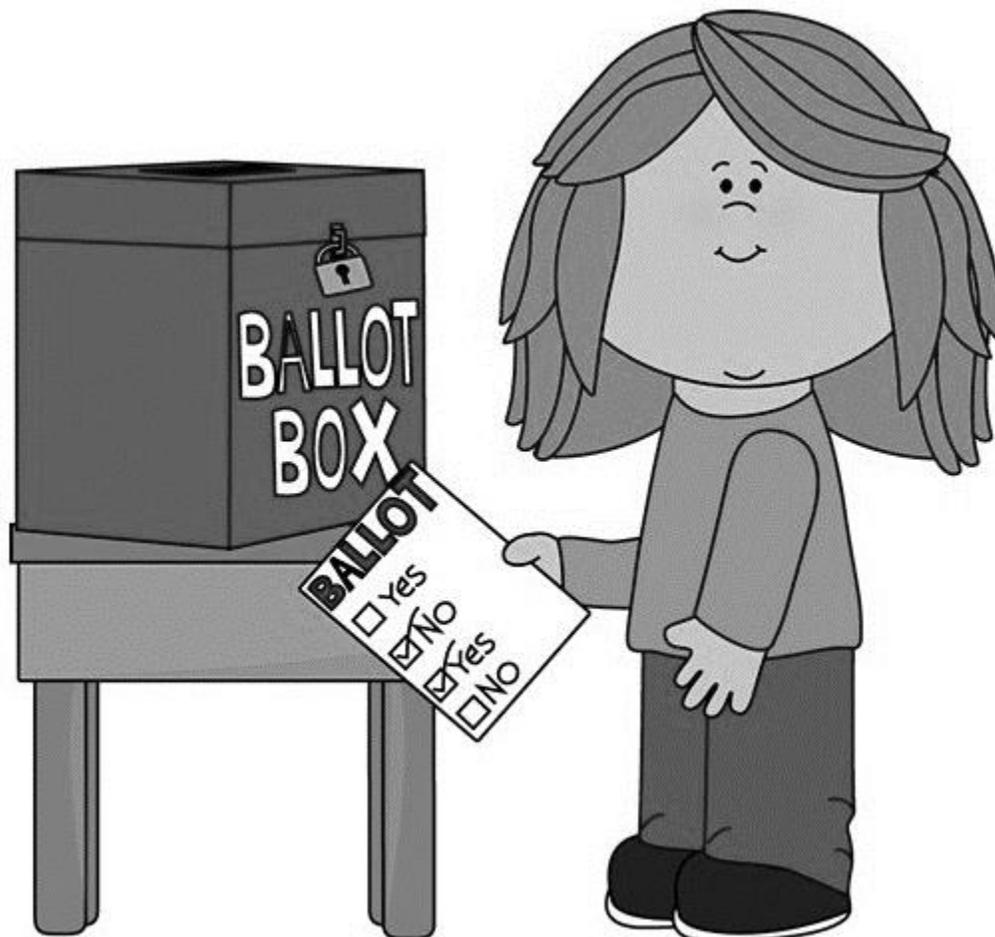




2019



# SCHOOL ELECTION HANDBOOK



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**Note:** Forms have been removed from this handbook and are available separately on the OPI website.

## Purpose

This School Election Handbook is intended to assist the administrator of school elections in the administration and operation of school elections.

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## SECTION I: INTRODUCTION TO SCHOOL ELECTIONS

### **What is a School Election?**

A school election is an election under the authority of the board of trustees to elect trustees, authorize additional taxation, authorize the issuance of bonds, or any other proposition presented to the electors in accordance with law. [20-20-102](#), MCA

### **When is a School Election Held?**

Regular school elections are held the first Tuesday after the first Monday in May of each year. Trustee elections must be held on the regular school election day, except in the event of an unforeseen emergency. General fund levy elections must be held on the regular school election day, except in years in which the legislature meets in regular or special session that affects school funding. In this case, the deadline for the election is August 1<sup>st</sup>. [20-9-353](#) and [20-20-105](#), MCA

### **Is it Permissible to Hold a School Election on a Different Date?**

Except for the school district trustee and general fund levy elections, school districts may hold school elections on a date other than regular school election day, including primary and general election day. [20-20-105](#), MCA

### **Who Oversees a School Election?**

The trustees are the general supervisors of school elections and the school district clerk is the election administrator. The trustees may, however, by June 1 of each year, request that the county election administrator conduct any/all of the district's elections in the ensuing fiscal year. That request must be made by board resolution. If the county election administrator assumes responsibility a district's election, the county will conduct the election at district expense. [13-1-101](#), [20-20-401](#), and [20-20-417](#), MCA

### **Who Calls a School Election?**

The trustees call for a school election by passing a board resolution stating the date and purpose of each election and whether an election is requested to be by mail. The resolution must be passed at least 70 days prior to election day. The resolution calling for the election must be transmitted to the county election administrator no later than 3 days after the resolution is passed. If the election is conducted by mail, the school clerk must also transmit to the county election administrator a copy of the written plan as soon as the plan, and any amendments, are approved by the Secretary of State. [20-20-201](#) and [13-19-202](#), MCA

## SECTION II: TRUSTEE CANDIDATES

### **Who May Run for the Office of School District Trustee?**

Any person qualified to vote in a district is eligible for the office of trustee. However, there are restrictions on who may hold office. A trustee may not be employed in any capacity by the trustee's own school district (except for officiating athletic competitions under the auspices of

the Montana Officials Association). The trustee candidate may be related to a school or county employee. [20-3-305](#) and [20-9-204](#), MCA

No person convicted of a felony is eligible to hold office until final discharge from state supervision. [Article IV, Section 4, Montana State Constitution](#)

The election administrator is advised to verify the trustee candidate's eligibility to vote and/or hold office at the time the Oath of Candidacy is filed, to avoid issues of candidate eligibility after the candidate has been placed on the ballot or received votes on election day. [13-1-111](#), MCA

### **What Are the Qualifications for School Trustee?**

A trustee must: 1) be qualified to vote in a district; and 2) be a resident of the school district (in a single member district, a resident of the school district for at least one year prior to becoming a candidate). [20-3-305](#) and [20-3-338](#), MCA

Qualified to vote means the person must: 1) be at least 18 years old; 2) be a resident of the state and county for at least 30 days; and 3) be a United States citizen. The person must not be: 1) a convicted felon currently serving a sentence in a penal institution; or 2) determined to be of unsound mind by a court of law. [13-1-111](#), MCA

### **How Many Positions Are Open for Trustee and What is the Term?**

#### Elementary Districts:

The number of trustees to be elected depends on the size of the school district. For elementary districts, first-class districts (districts with a population of 6,500 or more) have seven trustees; second-class districts (districts with a population greater than 1,000, but less than 6,500) have five trustees; and third-class districts (districts with a population less than 1,000) have three trustees. Population refers to total population, not district enrollment.

Second class districts may increase the number of trustees from five to seven, if the board of trustees votes to do so, and publishes its actions prior to January 1 in the year of the trustee election. To return the board to five members requires a petition from 10 or more qualified electors.

Third class districts may increase the number of trustees from three to five, if the board of trustees votes to do so, and publishes its actions prior to January 1 in the year of the trustee election. To return the board to three members requires a petition from 10 or more qualified electors. [20-3-341](#) and [20-6-201](#), MCA

#### High School Districts:

High school districts have the same trustees as the elementary district in which the high school building is located (if more than one elementary district where the high school is located, the high school has the same trustees as the first constructed elementary). County high schools have 7 separately elected trustees. Additional trustee positions may be created upon passage of a resolution from the elementary district's board of trustees without representation or by petition of the electors to the county superintendent. [20-3-351](#), [20-3-352](#) and [20-3-354](#), MCA

### **How Does One Become a Candidate in a School Election?**

Candidates for trustee must file an Oath of Candidacy with the school district clerk no later than 40 days prior to the election. The Oath of Candidacy must clearly identify the candidate and the position sought. All candidates that meet the requirements to file for the office of trustee and submit their Oath of Candidacy prior to the filing deadline will have their name placed on the ballot. Districts should communicate with their county election administrator to ensure that any candidate forms turned in to the county election administrator are received by the clerk prior to the filing deadline – even if the county is running the school district’s election. [20-3-305](#), MCA

### **How Does a Candidate Withdraw?**

Trustee candidates may withdraw from the election only if they submit a written statement of withdrawal to the clerk of the district by 5pm 31 days prior to the election. The statement of withdrawal must clearly identify the candidate and the office sought and be acknowledged by the clerk of the district. If a candidate withdraws before the deadline, the candidate’s name must not be placed on the ballot. [20-3-305](#), MCA

If a candidate fails to withdraw prior to the deadline the candidate’s name must appear on the ballot or be considered a valid write-in candidate. It is possible for that candidate to receive the most votes and be elected to the position. The candidate may either accept the position by filing the required Oath of Office, or decline the position by failing to do so. If the candidate fails to file the Oath of Office, the position will be declared vacant by the remaining trustees and filled by appointment. [20-3-307](#) and [20-3-309](#), MCA

### **Are Write-In Candidates Allowed in School Elections?**

Anyone meeting the requirements for a regular trustee candidate may file to be a write-in candidate, and anyone may write-in whomever they please on a ballot. However, there are certain circumstances in which votes are not counted for write-in candidates.

