Postponing the May 2, 2020 Election

On March 31, 2020, Governor Abbott issued Executive Order GA-14. Among other things, this order extends social distancing guidelines through April 30, 2020 and defines essential services. On April 2, 2020, the Texas Secretary of State Elections Division emailed election officials advising that entities that have not postponed their May 2, 2020 elections “must take action to do so immediately!” According to the Elections Division, failure to postpone an election may put the election at risk for an election contest.

A community college may postpone its May 2, 2020 election pursuant to Governor Abbott's proclamation authorizing political subdivisions, including community colleges to postpone those elections to the November 3, 2020 uniform election date in response to the Coronavirus (COVID-19) disaster. The Elections Division issued Election Advisory 2020-12 to provide guidance (the guidance) to political subdivisions in postponing their elections. On March 19 and again on March 24, the Elections Division emailed additional guidance, the relevant details are addressed below.

Community colleges should review all of the guidance and consider the following in postponing their elections:

- Board action is required to postpone the election. The guidance sets out what should be included in the order postponing the election. Consult your local counsel for assistance in drafting the order.
- If you are holding a bond election, consult bond counsel for assistance in drafting the postponement order for your bond election.
- Action to postpone should be taken as soon as possible. Work with your local counsel to ensure compliance with the Texas Open Meetings Act.
- After the board acts to postpone the election, give notice as follows:
  - To Voters: Post notice on the college website and alert any local media regarding the postponement.
  - To County Election Officer: Provide notice to the county election officer because the county is required to post the college’s notice of election on the county’s website.

An electronic version of this document is available on TASB College eLaw at tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/postponing-may-2-2020-election.pdf.

© 2020. Texas Association of School Boards, Inc. All rights reserved.
TASB Community College Services
At Polling Places: If possible and safe under local circumstances, post notice at the polling locations that would have been used for election. The ability to do so may be limited by local orders. Do not put anyone at risk by posting a physical notice.

To the Elections Division: Advise the Elections Division of the board’s action to postpone at elections@sos.texas.gov.

- The postponement will not affect a college’s election schedule in future years.
- If a community college cancelled all or part of its election, candidates declared elected may be sworn in after May 2, 2020.
- If a community college postpones its election, the current office holders will serve as holdovers until the November 2020 election. The newly elected officers will serve a reduced term.
- If a community college and a county elections officer have not contracted for an election, the county is not obligated to contract in May 2020. If a contract has been executed, colleges should consult local counsel to discuss options for modifying the terms of the contract.
- If a community college is located in more than one county, it will be required to use each county’s polling place for the November 2020 election.
- The Governor’s proclamation only authorizes postponement to November 3, 2020. According to the Elections Division, there are likely only two ways to postpone to a different date:
  - Emergency Election under Texas Election Code section 41.0011(b): A local political subdivision may request permission from the Governor to order a special election on a nonuniform date. This does not apply to general elections.
  - Court Order for Nonuniform Election Date: A political subdivision that wants to hold its general election on a date other than November 3, 2020, might seek a court order for an alternative date.

If you have questions about postponing your college’s election, community college representative may contact the Elections Division or TASB Community College Services at 800.580.1488 or colleges@tasb.org. If you email a question, include a current phone number at which you can be reached.

For more information on community college law topics, visit TASB Community College eLaw online at colleges.tasb.org/elaw.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the college’s own attorney in order to apply these legal principles to specific fact situations.

Updated April 2020

© 2020. Texas Association of School Boards, Inc. All rights reserved. TASB Community College Services