.A. 19:31-6.3.

38. May a student serve as a board member?

Yes, provided that the student meets all other qualification requirements set forth above.

39. Can a candidate file petitions for both a full term vacancy and a partial term vacancy?

No. The petition requires that the candidate swear that he/she agrees to accept and qualify into office as a board member if elected. Since the candidate can only hold one position on a board of education if elected, he/she may file for only one vacancy. See Kueken, 1990 S.L.D. 527 and West Milford, 1977 S.L.D. 339. Nothing would prevent a candidate from filling out more than one nominating petition, but only one can be filed with the board of education in question. N.J.S.A. 19:60-6.

40. Can a person who has been convicted of a felony be a candidate for the board?

Yes. If the individual has served his sentence and/or completed his time on parole, his/her voting rights have been restored and the individual meets all other qualifications, he/she may be a candidate for the board.

41. Can candidates be endorsed by a political party?

There is no statute specifically prohibiting candidates from being endorsed by a political party. However, keep in mind that no political party designation may appear on the school election ballot. N.J.S.A. 19:60-1. Additionally, the Commissioner of Education has traditionally frowned on political party endorsements of school board members as school elections should be non-partisan. I/M/O the Annual School Election in the Brick School District, 93 N.J.A.R. 2d 360.

42. Can candidates be endorsed by a local school employees' union?

Yes. But accepting such endorsement may restrict the candidate's ability to participate fully in certain discussions and votes of the board of education. For instance, the School Ethics Commission has ruled that it would be a violation of the School Ethics Act for board members who endorsed by the local teachers union to participate in current negotiations with that union, among other prohibitions. See [SEC Advisory Opinion A13-02 \(12/2/02\)](#). Board members should consult with the board attorney concerning any potential or actual ethical concerns arising under the school laws.

43. Can candidates run as a slate?

No grouping of candidates is allowed on the school election ballot. N.J.S.A. 19:60-1. Candidates are not prohibited, however, from running as a group or team and recommending and endorsing each other.

44. How late can a candidate withdraw and still have his/her name removed from the ballot?

A candidate may withdraw as a candidate by filing a notice in writing with the board secretary before the 44th day prior to the election. N.J.S.A. 19:60-7. For the 2006 election, that date is Monday, March 6. Situations have occurred where candidates have had their names removed from the ballot after the 44th day preceding the election but before the ballot has been printed. Examples include: removal by court order, death of a candidate and relocation of a candidate outside of the school district. Some of those situations have involved a simple removal of the name by the county clerk. Others have involved seeking a declaratory judgment from a Superior Court judge with a resulting court order.

Campaign Contributions/Expenditures

45. Must a candidate report all campaign expenditures?

The New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. requires all school board candidates who receive any contribution from any source, including their own funds or in-kind services, regardless of the amount, to file a Certificate of Organization and Designation of Campaign Treasurer and Depository form (D-1 or D-2) with the [Election Law Enforcement Commission](#) (ELEC). This form is a basic form that simply lists the bank in which the campaign bank account is located. ELEC has a [Compliance Manual for Candidates](#) that describes all of the reporting requirements for candidates and contains all of the necessary forms that must be filed concerning financing of a board member's campaign. (Note that all forms are located at the end of the [Manual](#), starting after page 45.)

Any candidate who intends to spend more than \$3,500 must make a more extensive and detailed report to ELEC (Form R-1, Report of Contributions and Expenditures) and comply with a number of other procedural requirements. (See p. 42 of the [Manual](#) for explanation.)

Thresholds for joint campaigns are \$6,700 for two candidates and \$9,700 for three or more candidates. N.J.S.A. 19:44A-16. (See p. 43-45 of the [Manual](#) for explanation.)

A campaign which is to cost \$3,500 or less is exempt from the detailed reporting requirements. However, even if expenditures do not exceed \$3,500, any contribution totaling more than \$300 from any one source must be reported to ELEC with the source identified. (Form C-1, Supplemental Contributor Information) In addition, ELEC must be notified in writing of any contribution totaling more than \$1,000 that is received from the 13th day prior to the election up to and including the date of the election. (Form C-1, Supplemental Contributor Information) N.J.S.A. 19:44A-16. (See p. 41 of the [Manual](#) for explanation.)

