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1-22-1. Short title.
Sections 1-22-1 through 1-22-19 NMSA 1978 may be cited as the "School Election Law".

As used in the School Election Law:
A. "board" means the governing authority of the local school district;
B. "county clerk" means the clerk of each county in which the school district is situate;
C. "proper filing officer" means the county clerk or, in the case of a multicounty school district, the clerk of the county in which the administrative office of the school district is situate;
D. "magistrate" means the magistrate whose office is situated in the municipality where the administrative office of the school district is located or in close proximity to the municipality;
E. "school district election" means a regular or special school district election but does not include a recall election; and
F. "superintendent" means the superintendent of schools of the local school district.

1-22-3. School district elections; qualifications of candidates.
A. A school district election shall be held in each school district to elect qualified persons to membership on a local school board. No person shall become a candidate for membership on a board unless his record of voter registration shows that he is a qualified elector of the state, physically resides in the school district in which he is a candidate and physically resided in the district on the date of the school board's proclamation calling a regular school district election.
B. A regular school district election shall be held in each school district on the first Tuesday in February of each odd-numbered year.
C. A school district election held at any time other than the date for the regular school district election shall be a special school district election.
D. Except as otherwise provided in the School Election Law, school district elections shall be called, conducted and canvassed as provided in the Election Code [Chapter 1 NMSA 1978].

1-22-4. Regular election; proclamation; publication.
A. The board shall by resolution issue a public proclamation in Spanish and English calling a regular school district election within the school district on the date prescribed by the School Election Law. The proclamation shall be filed by the superintendent with the county clerk of record on the last Tuesday in November of the even-numbered year immediately preceding the date of the election.
B. The proclamation shall specify:
(1) the date when the election will be held;
(2) the positions on the board to be filled;
(3) the date on which declarations of candidacy are to be filed;
(4) the date on which declarations of intent to be a write-in candidate are to be filed;
(5) the questions to be submitted to the voters;
(6) the precincts in each county in which the election is to be held and the location of each polling place;
(7) the hours each polling place will be open; and
(8) the date and time of the closing of the registration books by the county clerk of record as required by law.

C. After filing the proclamation with the county clerk of record and not less than fifty days before the date of the election, the county clerk of record shall publish the proclamation at least twice in a newspaper of general circulation within the school district. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.


1-22-5. Special election; proclamation; publication.

A. Whenever a special school district election is to be called or is required by law, the board shall by resolution issue a public proclamation in Spanish and English calling the election. The proclamation shall forthwith be filed by the superintendent with the county clerk of record.

B. The proclamation shall specify:
(1) the date on which the special election will be held;
(2) the positions on the board to be filled;
(3) the date on which declarations of candidacy are to be filed;
(4) the date on which declarations of intent to be a write-in candidate are to be filed;
(5) the questions to be submitted to the voters;
(6) the precincts in each county in which the election is to be held and the location of each polling place;
(7) the hours each polling place will be open; and
(8) the date and time of the closing of the registration books by the county clerk of record as required by law.

C. After filing the proclamation with the county clerk of record and not less than fifty days before the date of the election, the county clerk of record shall publish the proclamation at least twice in a newspaper of general circulation within the school district. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.


1-22-6. Precincts; consolidation; polling places.

A. The same precincts that are used in a general election shall be used in a school district election, provided that:
if a precinct lies partly within and partly outside of a school district, the part of the precinct lying within the school district constitutes a precinct for a school district election; and
(2) all of the area within the exterior boundaries of a school district may constitute one precinct for a school district election.

B. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at an election and no declared write-in candidates have filed for any position and there are no questions or bond issues on the ballot, only one polling place for the election shall be designated and it shall be in the office of the county clerk or a designated polling place in the school district of the county in which the school district is located.

C. Except as otherwise provided in the School Election Law, the county clerk shall consolidate precincts for a school district election as provided in the proclamation for that election and shall provide for a polling place within each precinct or consolidated precinct.


1-22-7. Declaration of candidacy; filing date; penalty.

A. A candidate for a school board position that will be filled at a regular school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the third Tuesday in December of the even-numbered year immediately preceding the date of the regular school district election and ending at 5:00 p.m. on the same day.

B. A candidate for a school board position that will be filled at a special school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the forty-eighth day before the election and ending at 5:00 p.m. on the same day.

C. A candidate shall file for only one school board position during a filing period.

D. Whoever knowingly makes a false statement in his declaration of candidacy is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.


1-22-8. Declaration of candidacy; sworn statement of intent; form.

