



LEGAL AND TECHNICAL CONSIDERATIONS

for School Director Candidates



Many things must be taken into consideration when deciding whether to run for election to a local school board. One important component to understand is the legal requirements and technical aspects involved in seeking office and becoming an elected official. PSBA legal staff can provide answers to questions about these requirements.

School Board Elections

- Forms for nominating petitions, statements of financial interest, campaign finance reports and other information about these requirements can be obtained online from the Bureau of Elections, as well as from the county board of elections and other municipal offices.
- School board elections occur in municipal election years (odd-numbered years).
- Primary election in municipal election years is held on the third Tuesday in May (May 18, 2021).
- Municipal election is held on the first Tuesday in November (November 2, 2021).
- Nominating procedures start in February of election years.
- Term of office is four years, beginning and ending the first Monday in December after the November municipal election.
- If a seat with more than two years of the regular term remaining becomes vacant more than 60 days prior to the nearest municipal election and is filled by appointment, an election is needed to fill the remaining two years of the term.
- No candidate is permitted to run for an office he or she already holds; that the term of which is not expiring in the year of the election. If in the first two years of a four-year seat, one cannot run for another four-year seat up for election that year.
- Each election year, the PA Department of State's Bureau of Elections provides county election offices with an election calendar, also published online.

Eligibility for School Board Office

- At least 18 years of age as of the date of the November municipal election.
- Good moral character.
- Resident of the school district for at least one year prior to the date of the November municipal election (or prior to appointment if appointed).
- Must have no record of conviction for any felony offense, or any misdemeanor offense involving dishonesty or other "moral turpitude."
- A federal law known as the "Hatch Act" prohibits all federal employees and employees of state or local governments whose positions are funded entirely from federal sources from being candidates in partisan political elections for public office, including school boards.
- School board elections in PA are considered partisan, despite the ability to cross-file.
- The Hatch Act does not prohibit holding elective office if appointed to fill a vacancy.
- Active-duty military, including reservists serving on active duty, are prohibited by federal law and Department of Defense regulations from running for or holding partisan political office.
- Many governmental and private employers have rules or policies that require employees to notify them or get permission whenever they engage in outside employment, including running for elective office.
- School directors cannot be employed by their school district during the term for which elected.
- The office of school director is designated as incompatible with most other local government elective offices; incompatible offices cannot be held simultaneously.

At-Large and Regional Election Plans

- School districts may adopt one of three types of election plans: "at large"; by region; or by a combination of regional and at-large seats.
- If elected at large, candidates must be residents of the school district, but may live anywhere in the district and are chosen by all the voters in the district.
- If elected by region, school directors who reside in each region are elected by the voters of their respective regions, with each region electing an equal number.
- Under combined plans, all regions elect an equal number of school directors who reside in each region and who are elected only by the voters of their region, and some directors are elected at large by voters district-wide.
- Candidates elected by region must continue to reside in that region during their term of office.

Nominating Petitions for Primary Elections

- Only candidates for political parties (Republican, Democrat and other "parties" certified as such by the Secretary of the Commonwealth) are nominated at primary elections.
- "Political bodies" not certified as a "party" can nominate candidates to appear on the November ballot without participating in a primary by filing "nominating papers" with the board of elections no later than the second Friday after

- the primary (see “Running as an Independent” below).
- Nomination petitions for party candidates must be filed with the county board of elections no later than the 10th Tuesday prior to the primary election (March 9, 2021).
- Circulating petitions for signatures occurs during a three-week period beginning on the thirteenth (13th) Tuesday prior to the primary election (February 16, 2021) and ending on the 10th Tuesday prior to the primary (March 9, 2021).
- Always confirm dates with the election calendar published by the PA Department of State.
- No fee is charged for filing a school board nominating petition.
- Petition must be signed by 10 qualified voters residing in the school district who are registered with the political party for which nomination is sought.
- If running for a regional seat in a district with a regional or combined regional and at-large election plan, signers of petitions must also reside within that region.
- In other words, a petition signature is valid only if the signer would be eligible to vote for that candidate in the primary based on residence and party for which he or she is registered.
- Circulators of nominating petitions must be Pennsylvania residents who are registered members of the political party for which nomination is sought. They do not have to be residents of the school district.
- The Election Code does not prohibit candidates from circulating their own petition for the party they are registered for, nor from accompanying a person from another party circulating a petition for that party.
- Signers cannot sign the petitions of more than one candidate for any office unless more than one candidate can be elected to that office (such as school director), in which case a voter can sign only as many candidate petitions as the number of votes that a single voter could cast for that office.
- It is not required that names, addresses, and signatures of candidates and petition signers on petitions and candidate affidavits match voter registration records, but non-matching addresses make validity challenges more likely. It is important that candidates whose current resident address does not match their voter registration update their registration information.
- Addresses provided by candidates and signers of petitions on petitions and candidate affidavits must include not only post office address, but also specify the municipality in which the candidate or signers reside.
- Candidates for school director may cross-file for nomination in a primary election, meaning that they may seek the nomination of more than one major political party.
- To cross-file, a separate petition must be circulated for each party by a registered member of that party, and the same minimum number of signatures is required for each party’s petition.
- If successful in the primary, a cross-filed candidate will appear on the ballot for the November municipal election as the candidate for each party whose primary nomination the candidate won.

