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# **SCHOOL DISTRICT BREAKOUT SESSION**

**Secretary of State Elections Conference**

**December 19, 2024**

**Chris Jones, Senior Attorney**

**TASB Legal Services**

# AGENDA

1. RESOURCES

2. FOUNDATIONS

3. COMMON QUESTIONS

4. YOUR QUESTIONS



# RESOURCES

# SECRETARY OF STATE

## Welcome to Texas Elections

The Secretary of State is the chief election officer for the State of Texas. The Secretary of State's **Elections Division** provides assistance and advice to election officials on the proper conduct of elections. This includes hosting seminars and elections schools, providing calendars, ballot certification, primary election funding, and legal interpretations of election laws to election officials. We also provide assistance to the general public on voter registration and other election issues through our 1-800 toll-free number, 1-800-252-VOTE (8683), and via the [Internet](#).

SOS.STATE.TX.US/ELECTIONS/INDEX.SHTML

Voters

Candidates

Election Officials

Voting Technology

Election Results/Data

### Upcoming Statewide Elections

• MAY •  
6

May 6, 2023  
Uniform Election

• NOV •  
7

November 7, 2023  
Constitutional Amendment Election

• MAR •  
5

March 5, 2024  
Primary Election



# TEXAS ETHICS COMMISSION

The screenshot shows the Texas Ethics Commission website. At the top left is the state seal and the text "Texas Ethics Commission Promoting Public Confidence in Government". To the right is a search bar with "ENHANCED BY Google" and a magnifying glass icon. Below this is a navigation menu with items: Resources, Opinions/Statutes/Rules, Filing Reports, Training, Forms/Instructions, Search, and Home. A large banner image of a classical building facade features the text "Legislature Training TBD" and "ETHICS.STATE.TX.US/" in a large, white, serif font. Below the banner is a "Home" button. On the left side, there is a "Quick Help" sidebar with a list of links: LOGIN to Electronic Filing Application, Upcoming Deadlines, Filing Schedules, Enforcement & Compliance, Commission Meetings, Customer Satisfaction Survey, Job Opportunities, Calendar, 88th Legislature Bill Tracking, and About Us. The main content area is titled "I want to ..." and contains six yellow icons with text labels: "File a Report" (with a document icon), "Know When My Report is Due" (with a calendar icon), "Campaign in Texas" (with a podium icon), "Lobby in Texas" (with a briefcase icon), "Start or Dissolve a PAC" (with a ballot icon), and "Find a Common Form" (with a document icon).



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# TASB LEGAL LINE

800-580-5345



# TASB School Law eSource Library

Looking for eSource Information?

## eSource Index

View this complete, up-to-date index of all TASB eSource resources.

[View Now](#)

## What is TASB School Law eSource?

TASB School Law eSource provides school trustees with the information they need to stay up-to-date on the latest news and developments in school law.

[Learn More](#)

## TASB Legal Line: 800-580-5345

Your district's TASB member title includes access to the TASB Legal Service, a phone consultation service. Read our FAQ.

[Read Now](#)

TASB.ORG/RESOURCES/ESOURCE

### TOPICS

Search Topics 🔍

- Governance (57)
- Business (44)
- Personnel (31)
- Students (26)
- Board Member Responsibilities (19)

[+ View All](#)

### RESOURCE TYPES

Search Resource Types 🔍

Search keyword or phrase 🔍

Sort by newest ▾



POSTINGS & NOTICES

### Notice of Candidate Filing Period

Get advice for notifying the public of the filing period for running for school trustee on May 3, 2025. The deadline to post this notice is Monday, December 16, 2024

Legal Services 🔒

TEMPLATE

### Sample: Regular Meeting Agenda

Review a sample regular meeting notice.

Legal Services 🔒

TEMPLATE

### Sample: Minutes

Review sample meeting minutes.

