



Candidate Filing Is Over *Now What?*

How do school districts certify the election?

The superintendent or board secretary needs to notify the county clerk or election official of any potential ballot issue in writing no later than Tuesday, January 23, by 5 p.m. The district may fax the certification as long as the original copy is mailed and received by the election authority within three business days.

The notice should include the name of the district, the number of positions you have open, the terms, the candidates (double check spelling!) and the exact order the candidates must appear on the ballot. If your district is located in more than one county, you will need to notify more than one clerk or election official. The Board does not need to vote or otherwise verify the candidates, although some districts have a tradition of doing so.

If the district is also running a bond, levy, waiver, boundary change or other ballot issue, you will also need to notify the clerk or election official of the ballot language at the same time. The Board will need to vote to submit the ballot issue prior to certification.

Does MSBA have sample ballot language we can use?

MSBA does not have sample ballot language other than the examples contained in statute. *See §§164.031, 164.151, RSMo.* However, a list of attorneys that practice school law can be found at <https://www.msbanet.org/council-of-school-attorneys-cosa/>

MSBA strongly recommends that the district have an attorney review the bond and levy ballot language as opposed to simply copying what another district has used in the past. Districts are encouraged to consult with the local county clerk for sample ballot language regarding candidates.

What if one of the candidates wants to withdraw as a candidate?

Candidates may withdraw prior to the district certifying to the clerk or election officials. Although the law does not detail how candidates may withdraw, MSBA recommends that the district require a notarized letter from the candidate so that there is no confusion that the candidate did indeed wish to be removed from the ballot. *See Policy BBB.*

If the district has certified the election to the clerk prior to the deadline for certification, the clerk may allow the district to withdraw the certification and resubmit an amended ballot. However, after the certification deadline a candidate may only be removed from the ballot by court order and payment of any costs associated with reprinting the ballot.

By law, courts will freely grant requests to be removed from the ballot through February 26th (the 6th Tuesday prior to the election).

Do we have to hold an election?

If the district has appropriately published notice of candidate filing in at least one newspaper of general circulation in the district and if the number of candidates who file is equal to the number of available positions, the district does NOT have to have an election. However, if at any time, there were more candidates than positions, the district must hold an election even if a candidate withdraws making the number of positions and number of candidates equal.

Even if the district is not required to hold an election it still must notify the clerk or the election authority that the district will not hold an election. MSBA recommends that the district send a letter to the clerk or election authority stating that pursuant to §115.124, RSMo., the district will not have an election because the number of candidates that filed are equal to the number of positions. **See BBB-AF5**

Candidates will be sworn in at the April reorganization meeting as if they had been elected however, since there was no election, there will be no results to certify. MSBA recommends the board state in the minutes: “Pursuant to 115.124, there was no election for school board directors. The following candidates were sworn in: ...”

What if there are not enough candidates for the number of positions?

If, for instance, the district has two positions open but no one or only one person signed up to be a candidate you must still run an election. Further, by law the clerk or election official must count ALL write-in votes, regardless of whether or not the write-in candidate filed with the clerk. This means that someone with very few votes – even just one vote - could ultimately get elected to the school board. MSBA strongly recommends that the school board recruit someone from the community who would be a good school board member to actively run as a write-in candidate.

If there are no write-in candidates, a vacancy on the board will exist. The board will need to fill the vacancy for a year until the next election. **See Policy BBE.**

What if someone wants to be a write-in candidate?

As stated above, if there are not enough candidates for the number of positions, a write-in candidate does not need to register with the county clerk or election official. All write-in votes will be counted.

If there are enough candidates for the positions, but someone still would like to run as a write-in candidate, the candidate must register with the clerk or the election authority as a write-in candidate no later than 5 p.m. on the second Friday immediately preceding the election. If the write-in candidate does not register, votes for that person will not be counted.

One of our candidates works as a substitute teacher. Can the person continue to be a substitute teacher?

The candidate can continue to substitute for the district until they are elected and sworn in. However, once sworn in, the candidate is a board member and board members cannot be employed by the district, and a substitute is considered an employee. The person can volunteer, but cannot be paid for their services. The answer is the same regardless of the position. Therefore a substitute bus driver, cook, custodian, or other employee is prohibited from serving on the board while being employed.

When do the new board members get sworn in?

Missouri law requires districts to meet within fourteen days of the annual election which means the deadline for 2018 is April 17. However, if your district is classified as “urban”, your district must meet within 10 days which puts the deadline at April 13. Newly elected members must qualify by taking the oath of office. MSBA also recommends that members sign a copy of this oath. **See MSBA Form BCA-AF.**

For more information on the reorganization process, please see the MSBA Publication “Board Reorganization FAQ’s” found at:
<https://ams.embr.mobi/Documents/DocumentAttachment.aspx?C=ZfON&DID=GGIGL>