Running as an Independent

- The Election Code has no actual provision for truly “running as an independent” – the phrase instead is used to refer to the alternative process of nomination by a named “political body,” by filing “nominating papers” with the board of elections after the primary, no later than August 1.
- Before being circulated for signatures, nominating papers must identify the political body the candidate will represent in three words or fewer (e.g., “Citizens for Smith”).
- Stating only “independent” as the name of the political body is insufficient even though the candidate is registered to vote as an independent.
- It is not necessary that the named political body have been previously organized or have any particular manner of organization or roll of members, but the name cannot be the same or similar to any other political body for which nominating papers have been filed.
- A political body cannot use this method to nominate a candidate who is a registered member of a party at any time beginning 30 days prior to the primary or who has had a party nominating petition filed on their behalf. To be eligible for this method, a candidate must have terminated any party affiliation prior to the 30th day before the primary.
- Nominating papers must have a number of signatures of qualified electors equal to at least equal to 2% of the most votes cast for any candidate for the office being sought in the most recent election for that office, and must be no fewer than the number of signatures required for nomination petitions for party candidates for that office. It is important to confirm with the board of elections the number of signatures required.
- Nominating papers may not be circulated for signatures earlier than the 10th Wednesday prior to the primary.
- Similar to nominating petitions for party candidates, signers of nominating papers must be eligible to vote for the named candidate based on their residence, and they may not sign more nominating papers for an office than the number of

- votes they could lawfully cast for candidates for that office.
- Other rules for nominating papers are the same as for nomination petitions for party candidates, except that the party affiliation of signers or circulators of nominating petitions does not matter.
 - Another difference is that a nominating paper for a school board candidate is subject to a \$5.00 filing fee.

Requirements under the Public Official and Employee Ethics Act

- Each candidate for the office of school director must file a completed statement of financial interest form (SFI) covering the preceding calendar year with the school board secretary of the school district, no later than the deadline for filing nominating petitions.
- A copy of the SFI also must be attached to the nomination petition filed with the county board of elections.
- Failure to file with BOTH the board of elections AND the school board secretary by the nominating petition filing deadline can result in the nominating petition being invalidated and removal from the ballot.
- In non-election years, the SFI is filed no later than May 1, and only with the school board secretary.
- The school district must maintain statements of financial interest on file and make them available for public inspection for at least five years.
- Besides late filing, the most common SFI mistakes that can lead to trouble under the Ethics Act are filing the SFI in the wrong place, leaving out required information, and backdating forms that have been filed after the deadline.
- Putting false dates on forms that were not filed on time is the mistake most likely to result in serious penalties.
- The SFI form itself provides detailed instructions for each part of the form, but filers frequently fail to complete all blocks on the form or leave out required information. Read the instructions carefully.
- When it is necessary to leave a form block empty because there is no pertinent information to provide, it is important to check the box labeled “none,” otherwise there is no way to tell whether the filer inadvertently or deliberately omitted information.
- Make sure to list the filer’s employer as a direct source of income in block 10 – although occupation is entered elsewhere on the form in block 6 and an employer must be identified in block 13, employers still must be listed as direct sources of income in block 10.
- Be sure to list in blocks 4 and 5 the public position held (or being sought) and in what school district the filer serves (or aspires to serve) or by which they are employed.
- In addition to the SFI instructions, Ethics Commission regulations describing the information required to be disclosed on the SFI are available at this link: <https://www.ethics.pa.gov/Ethics-Act/Pages/default.aspx>.
- The Ethics Act imposes special procedural requirements when the school district does business with a business owned by a school director or member of the director’s immediate family, or the employer of the director or a member of the immediate family, and prohibits the director from involvement in the contracting process or implementation of the contract.

Campaign Finance Reporting

- Pennsylvania’s “Campaign Expense Reporting Law” requires candidates to keep records of campaign expenditures and contributions received, including the names and addresses of persons who contribute \$50 or more to the campaign.
- A pre-election report of contributions and expenditures must be filed with the county board of elections no later than the second Friday prior to the primary election.
- A post-election report must be filed no later than 30 days after the election.
- As an alternative to filing reports, local candidates can file an affidavit that they are not aided by a political committee and do not intend to receive or expend more than \$250 in a reporting period; but they still must keep records of expenses and contributions and must file a report in the event that expenditures or contributions exceed \$250 in a reporting period.
- The law strictly prohibits anonymous contributions, contributions made on behalf of another person and contributions in cash from any one person totaling more than \$100.

Further Information

For further information, please visit [PSBA.org](https://www.psbpa.org), and see PSBA’s online guide and video, “[How to Run for School Board](#).”