

BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

BBA
(LEGAL)

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Eligibility

To be eligible to be a candidate for, or elected or appointed to, the office of school board member, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. 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.
4. Have not been convicted of a felony.
5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
 - a. For an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot.
 - b. For a write-in candidate, the date of the election at which the candidate's name is written in.
 - c. For an appointee to an office, the date the appointment is made.
6. Be registered to vote in the territory from which the office is elected on the date described at item 5, above.

Election Code 1.020, 141.001(a); Education Code 11.066; Gov't Code 601.009; Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ); Tex. Const. Art. XVI, Sec. 14

Qualified Voter

A person may not be elected trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;

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2. Is a United States citizen;
3. Has 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;
4. Has not been finally convicted of a felony [see also Atty. Gen. Op. LO 96-114 (1996) (concluding that caveat at Election Code 11.002 does not mitigate blanket prohibition in Election Code 141.001, above at Eligibility)];
5. Is a resident of this state; and
6. Is a registered voter.

Election Code 1.020, 11.002

Residency

"Residence"
Defined

"Residence" means domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dismissed w.o.j.)*

Intent to Return

For purposes of satisfying the continuous residency requirement, a person who claims an intent to return to a residence after a temporary absence may establish that intent only in accordance with Election Code 141.001(a-1), which does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster. *Election Code 141.001(a-1)–(a-2)*

Single-Member
Districts

A candidate for board member representing a single-member district must be a resident of the district the candidate seeks to represent. *Education Code 11.052(g)*

Ineligibility

A person is ineligible to serve as a member of the board of a district if the person has been convicted of a felony or an offense under Penal Code 43.02(b) (prostitution). *Education Code 11.066*