



**To: Superintendent, Superintendent Secretary, and Council of School Attorneys Member Addressed**  
**From: TASB Legal Services**  
**Date: January 4, 2017**  
**Subject: Frequently Asked Questions Regarding May 2017 Trustee Elections**

[Additional Resources](#)  
[Election Deadlines](#)  
[Joint Election Requirements](#)  
[Election Precincts](#)  
[Ordering an Election](#)  
[Notice of the Election](#)  
[Candidate Filing Information](#)  
[Election Procedures](#)  
[Cancelling an Election](#)  
[Post-Election Issues](#)  
[Assuming the Duties of Office](#)

For school districts preparing for the May 6, 2017, election for school board trustees, this memo sets out important dates, deadlines, and quick answers to frequently asked questions. For districts with November trustee elections, TASB Legal Services will issue additional guidance closer to the election.

### **Additional Resources**

***Q: Where can I find additional information and resources for the May election?***

In addition to this memo, school districts should refer to the Texas Secretary of State's Elections Division Website, [sos.state.tx.us/elections/laws/schoollaws.shtml](http://sos.state.tx.us/elections/laws/schoollaws.shtml), for in-depth and detailed election information for school districts, candidates, and voters, including a variety of forms with instructions.

The Elections Division creates and maintains a uniform election calendar for each election. The *May 6, 2017, Election Law* calendar can be found on the Elections Division Website at [sos.state.tx.us/elections/laws/may-7-election-calendar-2016.shtml](http://sos.state.tx.us/elections/laws/may-7-election-calendar-2016.shtml). This calendar contains important and detailed information on the official deadlines relevant to the election.

## **Election Deadlines**

### ***Q: What are the relevant deadlines for the May election?***

Some important dates to remember for the upcoming May general trustee election are as follows:

- **Monday, December 19, 2016:** Deadline to post Notice of Deadline to File Applications for Place on the Ballot
- **Wednesday, January 18, 2017:** First day to file an application for a place on the ballot
- **Friday, February 17, 2017:** Deadline to order the May general election AND last day to file an application for a place on the ballot
- **Tuesday, February 21, 2017:** Deadline to file declaration of write-in candidacy
- **Wednesday, February 22, 2017:** First day an election may be cancelled
- **Friday, February 24, 2017:** Last day a candidate may withdraw from the election
- **Tuesday, March 7, 2017:** Deadline for providing notice of the election to the county clerk/elections administrator and voter registrar
- **Thursday, April 6 – Wednesday April 26, 2017:** Period during which notice of the election must be published\*  
*\* Note: School districts are required to publish notice in a local newspaper in addition to other methods.*
- **Thursday, April 6, 2017:** Last day to register to vote or make a change of address effective for the May election
- **Monday, April 17, 2017:** Deadline to post notice of election on bulletin board used for posting notices of board meetings
- **Monday, April 24, 2017:** First day for early voting in person  
*\* Note: School districts are required to be open during the entire early voting period, except on state and national holidays.*
- **Tuesday, May 2, 2017:** Last day for early voting in person
- **Saturday, May 6, 2017: Election Day**—Polling site must be open from 7 a.m. to 7 p.m.
- **Tuesday, May 9 – Wednesday, May 17, 2017:** Canvassing period  
*\* Note: The canvass may not occur until the ballot board has verified and counted any and all provisional ballots and counted all timely received ballots provided to persons outside the United States that are cast in the election.*

For more information, refer to TASB Policy BBB.

## **Joint Election Requirements**

### ***Q: What is a joint election?***

A joint election is when two political subdivisions (e.g., a city and a school district) conduct all or part of their elections together and share polling locations. The purpose of joint elections is to provide voter convenience to the voters of political subdivisions with overlapping boundaries. Joint elections are covered by Texas Election Code chapter 271. The law includes two requirements for holding joint elections:

1. Create a joint election agreement that sets out the terms of the joint election.
2. Share at least one common election-day polling places.