All candidates should be aware that certain filings may also have to be made to the county clerk also.

For further information call ELEC at 609-292-8700 or visit the web site, www.elec.state.nj.us.

46. When are the ELEC reporting dates?

- **March 20, 2006 (29 days pre-election)**

Last day to file the first campaign contribution reporting form (R-1) for an individual candidate expecting to spend more than \$3,500, or who receives more than \$300 in contributions from any one source. (C-1) (These deadlines and reporting requirements also apply to candidates conducting joint campaigns. The reporting thresholds for candidates conducting joint campaigns are \$6,700 for two candidates and \$9,700 for three or more candidates.) N.J.A.C. 19:25-8.2, 8.3.

- **April 5, 2006 (13 days pre-election)**

Any contribution in excess of \$1,000 from anyone source received between this date and the Annual School Election must be reported within 48 hours of receipt. (Form C-1) N.J.A.C. 19:25-8.6, 8.9.

- **April 7, 2006 (11 days pre-election)**

Last day to file the second campaign contribution reporting form (R-1) for an individual candidate expecting to spend more than \$3,500, or who receives more than \$300 in contributions from any one source. (C-1)

(These deadlines and reporting requirements also apply to candidates conducting joint campaigns. The reporting thresholds for candidates conducting joint campaigns are \$6,700 for two candidates and \$9,700 for three or more candidates.) N.J.A.C. 19:25-8.2, 8.3.

• **May 8, 2006 (20 days post-election)**

Last day to file the final campaign contribution reporting form (R-1) for an individual candidate expecting to spend more than \$3,500 or who receive more than \$300 in contributions from any one source. (C-1)

(These deadlines and reporting requirements also apply to candidates conducting joint campaigns. The reporting thresholds for candidates conducting joint campaigns are \$6,700 for two candidates and \$9,700 for three or more candidates.) N.J.A.C. 19:25-8.2, 8.3.

All candidates are strongly encouraged to seek the guidance of the Election Law Enforcement Commission and refer to its [Compliance Manual for Candidates](#) for additional guidance on these and other reporting requirements. ELEC may also be reached at 609-292-8700 or 1 (888) 313-ELEC.

All candidates should also be aware of recent [pay-to-play legislation](#) that [authorizes, but does not mandate, boards of education to adopt policies](#) governing campaign contributors' ability to subsequently contract with the board and requires disclosures to the local board of certain campaign contributions by the contractor. All board candidates are encouraged to contact their local board offices to find out if their board has adopted such a policy, as it may affect from whom they wish to receive contributions. Additionally, all businesses should be aware that, if they have received contracts valued at more than \$50,000 in a calendar year, any contributions to candidates' campaigns must be disclosed to ELEC.

47. May the board of education expend public funds in support of the budget?

The answer to this question is a qualified yes. The leading case on this issue, Citizens to Protect Public Funds v. Parsippany-Troy Hills Board of Education, 13 N.J. 172 (1953), indicates that boards of education may make reasonable expenditures in order to provide the voters with relevant facts to aid them in making an informed decision. Boards must present the facts in a fair, unbiased manner. For example, if the budget provides for improved educational facilities, the voters must also be told of the resulting negative consequences such as increased taxes. The basis for this decision is that boards are spending public monies when they seek to inform the public. These monies belong equally to supporters and opponents of the budget and should not be spent in a manner favoring one side of the issue.

48. May a board member individually speak in favor of the budget?

The answer is a qualified yes. If no public monies are involved, a board member is not constrained by the Parsippany-Troy Hills case and its progeny and may speak in favor of, or against, the budget. However, board members should be aware that the school ethics laws and local board policies and political activity would govern their public statements.