Legal Services 🔒

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# TASB eSOURCE

- [Deadlines for \\_\\_\\_\\_ Trustee Election](#)
- [Notice of Candidate Filing Period](#)
- [New Trustee Checklist](#)
- [Student Participation in Elections](#)
- [FAQ About Running for School Board](#)
- [Dual Office Holding Issues for Trustees](#)
- [After the School Board Election](#)
- [Officer's Statement and Oath of Office](#)
- [Campaign Speech During Elections](#)
- [FAQ About Legislative Advocacy](#)
- [Surprising Answers to the Question, "Who Can Run for School Board?"](#)
- [Resignations and Vacancies](#)
- [Schools as Polling Places](#)





# **FOUNDATIONS**

# TYPES OF ELECTIONS

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Trustee Elections

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Voter Approval Tax Rate Elections (VATREs)

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Bond Elections

# ELECTION LAWS

## Texas Election Code

Over 100 Chapters, not all of which apply to school districts

## Texas Education Code

Primarily Chapter 11, Subchapter C

## District Policy Manual

Compilation of relevant laws and local policy choices

- BBA: Board Members – Eligibility/Qualifications
- BBB: Board Members – Elections
- BBBA: Elections – Conducting Elections
- BBBB: Post-Election Procedures
- BBBC: Elections – Campaign Finance
- BBBD: Elections – Campaign Ethics
- BBC: Board Members – Vacancies and Removal from Office
- CCA: Local Revenue Sources – Bond Issues
- CCG: Ad Valorem Taxes

## **ELECTIONS POLICIES**



## BOARD MEMBERS ELECTIONS

BBB  
(LOCAL)

### **Membership**

The Board shall consist of seven members.

### **Method of Election**

Election of Board members shall be by position.

### **Election Date**

General election of Board members shall be on the November uniform election date.

### **Terms and Election Schedule**

Board members shall be elected for four-year terms, with elections conducted biennially, as follows:

Positions 3, 4, 5,  
and 6

The election for positions 3, 4, 5, and 6 shall be held in 2018, 2022, 2026, and in four-year intervals thereafter.

Positions 1, 2, and  
7

The election for positions 1, 2, and 7 shall be held in 2020, 2024, 2028, and in four-year intervals thereafter.

### **Method of Voting**

Plurality

To be elected, a candidate must receive more votes than any other candidate for the position.

# TERM LENGTHS

3 YEARS WITH  
1/3 ELECTED  
ANNUALLY

4 YEARS WITH  
1/2 ELECTED  
BIENNIALLY

# METHODS OF ELECTION

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Pure At-Large

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At-Large By Place/Position

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Single Member District (SMD)

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Combination of Single Member District/At-Large

# PURE AT-LARGE

- All candidates run as **one group** on the ballot.
- **All qualified voters** in the political subdivision may vote in the race.
- The **top vote-getters win** the number of positions available.
- **Default** method of elections for school districts. It takes an action by the board or a court order to change the method of election.

Demo ISD General Election	
Vote for none, one, or two	
<input type="radio"/>	Candidate A
<input type="radio"/>	Candidate B
<input type="radio"/>	Candidate C
<input type="radio"/>	Candidate D
<input type="radio"/>	Candidate E

Election Results	
Votes	Candidate
100	Candidate A
50	Candidate B
112	Candidate C ←
118	Candidate D ←
90	Candidate E



# AT-LARGE BY PLACE

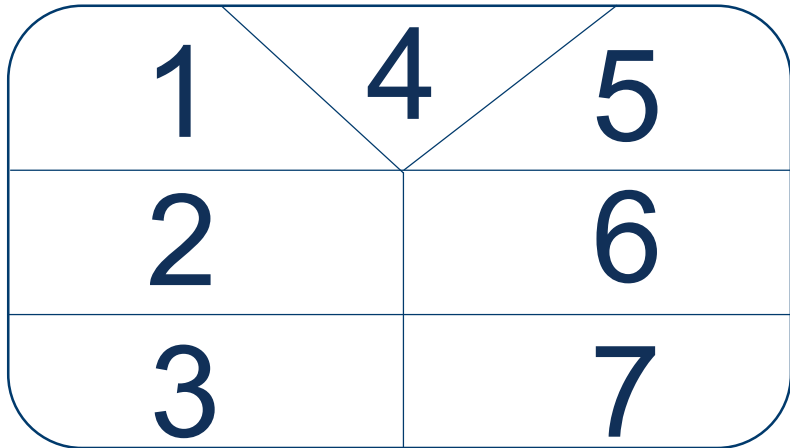
- Candidates run in **separate groups** on the ballot for each available position.
- All voters within the political subdivision get to **vote in all races**.

Demo ISD General Election	
Board of Trustees, Place 1	
<input type="radio"/>	Candidate A
<input type="radio"/>	Candidate B
Board of Trustees, Place 2	
<input type="radio"/>	Candidate C
<input type="radio"/>	Candidate D
<input type="radio"/>	Candidate E

Election Results	
Board of Trustees, Place 1	
102	Candidate A ←
100	Candidate B
Board of Trustees, Place 2	
112	Candidate C
118	Candidate D ←
90	Candidate E

# SINGLE MEMBER DISTRICT

- The school district's territory is divided into districts and candidates must run in their district of residence.