Write-in candidates must file a Declaration of Intent for Write-In Candidates with the election administrator, in order to ensure that their votes will be counted. When a county election administrator is conducting a school election on behalf of the district, the school district clerk or school district official that receives the Declaration of Intent shall notify the county election administrator of the filing. Votes are always counted for candidates who file in time to have their name appear on the ballot OR for write-in candidates who file a Declaration of Intent. The Declaration of Intent must be received no later than 5pm on the day before ballot certification (ballot certification occurs 30 days prior to the election).

Additionally, votes for undeclared write-in candidates (candidates who did not file a Declaration of Intent) will count if:

- 1) The election is held;
- 2) The candidate receiving votes is qualified for the office; and
- 3) No other candidate has filed an Oath of Candidacy or a Declaration of Intent.

[13-10-211](#) and [20-3-305](#), MCA

## How Do You Vote for a Write-In Candidate?

Candidates may have their names written in on the ballot or may prepare sticker labels to be used on the ballot. Write-in candidates are responsible for distributing the stickers, but the stickers (like any other candidate campaign material) may not be distributed at the polling place. Names of write-in candidates should not be posted at the polling place and should not appear “written in” on sample ballots. If asked by an elector, election judges may give the names of individuals who have filed a Declaration of Intent. [13-15-206](#), MCA

The chart below illustrates when write-in votes may or may not be counted.  
(Law does not apply to precinct committee people or federal/military ballots)

| Regular Candidates   | Write-In  | Candidates   |
|--|---|--|
| Always count all votes cast for any candidate who filed by the deadline and appears on the ballot. | Always count all votes cast for any write-in candidate who filed a Declaration of Intent (not appearing on the ballot).                             | Count votes for write-in candidates who did NOT file a Declaration of Intent (not appearing on the ballot) ONLY if the election is held, the person is qualified for and seeks election to the office, AND no other candidate has filed an Oath of Candidacy or Declaration of Intent. |
| Candidate A appears on the ballot and receives 10 votes – ALL VOTES ARE COUNTED <b>[WINNER]</b>    | Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 8 write-in votes – ALL VOTES ARE COUNTED                   | Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 20 write-in votes – NO VOTES ARE COUNTED  |
| Candidate A appears on the ballot and receives 10 votes – ALL VOTES ARE COUNTED                    | Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 110 write-in votes – ALL VOTES ARE COUNTED <b>[WINNER]</b> | No one else receives any write-in votes – NO VOTES ARE COUNTED   |
| Candidate A appears on the ballot and receives 2 votes – ALL VOTES ARE COUNTED <b>[WINNER]</b>     | NO CANDIDATE filed a Declaration of Intent – NO VOTES ARE COUNTED   | Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 25 write-in votes – NO VOTES ARE COUNTED  |
| NO CANDIDATE appears on the ballot – NO VOTES ARE COUNTED  | Candidate B does not appear on the ballot, did file a Declaration of Intent and receives 110 write-in votes – All VOTES ARE COUNTED <b>[WINNER]</b> | Candidate C does not appear on the ballot, did NOT file a Declaration of Intent and receives 225 write-in votes – NO VOTES ARE COUNTED   |
| NO CANDIDATE appears on the ballot – NO VOTES ARE COUNTED  | NO CANDIDATE filed a Declaration of Intent – NO VOTES ARE COUNTED   | ALL VOTES FOR QUALIFIED WRITE-IN CANDIDATES ARE COUNTED <i>IF</i> the election is held. <b>[WINNER]</b>  |

## SECTION III: SCHOOL DISTRICT ELECTION BALLOTS

### What Types of Issues Appear on School Ballots?

#### A. Trustee Candidates

Trustee elections are held every year as part of the regular school election. Except for special circumstances, the term of office for school district trustees is 3 years. [20-3-301](#) and [20-3-307](#), MCA

#### B. General Fund Levy Requests

In a general fund levy election, the dollar amount electors are asked to approve is the increase in the amount needed for the over-BASE tax levy from the highest of the previous five years. This amount may be determined using the OPI's General Fund Budget Overview and Worksheets: [Montana Office of Public Instruction, School Finance, Budgets](#)

State law requires that certain components be included on the ballot for mill levy elections. The following ballot language includes all of the required components and is suggested for general fund mill levy elections. [15-10-425](#), MCA

*Shall the district be authorized to impose an increase in local taxes to support the general fund in the amount of \$\_\_\_\_\_ which is approximately \_\_\_\_ mills for the purpose of \_\_\_\_\_? Passage of this proposal will increase the taxes on a home with a market value of \$100,000 by approximately \$\_\_\_\_\_ and on a home with a market value of \$200,000 by approximately \$\_\_\_\_\_. The durational limit of the levy is permanent once approved by the electors, assuming the district levies that amount at least once in the next five years.*

#### C. Bond Issues

School bonds are issued for purchasing land or buildings, making changes to existing land or buildings, obtaining a water supply, purchasing school buses, providing funds to redeem existing bonds, for the issuance of refunding bonds, financing a judgment against the district (including protested taxes), and funding a debt service reserve account for oil and natural gas revenue bonds or impact aid revenue bonds. [20-9-403](#), MCA

The amount a district may request in a bond issue is limited by law. Contact the OPI for assistance in determining the amount that may be requested.

If a district bond election is held by poll election at a regular school election, or a special election called by the trustees, the bond issue is subject to the following:

- a) 40% or more of the qualified electors cast a ballot in the election – the proposition must be approved by a majority of the votes cast on the issue; or
- b) More than 30%, but less than 40% of the qualified electors cast a ballot in the election – the proposition must be approved by 60% or more of the votes cast on the issue; or

- c) 30% or less of the qualified electors cast a ballot in the election – the proposition fails.

If the school district bond election is held in conjunction with an election that is conducted by mail ballot, or in conjunction with a general or primary election, the determination of the approval or rejection of the bond issue is made by a majority of the votes cast on the issue. [20-9-428](#), MCA

**D. Other Issues**

Other issues that may appear on the ballot include district consolidation/annexation, creation of a joint district, dissolution of a joint district, county high school unification, opening an approved junior high school (applies to county high school districts only), joint interstate school agreements, and specific transfers from one budgeted fund to another. For more information, see [Section XI: Other School Elections](#).

## SECTION IV: ELECTORS IN SCHOOL ELECTIONS

### **Who May Vote in a School Election?**

Any individual who maintains residence within the boundaries of the school district and meets the qualifications to vote is entitled to vote in a school district election. To be qualified to vote the person must be: 1) registered to vote as required by law; 2) 18 years of age or older; 3) a resident of the state of Montana and the county in which the district is located for at least 30 days (unless transferring registration from another county); and 3) is a United States citizen. A convicted felon currently serving a sentence in a penal institution or an individual adjudicated to be of unsound mind does not have the right to vote in any election.

Persons who are currently 17 years old, but will be 18 years old on or before election day may register to vote, and will be permitted to vote at the polls on election day. If the election is being held in a single-member district, the elector must also be a resident of that district. [13-1-111](#) and [20-3-338](#), MCA

### **Are Electors in School Elections Required to Show ID Before Voting?**

The identification requirements of federal and state law will not apply to school elections conducted by school election administrators. If the county conducts the election on behalf of the school, the election administrator should contact the county attorney for advice on whether identification will be required at that election. [20-20-301](#), MCA

### **What is the Deadline for Registration in School Elections?**

The close of regular registration is 30 days prior to the election. The county election administrator must publish a notice specifying the day regular registration will close and the availability of the late registration option by posting the notice in a newspaper of general circulation at least 3 times in the 4 weeks preceding the close of regular registration. It is recommended that the district contact the county election administrator prior to start of the 4-week window to verify that the publication will be made.

An elector may register or change the elector's voter registration information after the close of regular registration if the county election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of polls on election day. For school district elections administered by the school district, late registrants must obtain a document from the county election administrator verifying the elector's late registration. The elector must bring the verification to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register. Late registrants must register with the county and vote prior to the close of the polls on election day. [13-2-301](#) and [13-2-304](#), MCA

### **How Does Absentee Ballot Registration Affect School Elections?**

Montana law allows electors to request and receive an absentee ballot for each subsequent election (including school elections), provided the elector remains at the same address and remains qualified to vote. Each county maintains its own list.

Applications for an absentee ballot are available on the secretary of state's website and at the county election office. Contact the county election administrator to determine procedures specific to the county. [13-13-212](#), MCA

In poll elections, following receipt of the list of absentee electors from the county election administrator, the district prepares and sends absentee voter packages to each elector. Electors who receive an absentee ballot are not permitted to vote in person at an election, unless the absentee ballot is destroyed, lost, spoiled or not received. [13-13-204](#), MCA

Beginning January 1, 2018, the election administrator is required to publish a notice indicating the method that will be used for counting absentee ballots and the place and time that the absentee ballots will be counted on election day. The notice must be published in a newspaper of general circulation in the county OR broadcast on radio or television not more than 10 days or less than 2 days before an election. The district may combine this notice with their regular election notice, **but only if the notice is published on the 10<sup>th</sup> day prior to the election and published in a newspaper of general circulation within the county.** [2-3-105](#), [2-3-106](#), [2-3-107](#) and [13-15-105](#), MCA.