49. May a board of education involve pupils in the election process?

The involvement of pupils in school election matters, be the budget, bond referendum, or candidate election is always a controversial one and should be looked at closely from a

legal and public relations point of view. N.J.S.A.18A:42-4 prohibits the distribution of materials through children that promote, favor or oppose any candidacy, bond issue proposal or public question. This involves not only school elections such as bond referendum but also general and municipal elections as well. Similarly, pupils may not be requested or directed by any official or employee of the public schools to engage in any activity which tends to promote, favor or oppose candidacy, bond issues, proposals, or public questions. Boards of education are required to have a policy to carry out the purposes of this statute.

Nominating Petitions

50. What is the filing deadline for candidate nominating petitions?

The deadline for filing candidate petitions is 4 p.m. of the 50th day preceding the election. For the 2006 election, that date is February 27. Note that in Pritel v.Burris, 94 N.J. Super. 486 (App. Div. 1967), a township clerk's refusal to accept a nominating petition five minutes after closing was deemed arbitrary. The 4:00 p.m. deadline was held to be ministerial at best, since the clerk was present in the office until after 5:30 p.m. Candidates are strongly urged, however, to submit their petitions in a timely manner.

51. Can the Board Secretary demand to know who is asking for the petition as well as who plans to use it?

No. It is permissible to ask, but an answer cannot be required. The Board Secretary should indicate that he/she is requesting the information only to be able to share any election information and changes with the petitioning candidate.

52. Is there a standard form of nominating petition?

No. Any form is acceptable so long as it contains the statutorily required information. N.J.S.A. 19:60-5, 6, 7. NJSBA annually prepares a [sample nominating petition](#) that is included in its [School Board Candidate Kit](#) that is distributed to local districts. NJSBA's sample petition has been deemed an acceptable form. It should be noted, however, that certain county clerks have developed and require use of their own form of nominating petition. Check with the school board secretary and county clerks in your county for details. If using the NJSBA sample petition, it is recommended that the candidate remove the word "sample" to avoid confusion.

53. Must the candidate use the local district petition?

In most cases, no. The candidate may pick up a petition form from any school district or may use one of his/her own making as long as it contains all the required information and signatures. Certain counties require that the county form be used. Check with your county clerk to see if the county form is required.

54. Can the candidate bring in more than one petition for the same seat, if the sum total of the signatures is equal to the required number of signatures?

Yes. Each separate petition must contain a notarized verification of the signatures by one of the signatories and should contain the candidate's acceptance as well as all other required information. The statute requires that the verifier of the signatures be a signer of the petition, one of whom may be the candidate. N.J.S.A. 19:60-5, 6.

55. How many signatures are required on a nominating petition?

A nominating petition must be signed by at least 10 persons, one of whom may be the candidate himself. Each of the signers of the petition must be a qualified voter of the school district or, in the case of a regional school district, qualified voter of the constituent district, which the candidate shall represent on the regional board of education. It is recommended that candidates obtain more than 10 signatures in case one or more signatures are invalidated. N.J.S.A. 19:60-5, 7.

56. Can a candidate sign and/or verify his/her own petition?

Yes. A candidate may be one of the 10 signatories of the petition and, if the candidate is one of the signatories, may verify the signatures. N.J.S.A. 19:60-7. See also, N.J.S.A. 19:13-7.

57. What is contained in the verification?

The verification consists of a statement that the petition is signed by each of the signers in his/her own handwriting and that the signers are to the verifier's best knowledge and belief, legally qualified to vote at the election at which the candidate shall be voted for and that the petition is prepared and filed to endorse the candidate. N.J.S.A. 19:60-5.

58. Can someone sign more candidates' petitions than there are vacancies?

While there is no specific statutory answer to this question, it was recently held that a signer could only sign as many petitions for as many candidates as there are seats on the board up for election. I/M/O the School Board Election in the Borough of Bergenfield, No. BER-L-2497-04 (Law Div. March 25, 2004).

59. Can a person sign two nominating petitions for a candidate who wants to complete forms for both a full term and partial term and decide at a later date the seat for which the person wants to be a candidate?

Yes. Nothing would prevent a citizen from signing both forms. However, the candidate could only file for one of the seats on the board.