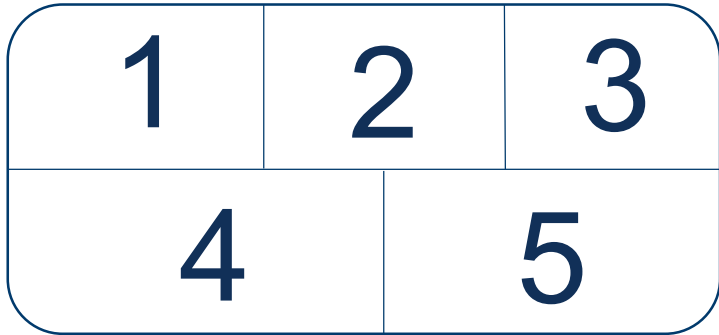


- ONLY voters within the district can vote.

Demo ISD General Election	
Board of Trustees, Place 1	
<input type="radio"/>	Candidate A
<input type="radio"/>	Candidate B
Board of Trustees, Place 3	
<input type="radio"/>	Candidate C
<input type="radio"/>	Candidate D
<input type="radio"/>	Candidate E

Election Results	
Board of Trustees, Place 1	
50	Candidate A
55	Candidate B ←
Board of Trustees, Place 3	
40	Candidate C
48	Candidate D
60	Candidate E ←

# SMD AND AT-LARGE



Demo ISD General Election	
Board of Trustees, At-Large	
<b>Vote for none or one</b>	
<input type="radio"/>	Candidate A
<input type="radio"/>	Candidate B
<input type="radio"/>	Candidate C
Board of Trustees, Place 1	
<input type="radio"/>	Candidate D
<input type="radio"/>	Candidate E
Board of Trustees, Place 2	
<input type="radio"/>	Candidate F
<input type="radio"/>	Candidate G
<input type="radio"/>	Candidate H

Election Results	
Board of Trustees, At-Large	
150	Candidate A
155	Candidate B ←
100	Candidate C
Board of Trustees, Place 1	
40	Candidate D
48	Candidate E ←
Board of Trustees, Place 2	
35	Candidate F ←
30	Candidate G
33	Candidate H

- Vote in races in your SMD and in any at-large race
- In this example, there are 5 SMD seats and 2 at-large seats in the district

# JOINT ELECTIONS

- Required for general trustee elections
- Permissible partners
  - City in the district
  - County
  - Community college district
  - Hospital district (certain school districts)
- Joint election agreement and at least one shared polling place



# CHANGING ELECTION DATE

- Under current law, there is **no broad authority** to change election date
- SB 1131 – school districts in El Paso County
  - Expires January 1, 2029
- SB 2620 – school districts in Montague County
  - No expiration date



# **COMMON QUESTIONS**

# WHO CAN RUN?

US citizen

At least 18 years old

Not mentally incapacitated without the right to vote

Resident of state and district for required time

Registered voter in the territory from which the office is elected

No felony conviction without pardon or release from resulting disabilities

# RESIDENCY

## What is it?

- One's home and fixed place of habitation to which one **intends to return** after any temporary absence
  - Not lost by temporary absence
  - Not gained without intention to make the place one's home

## Who decides?

- **A court**
  - No public record conclusively establishes residency
  - 2019 legislation (Elec. Code § 141.001(a-1)) guides a court

## How long?

- 12 months in the state and 6 months in the district before the applicable date
  - Filing deadline for a candidate on the ballot
  - Election day for a write-in candidate
  - Date of appointment for an appointee

# FELONY CONVICTIONS

2-26  
 Prescribed by Secretary of State  
 Section 141.031, Chapters 143 and 144, Texas Election Code  
 09/2021

**APPLICATION FOR A PLACE ON THE BALLOT FOR A GENERAL ELECTION  
 FOR A CITY, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION**

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL! Failure to provide required information may result in rejection of application.

