

A sample order of cancellation and the Certificate of Election can be found on the Secretary of State's Web Site at: www.sos.state.tx.us/elections/forms/pol-sub/index.shtml.

Q: What happens if no one files as a candidate for the school board?

An election can be cancelled if no one files for positions up for election. After the election is properly cancelled, the board will meet to declare that vacancies exist for the positions. These vacancies are then filled in the usual manner for filling vacancies on the board. See Policy BBC(LEGAL).

Q: When and by whom must the votes be canvassed?

Votes must be canvassed no earlier than the third day (Tuesday, May 15) or later than the eleventh day (Wednesday, May 23) after the election. The canvass may not be conducted until the ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election AND counted all timely received ballots cast from addresses outside the United States, if a ballot by mail was provided to a person outside of the United States.

Two board members constitute a quorum for purposes of canvassing the election. The canvass must be done in a properly-posted open meeting, with notice of the canvass posted at least 72 hours continuously before the canvass is conducted. Please remember that, under the Open Meetings Act, no other school business can be conducted at this meeting unless there is a full quorum present.

The canvassing authority shall prepare tabulations for the following things:

1. For each candidate
2. Votes FOR each measure
3. Votes AGAINST each measure

Each tabulation should state: (1) the total number of votes received in each precinct; and (2) the sum of the precinct totals tabulated. Additionally, the tabulation must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election.

The Secretary of State's office recommends that the Certificates of Election be issued at the same time as the canvass. The presiding officer of the canvassing authority prepares the Certificates of Election.

After the election, **Monday, June 11, 2012**, is the deadline for filing electronic precinct-by-precinct returns with the Secretary of State's office. For more information, contact the Secretary of State's office at 800-252-8683.

A good practice for tracking election results from year to year is maintaining an election register. Keeping past results in a well-organized manner at the district's offices is an easy way to memorialize elections cancellations and election results and track term endings for current board members. Provisions regarding election registers are found in Texas Election Code section 67.006.

Q: What is the “Statement of Elected/Appointed Officer”? How is it filed?

All elected and appointed officers, including school district trustees, must file a statement declaring that the officer has not directly or indirectly paid, offered, or promised to give money or any valuable consideration, including employment, for votes at the election or as a reward for appointment. The Statement must be kept “with the official records” of the school district. The Statement can be found at Policy BBB(EXHIBIT).

Q: When and by whom is the Oath of Office administered?

The Oath of Office is found in Article XVI, Section 1(a) of the Texas Constitution. See Policy BBB(EXHIBIT). The Oath may be administered by a number of public officials, including: a notary public, a judge, or a justice of the peace. The Oath may be taken only after the Statement has been signed. The Oath of Office is filed with the president of the board of trustees.

Although it is common practice for newly-elected trustees to be sworn in during a board meeting, it is not legally required for these trustees to be sworn in during a board meeting or at any particular time. In fact, each newly-elected trustee may be sworn in by a person authorized to administer the Oath at any time after the necessary prerequisites have been satisfied.

Q: Do incumbents that have been reelected have to re-file the Statement of Elected/Appointed Officer and take another Oath of Office?

Yes, the Secretary of State’s office advises that incumbent trustees do need to follow the same procedures after reelection as newly-elected trustees. Although an incumbent has previously served on the board, he or she is starting a new term of office and must complete the formal requirements for the new term.

Q: Can all of this be done at the same meeting?

Yes, it is possible to have new board members take office the night of the canvass, as long as the proper order of events is followed:

- Election is canvassed at an open meeting;
- Certificate of Election is issued to newly-elected officers;
- Statement of Elected/Appointed Officer is completed;
- Newly-elected officers take the Oath of Office; and
- Newly-sworn officers may assume office.

Many districts issue the Certificates of Election on the night of the canvass, but wait until the next regularly scheduled board meeting to have the newly-elected board members sign the Statement and take the Oath of Office.

Q: When may newly-elected board members assume the duties of office?

A new trustee may assume the duties of office only after he or she has executed the required Statement and taken the Oath of Office. Until that time, the predecessor trustee continues to hold office pursuant to the holdover doctrine. See Policy BBC(LEGAL).

Q: When must officers of the board be selected?

Section 11.061 of the Texas Education Code requires that the officers of the board be selected at the first meeting after the election and qualification of trustees (i.e., execution and filing of the required Statement and the Oath of Office). If the president and vice-president are no longer on the board after the election, the selection of officers is conducted by the person designated in local policy BDAA. If the district does not have such a policy, the secretary typically conducts an election of a temporary chair who then conducts the election of a new president; the new president conducts the elections of the remaining officers. If there is no secretary, then any board member (such as the most veteran member present) may assume the chair to conduct the election of a temporary chair who then conducts the election of a new president.

Reorganization of the board may take place at times other than right after an election. The attorney general has offered examples of situations that might necessitate reorganization at other times, such as when an officer of the board resigns and a new officer must be chosen. Op. Tex. Att'y Gen. No. MW-531 (1982).

TASB's Leadership Team Services division has developed guidance on *Electing Board Officers* that board members may find useful during this process:
www.tasb.org/services/lts/resources/documents/archive_documents/qa_electing_bd_officers_update.pdf.

Q: How, when, and by whom may an election be contested?

Generally, any candidate in an election may contest the election by filing a petition in the appropriate district court and with the Secretary of State not earlier than the day after election-day and not later than the 30th day after the date the official result of the contested election is determined. (The deadline is the 10th day after the date the official result is determined if a runoff is necessary or will be necessary if the contestant prevails.) The contest may be based upon allegations that illegal votes were counted, or an election officer or other person officially involved in the administration of the election prevented eligible voters from voting, failed to count legal votes, engaged in other fraud or illegal conduct, or made a mistake.