

By-Laws

SUBJECT: SCHOOL DISTRICT AND BOARD OF EDUCATION LEGAL STATUS AND AUTHORITY

The Constitution of New York State, as amended in 1894, instructs the Legislature to provide for a system of free common schools wherein all children of the State may be educated.

The State Legislature has implemented this constitutional mandate through the creation of school districts of various types. The Batavia City School District is governed by the laws set forth for Small City School Districts in Education Law Articles 51 and 53, and by laws relating to, or affecting, Central School Districts as set forth in Education Law Article 37, Union Free School Districts as set forth in Education Law Article 35, and Common School Districts as set forth in Education Law Article 33.

The School District constitutes a corporate entity that possesses all the usual powers of a corporation for public purposes, and in that name may sue and be sued, purchase, hold and sell personal property and real estate, and enter into such obligations as are authorized by law.

The Constitution of the State of New York places the responsibility for public education on the State Legislature, and directs the establishment of a State Department of Education for general supervision over the schools and headed by a Commissioner of Education. The New York State Constitution further provides that local public schools under the general supervision of the State Education Department shall be maintained, developed and operated by locally elected boards. Legally, local boards are instruments of the New York State Constitution, the New York Statutes and the regulations of the State Education Department and its Commissioner.

Board of Education Authority

As a body created under the Education Law of New York State, the Board of Education of the Batavia City School District has full authority, within the limitations of federal and state laws and the Regulations of the Commissioner of Education and interpretations of them, to carry out the will of the people of its District in matters of education.

In all cases where laws or regulations of the State Commissioner of Education do not provide, permit, or prohibit, the Board shall consider itself the agent responsible for establishing and appraising educational matters and activities.

Board members have no authority over school affairs as individuals. They have authority only when acting as a body duly called in session.

Education Law Sections 1604, 1701, 1709, 1804, 1805, 2502, 2503 and Articles 33, 35, 37, 51 and 53
New York State Constitution

Adopted: 8/20/13

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SUBJECT: BOARD OF EDUCATION: QUALIFICATIONS, NUMBERS AND TERMS OF OFFICE

A Board of Education member of the Batavia City School District must meet the following qualifications:

- a) A citizen of the United States;
- b) Eighteen (18) years of age or older;
- c) Able to read and write;
- d) A legal resident of the District for a continuous and uninterrupted period of at least one (1) year prior to the election;
- e) Cannot be an employee of the Batavia City School District;
- f) The only member of his/her family (that is, cannot be a member of the same household) on the Batavia City School District Board;
- g) May not simultaneously hold another incompatible public office, including, but not limited to Superintendent, clerk, tax collector, treasurer or librarian, or an employee of the Board. In small city school districts, Board members may not hold any city office other than that of police officer or firefighter.
- h) Must not have been removed from a school district office within one (1) year preceding the date of appointment or election to the Board.

Number of Members

The Board of Education of the Batavia City School District shall consist of seven (7) members elected by the qualified voters of the School District at the annual election as prescribed by law.

Terms of Office

Members of the Board of Education shall serve for three (3) years beginning July 1 following their election and each term shall expire on the thirtieth (30th) day of June of the third year.

Education Law Sections 1602, 1702(1), 1804(1), 1950(9), 2101, 2102, 2103, 2103-a, 2130(1), 2105, and 2502
Public Officers Law Section 3
Town Law Section 23(1)

Adopted: 8/20/13

By-Laws

SUBJECT: BOARD OF EDUCATION MEMBERS: NOMINATION AND ELECTION

- a) Candidates for the office of member of the Board of Education shall be nominated by a petition directed to the Clerk of the School District which is signed by at least one hundred (100) qualified voters of the District. Petitions must state the residence of each signer, the name and residence of each candidate.
- b) The notice of the Annual District meeting must state that petitions nominating candidates for the Board of Education must be filed with the Clerk of the District no later than twenty (20) days before the Annual or Special District Meeting at which the school board election will occur, between 9 a.m. and 5 p.m.
- c) Voting will be by machine, and provision shall be made for the election by "write-in-vote" of any candidate not previously nominated. The position of candidates on ballots shall be determined by lot at a drawing conducted by the District Clerk on the day after the last filing. Candidates or their proxies may be present for the drawing.
- d) The hours of voting shall be as indicated by Board resolution.
- e) The candidates receiving the largest number of votes shall be declared elected in accordance with Education Law.
- f) At least ten (10) days prior to the election, the Board shall appoint at least two (2) inspectors of election for each voting machine, and set their salary.
- g) The District Clerk shall oversee the election. The Clerk shall give notice immediately to each person declared elected to the Board, informing him/her of the election and his/her term of office.
- h) Only qualified voters as determined by Education Law Section 2012 may vote at any District meeting or election.
- i) No electioneering will be allowed within one hundred (100) feet of the polling place.
- j) When a term of office expires at the end of a school year and the office has become vacant at the time of election, the person elected to fill the new full term vacancy also fills the remaining days of the previous term, beginning his/her term of office immediately upon election and the taking and filing of the oath of office.

Education Law Sections 2004, 2012, 2018, 2025, 2029, 2031-a, 2032, 2034, 2105(14), 2121, 2502, 2602, 2608(1) and 2610

Adopted: 8/20/13

By-Laws

SUBJECT: REPORTING OF EXPENDITURES AND CONTRIBUTIONS

Each candidate for the position of member of the Board of Education whose expenses and/or contributions received exceed five hundred dollars (\$500) must file a statement accounting for his/her campaign expenditures and contributions with the District Clerk and an additional statement with the Commissioner of Education. In the event the expenses do not exceed five hundred dollars (\$500) and the aggregate amount of all contributions made to the candidate do not exceed five hundred dollars (\$500), then a sworn statement to that effect must only be filed with the District Clerk.