If you have a joint election with a city, you are not required to share every election-day polling place with the city. As long as you have at least one, you have met the joint election requirement. Practically, however, you may find that it is more efficient and economical to share more than one or all polling places with the city.

All other joint election choices are left to the entities involved in the election. Specifics regarding the distribution of costs and responsibilities for ballots, selection of election officials, the consequences of one entity cancelling its election, issues related to equipment, early voting details, and other issues are not prescribed by law; therefore, these matters should be addressed in the joint election agreement. The law is flexible enough to allow you to structure your election to best serve your voters. For more on joint elections, see [sos.state.tx.us/elections/laws/cwpp-joint-election-faqs.shtml](https://sos.state.tx.us/elections/laws/cwpp-joint-election-faqs.shtml) and [sos.state.tx.us/elections/laws/isd-joint-elections.shtml](https://sos.state.tx.us/elections/laws/isd-joint-elections.shtml).

### ***Q: Does our district have to hold a joint trustee election?***

Yes. Elections for school board trustees must be held as joint elections under Texas Education Code section 11.0581. A district shall conduct its trustee election on the same date as (1) the election for the members of the governing body of a municipality located in the school district, (2) the general election for state and county officers (November of even-numbered years); or (3) the election for members of the governing board of a public junior college district in which the school district is wholly or partly located.

### ***Q: Does the requirement to conduct joint elections apply to bond elections?***

No. Texas Education Code section 11.0581 only applies to elections for trustees of an independent school district. If a district chooses to hold a bond election with the trustee election, however, the bond election will be covered by the same requirements as the trustee election.

***Q: What happens if our joint election partner cancels its election?***

Many smaller cities, like small school districts, have cancelled their elections for many years. Once a school district enters into a joint election agreement to hold a joint election with a city, the joint election requirements are satisfied. If the city cancels, the school district has done everything it can to comply with the law. The district can hold its election in May without the city. The joint election agreement should address what happens if one or more participating entities cancels its election.

**Election Precincts**

***Q: What are the requirements for use of county election precincts on the May uniform election day?***

For an election held on a May uniform election day, school districts must use the county election precincts unless an exception applies under Texas Election Code section 42.002(c); under this section, a district is not required to use county election precincts if the district either:

(1) conducts early voting by personal appearance at 75% or more of its permanent or temporary branch locations on the same days and during the same hours as voting is conducted at the main early voting place, *and* at each remaining polling place for at least two consecutive days of voting during the early voting period and for at least 8 hours on each of those days; OR

(2) has not established a permanent or temporary branch early voting polling place.

Because these exceptions are very specific, school districts should review the applicability of the exceptions with the Texas Secretary of State's Elections Division or the district's local counsel. To the extent county election precincts must be used, school districts must work with the county early in the election planning process to identify the precincts that are contained within the school district's boundaries and designate those locations as the school district polling places for election day.

**Ordering an Election**

***Q: When is the deadline for ordering the election?***

The deadline to order a general election on the May 2017 uniform election day is **Friday, February 17, 2017**.

The order must include:

1. The date of the election;

2. The offices or measures to be voted on;
3. The location of the main early voting polling place;
4. The dates and hours for early voting;
5. The dates and hours of any Saturday and Sunday early voting, if applicable; and
6. The early voting clerk's official mailing address.

A sample Order of Election (Form AW1-3) can be found in the Secretary of State's Forms Manual available at: [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

***Q: What if our district has to conduct a special election as well? When is the deadline to order a special election?***

If a vacancy is to be filled by special election, it should be ordered as soon as possible after the vacancy occurs. As a result, the special election deadlines are varied—the time for the board to order the election depends on when the vacancy occurs, and the candidate filing deadlines depend on when the special election is ordered. As explained below at **Candidate Filing Information**, a school district has two possible deadlines to order a special election to be held on the May uniform election date:

- On or before the 70th day before election day: **Saturday, February 25, 2017** or;
- After the 70th day but on or before the 46th day before election day: **Tuesday, March 21, 2017**

If your district is holding a special election in May, please consult the Secretary of State's *May 6, 2017 Election Law Calendar* at [sos.state.tx.us/elections/laws/may-7-election-calendar-2016.shtml](http://sos.state.tx.us/elections/laws/may-7-election-calendar-2016.shtml), and work with your local attorney in verifying the deadlines for ordering the election and for candidate filings. Please note that the deadlines above apply only to special elections to fill a **vacancy on the board**; they are not applicable to ordering a special election on a measure.

