

## 2015 School Election Procedures

Recent legislation significantly changed school election procedures. The board secretary's election responsibilities were significantly reduced and the board president has no election responsibilities. Below are answers to frequently asked questions concerning election procedures. Be sure also to check your board policies. The sample board policies in **PRESS** are 2:30, *School District Elections*, and 2:110, *Qualifications, Term, and Duties of Board Officers*.

### 1. Who is the “election authority”?

“Election authority” means a county clerk or a Board of Election Commissioners, if one was established under Article 6A of the Election Code. The election authority is responsible for school board member elections. 10 ILCS 5/1-3(8).

### 2. Who serves as a school district’s “local election official”?

The board secretary is the “local election official.” The local election official is no longer responsible for school board member elections. 105 ILCS 5/9-2(d); 10 ILCS 5/1-3. The board secretary still receives petitions to place referenda on the ballot. 10 ILCS 5/28-6.

### 3. Where should nominating petitions be filed?

Nominating petitions must be filed with the county clerk or the county board of election commissioners, if one was established, for the county in which the principal office of the school district is located not more than 113 nor less than 106 days before the consolidated election. 10 ILCS 5/10-6; 105 ILCS 5/9-10. Very few counties have a county board of election commissioners. Contact the State Board of Elections for information concerning your county. Candidates may want to contact the county clerk or the county board of elections commissioners to see if there are places other than the main office where they can file their nomination papers.

September 2014

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**4. Who:**

- Reviews the nominating petitions to determine if they meet the minimal requirements;
- Makes certification to the proper election authority;
- Notifies the candidates for whom a petition for nomination is filed of their obligations under the Campaign Financing Act; and
- Provides written notification to the petitioner that his or her petition has been accepted?

These are all responsibilities of the election authority. This means that the county clerk or the county board of election commissioners (if one was established) is responsible for these tasks. 105 ILCS 5/9-10. As in the past, candidates or members of the public can review nomination papers to determine if they meet all of the Election Code requirements.

**5. Is the board secretary required to have nominating petition forms available for issuance to potential candidates?**

No. The county clerk or the county board of election commissioners (if one was established) may have petition forms available for issuance to potential candidates, and may provide notice of their availability. While school secretaries may have forms available, they should be very careful to direct questions to the county clerk or county board of election commissioners. Blank petitions may be downloaded from the State Board of Elections' website.

**6. Is the school district required to post notice of the date and time for filing nominating petition forms in a local paper and/or on the district website?**

No, but it may do so if it wishes. However, at a minimum, a district may want to webpost the new location for filing nominating petitions, along with suggesting that filers contact the county clerk or the county board of election commissioners (if one was established) for hours, places (some may provide satellite offices), and directions. This not only serves the community, but may prevent people coming to the district office to file nominating forms.

**7. Where may a candidate withdraw his or her nomination?**

A candidate may cause his or her name to be withdrawn from nomination by presenting a written and properly acknowledged statement to the election authority (county clerk or the county board of election commissioners) no later than 68 days before the election. 10 ILCS 5/10-7.

## **8. Who should an individual contact if he or she wants to be a write-in candidate?**

Votes for write-in candidates will only be counted for persons who have filed notarized declarations of intent to be a write-in candidate with the proper election authority. The election authority supplies the forms for use by a candidate to declare his or her intent to be a write-in candidate. The declaration of intent must be filed no later than 61 days before the election. A candidate who has objections against his or her nomination papers sustained after the 61st day before the election has until 7 days before the election to file the declaration of intent. The election authority gives the names of the filers to the appropriate election judges. 10 ILCS 5/17-16.1.

## **9. Who conducts a lottery to determine the ballot order for candidates who filed simultaneously?**

As in the past, a lottery is conducted for candidates whose nomination papers are filed by people waiting in line when the doors open on the first day for filing. Petitions filed by mail and received after midnight of the first day for filing and in the first mail delivery or pickup of that day shall also be deemed simultaneously filed as of the first day's opening time. New for the 2015 election, there will also be a lottery when two or more candidates' nomination papers are filed in the last hour of filing on the last day. The lottery is conducted by the county clerk or the county board of election commissioners, as the case may be, of the jurisdiction in which the principal office of the school district is located. 10 ILCS 5/10-6.2; 105 ILCS 5/9-11.1.

## **10. Do school board members still sit on the Education Officers Electoral Board?**

No. The Education Officers Electoral Board was eliminated. The school board president, secretary and other members based on seniority no longer have any electoral board duties regarding candidate nomination papers.

## **11. Where are objections to nominating petitions filed?**

Nominating petitions are deemed to be valid unless a written objection is timely made. Any legal voter in the school district may file an objector's petition in the office of the county clerk or a board of election commissioners, if one was established.