In making a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY — STATEMENT OF INTENT

I, ______________________________, (candidate's name on certificate of registration) being first duly sworn, say that I am a voter of Precinct No. ______________ of the county of ______________, State of New Mexico. I reside at ______________________________ and was a resident at that place on the date of the school board's proclamation calling the election for which I am a candidate;

I am a qualified elector of the State of New Mexico residing within ______________________________ school district;

I desire to become a candidate for the office of ______________________________, Position No. ______________ at the school district election to be held on the date set by law;
I will be eligible and legally qualified to hold this office at the beginning of its term; and I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

___________________________
(Declarant)

___________________________
(Mailing Address)

___________________________
(Residence Address)

Subscribed and sworn to before me this ________ day of ______________, 19 ______.
______________________________
(Notary Public)

My commission expires:
______________________________


A candidate for membership on the board may file an affidavit with the proper filing officer for the district in which he is a candidate withdrawing his candidacy in the election. The affidavit shall be filed before 5:00 p.m. on the thirty-fifth day before the date of the school district election. The county clerk shall not place on the ballot the name of any person properly filing the affidavit of withdrawal.

**History:** 1978 Comp., § 1-22-9, enacted by Laws 1985, ch. 168, § 11.

### 1-22-10. Ballots.

A. The proper filing officer shall determine whether a candidate filing a declaration of candidacy is a registered qualified elector of the state residing within the school district. If the candidate is so qualified and no withdrawal of candidacy has been filed as provided in the School Election Law, the proper filing officer shall place the candidate's name on the ballot for the position specified in the declaration of candidacy. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

B. Ballots for the school district election shall be prepared by the proper filing officer and printed by the thirtieth day preceding the election. The cost of printing the ballots shall be paid by the school district. The proper filing officer shall furnish printed ballots to the county clerk of each county in which the school district is situate. The printed ballot shall contain the name of each person who is a candidate and the position on the board for which the person is a candidate. The ballot shall also contain all questions to be submitted to the voters of the district as certified to the proper filing officer by the board.
C. Paper ballots shall be printed in a form in substantial compliance with the provisions of Section 1-12-44 NMSA 1978 and in compliance with the provisions of the federal Voting Rights Act of 1965, as amended.

D. A school district election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot without party or slate designation. The order in which the names of candidates are listed on the ballot shall be determined by lot.

E. Whenever two or more members of the board are to be elected for terms of the same length of time, the positions shall be numerically designated on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position.

F. Space shall be provided on each ballot for a voter to write in the name of one candidate for each position to be filled when a declaration of intent to be a write-in candidate has been filed.

G. Voting machines shall be used for the recording of votes cast in a school district election; provided that paper ballots may be hand counted in lieu of using a voting machine to tabulate ballots for:

(1) school districts of less than five hundred average daily membership; or
(2) school district elections in which only one candidate has filed a declaration of candidacy for each position to be filled at the election, no declared write-ins have filed for any position and there are no questions or bond issues on the ballot and notwithstanding any other provision in the Election Code [Chapter 1 NMSA 1978].


The proper filing officer for the district shall issue and publish the proclamation listing the name of each candidate for membership on the board, each question to be submitted to the voters of the school district and the names of the precinct board members of the school district. The publication shall be made once each week for two successive weeks, with the last publication being made within seven days but not later than two days before the date of the school district election. The names of the candidates shall be published in the same order and for the same positions as will appear on the ballot. The publication shall be in a newspaper of general circulation in the school district and shall conform to the provisions of the federal Voting Rights Act of 1965, as amended. The cost of the publication shall be paid by the school district.


A. Except as otherwise provided in the School Election Law, the county clerk shall administer and conduct school district elections pursuant to the provisions of the Election Code [Chapter 1 NMSA 1978] for the conduct of general elections.

B. Precinct board members for each polling place shall be appointed by the county clerk from among those persons who meet the qualifications set forth in Section 1-2-7 NMSA 1978 and who reside within the school district. The number of members on each precinct board shall
be as provided in Section 1-2-12 NMSA 1978. Vacancies on election day shall be filled as provided in Section 1-2-15 NMSA 1978.

C. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at the election, no declared write-ins have filed for any position and there are no questions or bond issues on the ballot, the county clerk shall perform the duties of the precinct board and no other precinct board shall be appointed.

D. All costs of school district elections shall be paid by the school district.


Upon petition filed with the county clerk, any candidate for membership on the board may:

A. appoint one person as challenger for each precinct in the school district election who shall have the powers and be subject to the restrictions provided for challengers in the Election Code [Chapter 1 NMSA 1978]; and

B. appoint one person as a watcher for each precinct in the school district election who shall have the powers and be subject to the restrictions provided for watchers in the Election Code.