**Notice of the Election**

***Q: How do we provide notice of the election? Is that different from ordering the election?***

Some districts use the same or a similar document to order the election and publish notice of the election, since both documents contain much of the same information. By law, however, they are two different requirements, and using the same form is not required. School districts can access a sample Notice of Election from the Secretary of State's Forms Manual at [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

School districts must publish notice of the election at least once between **Thursday, April 6 and Wednesday, April 26, 2017**. This notice must be in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the school district, or in a newspaper of general circulation in the territory if none is published in the jurisdiction of the school district. Notice must also be posted on a bulletin board used by the school district to post public notices of board meetings, not later than **Monday, April 17, 2017**.

Notice of the Election must include:

1. The type and date of the election;
2. The location of each polling place;
3. The hours the polls will be open;
4. The location of the main early voting polling place;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting, if any; and
7. The early voting clerk's mailing address.

Although not required, the Elections Division recommends that the notice also include the designated e-mail address at which the early voting clerk may receive applications for a ballot by mail.

In addition to the newspaper notice, school districts must deliver notice of the election to the county clerk and voter registrar of each county in which the school district is located. This notice must be delivered no later than **Tuesday, March 7, 2017**.

In 2015, the Legislature added the legal requirement that school districts must post the notice and information for the election on the internet website of the school district, if the district maintains one.

Also, if a different polling place is being used from the previous election held by the school district, notice must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible.

### **Candidate Filing Information**

***Q: What is the first day a candidate can file for office? When is the filing deadline?***

The first day to file an application for a place on the ballot is **Wednesday, January 18, 2017**. Candidates may file for office anytime from this date until the deadline, even if the election has not yet been ordered.

The deadline for a candidate to file an application to be placed on the ballot is **5:00 p.m., Friday, February 17, 2017**. The deadline for a *write-in candidate* to file a declaration of write-in candidacy is **5:00 p.m., Tuesday, February 21, 2017**.

School districts are required to make applications available for potential candidates. Sample applications and other forms can be found in the Secretary of State's Forms Manual at [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

***Q: What is the filing deadline for a special election to fill a vacancy?***

The filing deadline will depend on when the special election is ordered, as mentioned above at **Ordering an Election**. A candidate for a special election must file an application as follows:

1. If the special election is ordered on or before Saturday, February 25, 2017 (the 70th day before election day), then the candidate must file no later than 5 p.m. of the 62nd day before election day: **Monday, March 6, 2017** (because the 62nd day falls on a Sunday, the deadline is moved to the following Monday);
2. If the special election is ordered *after* February 25, 2017 (the 70th day before election day) but on or before Tuesday, March 21, 2017 (the 46th day before election day), then the candidate must file no later than 5 p.m. of the 40th day before election day: **Monday, March 27, 2017**.

TASB Legal Services recommends that a district work with its school attorney to review the deadlines to order a special election to fill a vacancy and the deadline for a candidate to submit an application for a place on the ballot.

***Q: What is the district's responsibility for verifying the information on a candidate's application?***

Once a candidate files an application for a place on the ballot, the school district must review the application to determine whether it complies with the legal requirements as to *form*, *content*, and *procedure* only. In other words, are all the required sections completed, does the information listed make the person eligible to be a candidate, did the person sign the application, and was it filed on time in the right place? The filing authority has five days to review an application and determine whether it is legally sufficient.

If an application does not comply with all legal requirements, the district must reject the application and immediately deliver to the candidate written notice of the rejection.