<b>APPLICATION FOR A PLACE ON THE _____ GENERAL ELECTION BALLOT</b>					
TO: City Secretary/Secretary of Board _____ (name of election)					
I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.					
OFFICE SOUGHT (Include any place number or other distinguishing number, if any.) _____			INDICATE TERM <input type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED		
FULL NAME (First, Middle, Last) _____			PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT* _____		
PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.) _____			PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.) _____		
CITY _____	STATE _____	ZIP _____	CITY _____	STATE _____	ZIP _____
PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.) _____	OCCUPATION (Do not leave blank) _____	DATE OF BIRTH _____	VOTER REGISTRATION VOID NUMBER <sup>2</sup> (Optional) _____		
TELEPHONE CONTACT INFORMATION (Optional) Home: _____ Office: _____ Cell: _____					
FELONY CONVICTION STATUS (You MUST check one)		LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN			
<input type="checkbox"/> I have not been finally convicted of a felony. <input type="checkbox"/> I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application. <sup>3</sup>		IN THE STATE OF TEXAS _____ year(s) _____ month(s)		IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED _____ year(s) _____ month(s)	
<small>*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.</small>					
Before me, the undersigned authority, on this day personally appeared (name of candidate) _____, who being by me here and now duly sworn, upon oath says: "I, (name of candidate) _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."					
X _____ SIGNATURE OF CANDIDATE					

#### INSTRUCTIONS

An application for a place on the general election for a city, school district or other political subdivision, may not be filed earlier than 30 days before the deadline prescribed by this code for filing the application. An application filed before that day is void. All fields of the application must be completed unless specifically marked optional.

For an election to be held on a uniform election date, the day of the filing deadline is the 78th day before Election Day.

If you have questions about the application, please contact the Secretary of State's Elections Division at 800-252-8683.

#### NEPOTISM LAW

The candidate must sign this statement indicating his awareness of the nepotism law. When a candidate signs the application, it is an acknowledgment that the candidate is aware of the nepotism law. The nepotism prohibitions of chapter 573, Government Code, are summarized below:

No officer may appoint, or vote for or confirm the appointment or employment of any person related within the second degree by affinity (marriage) or the third degree by consanguinity (blood) to the officer, or to any other member of the governing body or court on which the officer serves when the compensation of that person is to be paid out of public funds or fees of office. However, nothing in the law prevents the appointment, voting for, or confirmation of anyone who has been continuously employed in the office or employment for the following period prior to the election or appointment of the officer or member related to the employee in the prohibited degree: six months, if the officer or member is elected at an election other than the general election for state and county officers.

No candidate may take action to influence an employee of the office to which the candidate is seeking election or an employee or officer of the governmental body to which the candidate is seeking election regarding the appointment or employment of a person related to the candidate in a prohibited degree as noted above. This prohibition does not apply to a candidate's actions with respect to a bona fide class or category of employees or prospective employees.

#### FOOTNOTES

<sup>3</sup>Proof of release from the resulting disabilities of a felony conviction would include proof of judicial clemency under Texas Code of Criminal Procedure 42A.701, proof of executive pardon under Texas Code of Criminal Procedure 48.01, or proof of a restoration of rights under Texas Code of Criminal Procedure 48.05. (Texas Attorney General Opinion KP-0251)

**One of the following documents must be submitted with this application.**

Judicial Clemency under Texas Code of Criminal Procedure 42A.701

Executive Pardon under Texas Code of Criminal Procedure 48.01

Restoration of Rights under Texas Code of Criminal Procedure 48.05

Executive Pardon under Texas Code of Criminal Procedure 48.01  
Restoration of Rights under Texas Code of Criminal Procedure 48.05

<sup>4</sup>All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by a judge, clerk, or commissioner of any court of record, a notary public, a justice of the peace, city secretary (for a city office), and the Secretary of State of Texas. See Chapter 602 of the Texas Government Code for the complete list of persons authorized to administer oaths.



# FELONY CONVICTIONS

<b>Texas Election Code § 141.001(a)(4) (RUN AND SERVE)</b>	<b>Texas Education Code § 11.066 (SERVE)</b>
<p>To be eligible to be a candidate for, or elected or appointed to, a public elective office in Texas, a person must not have been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.</p>	<p>A person is ineligible to serve as a member of the board of trustees of a school district if the person has been convicted of a felony or an offense under Texas Penal Code § 43.021.</p>









# CFR FORMS

- Must make Campaign Finance Reports available on website no later than **10 business days** after the report is received
- May remove each contributor's street address, but not the city, state, or zip code
- Reports must remain on website for **5 years**





E L E M E N T A R Y   S C H O O L

# SCHOOLS AS POLLING PLACES

- Cannot prohibit use of district buildings as polling places
- May **strategically locate** polling place in building
- Large, open, accessible place
- EOP **must include a policy** for district property used as a polling place