1-22-14. Votes required.

A. The candidate receiving a plurality of the votes cast for a designated position on the board shall be elected to that designated position.

B. All questions submitted to the voters shall be decided by a majority of the voters voting on the question.


A. The canvassing board for the canvass of the results of a school district election shall be composed of the superintendent, the county clerk of record who is the proper filing officer and the designated magistrate or the presiding judge of the metropolitan court, as the case may be, of the county in which the administrative office of the school district is situate.

B. Ballots cast in each county in which the school district is situate shall be transported by the presiding judge of the precinct board upon the closing of the polls to the office of the proper filing officer. Each ballot box shall have two locks. The key to one lock on each ballot box and one copy of the signature roster shall at that time be placed in a stamped, addressed envelope provided for that purpose and shall be mailed to the designated magistrate or the presiding judge of the metropolitan court, as the case may be, of the county in which the administrative office of the school district is situate.

C. Within three days after the date of the school district election, the canvassing board shall meet in the office of the proper filing officer and shall:

(1) canvass the returns in the same manner as county election returns are canvassed;

(2) determine the total number of persons in the school district voting in the election; and
issue a certificate of canvass of the results of the election and send one copy of the certified results:
  (a) to the board;
  (b) to the secretary of state; and
  (c) to the proper filing officer to be filed in his office.
D. The canvassing board shall issue a certificate of election to each candidate which it determines to be elected.
E. The county clerk of record shall cause the results of the election to be published once in a newspaper of general circulation in the school district.


The district court shall entertain election contests for any position on the board or on any question placed on the school district election ballot. The procedure to be followed in contest cases shall be the same as provided by the Election Code [Chapter 1 NMSA 1978] for contests for candidates for county offices, including the recount of ballots.


1-22-17. Records.
The returns and certificates of the result of the canvass are public documents, subject to inspection during the customary hours and days of business. Signature rosters and tally sheets may be destroyed three years after the election to which they apply. The certificate of results of the canvass of the election shall thirty days after the election or immediately after any contest has been settled by the court be placed on file as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be kept on file in the office of the proper filing officer for a period of three years.


A. Write-in candidates for the office of board member shall be permitted in school district elections.
B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for membership on the board in the school district election as provided in the School Election Law.
C. A person desiring to be a write-in candidate for the office of board member shall file with the proper filing officer a declaration of intent to be a write-in candidate. The declaration shall be filed before 5:00 p.m. on the thirty-fifth day preceding the date of the election.
D. A write-in vote shall be counted and canvassed only if:
   (1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent to be a write-in candidate and if misspellings
of those combinations can be reasonably determined by a majority of the members of the
precinct board to identify a declared write-in candidate; and

(2) the name is written on the proper line provided on the ballot for write-in votes for
the office and position for which the candidate has declared intent and the voter has followed the
directions for voting for the write-in candidate.

E. At the time of filing the declaration of intent to be a write-in candidate, the write-in
candidate shall be considered a candidate for all purposes and provisions relating to candidates in
the School Election Law except that the write-in candidate's name shall not be printed on the
ballot.

F. A write-in vote shall be cast by writing in the name. As used in this section, "write-in"
does not include the imprinting of any name by rubber stamp or similar device or the use of a
preprinted sticker or label.


A. A voter may vote in a school district election by absentee ballot for all candidates and on
all questions appearing on the ballot in his precinct as if he were casting his ballot in person at
the polling place on election day.

B. The provisions of the Absent Voter Act [1-6-1 to 1-6-18 NMSA 1978] of the Election
Code [Chapter 1 NMSA 1978] apply to absentee voting in school district elections, provided that
absentee ballots may be marked in person during the regular hours and days of business at the
county clerk's office from 8:00 a.m. on the twenty-fifth day preceding the election until 5:00 p.m.
on the Friday immediately prior to the date of the election. Absentee ballots shall be printed at
least thirty days prior to the date of the election. Provisions may be made by the board in the
proclamation for absentee voting by electronic voting machine from 8:00 a.m. on the twentieth
day preceding an election until 5:00 p.m. on the Friday immediately prior to the date of the
election.

C. A regular precinct board may be designated to serve as the absent voter precinct board. A
member of the absent voter precinct board shall receive the same compensation as a regular
precinct board member. A regular precinct board member who also serves as a member of the
absent voter precinct board shall not be entitled to extra compensation for serving on the absent
voter precinct board.

1999, ch. 267, § 35.