60. Must the petitioners be registered voters?

Yes. The Commissioner of Education has held (Delay, 1991 S.L.D. 288) that the voter registration requirement must be satisfied at the time of filing of the nominating petition. Since the shift of school election responsibility to the counties in 1996, the Commissioner no longer rules on election issues. NJSBA is unaware of any judicial decision on this issue. Please check with your board attorney for advice on this issue.

Signers of a petition must also be registered voters at the time the petition is filed. Saunders v. Toms River BOE, 289 N.J. Super. 225, (App. Div. 1996) certif. den. 144 N.J. 371 (1996). Failure to be a registered voter was not a curable defect.

61. In a regional district, must the petition signatories be from the same constituent district as the candidate?

Yes. A signer from another constituent district within the regional district is not acceptable and should not be counted as one of the 10 necessary signatories. Signers must be qualified voters of the school district. N.J.S.A. 19:60-5.

62. May a candidate run for a regional and constituent district board of education at the same time?

Yes. There is no prohibition on dual office-holding of this type. Separate nominating petitions would need to be filed for each seat. Since signers for the regional board must be from the constituent district in question, the same people could sign both petitions.

63. Must the Board Secretary verify the accuracy of a petition once it is filed?

No. The board secretary must check the petition to ensure it is properly completed. It is not the responsibility of the board secretary to verify that the information in the petition is correct.

64. What happens if the board secretary is made aware that a nominating petition is defective?

The board secretary should ask the person making the verbal objection to file a written objection to the nominating petition with the board secretary. If the board secretary is aware of a defective nominating petition, he/she is not precluded from filing an objection with himself/herself.

65. When is the deadline for filing a written objection to a nomination petition?

The last day for filing a written objection to a nominating petition with the board secretary is no later than the 46th day prior to the election, the 4th day after the last day for the filing of nominating petitions. For the 2006 school election that date is Friday, March 3. N.J.S.A. 19:13-10, 19:60-7.

66. Who decides if a nominating petition is defective?

The board of education must decide whether a nominating petition is defective and must file its determination with the county clerk on or before the 44th day preceding the school election. N.J.S.A. 19:60-7. For the 2006 school election, that date is Sunday, March 5. It is recommended that boards of education plan for such an event by timely advertising for a special meeting on March 6, just in case an objection to a nominating petition is filed. Note that, because this deadline falls on a Sunday, the deadline is moved to Monday, March 6.

67. Can a candidate amend a defective petition and if so what is the deadline?

It depends. A candidate whose nominating petition is defective may amend the petition, except for the addition of signatures, on or before the 44th day prior to the election. A petition that is defective solely because of an insufficient number of signatures may not be amended. N.J.S.A. 19:13-13, 19:60-7. (See question 70 for an exception.) For the 2006 election, the last date that a defective petition may be amended is Sunday, March 5. Note that, because this deadline falls on a Sunday, the deadline is moved to Monday, March 6.

68. Can a petition be amended if it contains an insufficient number of signatures?

No. A substitute petition, completely redone, can be submitted prior to the filing date, but signatures may not be added to the original petition. N.J.S.A. 19:13-13. (See question 70 for an exception.) Where a petition only has 10 signatures and one of those signers is not a registered voter, the petition is defective. This is not a curable defect. [Saunders v. Toms River BOE, 289 N.J. Super. 225, \(App. Div. 1996\)](#) certif. den. 144 N.J. 371 (1996).

69. What happens if a defect is discovered in the nominating petition after the deadline for filing objections with the board secretary?

Nominating petitions in apparent conformity shall be deemed valid, unless a written objection is filed with the board secretary, not later than the 46th day preceding the election. For the 2006 school election, that date is Friday, March 3. N.J.S.A. 19:13-10, 19:60-7.

70. What happens if the candidate has signed the verification but was not one of the listed signatures? Can the candidate add his own signature to cure the defect?

In the court decision, [In the Matter of Cowan, 265 N.J. Super. 171](#) (App. Div. 1993), the Appellate Division found a similar defect to be curable in a matter involving a nominating petition for General Assembly candidates. The court read the prohibition on adding signatures to be for purposes of reaching the minimum required number. If there is a sufficient number of signatures, it makes no difference whether the cure is by subsequent signature of the verifier or by a substituted verification.