### **What Is an Inactive Elector and How Do They Become Reactivated?**

An inactive elector is any elector who fails to confirm their address for any reason required by law. An inactive elector may reactivate by meeting the requirements for registration in Title 13 and completing one of the following actions: 1) appearing at a polling location to vote, applying for an absentee ballot, or voting in a mail ballot election; 2) notifying the county election administrator in writing of the elector's current residence (within that county); or 3) completing a reactivation form provided by the county election administrator (within that county). The county election administrator shall cancel the voter registration of any inactivated elector who later fails to vote in two consecutive federal general elections. A reactivated elector is a legally registered elector for the purposes of the election in which the elector votes. [13-1-101](#), [13-2-220](#), [13-2-222](#) and [13-2-402](#), MCA

Absentee and mail ballots are not sent to inactive electors. [13-13-214](#) and [13-19-207](#), MCA

### **What If an Elector Believes Another Elector Is Unqualified to Vote?**

Any elector may challenge another elector, on or before election day, if the elector believes the other person is unqualified to vote. Grounds for challenge include: 1) the elector is of unsound mind, as determined by a court; 2) the elector has previously voted in this election; 3) the elector is a convicted felon serving a sentence in a penal institution; 4) the elector is not registered as required by law; 5) the elector is not 18 years of age or older; 6) the elector has not been, for at least 30 days, a resident of the county (or district) in which the elector is offering to vote; 7) the elector is provisionally registered and the status has not been changed to a legally registered elector; or 8) the elector does not meet another requirement provided in the constitution or by law. The burden of proof falls on the elector making the challenge. [13-13-301](#) and [20-20-303](#), MCA

### **What Accommodations Are Required for Disabled Electors?**

Election administrators should be mindful of the needs of all electors. Election judges trained by the county receive special instruction regarding disabled electors and district clerks who train their own judges should incorporate that into their training as well. There are several specific procedures that will ensure compliance with the law.

First, voting locations should be accessible. Voting locations that are the same for primary and general elections should have a survey done to determine accessibility or have an exemption form on file with the county election administrator. If the district is using a different voting location the site must still meet accessibility requirements. Contact the county election administrator to verify the eligibility of all voting locations. [13-3-206](#), MCA and ARM [44.3.105](#) and [44.3.106](#)

Second, electors are entitled to assistance in the voting process. The assistance may be provided by the election judges or by an individual designated by the elector. The individuals assisting the elector must sign the precinct register, along with the elector. [13-13-119](#), MCA

Third, the election administrator is responsible for providing an alternative method of voting for disabled electors. This includes curbside voting, absentee balloting, and prearranged assignment to an accessible voting location. There are specific procedures to follow for these various types of voting methods. [13-13-118](#), [13-13-119](#), and [13-13-246](#), MCA

### **What Options Does an Elector Have in Returning Their Ballot?**

Absentee and mail ballots may be returned either by mailing them to the address on the pre-addressed return envelope or delivered, in person, to the address provided in the instructions. The return location must be accessible, staffed, secure, and have regular, published, hours. The place of deposit prior to election day may be different than the place of deposit on election day, but the place of deposit on election day must open between 7:00 am and noon and remain open until 8:00 pm, as specified in the election resolution. [13-19-307](#) and [20-20-106](#), MCA

With the passage of LR-129 (SB 85) in the 2018 General Election, only certain individuals may return a ballot on behalf of another individual. The relationships, other than an election official or US mail carrier, include a caregiver, family member, household member or acquaintance. The individual returning a ballot for one of these may only convey a maximum of 6 ballots and must sign a registry when delivering the ballot. That registry will include the individual's name,

address, phone number, the elector's name and address, and the individual's relationship to the elector. School district clerks will need to ensure that any place of deposit is adequately staffed to check each ballot returned in person.

## SECTION V: ELECTION JUDGES

### **What Are the Qualifications of and Restrictions on Election Judges?**

Election judges must be registered electors in the county and district in which they serve. School election judges must meet the training and certification requirements in Title 13. If individuals appointed to serve as election judges have not been trained by the county election administrator, the school clerk must provide the training required in Title 13, as prescribed by the secretary of state. Additional training on the process for hand counting ballots and other school district specific requirements may be necessary when using judges trained by the county.

Election judges may not be the candidate, the candidate's spouse, an ascendant or descendant, brother or sister of a candidate or candidate's spouse, or the spouse of any of the aforementioned in any precinct in which the candidate's name appears on the ballot. A sitting trustee is also prohibited from serving as an election judge in school elections, since the trustees are responsible for hiring election judges.

A campaign treasurer, manager, or volunteer, more distant relative, or the school clerk may act as an election judge in a school election. However, it is preferable not to use election judges whose role or judgment may be questioned. If such person must be used as an election judge, it is wise to ensure that the election judge always has witnesses present when handling ballots or other election materials. [13-4-107](#), [20-9-204](#) and [20-20-109](#), MCA

### **How Are Election Judges Obtained?**

The school trustees must appoint election judges (at least three judges per voting location) when they pass the election resolution. The county election administrator may provide the names of trained and experienced election judges who may be hired. The judges at each voting location choose a clerk of election judges from among themselves. [20-20-203](#) and [20-20-402](#), MCA

### **Are Election Judges Paid?**

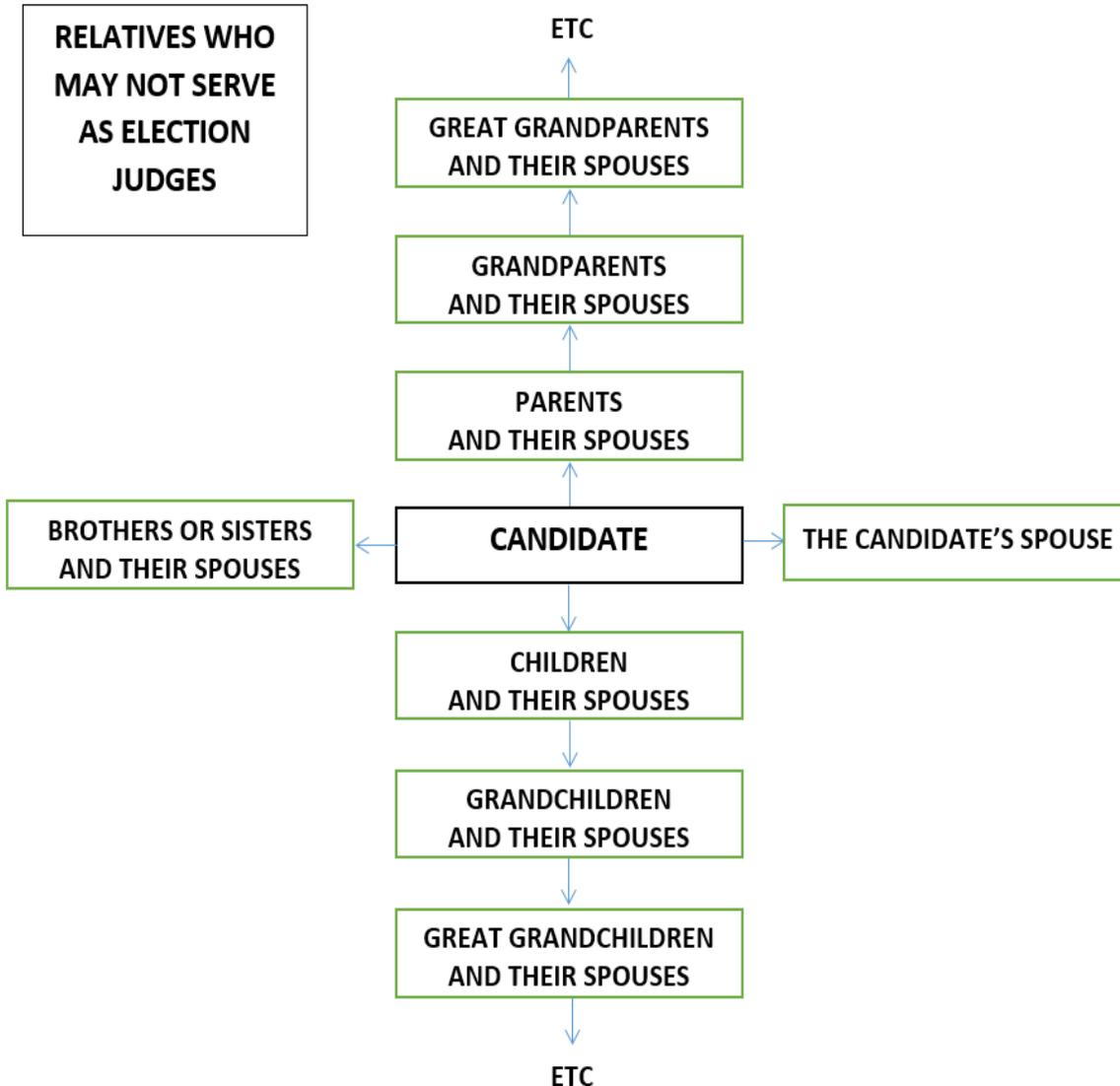
Election judges must be paid no less than the greater of the state or federal minimum wage for the time spent working during an election, including the hours required to attend training. Districts should set judges up as regular employees and deduct the applicable taxes from their paychecks. [20-20-107](#), MCA

### **Are Election Judges Excluded From Unemployment Insurance and TB Tests?**

If the payment received is less than \$1,000 in a calendar year, election judges are exempt from unemployment insurance coverage. [13-4-106](#) and [20-20-107](#), MCA

### What If an Election Judge Does Not Appear on Election Day?

An election cannot be administered without three election judges. If an election judge does not appear on election day, the electors present may appoint a qualified elector to act as election judge. Though not prohibited by law, it is not recommended that the election administrator serve as an election judge. An election judge appointed on election day is exempt from the training requirements, but must still meet all other qualifications. [20-20-402](#), MCA



## SECTION VI: ELECTION PROCEDURES

### How Do the Trustees Provide Notice of the Election?

The trustees give notice of the election not less than 10 days or more than 40 days before the election by publishing a notice in a newspaper of general circulation if there is one in the district, posting notices in 3 public places in the district, and posting notice on the district's website, if the district has an active website, for 10 days prior to the election. The district may supplement

the notice using any other recognized media organization in the district. If the county is conducting the election on behalf of the district, the district still retains responsibility for the publication of election notice, unless other arrangements have been made.