Additionally, if the information on the candidate's application indicates that the candidate is ineligible for the office (e.g., the candidate's address on the application is outside the district's boundaries), or facts indicating that the candidate is ineligible are conclusively established by another public record (e.g., the district receives a copy of a felony conviction

from which the candidate has not been pardoned or released), the district must declare the candidate ineligible, in accordance with Texas Election Code section 145.003. The Secretary of State's Elections Division advises that no public record conclusively establishes residency.

For more information on reviewing applications and the process for declaring candidates ineligible, see the Secretary of State's guidance regarding candidacy filing at [sos.state.tx.us/elections/laws/candidacy.shtml](http://sos.state.tx.us/elections/laws/candidacy.shtml).

***Q: What if one of the election deadlines falls during spring break or on another holiday?***

Filing deadlines: Since spring break is not a legal state or federal holiday, a district cannot be "closed for spring break" and unable to observe election deadlines. If a deadline falls during spring break or on another school holiday that is not an official state or federal holiday, a district must maintain regular office hours on that day and have a representative available on-site. On days that are filing deadlines, the representative should be on site until 5:00 p.m. to allow all candidates to file until that time. The Secretary of State cautions that, even if you also accept applications by mail and fax, you will have no reliable witness to say who has met the deadline if you do not have someone at the district at 5:00 p.m.

Mandatory Office hours: From **Friday, March 17 through Thursday, June 15, 2017**, a district must keep mandatory office hours. During this time, a representative of the district must keep the office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. A regular business day means a day on which the school district's main business office is regularly open for business. This duty is usually performed by the early voting clerk, because the purpose of this requirement is to provide a location where voters can get information about the election.

Early voting by personal appearance: Early voting by personal appearance takes place from **Monday, April 24, 2017, through Tuesday, May 2, 2017**. If a school holiday falls on a day that is a federal or state holiday (such as Memorial Day), the school district is not required to be open to conduct early voting by personal appearance. However, if a school holiday falls on a day during the early voting period that is not a federal or state holiday, the school district is required to be open to conduct early voting. In some situations, a district in a territory with fewer than 1,000 registered voters may limit early voting hours during spring break to three hours per day. Check with the Secretary of State's office to determine whether your district must be open when an election deadline falls on a school holiday that is not a federal or state holiday.

## **Election Procedures**

***Q: Do we have to use accessible voting systems?***

Yes. The federal Help America Vote Act prompted the Texas Legislature to require that each polling place provide at least one voting station that complies with federal accessibility laws



and provides a practical and effective means for voters with physical disabilities to cast a secret ballot. Tex. Elec. Code § 61.012; TASB Policy BBB(LEGAL). As a result, a school district must provide at least one accessible electronic voting system in each polling place. To obtain accessible voting equipment, a district may purchase a voting system directly from an authorized vendor, lease the county's accessible voting system for the district's elections, or acquire a system by purchase, lease, or other means from any other source.

Texas Election Code section 61.013 relaxes this requirement for certain elections. For elections in which a federal office is not on the ballot, a smaller county or a political subdivision may not be required to provide an accessible machine in each polling place. The deadline to request an exemption from the Secretary of State's office is **Monday, February 6, 2017** (because the deadline falls on Sunday, the deadline is moved to the following Monday). For more information, including an application and instructions, see [sos.state.tx.us/elections/laws/access.shtml](http://sos.state.tx.us/elections/laws/access.shtml).

Additionally, ensure that your custodian of election records or joint election partner responsible for electronic voting systems is aware of the requirements to conduct pre-election testing of the electronic voting systems in accordance with Texas Election Code chapter 129.