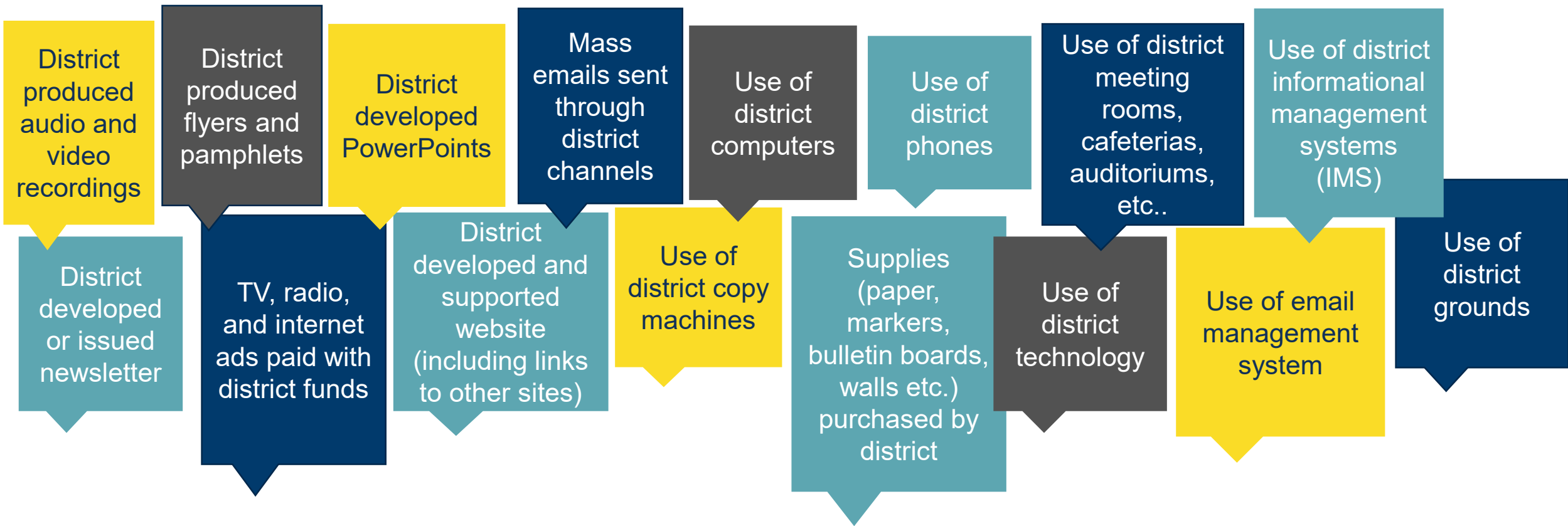
# AG Paxton sues more local school districts accusing them of electioneering

School districts accused of using official resources to promote political agendas

# ELECTIONEERING

- Districts are **prohibited from using district funds or other resources** to electioneer for or against any candidate, measure, or political party.
- Electioneer not specifically defined by Education Code.
- “To work for the election of a candidate or party...Thus, the legislature prohibited a board of trustees of a school district from using public funds **to work for a particular measure or candidate.**”
  - Ken Paxton, KP-0177(2018)





# CAMPAIGN SPEECH

Texas Election Code 255.003-.0031	Texas Education Code 11.169	Texas Penal Code 39.02(a)(2)	Texas Constitution article 3, section 52(a)	Local policies
Political advertising	Electioneering	Abuse of official capacity	Prohibits use of public funds for private purpose	GKD – nonschool use of facilities GKDA – distribution of nonschool literature
Texas Ethics Commission enforces	Texas Ethics Commission enforces	Local county or district attorney enforces	Court determines	Local school board enforces

# CAMPAIGN SPEECH

- Public funds may be used to disseminate information that is **purely factual**.
  - Explanatory materials about what is at stake in bond or tax election.
  - Information about election, such as polling locations, candidate names, and election dates.

# CAMPAIGN SPEECH

- A public official **acting independently** has a free speech right to engage in political advocacy, including advocacy for the official's own re-election.
  - A school board member may attend a community meeting and advocate for passage of a bond or write a letter to the newspaper editor in support of a VATRE
  - When engaging in advocacy using personal time and resources, a trustee need not conceal the trustee's position or claim to be acting as a private citizen



## Campaign Speech During Elections

Published online in [TASB School Law eSource](#)

This article answers frequently asked questions about campaign speech rights of school districts, board members, candidates, community members, employees, and students.