Required contribution statements shall include:

- a) The dollar amount and/or fair market value of any receipt, contribution or transfer which is other than money;
- b) The name and address of the transferor, contributor or person from whom received;
- c) If that transferor, contributor or person is a political committee as defined in Election Law Section 14-100;
- d) The name and political unit represented by the committee;
- e) The date of receipt;
- f) The dollar amount of every expenditure;
- g) The name and address of the person to whom the expenditure was made, or the name of and political unit represented by the committee to which it was made; and
- h) The date of the expenditure.

The times for filing the statements are as follows:

- a) The first statement on or before the thirtieth day preceding the election to which it relates;
- b) A second statement on or before the fifth day before the election;
- c) A third statement within twenty days after the election.

Any contribution or loan in excess of one thousand dollars (\$1000) received after the close of the period covered in the last statement filed before the election (b above) but before the election itself shall be reported within twenty-four (24) hours after receipt.

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SUBJECT: REPORTING OF EXPENDITURES AND CONTRIBUTIONS (Cont'd.)

All statements must be sworn before a notary public, a commissioner of deeds, a lawyer or a public official authorized by New York State law to administer oaths.

Education Law Sections 1528 and 1529
Election Law Section 14-100(1)

Adopted: 8/20/13

By-Laws

SUBJECT: RESIGNATION AND DISMISSAL

Board members may resign at a District meeting of residents (i.e., the annual meeting, not a regular Board of Education meeting) or by filing a written resignation with the District Superintendent of the Supervisory District who must endorse his/her approval and file the resignation with the District Clerk.

Alternatively, a Board member may resign under Public Officers Law Section 31 by filing a written resignation with the District Clerk. The Clerk must then notify the School Board and the State Board of Elections.

A resignation may be withdrawn only with the consent of the person to whom the resignation was delivered (i.e., the District Clerk or BOCES District Superintendent). The School Board has no authority to act upon a request to withdraw a resignation.

The resignation shall take effect upon the date specified in the letter of resignation; however, if no effective date is specified, it shall take effect on the date of delivery to or filing with the District Clerk. If an effective date is specified in the letter of resignation, such date shall not be more than thirty (30) days subsequent to the date of its delivery or filing.

It shall be the duty of each member of the Board of Education to attend all meetings of the Board and, if any member shall refuse to attend three (3) consecutive meetings of the Board after having been regularly notified and a satisfactory cause for each non-attendance is not shown, the Board will proceed to declare that office vacant.

A Board member may be removed from office by the Commissioner of Education for willful violation of any provision of law, neglect of duty, or willfully disobeying any decision, order or regulation of the Commissioner. The Board of Education may also remove a Board member for misconduct relating to the exercise of authority as a Board member. A written copy of all charges made of such misconduct must be served upon the Board member at least ten (10) days before the time designated for a hearing on the charges; and the Board member shall be allowed a full and fair opportunity to refute such charges before removal.

As a small city school district, the District is not obligated to fill a vacancy on the Board which occurs due to death, resignation, removal from office or from the School District, or refusal to serve of a Board member.

However, the Board may fill the vacancy by appointment for a term ending with the next annual election of the School District. If the Board chooses to fill the vacancy by appointment, the appointment requires a majority vote of the remaining members of the Board.

The Board, at its own option, may instead call a special election within ninety (90) days to fill the unexpired term. If not so filled, the District Superintendent of the Supervisory District may appoint a competent person to fill the vacancy until the next annual election.

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It shall be the duty of each member of the Board of Education to attend all meetings of the Board and, if any member refuses or neglects to attend three (3) consecutive meetings of the Board after having been regularly notified and without a good and valid excuse to warrant his/her absence from the meetings, the Board will proceed to declare that office vacant.

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SUBJECT: RESIGNATION AND DISMISSAL (Cont'd.)

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A person elected or appointed to fill a vacancy shall take office immediately upon filing the oath of office.

Vacancies

Whenever a vacancy shall occur on the Board at a time other than normal elections (e.g., a death, a resignation for personal reasons, a move out of the District), the Board shall immediately take the following steps to appoint a qualified replacement, except when the vacancy occurs within the two (2) months prior to a regular election.

- a) The Board shall seek qualified and interested candidates from the community through the news media, word of mouth, and contacts with appropriate organizations such as the PTA/Home School Associations.
- b) All interested applicants must submit a notice of their interest, in writing, to the President of the Board, with a copy to the Superintendent.
- c) If the Board is unfamiliar with the personal background or qualifications of the candidate(s), the Board shall hold an informal meeting in which the candidate(s) may express his/her reasons for seeking the interim appointment.
- d) This process is not intended to preclude individual lobbying of all Board members by the interested applicants; rather, it is felt that the process herein described is a minimum expected of all applicants.
- e) Appointment by the Board to fill a vacancy on the Board shall be by majority vote of the full Board.

Education Law Sections 306, 1607, 1706, 1709(17)(18), 1804(1), 2103(2), 2109, 2111, 2112, 2113, 2502, 2503
and 2553
Public Officers Law Sections 30, 31 and 35

Adoption Date: 2/25/20
Reviewed by Ferrara Fiorenza Law Firm 2/13/20