71. May a candidate withdraw a nominating petition?

Yes. A candidate may withdraw a petition before the 44th day before the date of the school election. Thereupon, the name of that candidate will be withdrawn by the board secretary and not printed on the ballot. N.J.S.A. 19:60-7. For the 2006 school election, that date is Sunday, March 5. Note that, because this deadline falls on Sunday, the deadline is moved to Monday, March 6. Situations have occurred where candidates have had their names removed from the ballot after the 44th day preceding the election but before the ballot has been printed. Examples include removal by court order, death of a candidate and relocation of a candidate out of the school district. Some of those situations have involved a simple removal of the name by the county clerk. Others have involved seeking a declaratory judgment from a Superior Court judge with a resulting court order.

72. What can a candidate do if the candidate believes that his/her rights under the nominating petition have been affected?

A candidate may file a verified complaint in Superior Court setting forth any invasion or threatened invasion of candidate's rights under the nominating petition. The last day for such a filing shall be the 46th day before the election. N.J.S.A. 19:60-7. For the 2006 school election, that date is Friday, March 3.

73. Is a nominating petition a public record?

The Commissioner of Education in Sokolosky, 1989 S.L.D. 1434, upheld a citizen's right to access nominating petitions as public records. Under the Open Public Records Act, it would appear that nominating petition is a disclosable government record. However, NJSBA is unaware of a decision by the Government Records Council or court on this issue to date. Boards should consult with their board attorneys or the [Government Records Council](#) concerning public access to nominating petitions.

Ballots and Ballot Position

74. Can a candidate use a title or nickname for their name on the ballot?

No. A candidate for board of education is not entitled to use a professional title ("Dr.") preceding his name on the ballot unless authorized to do so by statute or unless the professional title is necessary to protect the voting public from confusion or deception. Sooy v. Gill, 340 N.J. Super. 401 (App. Div. 2001). Concerning the use of nicknames on the ballot, candidates should consult the county clerk's office.

75. Do vacancies on the board go up on the ballot?

It depends on when the vacancy occurs:

If the vacancy occurred within the 60 days immediately preceding election (February 17 for the 2006 school election), the newly-appointed member serves until reorganization meeting following the second annual election (2007). The remainder of the term is filled at the second annual election at which time the seat would be placed on the ballot.

If the vacancy occurred prior to the 60 days immediately preceding election (February 17 for the 2006 school election), the newly-appointed member serves only until reorganizational meeting following the next election (2006). The remainder of term is filled at that next election at which time that seat would go up on the ballot. N.J.S.A. 18A:12-15.

76. When must the school election ballot be ready?

Every county clerk must have ready for the printer a copy of the official ballot required by law to be printed for use at the school election no later than the 17th day preceding the annual school election, which is Saturday, April 1, 2006 this year. For a special school election, the ballot must be ready not later than two business days following receipt by the county clerk of the official notice of ballot content. N.J.S.A. 19:60-9.

77. When does the drawing of names for ballot position occur?

The drawing of names for ballot position is performed by the secretary of the board of education seven working days after the last day for filing of nominating petitions. For the 2006 school election, that date is March 8. N.J.S.A. 19:60-8.

78. What is the role of the board secretary in the drawing for ballot position?

The secretary of the board of education draws the names, makes public announcement of the drawing of each name, the order in which the name is drawn and the term of office for which the drawing is made. Two days after the drawing for ballot position, the secretary of the board of education must certify the results of the drawing to the county clerk. For the 2006 election, that certification date is March 10. N.J.S.A. 19:60-8.

79. Must the candidates be notified of the time and place for the drawing of ballot positions?

There is no statutory requirement for candidate notification of the drawing for ballot position. The statute is silent as to time, place or notification requirements. However, notification of the candidates by the board secretary or his/her designee is highly recommended.

80. Do the candidates have to be present for the drawing for ballot position?

No, but they are permitted to attend if they want.