***Q: Should a district submit a preclearance to the U.S. Department of Justice?***

The Voting Rights Act of 1965 (VRA), required that changes to voting procedures be submitted to the U.S. Department of Justice for preclearance; however, portions of the VRA were struck down in 2013 by the United States Supreme Court as unconstitutional. The Court's ruling had the effect of creating an indefinite suspension on the requirement to preclear changes in election procedures and practices. Until the Supreme Court or U.S. Congress revisits or amends the current suspension on the sections of the VRA that relate to preclearance, school districts are no longer required to submit changes in election procedures or practices to the U.S. Department of Justice for preclearance. A school district with questions or concerns about the effect of this decision on its election practices should consult the Texas Secretary of State or the district's local attorney.

***Q: Are we required to conduct background checks on citizens who come on campus to vote?***

Currently no statutes specifically address conducting background checks on citizens who come on district campuses solely for the purpose of voting. In order to vote, a person is required to be a registered voter and present identification at the polling place. If a person comes on district property to vote, election workers will check the qualifications and identification of that person.

TASB Legal Services generally recommends that school districts leave these matters to the election workers, not school employees. School campuses concerned about safety while the campus is being used as a polling site may want to address the concern by strategically choosing the polling location. Logistically, a polling place requires a large, open, handicap-

accessible space, so an ideal location would be an area on the outskirts of a campus away from students (e.g., auditorium, gym, or foyer) or at an administrative building. Ideally the site will be partitioned or closed off from the rest of campus so that voters will not be able to pass through the polling place and into the rest of the building without clearance through the district's visitor screening process.

If a voter wants to stay on campus or enter another area of campus, district employees can then run a background check as they would for any other campus visitor. The Secretary of State's office has the authority to approve a form to be posted in polling places defining the boundaries of the polling place and notifying voters that they will be subject to security measures if they proceed past the designated polling place. State law and many districts' local practice allow a district to obtain criminal history information for campus visitors by requiring a visitor to show his or her driver's license or using an electronic database to determine if the person is a sex offender. See TASB Policies GKC(LEGAL) and (LOCAL).

***Q: Are we required to conduct background checks on election judges and clerks?***

The answer depends on whether the election officials and workers are involved in *pre-election* programming, testing, and preparing of electronic voting systems.

Election workers involved with electronic voting systems: The general custodian of election records must conduct criminal background checks on election officials, staff and temporary workers who are engaged in pre-election programming, testing and preparing of the voting system equipment for early voting and election day. This includes temporary workers hired to test, store, or service voting equipment.

If a school district contracts with a vendor (including a county or city) to program, test, or perform maintenance on the voting equipment prior to an election, the vendor can be required to certify that a criminal background check has been performed on the necessary employees. The Secretary of State's office recommends that part of the agreement or contract with the vendor include wording that the vendor will perform the check, with the following suggested language:

*\_\_\_\_\_ certifies that a criminal background check on all employees, including temporary employees, that may program, test, perform maintenance, transport equipment, or perform technical support on the voting system equipment for (name of entity) has been performed. \_\_\_\_\_ has determined there are no findings that would prevent the employees from performing their assigned duties.*

For further information regarding voting systems, please see the Secretary of State's information page at [sos.state.tx.us/elections/laws/votingsystems.shtml](http://sos.state.tx.us/elections/laws/votingsystems.shtml).

Poll workers: The criminal background check requirement does not require checks on poll workers (election judges and clerks) assigned to work election voting centers or precincts.

## **Cancelling an Election**

### ***Q: When may an election be cancelled?***

Under certain circumstances, the Texas Election Code allows a school board to cancel an election and declare unopposed candidates “elected” to office:

**At-large elections:** In a district where candidates are elected at large (i.e., all eligible voters in the district vote for each position on the ballot), the board may cancel an election if each candidate whose name is to appear on the ballot is unopposed after all pertinent filing deadlines have passed.

**Single-member district elections:** If a candidate in a single-member district is unopposed, the board may cancel the election within that single-member district *only* if there are no opposed at-large races within that election. If it is cancelled in a single-member district, the election would still be conducted for those single member districts with opposed candidates.