The notice of election must specify; 1) the date and polling places of the election; 2) the hours that the polling places will be open; 3) each proposition to be considered by the electorate; 4) if there are trustees to be elected, the number of positions subject to election and the length of term of each position; 5) where and how absentee ballots may be obtained; and 6) where and how late registrants may obtain a ballot on election day (new for elections on or after May 4, 2017). [20-20-204](#), MCA

### **What Is Required to Certify a Ballot for School Elections?**

Certifying the ballot means the ballot must be in its final form to be delivered to the election administrator, if that is a person other than the district clerk, or the printer. Changes to the ballot are not permitted after the ballot has been certified (at least 30 days prior to the election). No forms are required to verify ballot certification.

The election administrator prepares the form of the ballot, complete with proper names of all candidates, official wording of ballot propositions, and levy amounts. The certified ballot is the document used by the printer to prepare the ballots. Components of ballot certification are as follows:

#### **Candidates**

Candidate names must be listed alphabetically by surname on the ballot, and name rotation is not required for school elections. Names must be printed exactly as they appear on the candidate's Oath of Candidacy. No additional information about a candidate may appear on the ballot, including honorifics, titles, ranks, or other designations. If more than one office is being filled, the office with the longest term should be listed first on the ballot, followed by the next longest term, and so on. [13-12-203](#), [13-12-205](#), [20-3-306](#), [20-20-104](#) and [20-20-401](#), MCA

Candidates for trustee positions (including write-in candidates) in first class districts with a total county population of 15,000 or more OR in county high school districts with a student enrollment of 2,000 or more, who have either contributions (including personal funds) or expenditures greater than \$500, must report campaign finance activities to the Montana Commissioner of Political Practices (MCPP) before the candidate's name may appear on the ballot. A list of districts required to report campaign finance activities will be posted on the OPI Election webpage in mid-December every year. Candidate forms are available at [Montana Commissioner of Political Practices Webpage](#). Districts will receive a notice and a packet of information from the MCPP by the end of January. If an affected district does not receive this information, the election administrator should contact the MCPP at (406) 444-2942. [13-37-206](#), MCA

#### **Ballot Propositions**

Propositions must be printed on the ballot with the exact wording of the proposition as provided by state statute, if applicable. Sample language for any issue may be obtained from

similar propositions, obtained from another district, or from sample ballots provided on the OPI Election webpage. [20-9-353](#) or [20-9-426](#), MCA.

### **Bond Issues**

Much of the language that distinguishes bond elections from other school elections was eliminated in the 2015 legislative session. Bond elections no longer require separate ballots or earlier preparation of ballots for absentee voting. [20-9-426](#), MCA

Bond election ballots must be substantially the same as provided in law:

#### *OFFICIAL BALLOT SCHOOL DISTRICT BOND ELECTION*

*INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "BONDS—NO".*

*Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, oil and natural gas revenue, oil and natural gas revenue for which a tax deficiency is pledged, or impact aid revenue) bonds of this school district in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), payable semiannually, during a period not more than \_\_\_\_\_ years, for the purpose of*

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*(here state the purpose the same way as in the notice of election)?*

\_\_\_\_\_ BONDS – YES

\_\_\_\_\_ BONDS – NO

### **How Are the Ballots Printed?**

The election administrator is responsible for providing enough ballots for the number of registered voters, plus extras for spoiled ballots. Each ballot must be sequentially numbered, by precinct, on a perforated stub. Mail ballots do not have stubs (or stubs are removed). Before giving a ballot to a voter, the ballot must be stamped with the words OFFICIAL BALLOT. Check ballots carefully before ballots are printed and again before ballots are mailed or issued at the polls. [13-13-116](#) and [13-19-106](#), MCA

### **What Are Electronic Ballots and How Are They Handled?**

An electronic ballot may be requested by a disabled elector, in person, by mail, or by electronic mail. The election administrator must verify that the elector is legally or provisionally registered and provide the elector with an electronic ballot (via email), along with instructions for voting the ballot and a transmittal cover sheet that includes an elector affirmation. The elector will also be mailed a secrecy envelope and a self-address return envelope. Provisionally registered electors must also be given information on what to include with the voted ballot to verify registration status. Ballots must be received by 8pm on election day to be counted. [13-13-246](#), MCA

### **May a District Cancel an Election After It Has Been Posted?**

After an election is posted, the district may cancel the election only if one of the following is met:

- 1) In the case of a governor-declared emergency. In this event the trustees must reschedule the election as soon as convenient after the emergency concludes. [20-20-108](#), MCA
- 2) If the number of candidates filing an Oath of Candidacy or a Declaration of Intent to be a write-in candidate are less than or equal to the number of open trustee positions, and the deadline for both regular and write-in candidates has passed the election may be called by acclamation. If there were no candidates, the trustees should appoint someone pursuant to [20-3-308](#), MCA.

To declare an election by acclamation, trustees must give notice that the election will not be held. Notice must be given no later than 30 days prior to the election. Because the deadline for write-in candidates is 31 days before the election, districts have only one day to give this notice. Therefore, districts should plan for the possibility of declaring the election by acclamation. [20-3-313](#), MCA

Trustees may include a provision in the election resolution giving the election administrator the authority to cancel the trustee portion of the election. If the trustees do not include that provision in their resolution, the trustees will have to schedule a board meeting after 5pm on the 31<sup>st</sup> day before the election to declare the election by acclamation. [13-1-502](#), MCA

Some elections are considered separate elections, so the trustees may cancel one and run the other. Districts may, for example, run the general fund levy portion of the election, but call the trustee election by acclamation. High school and elementary elections are also considered separate, so an elementary trustee election may be called by acclamation while the high school trustee election is held. However, if there are two open trustee positions in a single district, the trustees may not call one race by acclamation and put another on the ballot. The only exception is single member districts, where each race has distinct boundaries.

- 3) If the trustees later determine that a levy proposition is not necessary, the district may cancel a levy election at any time prior to election day – even after the election administrator has certified the ballot.

If the election is canceled, the school district may incur costs associated with the canceled election. It is important for the school clerk to work closely with the county election administrator to avoid incurring costs that might otherwise be avoided. [20-20-401](#) and [13-1-301](#), MCA

### **What Should Be Done If an Election Is Canceled or Not Necessary?**

If the trustees determine that a scheduled election is not necessary and they take action to cancel the election, the trustees must notify the election administrator in writing. If the election is not necessary because the number of candidates who have filed for open positions is less than or equal to the number of open positions, the election administrator would provide notice to the board of trustees. Although not required by law, districts should consider posting a public

notice to correct or amend any previously published election notices and notify their county election administrator. [13-1-304](#), MCA

### **What Voting Locations Should Be Used?**

If a school district election is not being held in conjunction with any other election, the board of trustees may set up voting locations in any appropriate place within the district, using the same voting locations used for the other elections, including county, state and federal elections, whenever possible. There should be at least one voting location per district, unless the trustees establish other locations. If more than one voting location is used for a poll election, the trustees must establish the boundaries for each location, using the county precinct lines. If the voting locations are different from the voting locations used in previous elections, that fact must be included in the Election Resolution. [20-20-203](#), MCA

### **What Time Should the Polls Be Open and Closed?**

The time for opening the polls will be set in the Election Resolution. The polls may be opened as early as 7:00 am, but not later than 12:00pm (noon). The polls must close at 8:00 pm, or earlier if all registered voters have voted. All qualified electors in line at 8:00 pm must be allowed to vote. [20-20-203](#), MCA

### **What Candidate Activities Are Forbidden or Permitted on Election Day?**

In the 2015 Legislative session, specific language was added to Montana law regarding the distribution of items at a polling location. Candidates, family members of candidates, and workers or volunteers for a candidate's campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which a polling place is located. The law also prohibits a person from buying, selling, giving, wearing or displaying at or about the polls on election day any badge, button, or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election. A person within a polling place or any building in which an election is being held may not solicit from an elector, either before or after voting, information regarding their vote for or against a candidate or ballot issue. [13-35-211](#), MCA

Any concerns about a campaign practice or electioneering should be directed to:

Commissioner of Political Practices

PO Box 202401

Helena, MT 59620-2401

Phone: (406) 444-2942

Fax: (406) 444-1643

### **Are Candidates Allowed at the Polls on Election Day?**

Candidates may not serve as a poll watcher at any polling place where electors are voting ballots with the candidate's name on them. A candidate's spouse or any of a candidate's supporters may serve as a poll watcher or be at the polling location to monitor the progress of the election, but they may not engage in any activity that could be considered electioneering, nor may they interfere in any way with the election process. [13-13-120](#), MCA

## SECTION VII: LATE VOTER REGISTRATION

### **Are School Districts Subject to Late Voter Registration?**

HB 84 (2015) changed election law to include school districts in the provisions of late registration. [13-2-304](#), MCA

### **When Does Late Registration Start?**

Late voter registration begins the day after the close of regular voter registration. Regular voter registration closes 30 days before the election, but may close later if the deadline falls on a weekend or holiday. [13-2-301](#), MCA

### **Where Does an Elector Late Register?**

An elector must late register with the county election administrator. The elector must then return the late registration verification document to the school clerk. Upon presentation of a verification document, the district clerk shall issue the ballot to the elector and enter the verification document as part of the official register. [13-2-304](#), MCA

### **What Verification is Required for Late Registration?**

Before issuing a ballot to an elector, the election administrator must verify that a ballot from another jurisdiction has not been issued to the elector. The verification document from the county will indicate if the elector is a new elector or a transfer from another precinct. If the elector is a new registrant, a regular ballot may be issued to the elector. If the elector is from another district, the election administrator must contact the prior district to see if a ballot has already been issued. If a ballot has not been issued, the prior district should remove the elector from their register and the new district may issue the elector a regular ballot. If a ballot has been issued in the prior district, the new district must issue the elector a provisional ballot, until it is confirmed that the elector did not cast a ballot in the prior district.

### **What Does it Mean to Issue a Provisional Ballot?**

In the case of a provisional ballot, the election administrator in the new district must follow up with the election administrator in the prior district after the close of polls to verify that a ballot was not cast by the elector in question. If a ballot was not cast in the prior district, the election administrator will clear the provisional ballot. If a ballot was cast in the prior district, the elector's ballot in the new district will be rejected.

### **Is Special Handling Required for Provisional Ballots?**

Yes, special handling is required for provisional ballots. When an elector is required to vote provisional, the elector is given special instructions for voting a provisional ballot, the election administrator must complete a provisional ballot form, and the provisional ballot must be kept in a special ballot box. All of the required forms are available on the School Finance Election webpage under Secretary of State Resource Materials.

## SECTION VIII: BALLOT COUNTING PROCEDURES

### **What is the Ballot Count Procedure?**

In a poll election the election judges usually count the ballots. In mail ballot elections, and some poll elections, a separate counting board may be appointed to count ballots. Counting boards are groups of three or more election judges assigned to a counting board or absentee counting board. A separate notice is required for absentee ballots, indicating the method that will be used for counting absentee ballots and the place and time that the absentee ballots will be counted on election day. The notice must be published in a newspaper of general circulation in the county not more than 10 days or less than 2 days before an election. The district may combine this notice with their regular election notice, ***but only if the notice is published on the 10<sup>th</sup> day prior to the election and published in a newspaper of general circulation within the county.*** . [13-15-201](#) and [13-15-105](#), MCA

Ballots are typically counted after the close of polls on election day. However, there are certain instances in which ballots may be counted before the polls close. If ballots are to be counted prior to the close of the polls, a separate counting board (or absentee counting board) must be established. The counting board meets at a location designated by the election administrator, and is sequestered until the polls close. Members of the counting board are required to take a supplemental oath affirming that they will not discuss the results of early counting of votes while the polls are open.

The election administrator should publicly announce that those observing the count will be sequestered until the close of polls, and that the use of electronic devices, including cell phones, will be strictly prohibited until the close of the polls. [13-15-104](#) and [13-15-207](#), MCA

### **How Are Absentee Ballots Handled?**

Upon receipt of an absentee ballot signature envelope, the election administrator compares the signature on the signature envelope with any of the following: signature of the elector or the elector's agent on the absentee ballot request, the elector's voter registration card, or the signature from the Montana Votes report. The clerk should work in conjunction with the county election administrator to ensure that all signatures on mail ballots are verified before the envelopes are opened.

If the signatures match, the signature envelope is opened, and the secrecy envelope is placed into an official, secure ballot box. No sooner than 1 business day prior to the election, in the presence of a poll watcher, the secrecy envelopes may be opened and the ballots placed in a proper, secured ballot box for tabulation on election day. The election administrator should ensure that the proper rules and procedures are followed to maintain the secrecy of the ballot. If the signatures do not match or if there is no signature, the election administrator is required to notify the elector in the most expedient fashion possible. The elector has until 8:00 pm on election day to provide a signature, complete a new registration card, or provide other required proof of identity in person. If the elector fails to resolve the issue with the ballot, the ballot is treated as provisional.

If the elector is provisionally registered, as indicated on the voter list received from the county election administrator, the absentee ballot should contain additional information to resolve the elector's provisional status. If the required information is enclosed with the ballot, the ballot is handled as a regular ballot. If the required information is not enclosed with the ballot, the ballot is handed as a provisional ballot.

If a ballot is returned without a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope and treat the ballot as described above. [13-13-241](#) and [13-13-245](#), MCA

### **How Are Ballots Counted?**

Unless the election administrator uses a sequestered counting board, ballots are counted after the close of polls. Once started, ballots are counted continuously until all ballots have been counted. Ballot counting is public, but the election administrator sets the rules for how many may be present and where they may be seated while ballots are counted.

One election judge reads the ballot while the other two judges record an official tally of the votes cast for an individual candidate or ballot issue. After the vote count is complete, the tallies of the two judges are compared. If the tallies match, the judges certify the results. If the tallies don't match, the votes are counted again until the tallies match. If using a voting system to count votes, record the results after all ballots are counted.

Questionable ballots should be set aside and counted separately. Questionable ballots include ones where it's not clear to the reader what was marked on the ballot, the ballot has not been cast according to instructions or the voting system rejected the ballot because of the ballot's condition, an unmarked ballot or an over vote.

Questionable votes are tabulated according to rules adopted by the Secretary of State. If the majority of the judges agree that a vote is valid, the vote is counted. If the majority do not agree that a vote is not valid, the vote is not counted. A vote set aside for ballot condition should be transferred to a new ballot and processed by the voting system.

Once the count is complete, a return form must be completed and signed by all the election judges completing the count. One copy is posted at the place of counting and the original is returned to the election administrator. [13-15-101](#), [13-15-206](#), MCA and ARM [44.3.2402](#)

### **How Are Write-In Votes Counted?**

Write-in votes are only counted if either: 1) the candidate filed a Declaration of Intent; or 2) no other candidates filed an Oath of Candidacy or a Declaration of Intent. The vote is counted for a valid candidate if the oval, box or other designated voting area on the ballot is marked and the write-in vote identifies an individual who is qualified for office. [13-15-206](#) and [13-10-211](#), MCA

### **What Are Provisional Ballots?**

A ballot is considered provisional if the authenticity of the vote and/or the identity of the voter is in question. The following are common reasons that a ballot would be considered provisional:

- The elector's name does not appear in the precinct register
- The precinct register indicates that the elector is provisionally registered
- The elector claims registration with the Motor Vehicle Division or another government agency, which cannot be immediately confirmed
- The elector claims their ballot was lost, spoiled, not received, or destroyed
- The signature envelope was unsigned or not verified
- The elector's right to vote was challenged (burden of proof on challenger)
- The elector (or elector's agent) refuses to sign (or fails to sign) the precinct register
- An elector does not sign a returned mail ballot envelope

### **How Are Provisional Ballots Resolved?**

Provisional ballots should be resolved at the polls or as soon as possible after receipt of a ballot. The elector must be contacted and notified as to what information must be submitted in order to clear their provisional status. In the case of a lost, spoiled, not received or destroyed ballot or in certain late registration situations, the existence of a second ballot must be ruled out prior to counting the provisional ballot. An elector has until 5pm the day after the election to provide the requested information. If the information is mailed, it must be postmarked by the day after the election. [13-15-107](#), MCA

### **How Is the Outcome Determined?**

A proposition is approved by the majority of votes cast in an election. When a proposition passes, the trustees certify the additional amount of financing authorized by the special election on the budget form and submit the form to the county superintendent. A district may choose to levy less than the amount voted, but may not levy more. The county commissioners will levy the necessary number of mills on the taxable value of the property within the district to raise the money as authorized by the electors. Certificates specifying the outcome of propositions should be issued within 15 days to the body that called the election. [20-9-141](#) and [20-9-353](#), MCA

In trustee elections, the individual receiving the highest number of votes for the office is elected to that office. After the canvass is completed and the election is certified, the trustees issue certificates of election designating the term of office. Trustees must send a copy of the certificate to each candidate and the county superintendent. The newly elected trustees must file the accompanying Oath of Office with the county superintendent within 15 days of receiving the certificate. The oath must be sworn before the county superintendent of schools, or before any official noted in [1-6-101](#), MCA.