[Applicable Laws](#)

[School District](#)

[Board Members](#)

[Candidates \(including Incumbents\) and Other Citizens](#)

[Employees](#)

[Students](#)

### Applicable Laws

#### 1. What laws apply to campaigning, electioneering, and political advertising?

Several statutes apply to campaigning, electioneering, and political advertising. Each statute specifies the persons or entities to which it applies. The statutes do not apply equally to everyone. It is important to read the statute to understand its application to particular circumstances.

- **Texas Election Code**

**Political Advertising:** Texas Election Code section 255.003(a) prohibits an **officer or employee** of a political subdivision, including a school district, from knowingly spending or authorizing the spending of public funds **for political advertising**.

*Political advertising* is a communication that supports or opposes a candidate or a measure that:

1. is published in a newspaper or other periodical in return for consideration;
2. is broadcast by radio or television in return for consideration;



## Frequently Asked Questions about Legislative Advocacy

Published online in [TASB School Law eSource](#)

Every two years the Texas legislature meets to tackle important issues, including issues of concern to public school communities. This article answers frequently asked questions about legislative advocacy by a school district, its trustees, and employees.

#### 1. Is legislative advocacy by a school district prohibited as electioneering or political advertising?

No, unless the advocacy involves a candidate or a measure on a ballot. The Texas Election Code defines *political advertising* as a communication that advocates a particular outcome in an election. Officers and employees of political subdivisions are prohibited from knowingly spending, or authorizing the expenditure of, public funds for political advertising. Tex. Elec. Code §§ 251.001(16), 255.003.

In addition, the Texas Education Code provides that “the board of trustees of an independent school district may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.” Tex. Educ. Code § 11.169.

Both of these statutory prohibitions restrict the use of public resources—including public funds, employee time, school district facilities, equipment, and technology—to support a candidate or measure on a ballot. Consequently, school district resources may not be used to assist a candidate (including an incumbent) running for political office (including a seat in the legislature). Similarly, school district resources may not be used to campaign for or against a local measure, such as a bond proposition or tax rate increase, or a referendum called for by the legislature, such as an amendment to the state constitution.

Generally speaking, however, engagement in the legislative process does not involve campaigning for candidates or measures on a ballot. As a result, the prohibitions on political advertising and electioneering are not relevant to school district expenditures for the purpose of legislative advocacy.

#### 2. What is lobbying?

The Texas Ethics Commission (TEC) defines *lobbying* as direct communication and preparation for direct communication with a member of the legislative or executive branch to influence legislation or administrative action. 1 Tex. Admin. Code § 34.1(3). Texas Government Code Chapter 305, also known as the Texas Lobby Law, requires a person to register as a lobbyist after exceeding statutory threshold amounts of expenditures or compensation related to lobbying activities. Tex. Gov’t Code § 305.003.

For school districts and school officials, compensation for the following activities is not included in calculating the registration threshold:

- Providing factual information to a member of the legislature (or the member’s staff) regarding legislation or administrative action upon the written request of the member (or the member’s office). 1 Tex. Admin. Code § 34.5(a)(5).
- Requesting a written opinion that interprets a law, regulation, rule, policy, practice, or procedure administered by a state office or agency. 1 Tex. Admin. Code § 34.5(a)(1).

# VACANCIES

- Created by
  - Resignation
  - Death
  - Declination of office
  - Acceptance of incompatible office
  - Declaration of ineligibility
  - No one runs for office
  - Removal from office by a court
  - Automatic removal for qualifying offense

# VACANCIES

To fill a vacancy, the board may:

Appoint until the **next regular trustee election**

Order a special election to **fill the unexpired term**

Leave vacant if there is less than a year remaining on the term



Resigned board member holds over until successor qualifies for office



# APPOINTMENTS

- No statutory process
- District can choose process
  - Take applications
  - Have each board member nominate someone
  - Subcommittee nominates
  - Administration proposes nominees from interested and involved citizens
  - Other district process

# AFTER THE ELECTION

Post results

As soon as practicable after election

Canvass the election

Deadlines vary by election date  
Quorum is 2 board members

Qualify for office

Certificate of Election  
Statement of Officer  
Oath of Office

Reorganize board

At meeting immediately following canvass/swearing in

# REORGANIZATION

- Policy BDAA
- **Must** reorganize at first meeting following election and qualification of trustees
- Can reorganize at any other time
- Who presides?



# **YOUR QUESTIONS**

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**THANK  
YOU!**



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# TASB LEGAL LINE

800-580-5345