81. When is the deadline to submit public questions to the County Clerk?

The secretary of the board of education shall, not later than 10:00 a.m. of the 17th day preceding the annual school election, forward to the county clerk any public question to be voted upon by the voters at the election. N.J.S.A. 19:60-4. For the 2006 elections, that date is Saturday, April 1.

Voters and Voting

82. Must the voter be of legal age at the time of registration?

No. As long as the voter is 18 by the day of the school election, he/she is eligible to register and, if properly registered, vote in the election. N.J.S.A. 19:31-5.

83. What are the requirements for voter registration?

Registration must take place no later than 21 days preceding the election date before the commissioner of registration either at the county board of elections or the superintendent of elections, as applicable. N.J.S.A. 19:31-5, 19:31-6. To be eligible to register a person must be:

- a. 18 years of age as of the election;
- b. a citizen of the United States; and
- c. a resident of the State and county for at least 30 days prior to the election.

The deadline for voter registration for the 2006 school election is Tuesday, March 28.

84. Must the voter be a resident of the district for at least 30 days prior to the time of registration?

No. As long as the voter meets the residence requirements by the school election day, he/she is eligible to vote in the election.

Absentee Ballots

85. When may a voter use a civilian absentee ballot?

Anytime, as long as they obtain a ballot and return it in the requisite amount of time. N.J.S.A. 19:57-2 and 57-3. (See questions 87 and 88 below) Once requested, voters will continue to receive absentee ballot applications unless they request otherwise.

86. Who is eligible for a military absentee ballot?

A military absentee ballot may be used:

- a. by someone who is in the military service, their spouses and/or dependents;
- b. by someone who is a patient of a veteran's hospital
- c. by a civilian attached to or serving with the Armed Forces of the United States.

N.J.S.A. 19:57-2, 57-3.

87. Who is responsible for publishing the notices for absentee ballots?

The county clerk in the case of a school election in a regional or other school district comprising more than one municipality or the clerk of the municipality for a school district comprising a single municipality. N.J.S.A. 19:57-7.

88. When and how are the notices for absentee ballots to be published?

Notice to persons desiring military service and civilian absentee ballots must be published prior to the 50th day immediately preceding the election. For the 2006 school election, that date is Monday, February 27. Notices shall be published separately in at least one newspaper in each district in which the election is to be held or if no newspaper is published in the district, then in a newspaper published in the county and circulating in the district. N.J.S.A. 19:57-7.

89. When must absentee ballots be requested?

If the person desires to vote by mail, civilian absentee ballots must be requested in writing from the county clerk no later than 7 days before the election. N.J.S.A. 19:57-4, 19:57-6. For the 2006 school election, that date is Tuesday, April 11.

Voters who request absentee ballots by mail should provide sufficient time for postal delivery. Civilian absentee ballots may be requested in person from the county clerk the week prior to the election on any day up to 3 p.m. of the day before the election. For the 2006 school election that date is Monday, April 17. N.J.S.A. 19:57-4. If a military absentee ballot, please contact the county clerk for applicable deadlines.

90. What is the deadline for receipt of absentee ballots?

Absentee ballots must be received by the board of elections or its designee no later than 9 p.m. on the day of the election. N.J.S.A. 19:15-2, 19:57-23. For the 2006 school election that date is Tuesday, April 18.

Sample Ballots

91. Must sample ballots be provided in school elections?

Yes. The county clerk shall cause sample school election ballots to be printed in the same manner as for the general election. N.J.S.A. 19:60-10, N.J.S.A. 19:14-21. The county clerk shall deliver and the municipal clerk or commissioner of registration, as applicable per N.J.S.A. 19:14-21, shall mail sample ballots to all registered voters. A voter who registers after the 29th day prior to a school election, may be sent, instead of a sample ballot, notice of the voter's polling place and information on how to view and receive a sample ballot. N.J.S.A. 19:60-10.1.

92. What is the deadline for mailing sample ballots?

The latest time at which the county clerk may furnish sample ballots for mailing shall be the eighth day preceding the school election. N.J.S.A. 19:60-10. For the 2006 school election, that date is Monday, April 10.