In a bond election, the date of the election is the determining factor in deciding the passage of the resolution. If a school district bond election is held by poll election at a regular school election, or special election called by the trustees, the bond issue is subject to the following:

- a) 40% or more of the qualified electors cast a ballot in the election – the proposition must be approved by a majority of the votes cast on the issue; *or*
- b) More than 30%, but less than 40%, of the qualified electors cast a ballot in the election – the proposition must be approved by 60% or more of the votes cast on the issue; *or*
- c) 30% or less of the qualified electors cast a ballot in the election – the proposition fails.

If the school district bond election is held by mail ballot, or in conjunction with a general or primary election, the determination of approval or rejection of the bond issue is made by a majority of the votes cast on the issue. The election results must be published immediately in a newspaper that will give notice to the greatest number of people in the district. [20-9-428](#), MCA

### **What Do Election Judges Do With Election Materials After the Count?**

After the count is complete and the before they adjourn, the election judges should complete the following:

- Enclose the following in a strong envelope or package, securely fastened:
  - ✓ The precinct register;
  - ✓ The list of individuals challenged;
  - ✓ The pollbook; and
  - ✓ Both of the tally sheets
- Enclose in a separate container, securely sealed, all unused ballots with the numbered stubs attached.
- Enclosed in a separate container, securely sealed, all voted ballots, including those counted or allowed, and detached stubs from all counted or rejected absentee ballots. The envelope must be endorsed on the outside “ballots voted”.

The election judges must sign their names across all seals. The above materials, along with an unsealed copy of the return form, must be returned to the election administrator. All other materials must be disposed of or returned in a manner ordered, in writing, by the election administrator. [13-15-201](#), [13-15-204](#) and [13-15-205](#), MCA

### **What Does the Election Administrator Do With Election Materials After the Count?**

After the materials are returned from the election judges, the election administrator shall file the materials in preparation for the canvass by the board of trustees. The election administrator may open a package containing the precinct register to resolve questions regarding provisional ballots. After the canvass, the election administrator files the election materials according to the state retention schedule. [13-15-301](#), MCA

## SECTION IX: POST ELECTION PROCEDURES

### **What Does it Mean to Canvass the Vote?**

Canvassing means to review the tally sheets, poll books, or registers for any potential error, then to certify the results. Canvassing does not include opening sealed envelopes of tallied ballots and recounting them. Certificates of election are issued after the canvass is complete. The school trustees must canvass the vote at the first regular or special meeting after the election. Canvassed results must be published once in a newspaper that will give notice to the largest number of people of the district.

Provisional ballot issues must be resolved before the canvass may be completed. Electors have until 5pm the day following the election to provide information to verify their eligibility to cast a ballot in the election. If the information is sent via regular mail, the postmark must be no later than the day after the election. Provisional ballots not resolved by the end of election day may not be counted until after 3pm on the 6<sup>th</sup> day after the election. [20-20-415](#), [20-20-416](#), [13-15-107](#), [13-15-301](#), [13-15-402](#) and [13-15-403](#), MCA

### **What Are Certificates of Election and How Are They Issued?**

After the canvass, the board of trustees issue certificates of election. In the case of a proposition, the certificate simply specifies the outcome of the election. In the case of trustees, the certificate of election is issued to the trustee and the county superintendent. The trustee must then, within 15 days of receipt of the certificate of election, take the oath of office to be administered by the county superintendent, the superintendent's designee, or other approved official.

In the case of an Election by Acclamation, the trustees must still conduct a canvass (a formal acceptance of results) and issue certificates of election. Those certificates should be issued after the final meeting of the board of trustees. [20-3-307](#) and [20-20-416](#), MCA

### **What Happens in the Case of a Tie in a School Election?**

If, after the canvass, a tie is certified to the election administrator, a recount is automatically conducted. The recount must occur within 5 days of the official canvass. After the recount, if the result of the election is still a tie, the board of trustees will appoint one of the candidates to fill the vacancy until the next regular school election is held. However, Montana law does not specify how the appointment should be made or which board members should participate in the appointment. For this reason it is recommended that tied trustee elections – especially ones involving an incumbent candidate – be resolved randomly, such as by drawing lots (legal precedent for this method exists). [13-16-501](#), MCA

### **When Is a Recount Appropriate?**

If a candidate or a ballot question is defeated by a margin not exceeding one-quarter of one percent of the total votes cast for or against the ballot question, or 10 votes, whichever is greater, a recount is appropriate. A petition must be filed by the unsuccessful candidate or by at least 10 electors of the jurisdiction. Also, if, during the canvass, the board of trustees finds an error that affects the accuracy of the vote totals in the election's returns, the trustees may

immediately file a petition with the election administrator requesting a recount. Since the recount must be open to the public and the candidates must be given the opportunity to be present, a recount should not be held the same day as the canvass, but must be held within 5 days of the official canvass. [13-16-201](#), MCA

#### **How Is a Recount Performed?**

The board chair must appoint a 3 member recount board from the board of trustees. If one of the candidates for whom the recount being conducted is an incumbent, that individual may not serve on the recount board. The election administrator provides the unopened package of ballots to the recount board. Upon receipt, the recount board must open, count and reseal the ballots under the same provisions as the original count. The recount board must then compare the recounted totals to the original totals and declare a winner. Although the recount must be public, the district may limit the number of individuals present to prevent interference. [13-16-307](#), [13-16-412](#), [13-16-415](#), [13-16-417](#) and [20-20-420](#), MCA

#### **What Happens If Someone Wants to Challenge the Results of the Election?**

Districts should not give legal advice to anyone wishing to challenge the result of the election. Instead, refer these individuals to the county attorney. If you receive notice or believe that your election may be challenged, contact your school's attorney for legal guidance.

## **SECTION X: SCHOOL ELECTION CALENDAR**

Montana law provides a specific timeline for all elections. The calendar is provided as an appendix to this handbook. The dates provided are either the first or final day to accomplish the task mentioned. If uncertain, read the text (or the statute cited) to determine the proper action.

The regular school election is held annually on the first Tuesday after the first Monday in May. Districts must conduct trustee and general fund elections on this day, except as provided in [20-9-353](#), MCA. Other issues requiring voter approval may be present at this election, or on another date specified by the board of trustees. [20-20-105](#), MCA

#### **What Happens When a Deadline Falls on a Weekend or Holiday?**

The deadline date may be legally be extended to the next regular business day, unless the deadline is phrased "no later than", in which case the deadline must be backed up to the last business day before the deadline. [1-1-307](#), MCA

## SECTION XI: MAIL BALLOT ELECTIONS

### **Why Use Mail Ballot Elections?**

A mail ballot election may be the best option when seeking to improve elector turnout. Use of the mail ballot procedure is entirely optional and within the discretion of the board of trustees and the election administrator. [13-19-101](#), [13-19-104](#), [13-19-106](#) and [13-19-206](#), MCA

### **When Is a Mail Ballot Election Prohibited?**

A school district may conduct a mail ballot election, except as prohibited by law. An election by mail ballot is not an option when the election is a regularly scheduled or special election and another election in the political subdivision is taking place at the polls on the same day. [13-19-104](#), MCA

### **How Is a Mail Ballot Election Initiated?**

Either the board of trustees or the election administrator may request that an election be held by mail ballot. The request to hold the election by mail ballot must be included in the election resolution passed by the board of trustees no later than 70 days before the election. Once the election administrator decides to conduct a mail ballot election, a written plan and timetable must be completed and submitted to the Secretary of State's office so that it is received at least 60 days prior to the election.

For the purpose of mail ballot elections, each election (e.g., trustee, general fund levy) and/or jurisdiction (EL or HS) is considered a separate election and a separate mail ballot plan and timetable must be submitted for each. [13-19-201](#) and [20-20-201](#), MCA

### **Is a Mail Ballot Election Conducted Differently Than a Poll Election?**

Mail ballot elections are conducted under regular election law. There are a number of steps needed for a poll election that are not needed for a mail ballot election. Similarly, there are additional provisions required for conducting mail ballot elections that are not needed for poll elections. The election administrator should thoroughly review the mail ballot instructions available on the Secretary of State's webpage: [Montana Secretary of State's Webpage](#).

### **How Does An Election Administrator Prepare For a Mail Ballot Election?**

Election administrators begin their preparations for a mail ballot election by preparing a written plan, including a timetable and instructions, for the conduct of the election. That plan is then submitted to the secretary of state's office for review. It must be received by the secretary of state's office (a postmark by the due date is insufficient) at least 60 days prior to the date set for the election. The election administrator may submit amendments to the plan, in writing, up to the 35<sup>th</sup> day prior to the election. Within 5 days of receipt of the plan, and as soon as possible after receipt of amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

When the written plan, and any amendments, have been approved, the election administrator will provide a copy to the county election administrator and shall proceed to conduct the election in accordance with the approved plan. [13-19-205](#), MCA

### **What Is the General Procedure For a Mail Ballot Election?**

Official ballots must be prepared and all other initial election procedures followed as provided by law and administrative rule, except that mail ballots are not required to have stubs. An official ballot is mailed to every active, qualified elector and provisionally registered elector within the boundaries of the district conducting the election. Ballots are not sent to inactive electors, unless specifically requested by the elector.

