Additional Website Posting Requirements for Elections

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In addition to the various website posting requirements under the Texas Election Code,¹ Texas Government Code section 2051.201 requires a political subdivision with authority to impose a tax, including a school district to post the following on its publicly accessible website:

1. the district’s contact information, including a mailing address, telephone number, and email address;
2. each trustee of the district;²
3. the date and location of the next trustee election;
4. the requirements and deadline for filing for candidacy for school board trustee, which shall be continuously posted for at least one year before the election day for the office;
5. each notice of a board meeting under the Open Meetings Act (OMA); and
6. each record of a board meeting under the OMA.

Tex. Gov't Code § 2051.201.

These additional posting requirements apply to a school district that maintained a publicly accessible website on or after January 1, 2019. School districts with a population of less than 5,000 in the district’s boundaries and located in a county with a population of less than 25,000 are excepted from item 6. Tex. Gov’t Code § 2051.201(c). [For more information about meeting notices and records under the Texas Open Meetings Act, see TASB Legal Services eSource page Board Meetings.]

Section 2051.201 does not require all of the information to be posted in a single location on a district’s website and does not specify a format for the information. In fact, districts likely are posting most of this information already under other legal requirements and local practices.

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¹ For more information on Texas Election Code requirements see TASB Policy BB series and the TASB School Law eSource Elections page.
² Although the statute says “elected officer,” TASB Legal Services interprets this to include all trustees, whether elected or appointed. Further, the statute does not specify what information must be posted about each trustee, but Texas Education Code section 11.1518 requires a school district with a website to post the name, email address, and term of office, including the date the term began and the date it expires, of each trustee. A district without a website must submit this information to the Texas Education Agency. A district must update the information each time there is a change in board membership. Tex. Educ. Code § 11.1518.
Section 2051.201(b)(4) is the only requirement subject to a one-year posting requirement. This memo addresses Section 2051.201(b)(3) and (4) because these are the only requirements relating to a district’s trustee election.

Date and Location of Next Trustee Election

The date of a district’s next election will be the next May or November uniform election date on which the district holds its trustee election. The uniform date in May is the first Saturday, and the uniform date in November is the first Tuesday after the first Monday. Tex. Elec. Code § 41.001(a).

Section 2051.201(b)(3) does not define location of the next election. A district will post the location of polling places on its website as part of standard election notice requirements. Thus, the Secretary of State Elections Division interprets location in this statute to be the location where a person would expect to file a candidate application, usually the main administrative office. See Election Advisory No. 2019-19.

The next election is likely the next general election, but the Elections Division advises that the best practice will be to post the required information for a special election to fill a vacancy as well.

Requirements and Deadline for Filing for Candidacy

Under Section 2051.201(b)(4), the requirements and deadline for filing for candidacy for school board trustee must be posted continuously for at least a year before election day.

Requirements

Section 2051.201(b)(4) does not specify what requirements must be posted. The Elections Division interprets this to encompass both the requirements as to form, content, and procedure, as well as requirements as to eligibility.

Form, Content, and Procedure: An application for a place on the ballot must be in writing; signed, sworn to by the candidate before a person authorized to administer an oath, and dated; timely filed with the district’s filing authority (often the superintendent’s secretary or another designated district employee); and include specified information about the candidate:

- the candidate’s name, date of birth, and occupation;
- the candidate’s residence address or the address at which the candidate receives mail with a description of the location of the candidate’s residence;
- the candidate’s length of continuous residence in Texas and in the district (and single member district, if applicable) as of the date the candidate swears to the application;
- if available, a public mailing address and email address at which the candidate receives correspondence relating to the candidate’s campaign;
• the office sought, including any place or other distinguishing number and an indication of whether the office sought is for a full or unexpired term;
• an indication that the candidate has either not been finally convicted of a felony or if so, has been pardoned or otherwise released from the resulting disabilities;
• statements that the candidate is a U.S. citizen; has not been determined by a court to be mentally incapacitated; is aware of the nepotism law; and swears an oath to support and defend the U.S. and Texas Constitutions and laws.


A potential candidate who has been convicted of a felony must include in the application proof that the person is eligible for public office. Tex. Elec. Code § 141.031(a-1). Texas Attorney General Ken Paxton addressed what constitutes release from the resulting disabilities of a felony conviction in Texas Attorney General Opinion No. KP-0251 (2019).

Eligibility: An individual is eligible to be a candidate for, or elected or appointed to, a Texas school board if the individual:

• is a United States citizen;
• is 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
• has not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote;
• has not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
• has resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
  o for an independent candidate, the date of the regular filing deadline for a candidate’s application for a place on the ballot;
  o for a write-in candidate, the date of the election at which the candidate’s name is written in; or
  o for an appointee to an office, the date the appointment is made;
• is registered to vote in the territory from which the office is elected on the date described above; and
• satisfies any other eligibility requirements prescribed by law for the office.

The Texas Education Code imposes additional requirements:

- A person is ineligible to serve on a school board if the person has been convicted of a felony or solicitation of prostitution under Texas Penal Code section 43.021. Tex. Educ. Code § 11.066.

To comply with Section 2051.201(b)(4), a district might do any or all of the following:

- state these requirements on its website;
- include or link to its candidate application and declaration of write-in candidacy forms (the Elections Division offers these forms); or
- link to other resources that state the requirements, such as Texas Election Code sections 141.001 (eligibility requirements) and 141.0031 (application requirements); the district’s BBA(LEGAL) (Eligibility/Qualifications) and BBBA(LEGAL) (Conducting Elections) policies; and/or to relevant resources on the Elections Division website.

**Deadline**

The deadline for filing for candidacy is also somewhat ambiguous because it is not clear whether this contemplates only the last day to file or also the first. TASB Legal Services recommends posting the filing period rather than a deadline. The first day to file an application for a place on the ballot in a school district’s general election is the 30th day before the filing deadline. The filing deadline for a general election is 5 p.m. on the 78th day before election day. Tex. Educ. Code § 11.055(a); Tex. Elec. Code § 144.005. The deadline to file a declaration of write-in candidacy is 5 p.m. on the 74th day before election day. Tex. Educ. Code § 11.056; Tex. Elec. Code § 146.054. The Elections Division generally posts important election dates, including filing deadlines, on its website.

For more information, call TASB Legal Services at 800.580.5345.