Electioneering

93. What is electioneering?

Electioneering comes in three forms:

a) If a person shall on election day tamper, deface or interfere with any polling booth or obstruct the entrance to any polling place, or obstruct or interfere with any voter, or loiter in or near the polling place, or, with the purpose to obstruct or interfere with any voter or to unduly delay other voters from voting, spend an inordinate amount of time in the polling booth, or do any electioneering within any polling place or within one hundred feet thereof, he shall be guilty of a crime of the third degree. N.J.S.A. 19:34-6.

b) No person shall within the polling room mark his ballot in a place other than in the polling booth or show his ballot, nor shall anyone request such person to show his ballot during the preparation thereof, nor shall any other person inspect such ballot during the preparation thereof or after it is prepared for voting in such a way as to reveal the contents, nor shall any person within the polling place or within a hundred feet thereof, loiter, electioneer, or solicit any voter.

No voter, at any election where official ballots are used, shall knowingly vote or offer to vote any ballot except an official ballot.

No person shall on any pretext carry any official ballot from the polling room on any election day except such persons authorized to do so.

Any person violating any of the provisions of this section shall be guilty of a crime of the fourth degree. N.J.S.A. 19:34-7

c) If a person shall distribute or display any circular or printed matter or offer any suggestion or solicit any support for any candidate, party or public question within the polling place or room or within a distance of one hundred feet of the outside entrance to such polling place or room, he shall be guilty of a disorderly persons offense. N.J.S.A. 19:34-15.

Under an exception to the electioneering statute, minors are not prohibited from the polling place where there is authorized simulated voting for minors by the county board of elections. N.J.S.A. 19:34-6, See also, N.J.S.A. 19:15-8.

94. What are the penalties for electioneering?

If found guilty of electioneering, a person is subject to the following penalties:

- a) For third degree electioneering, up to a \$15,000 fine and 3-5 years in prison;
- b) For fourth degree electioneering, up to a \$10,000 fine and a prison term not to exceed 18 months;
- c) For a disorderly persons offense, up to a \$1000 fine. N.J.S.A. 2C:43-3.

For fourth degree electioneering, N.J.S.A. 19:34-6, 7, 15.

Election Contests

95. What is a “recheck?”

A recheck is a comparison of the official tally sheets against the actual voting machine counts. N.J.S.A. 19:52-6.1(5).

96. Who may request a recheck?

The defeated candidate may petition the Superior Court in the appropriate county for a recheck. In a matter involving a public question, 10 qualified voters may petition the Superior Court, for a recheck. N.J.S.A. 19:52-6.

97. What is the cost for a recheck?

The Superior Court judge must impose a cost upon the petitioners of \$2.00 per district to be rechecked. N.J.S.A. 19:52-6.

98. What if the recheck finds a discrepancy?

Discrepancies in the recheck are noted and filed with the Superior Court, along with a report that fully identifies the discrepancies that have been found. If, during the recheck, it appears that there has been a sufficient change in the tally of votes cast to affect the result of the election, any defeated candidate or interested parties may, within 7 days, apply to the Superior Court judge to continue the recheck. At any time during the recheck procedure, the applicant may abandon the recheck and receive back their deposit. N.J.S.A. 19:52-6.1.

99. What is a “recount”?

A recount is a second count of the votes actually cast during an election. Any candidate who has reason to believe that an error has been made in counting the votes, may apply to a Superior Court judge, in the appropriate county, for a recount, on or before the 15th day following the election, which is May 2, 2006. Similarly, any ten voters, who have reason to believe that an error has been made in counting or declaring the vote on any public question, may likewise apply for a recount. N.J.S.A. 19:28-1.

100. What fees are involved in requesting a recount?

The Superior Court judge assigned to the recount shall establish the sum of money to be deposited. The applicant must deposit an amount which is in proportion to the number of votes required to be recounted. In any event, the deposit amount shall not exceed \$25.00 per district to be recounted. The judge shall also establish the compensation, costs and expenses of the recount.