Regardless of the method of electing a board member (at-large or single-member district), if the school district has a proposition on the ballot where board members were to be elected, the proposition portion of the election will still continue. The proposition election is considered a separate election. In this circumstance, the ballot shall include the unopposed candidates’ names under the heading “Unopposed Candidates Declared Elected” at the bottom of the ballot containing the proposition.

The Secretary of State’s *Cancellation of Election* question and answer guide is a good resource for questions about this process, available at [sos.state.tx.us/elections/laws/cancellation.shtml](http://sos.state.tx.us/elections/laws/cancellation.shtml).

### ***Q: How do we cancel an election?***

After all pertinent candidate filing deadlines have passed and the board president has received the certification of unopposed status from the authority responsible for preparing the ballot, the board must take action in a properly-posted open meeting to cancel the election and declare the unopposed candidates elected. A copy of the order canceling the election must be posted on election day at each polling place that would have been used in the election. Copies of the cancellation order may be posted on the polling place door.

The recommended first day that a general trustee election may be cancelled is **Wednesday, February 22, 2017**, as this is the first day after both the filing and write-in deadlines have passed.

If the election is cancelled, the Texas Election Code requires the board to issue a Certificate of Election to each candidate who is declared elected in the same manner and at the same time as required for a candidate elected at the election. The Secretary of State's Elections Division advises that Certificates of Election are issued to unopposed candidates *after* election day, and the unopposed candidates are then sworn in just as candidates elected at an election.

A sample order of cancellation and the Certificate of Election can be found in the Secretary of State's Forms Manual at [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

***Q: What happens if no one filed as a candidate for the school board?***

An election can be cancelled if no one files for positions up for election. After the election is properly cancelled, the board will meet at the canvass to declare the official result of the election: no winner as a result of no candidate filings. After this declaration, a vacancy exists for the new term. This vacancy is then filled in the usual manner for filling vacancies on the board. See TASB Policy BBC(LEGAL).

**Post-Election Issues**

***Q: When and by whom must the votes be canvassed?***

Votes must be canvassed no earlier than the third day (**Tuesday, May 9, 2017**) or later than the eleventh day (**Wednesday, May 17, 2017**) after the election. The canvass may not be conducted until the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election, AND counted all timely received ballots cast from addresses outside the United States, if a ballot by mail was provided to a person outside the United States.

Two board members constitute a quorum for purposes of canvassing the election. The canvass must be done in a properly-posted open meeting, with notice of the canvass posted at least 72 hours continuously before the canvass is conducted. Under the Open Meetings Act, no other school business can be conducted at this meeting unless there is a full quorum present and the other business is properly posted.

The canvassing authority shall prepare a tabulation stating the following:

1. Each candidate
  - a. Total number of votes received in each precinct
  - b. Sum of precinct totals tabulated
2. Votes FOR and AGAINST each measure
  - a. Total number of votes received in each precinct
  - b. Sum of precinct totals tabulated

3. Total number of voters in each precinct who cast a ballot for a candidate or for or against a measure in the election.

The Secretary of State's Elections Division recommends that the presiding officer issue the Certificates of Election at the canvass. If an election was cancelled due to unopposed candidates, this canvassing time frame is the time when the district will issue Certificates of Election to the unopposed candidates declared elected, and proceed with the final steps to install the new board members.

After the election, **Monday, June 5, 2017**, is the deadline for filing electronic precinct-by-precinct returns with the Secretary of State. For more information, contact the Secretary of State's Elections Division at 800-252-8683.

***Q: What is the "Statement of Elected/Appointed Officer"? Where is it filed?***

All elected and appointed officers, including school district trustees, must file a statement declaring that the officer has not directly or indirectly paid, offered, or promised to give money or any valuable consideration, including employment, for votes at the election or as a reward for appointment. The Statement must be kept with the official records of the school district. The Statement can be found at TASB Policy BBB(EXHIBIT) or in the Secretary of State's Forms Manual at [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