## **12. Who hears and decides objections to the nomination papers of school board candidates?**

The “county officers electoral board” hears and decides all objections to the nomination of candidates for any school district office. The “county officers electoral board” is composed of the (1) county clerk or his or her designee, (2) State’s Attorney or his or her designee, and (3) clerk of the circuit court or his or her designee. The county clerk or his or her designee is the chair. However, in any county that has established a county board of election commissioners, that board shall constitute the county officers electoral board ex-officio. If the school district is located in two or more counties, the county officers electoral board of the county in which the school district’s principal office is located hears and decides objections to nominating petitions. The hearing will most likely be conducted at the county offices and not at the school district. 10 ILCS 5/10-8 and 10-9.

## **13. What is a referendum and what are the board secretary’s responsibilities concerning a referendum?**

A referendum describes any question placed on the ballot for voter consideration. A binding referendum is one that results in mandatory government action. A statute must specifically authorize the particular binding referendum that is requested. An advisory referendum is essentially a public opinion poll. Some referenda are placed on the ballot through a school board resolution. A voter initiative referendum is placed on the ballot by a voter petition. All school referenda elections are governed first by any specific statute that authorizes the referenda and then by the general election law. See 105 ILCS 5/9-1, et seq.; 10 ILCS 5/.

Generally, petitions for a referendum are submitted to the board secretary. The board secretary is responsible for certifying the question or proposition to the proper election authority for submission to the voters at a regular scheduled election in accordance with the general election law. The term “certifying” is understood to mean that the question or proposition complies with applicable statutes. Thus, the board secretary should ensure that the question or proposition complies with the minimal requirements for the specific type of referendum. The school board attorney should be contacted to determine how far the board secretary should go in reviewing referenda petitions and under what circumstances those petitions can be rejected. Like candidate nomination papers, any legal voter of the school district can file an objection to a referendum petition.

#### **14. What are the board secretary's responsibilities concerning an objection to a petition for a referendum?**

The board secretary remains responsible for receiving objections to a public question and sending them to the chair of the electoral board. See answer to question 12 for a discussion of the county officers electoral board.

To be valid, an objection to a petition for a public question must be filed, together with two copies, within five business days after the last day for filing the petition to submit a public question to a referendum. According to 10 ILCS 5/10-8, if an objection is filed, the board secretary,

[S]hall note the day and hour upon which such objector's petition was filed, and *shall*, not later than 12:00 noon on the second business day after receipt of the petition, transmit by registered mail or receipted personal delivery the petition for the public question and the original objector's petition to the chairman [county clerk] of the proper electoral board designated in Section 10-9 hereof, or his authorized agent, and shall transmit a copy by registered mail or receipted personal delivery, of the objector's petition to the person designated on a certificate attached to the petition as the principal proponent of the public question, or as the proponent's attorney, for the purposes of receiving notice of objections.

The statute also states that "[o]bjection petitions that do not include 2 copies thereof, shall not be accepted."

#### **15. Who hears challenges to a referendum?**

The county officers electoral board hears and passes upon objections to petitions for the submission of public policy questions. 10 ILCS 5/10-9 and 5/28-4.

#### **16. What are the board secretary's statutory responsibilities concerning a referendum to increase tax levies?**

Perhaps the most common referendum is one to increase school tax rates. The statutes permitting a referendum to increase taxes frequently contain notice, publication, plus other prerequisites. These pre-election responsibilities generally belong to the board secretary. 105 ILCS 5/17-1, et seq. The final step is for the secretary to certify the proposition to the proper election authorities for submission to the voters in accordance with the general election law. The first step is to consult the board attorney.

**17. What are the board secretary's statutory responsibilities concerning a referendum to change district boundaries?**

School district boundaries may be changed by consolidation, detachment, annexation, division, dissolution, or any combination of the above. Most times, the change in boundaries does not require voter approval. If the change in boundaries has to be approved by a referendum, the board secretary has no statutory responsibilities. Petitions requiring voter approval are filed with the regional superintendent of schools in the applicable area. 105 ILCS 5/7-1, 5/7-2, 5/7-4, 5/7-7.7, and 5/11E.

**18. What are the board secretary's responsibilities concerning the countywide school facility occupation tax?**

The school facility occupation tax is a sales tax that may be imposed countywide to support school facilities. The board secretary has no statutory responsibilities concerning this type of referendum. Upon a resolution by the county board or a resolution by the school district boards that represent at least 50% of the student enrollment within the county, the regional superintendent for the county must certify the question to the proper election authority in accordance with the Election Code. 55 ILCS 5/5-1006.7 and 5/3-14.31.

**Illinois Association of School Boards**

2921 Baker Drive • Springfield, Illinois 62703-5929  
217/528-9688

One Imperial Place • 1 East 22nd Street, Suite 20 • Lombard, Illinois 60148  
630/629-3776