Whenever, as a result of the recount, the vote tally is changed by 10 votes, or 10% of the total votes cast (whichever is greater), the costs and expenses shall be paid by the state, county or municipality in which the election was held. If the recount does not produce such a change, the costs and expenses of the recount shall be paid out of the deposit made by the party seeking the recount. N.J.S.A. 19:28-2.

101. What if an error has been made?

After receiving a petition, the judge has the authority to direct the county board to conduct a public recount. The judge has the authority to decide all disputed questions that the county board fails to decide by a majority vote. N.J.S.A. 19:28-3. If it appears that an error has been made, that is sufficient to change the election, the judge shall issue an order revoking the certificate of election already issued. In addition, the judge shall issue an order directing the chair and clerk of the county board of canvassers to issue another certificate, in favor of the person who has received the plurality of votes cast. However, if the person who initially received the most number of votes, before the recount, makes a request of the Superior Court judge, the election certificate is not issued until a recount has been completed in all districts in which the initial winning candidate ran for office. N.J.S.A. 19:28-4.

Election Results

102. When are election results certified?

The board of county canvassers of each county meets the Monday after the election, at 12 o'clock noon at the county courthouse and certifies the election results. N.J.S.A. 19:19-1. For the 2006 school election that date is Monday, April 24.

103. What happens if there is a tie vote on the budget?

The budget is not approved and is deemed defeated. N.J.S.A. 19:3-6.

104. What happens in the event of a tie among the candidates?

If the tied members can both be seated on the board, there is no problem. It is only important if the tie vote is for the last seat and/or the only seat up for election. In such cases there will be, pursuant to N.J.S.A. 18A:12-15:

- a. a recount and certification of the election results;
- b. if the vote remains tied, a special election within 60 days of the annual school election will be held, limited to the tied candidates;
- c. an appointment by the county superintendent if, at the special election, the candidates receive an equal number of votes. Boards should consult with their board attorneys concerning a special election in this instance in light of N.J.S.A. 19:60-2
(See Question 6)

105. What happens if there is a failure to elect due to improper election procedures?

A special election is held within 60 days of the annual school election, limited to the disputed seats and to those who were already candidates at the annual school election. N.J.S.A. 18A:12-15. (See earlier discussion at Question 6)

106. What happens if there is a failure to elect due to improper campaign practices?

The Commissioner of Education will fill the vacancy or vacancies. N.J.S.A. 18A:12-15.

107. How are write-in votes counted?

Pursuant to N.J.S.A. 19:16-3:

- a. If the candidate's name is already on the ballot, then the write-in for that person is not counted.
- b. If a person's name is written in more than once, the write-in vote is counted only as **one** vote.
- c. The name of the write-in must be reasonably attributed to the actual individual with no confusion. The final determination rests with the district board of election in the first instance and ultimately with the Superior Court.

108. What happens if there are fewer candidates than there are board of education seats available?

- a. Write-in votes are counted and the individual with the highest number of write-in votes is offered the position as long as he/she is a qualified candidate. If the person elected does not wish to serve, the most recent available opinion from election officials is that there has been an absence of candidates and the county superintendent appoints. It **does not** go to the next highest vote getter. N.J.S.A. 19:3-4.
- b. If there is a tie among the write-ins, even with as little as one vote apiece, a special election is called among the write-in candidates if more than one of them is eligible and wishes to hold the position. N.J.S.A. 18A:12-15, N.J.S.A. 19:3-4.

109. Is there a minimum number of write in votes necessary for election?

No. If a particular school board seat has no nominees, a single write-in vote can elect so long as the write in candidate qualifies for and agrees to accept the office.

N.J.S.A. 19:3-4.

Election by Mail

110. Can a school district do an election by mail?

Yes. In a municipality with a population of 500 or fewer persons, according to the latest federal decennial census, may conduct all elections by mail, provided there is an affirmative vote to do so by the governing body of the municipality and by the governing body of the county in which the municipality is located. N.J.S.A. 19:62-1.

Legal/Cindy/election FAQ 2006 cjs (3)