The elector shall mark the ballot at home and place it in a secrecy envelope. The elector shall then place the secrecy envelope, containing the elector's ballot, in a signature envelope and return it by mail or deliver it to a place of deposit, designated by the election administrator, so that that the ballot is received no later than 8:00 pm on election day.

Once returned, election officials shall first qualify the submitted ballot by examining the signature envelope to determine whether it was properly submitted by a qualified elector who has not previously voted, and shall verify the signature. The election administrator compares the signature of the elector, or elector's agent, on the mail ballot signature envelope to the signature on the absentee ballot request, the voter registration card, or the Montana Votes report. The clerk should work in conjunction with the county election administrator to ensure that all signatures on mail ballots are verified before the envelopes are opened.

If the ballot so qualifies, and is otherwise valid, officials shall then open the signature envelope and remove the secrecy envelope. The secrecy envelope is then placed, unopened, into an official, secure ballot box. If the signature is missing, the signature does not match, or if the election administrator is unsure about a signature, the ballot should be treated as a provisional ballot and stored separately, and securely, from other voted ballots. If the returned ballots are not immediately verified or are deposited in a location separate from the election administrator's office, the ballots must be placed in a secured container until they are verified. At no time should voted ballots be left unsecured.

Voted ballots must be counted and canvassed as otherwise provided by law and under the same provisions as absentee ballots. Ballots may only be counted before the polls close if done by a sequestered counting board. The ballot counting process must be open to observers, but if counting begins before the polls close, any observers must be sequestered with the counting board. [13-19-106](#) and [13-19-308](#), MCA

### **What Materials Are Needed to Conduct a Mail Ballot Election?**

A single packet of materials must be mailed to every qualified, active elector in the district in which the election is conducted. Each packet must contain:

- An official ballot;
- A secrecy envelope;
- A signature envelope; and
- Complete written instructions for voting and returning ballots.

If the elector is provisionally registered, the packet must contain instructions on what additional item(s) the elector must return with the mail ballot signature envelope to verify the elector's eligibility to vote in the election. [13-19-206](#), MCA

The election administrator must ensure that each packet is:

- Addressed to a single individual elector at the most current address available from the official registration records;
- Non-forwardable; and
- Deposited in the United States mail with sufficient prepaid postage for it to be delivered to the elector's address.

### **When Are Mail Ballots Mailed?**

All mail ballots are sent on a single day between 20 and 15 days prior to election day. Ballots may be given in person or mailed to the following, either before or after the date the ballots are mailed:

- Late registrants (in person only);
- Reactivating electors; or
- Individuals requesting replacement ballots

Ballots may not be mailed after noon on the day before election day. An elector who late registers, or makes late changes to the elector's registration, on election day or on the day before election day, must receive and vote the ballot at the election administrator's office. [13-19-207](#), MCA

### **How Are Replacement Ballots Handled?**

An elector may obtain a replacement ballot if the original ballot is destroyed, spoiled, lost or not received. The request for a replacement ballot must be made no later than 8:00 pm on election day, using a form prescribed by the secretary of state. The request for a replacement ballot may be made in person, by regular or electronic mail, or by fax. The election administrator should designate a single location for receipt of replacement ballot requests and keep a record of any replacement ballots issued. A request for a replacement ballot made at a polling location on election day must be recorded as a provisional ballot. [13-13-204](#) and [13-19-305](#), MCA

### **How Are Undeliverable Ballots Handled?**

If a mail ballot is returned as undeliverable, the election administrator should attempt to contact the elector by the most expedient means available. If the elector cannot be contacted otherwise, the elector must be mailed a confirmation notice by forwardable, first class-mail with a postage-paid, return-addressed notice. The elector must provide current information to the county election administrator. Once that information is received, the elector may be mailed or personally issued a ballot. The ballot issued to the elector should be the same ballot that was returned to the election administrator. If a confirmation notice is returned to the election administrator, the election administration shall place the elector on the inactive list until the elector becomes a qualified elector. [13-19-313](#), MCA

### **When Are Mail Ballots Invalid?**

If a single signature and/or secrecy envelope contains multiple ballots, all the ballots contained in the envelope are invalid (unless an election has multiple, separate ballots). The only exception is if a signature envelope contains ballots from the same household, each ballot is in a

separate secrecy envelope, and the signature envelope contains a valid signature for each ballot returned. [13-15-201](#), MCA

#### **What Are the Requirements For a Place of Deposit?**

The election administrator must designate at least one place of deposit where ballots may be returned by the elector or the elector's designee. At least one location must be accessible. The election administrator's office may be designated as a place of deposit, unless that office is not accessible. In that case, another, accessible location must be designated.

Prior to election day, the place of deposit must be open at the days and times set by the election administrator and/or within the regular business hours of the location. The location must be staffed by at least two designated officials. On election day, each location designated as a place of deposit must be open the same hours that polling locations would be open. Each location must have an official, secured ballot transport box for the collection of mail ballots. [13-19-307](#), MCA

#### **Do Mail Ballots Meet the Requirements for Bulk Mail?**

Using bulk mail for mail ballot elections may be an additional cost savings for the district. Contact your local post office for further information and instructions.

## **SECTION XII: OTHER SCHOOL ELECTIONS**

#### **What is a Special Election?**

A special election is any election held on a day other than a day specified for a primary election, general election or regular school election. Specifically, the designation of special election relates to the day the election is held, not to the type of election. [13-1-101](#) and [20-1-101](#), MCA

#### **What Are Other School Elections?**

Other school elections are elections not required to be held on the regular school election day. The board of trustees may call a school election for any of these purposes at any time allowed by law. These elections may be held on dates scheduled for regular elections (primary election day, general election day, or the regular school election day) or as a special election. [20-1-101](#), MCA

#### **Are There Any Special Reporting Requirements for Other School Elections?**

The Montana Commissioner of Political Practices has determined that some types of communications that may be part of other school elections, including the dissemination of informational material, may be subject to reporting as electioneering communication and/or political committees. It is highly recommended that any district running other school elections contact the commissioner's office for specific information on the requirements for the election being conducted by the district. [13-1-101](#) and [13-37-225](#), MCA

## What Are Reasons for Holding Other School Elections?

### **General Fund Financing**

General fund levy elections are required to be held on the regular school election day, except in years when the legislature meets in regular or special session that affects school funding. In this instance the board of trustees may order an election on a date other than the regular school election day. [20-20-105](#), MCA

### **Building Reserve**

A successful building reserve election authorizes the school district to levy and accumulate money for a building project or capital improvements. The proposition specifies a certain sum of money to be levied in equal annual amounts over a specific number of years, up to 20 years.

A building reserve levy may be used to finance future construction, equipping, or enlarging of school buildings. It may also be used to purchase land needed for school purposes or for funding school transition costs as provided in [20-9-502](#), MCA. A levy for school transitions costs for a district opening a new school, closing a school or replacing a school building is limited to a period not to exceed 6 years. A levy for school transitions costs for consolidation or annexation is limited to a period not to exceed three (3) years. Its use is dependent upon what has been expressed in the trustee resolution calling the election and what is stated in the ballot proposition.

To pass, the proposition must be approved by a majority of votes cast in the election. [20-9-502](#) and [15-10-425](#), MCA

### **Technology Acquisition and Depreciation Fund**

In addition to the state funds received pursuant to [20-9-533](#), MCA, the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund the purchase of technological equipment and other technology related items.

The 2013 Legislature changed the nature of the technology levy. Effective July 1, 2013, in addition to the cost of technological equipment, districts may now levy for cloud computing services for technology, infrastructure, platform, software, network, storage, security, data, database, test environment, curriculum, or desktop virtualization purposes, including any subscription or any license-based or pay-per-use service. If a new levy is approved, the amount the district is allowed to levy each year is limited to the amount approved by the voters. The length of any new levy passed may not exceed 10 years.

If a district seeks a new or additional levy, any technology levies approved prior to July 2013 are subject to the 10 year limitation, if approved by the voters. If the new levy fails the old levies continue as originally written and the district must continue to track historical cost, the annual allowed levy amount and the overall levy limit under the previous law.

A district may also pass a proposition that transitions an old levy to the requirements of a new levy, without asking for additional funding. If passed, the old levy is limited to a duration of 10

years and no longer subject to the depreciation requirements of the old levy. [20-9-533](#), MCA

### **District Consolidation/Annexation**

Consolidation occurs when two or more districts join to form a new district. Annexation occurs when a smaller district attaches to the boundaries of and becomes part of an existing district.

The boards of trustees of each district involved must jointly decide to consolidate or annex a district (with or without the bonded indebtedness of each district involved), then petition the county superintendent through a resolution to order an election. Within 10 days of receipt of the petition, the county superintendent shall order the trustees to call an election. [20-6-423](#), MCA

- If *Consolidation* is approved by the voters in both districts, within 10 days of receipt of the election certificate issued by the district trustees the county superintendent will order consolidation, effective July 1 of the ensuing school fiscal year (except for those time limitations detailed under [20-6-202](#) and [20-6-314](#), MCA). The county superintendent will establish an interim board of trustees for the consolidated district who will serve until the next regular school election. [20-6-423](#), MCA
- If *Annexation* is approved by the voters in both districts, within 10 days of receipt of the election certificate issued by the district trustees the county superintendent will order annexation to occur, effective July 1 of the ensuing school fiscal year. If the annexation was passed with the assumption of bonded indebtedness, the annexation order will include the total taxable valuation of the annexed territory that the annexing district will assume. [20-6-422](#), MCA

### **County High School Unification**

A county high school may be unified with an elementary district where the county high school building is located to establish a unified school system under a unified school board.