***Q: When and by whom is the Oath of Office administered?***

The Oath may be administered by a number of public officials, including a notary public, a judge, or a justice of the peace. An authorized official may administer the Oath only after the votes are canvassed, the certificate of election issued, and the Statement of Elected Officer completed. Once a candidate takes these steps, it is not *necessary* for the candidate to wait to be sworn in during a board meeting or a special ceremony, although most newly elected members prefer to be sworn in at such an event to mark the solemnity of the occasion. The properly sworn-in trustee should file the Statement of Elected Officer and the completed Oath of Office with the designated individual at the school district. The Oath of Office is found in Article XVI, Section 1(a), of the Texas Constitution. See TASB Policy BBB(EXHIBIT) or in the Secretary of State's Forms Manual at [sos.state.tx.us/elections/forms/pol-sub/index.shtml](http://sos.state.tx.us/elections/forms/pol-sub/index.shtml).

***Q: Do incumbents that have been reelected have to re-file the Statement of Elected/Appointed Officer and take another Oath of Office?***

Yes, incumbent trustees must follow the same procedures after reelection as newly-elected trustees. Although an incumbent has previously served on the board, he or she is starting a new term of office and must complete the formal requirements for the new term.

***Q: Can all of these post-election procedures be accomplished at the same meeting?***

Yes, it is possible to have new board members take office the night of the canvass, as long as the proper order of events is followed:

- Election is canvassed at an open meeting;
- Certificate of Election is issued to newly-elected officers;
- Statement of Elected/Appointed Officer is completed;
- Newly-elected officers take the Oath of Office;
- Newly-sworn officers may assume office.

***Q: How, when, and by whom may an election be contested?***

Generally, any candidate in an election may contest the election by filing a petition in the appropriate district court and with the Secretary of State not earlier than the day after election-day and not later than the 30th day after the date the official result of the contested election is determined. (The deadline is the 10th day after the date the official result is determined if a runoff is necessary or will be necessary if the contestant prevails.) The contest may be based upon allegations that illegal votes were counted, or an election officer or other person officially involved in the administration of the election prevented eligible voters from voting, failed to count legal votes, engaged in other fraud or illegal conduct, or made a mistake.

**Assuming the Duties of Office**

***Q: When may newly-elected board members assume the duties of office?***

A new trustee may assume the duties of office only after he or she has executed the required Statement and taken the Oath of Office. Until that time, the predecessor trustee continues to hold office pursuant to the holdover doctrine. See TASB Policy BBC(LEGAL).

***Q: When must officers of the board be selected?***

Texas Education Code section 11.061 requires that the officers of the board be selected at the first meeting after the election and qualification of trustees (i.e., execution and filing of the required Statement and the Oath of Office). If the president and vice-president are no longer on the board after the election, the selection of officers is conducted by the person designated in local policy. See TASB Policy BDAA(LOCAL). If the district does not have such a policy, the secretary typically conducts an election of a temporary chair who then conducts the election of a new president; the new president conducts the elections of the remaining

officers. If there is no secretary, then any board member (such as the most experienced member present) may assume the chair to conduct the election of a temporary chair who then conducts the election of a new president.

Reorganization of the board may take place at times other than right after an election. The attorney general has offered examples of situations that might necessitate reorganization at other times, such as when an officer of the board resigns and a new officer must be chosen. Op. Tex. Att’y Gen. No. MW-531 (1982).

TASB’s Leadership Team Services division has developed guidance on *Electing Board Officers* that board members may find useful during this process:  
[tasb.org/Services/Leadership-Team-Services/Resources/Documents/documents/QA-Electing-board-officers-Feb17.aspx](http://tasb.org/Services/Leadership-Team-Services/Resources/Documents/documents/QA-Electing-board-officers-Feb17.aspx).

*Although this memo is intended to answer several of the most frequently asked questions regarding trustee elections, it is not exhaustive in addressing all possible issues that might arise. It is important for you to consult with your own attorneys in order to apply these legal principles to specific fact situations. If you have additional questions, call TASB Legal Services at 800-580-5345 or the Elections Division of the Secretary of State’s Office at 800-252-8683.*