Following the voters' approval of the unified district, the county superintendent creates the boundaries of the unified high school district. The part of the high school district that is not located within the unified elementary district then can come forward and request representation on the unified board for high school matters. If no request for representation is made, then the board operates with only trustees elected from the area where the elementary district was located. [20-3-352](#), [20-3-353](#) and [20-6-312](#), MCA

### **Opening a Junior High School when the High School District Operates a County High School**

When joint boards of trustees, with representatives from the elementary district and the high school district operating a county high school, resolve to open a junior high school they offer the proposition to the voters of the district. If the proposition is approved by a majority of the voters, the trustees apply to the superintendent of public instruction for approval to open a junior high school. [20-6-505](#), MCA

### **Joint Interstate School Agreements**

Interstate school agreements between a district and a contiguous (edging) state for any purpose approved by the trustees of the district and the superintendent of public instruction may be entered into after the contract has been approved by the electors of that

district. The wording of the ballot must be in substantially the same form shown in the law. [20-9-705](#), MCA

**Transfers from a Budgeted Fund to another Budgeted Fund**

Fund transfers between budgeted funds is allowed, except that funds approved by the voters or funds raised by non-voted levies cannot be transferred unless the transfer is directly related to the purposes for which the funds were raised **OR** the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer, in which case the fund may be spent for the purpose approved on the ballot. Unless otherwise authorized by law, transfers to and from the general fund to and from any other fund, as well as transfers from the retirement and debt service funds are prohibited. [20-9-208](#), MCA

**School Flexibility Fund**

In addition to state flexibility payments under [20-9-542](#), MCA, trustees may ask voters to approve a levy for purposes listed in [20-9-543](#), MCA. The flexibility fund levy is an annual levy. [20-9-544](#), MCA

**Is a school election necessary if a school district wants to acquire real property?**

Voter approval is required for school district acquisition of real property unless:

- The electors have already authorized a bonding issue or approved an additional levy for building, purchasing or acquiring a site or building, or
- The district has available funds and the site has been approved by the voters.

No site approval election is required if the site is contiguous to an existing site currently in use for school purposes. A site approval election is also not necessary when the site was specifically identified during an election that approved an additional levy or issued bonds for its purchase. [20-6-603](#) and [20-6-621](#), MCA

**SECTION XIII: RECORDS RETENTION SCHEDULE**

| <b>Record Series Title and Description</b> | <b>Retention and Disposition</b>  | <b>Citation/Comments</b>        |
|--|---|---------------------------------|
| Absentee Ballot Logs                       | 4 years; destroy  | <a href="#">13-13-233</a> , MCA |
| Ballots                                    | 1 year (if no recount is pending)<br>In addition to retaining ballots, you will need to keep any electronic device or related software necessary to read the ballots. | <a href="#">13-1-303</a> , MCA  |
| Candidates Filing Sheets or Petitions      | Term of office; destroy   |                                 |
| Candidates, Register of                    | 4 years; destroy  |                                 |
| Canvass Books: Official County             | Permanent   |                                 |
| Certificates of Election or Appointment    | Permanent   |                                 |
| Petitions: Local (originals)               | 8 years; destroy  |                                 |
| Poll and Tally Books                       | 4 years; destroy  |                                 |

| Record Series Title and Description  | Retention and Disposition | Citation/Comments     |
|--|---------------------------|-----------------------|
| Precinct Registers   | 4 years; destroy          |                       |
| Registration Cards (original cards, latest change of address, cancellations) | Permanent                 | Microfilm if possible |

## SECTION XIV: GLOSSARY OF TERMS

| Term                                 | Definition  |
|--------------------------------------|---|
| <b>Absentee Ballot</b>               | A ballot for qualified electors who choose not to vote at the polls.  |
| <b>ARM</b>                           | Administrative Rules of Montana   |
| <b>Ballot</b>                        | A piece of paper listing one or more candidates and offices sought, and possibly containing ballot issues or propositions, upon which a voter marks the elector's choice either by making a physical mark or using a mechanical device to designate a choice.   |
| <b>Ballot issue</b>                  | A proposal submitted to the electors for their approval or rejection.   |
| <b>Certificate of Election</b>       | After canvassing votes, the results of the election are formally issued to: <ul style="list-style-type: none"> <li>• If a trustee election, to both the trustee and the county superintendent, designating the term of the trustee position that was just elected.</li> <li>• If an election for a proposition, a certificate specifying the outcome to the official or public body which ordered the election.</li> </ul> <p>If the election was ordered by trustee resolution, canvassed votes shall be published immediately in a newspaper that will give notice to the largest number of people in the district.</p> |
| <b>County Election Administrator</b> | County clerk and recorder or individual designated by a county governing body to be responsible for all the election administration duties.   |
| <b>Elections</b>                     | See regular, general, special and primary elections.  |
| <b>Election Administrator</b>        | School district clerk for school elections that are administered by the local board of trustees. If requested by the district, the county election administrator may be the election administrator for school elections.  |
| <b>Election by Acclamation</b>       | Declaration by the trustees under <a href="#">20-3-313</a> , MCA to issue a certificate of election without holding an election. Used when the number of trustee candidates filing an Oath of Candidacy or Declaration of Intent to be a write-in candidate are less than or equal to the number of open trustee positions.   |
| <b>Election Clerk</b>                | The chief election judge – an appointee from among the election judges.   |
| <b>Election Judge</b>                | A trustee-appointed registered voter.   |
| <b>Electors</b>                      | Qualified voters.   |
| <b>General Election</b>              | An election held throughout the state every year on the 1st Tuesday after the 1st Monday of November. This election is for the purpose of electing statewide, county and city office holders and considering other ballot issues.   |
| <b>Issue (or Ballot Issue)</b>       | A proposal submitted to the electors for their approval or rejection.   |
| <b>Mail Ballot Election</b>          | Any election that involves either candidates or ballot issues and is conducted by mail in compliance with the procedure specified in <a href="#">13-19-102</a> and <a href="#">13-19-106</a> ,  |

| Term                           | Definition   |
|--------------------------------|--|
|                                | MCA.   |
| <b>MCA</b>                     | Montana Code Annotated   |
| <b>Official Election Oath</b>  | Per Montana Constitution, Art. III, Section 3, the oath required for trustees and election judges: "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity (so help me God)."  |
| <b>Permissive Tax Levy</b>     | Any tax that a government may impose without first obtaining elector approval. The general fund BASE mill levy is one example of a local permissive tax levy. The BASE mill levy is calculated by taking the BASE budget and subtracting all non-tax revenue sources that will be available to the district, including state funding, non-levy revenues such as oil and gas production revenues, and fund balance from the previous year that may be reappropriated to fund the ensuing year's BASE budget. Districts may also impose permissive levies for their transportation, bus depreciation, tuition, retirement, adult education, and building reserve funds. Consult the School Accounting Manual for further information on these funds. |
| <b>Political Subdivision</b>   | A county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election. A school district is only considered a political subdivision for the purpose of mail ballot elections.   |
| <b>Polling Site</b>            | The place where a registered voter casts the elector's ballot.   |
| <b>Precinct</b>                | An election district of a city or town.  |
| <b>Precinct Register</b>       | An alphabetical list of names and addresses of the registered electors with a space for the signature of the elector and such other information prescribed by the secretary of state.  |
| <b>Primary Election</b>        | An election held throughout the state to nominate candidates for public office. Held on the first Tuesday after the first Monday in June in even-numbered years or held on the Tuesday following the second Monday in September in odd-numbered years.   |
| <b>Proposition</b>             | A proposal or ballot issue.  |
| <b>Provisional ballots</b>     | Ballots cast by voters whose eligibility has not been verified in accordance with law.   |
| <b>Public Office</b>           | A state, county, municipal, school or other district office that is filled by a vote of the electors in an election.   |
| <b>Regular School Election</b> | An annual election held on the first Tuesday after the first Monday in May.  |
| <b>Referendum</b>              | The principle or practice of submitting to popular vote a measure passed on or proposed by a legislative body or by popular initiative.  |
| <b>Registrar</b>               | The county election administrator and any regularly appointed deputy or assistant election administrator.  |
| <b>Signature Envelope</b>      | An envelope used for mail ballot elections and absentee ballots that contains a secrecy envelope and ballot designed to: <ul style="list-style-type: none"> <li>• Allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is, in fact, a qualified elector and who has not already voted; <b>AND</b></li> </ul>  |

| Term                    | Definition   |
|-------------------------|--|
|                         | <ul style="list-style-type: none"> <li>• Allow it to be used in the United States mail.</li> </ul>   |
| <b>Secrecy Envelope</b> | An envelope used to contain the elector's ballot and that is designed to conceal the elector's vote and to prevent the elector's ballot from being distinguished from the ballots of other electors. |
| <b>Special Election</b> | An election held on a date other than a day specified for a primary election, general election or regular school election.   |
| <b>Ward</b>             | A division of a city or town for administrative and representative purposes.   |